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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Eternal Father, thank You for today—fresh with sparkling dew and bright with the splendor of the morning Sun. We accept this day as a gift from Your bounty and will use it for the glory of Your Name. As our Senators strive to do what is best for this great land, lead them with Your might. Guide them by Your higher wisdom and make them know the constancy of Your presence. Lord, give them the greatness of being on Your side and the delight of knowing they are doing Your will. Keep their hearts and minds riveted on You, as they seek to be responsive to Your leading. Make them stewards of the blessings You have given them.

We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL of New Mexico led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 20, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SIGNING AUTHORITY

Mr. REID. Mr. President, first, I ask unanimous consent that today, May 20, I be authorized to sign any duly enrolled bills or joint resolutions.

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the emergency supplemental appropriations bill. There will be up to 2 hours for debate in relation to the Inouye amendment. That is the Inouye-Inhofe amendment. The Republicans will control the first 30 minutes, the majority will control the next 30 minutes, and the final hour will be equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each. Senator INOUYE will control the final 5 minutes prior to the vote. Upon the use or yielding back of time, the Senate will proceed to vote on the amendment. Senators should expect the first vote of the day to begin around 11:30 to a quarter of 12.

Yesterday, I filed cloture on this legislation. Under rule XXII, germane first-degree amendments must be filed by 1 p.m. today.

If we are able to reach an agreement, we will also consider the conference report to accompany S. 454, the procurement legislation, during the day.

WORKING TOGETHER

Mr. REID. Mr. President, I made a decision at the beginning of this Congress to go back to the way the Senate used to be, or at least the way I saw the Senate. I believed if we moved away from the past practices of the last 15 years of limiting the offering of amendments, for example, having more debate, not less, that a new spirit would develop in this historic body we call the Senate.

I believe that spirit has come—come slowly—but with the trust of the Republicans growing with the majority, amendments have come with the idea of improving or changing legislation, not the ''I gotcha'' politics, tactics of the past used by both Democrats and Republicans. The result has been legislation being passed of which we can all take credit:

The lands bill; Ledbetter, equal pay for men and women; the Children's Health Insurance Program, 14 million kids with health insurance; the economic recovery package, which is being felt now around the country; the omnibus spending bill, which was long overdue; national service legislation, allowing 750,000 men and women to become involved in public service, getting paid a little bit for that but help for their college education.

We did some things that needed to be done with the budget, reducing the deficit in 5 years by as much as two-thirds. We passed housing legislation, which will bolster the ability of regulators to do a good job of watching what goes on with housing, including

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

strengthening the Federal Deposit Insurance Corporation; passing the financial fraud legislation to stop some of the tactics cheaters use to cause the problems that were caused leading to this economic crisis. Yesterday morning, we passed the credit card legislation.

We have a long ways to go. But I think we are beginning to trust each other that amendments are being offered to take provisions out of legislation or to add to legislation to improve it in the mind of the person offering the amendment.

As a result of this, we can all go back to our constituencies during this recess saying we are working together now, we are getting some things done. This does not help Democrats or Republicans; it helps us both, and it helps our country.

RECOGNITION OF THE MINORITY LEADER

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

WORKING TOGETHER

Mr. MCCONNELL. Mr. President, let me say to my good friend, the majority leader, I concur with his observations about how the Senate should appropriately work. I think we have had a process for handling legislation this year that both sides can be proud of, and I wish to say I concur entirely with his observations about the way the Senate is working.

Obviously, the minority does not agree with a lot of the things we are doing, but the opportunity to shape legislation and for each Senator to make a difference has been respected this year, and for that I commend the majority leader.

GUANTANAMO

Mr. MCCONNELL. Mr. President, there now appears to be a wide bipartisan agreement in the Senate that closing Guantanamo before the administration has a plan to deal with the detainees there was a bad idea. Senators will make it official today with their votes.

For months, we have been saying what Senate Democrats now acknowledge: that because the administration has no plan for what to do with the 240 detainees at Guantanamo, it would be irresponsible and dangerous for the Senate to appropriate the money to close it.

I commend Senate Democrats for fulfilling their oversight responsibilities by refusing to vote to provide any funding to close Guantanamo until the administration can prove to the American people that closing Guantanamo will not make us less safe than Guantanamo has. Those of us in Congress have a responsibility to American service men and women, risking their lives abroad, and to citizens here at home. Congress will demonstrate its seriousness about that responsibility when it votes against an open-ended plan to release or transfer detainees at Guantanamo.

The administration has shown a good deal of flexibility on matters of national security over the past few months: on Iraq, for example, in not insisting on an arbitrary deadline for withdrawal; on military commissions, by deciding to resume their use; on prisoner photos, by concluding that releasing them would jeopardize the safety of our service men and women; and on Afghanistan, by replicating the surge strategy that has worked so well in Iraq.

I hope the administration will show more of this flexibility by changing its position on an arbitrary deadline for closing Guantanamo. Americans do not want some of the most dangerous men alive coming here or released overseas, where they can return to the fight, as many other detainees who have been released from Guantanamo already have.

Some will argue that terrorists can be housed safely in the United States based on past experience. But we have already seen the disruption that just one terrorist caused in Alexandria, VA. The number of detainees the administration now wants to transfer stateside is an order of magnitude greater than anything we have considered before. It is one thing to transfer one or two terrorists—disruptive as that may be—it is quite another to transfer 50 to 100, or more, as Secretary Gates has said would be involved in any transfer from Guantanamo.

In my view, these men are exactly where they belong: locked up in a safe and secure prison and isolated many miles away from the American people. Guantanamo is a secure, state-of-the-art facility, it has courtrooms for military commissions. Everyone who visits is impressed with it. Even the administration acknowledges that Guantanamo is humane and well run. Americans want these men kept out of their backyards and off the battlefield. Guantanamo guarantees it.

The administration has said the safety of the American people is its top priority. I have no doubt this is true, and that is precisely why the administration should rethink—should rethink—its plan to close Guantanamo by a date certain. It should have focused on a plan for these terrorists first. Once the administration has a plan, we will consider closing Guantanamo but not a second sooner.

RONALD REAGAN CENTENNIAL COMMISSION

Mr. MCCONNELL. Mr. President, last night, the Senate passed a bill to create a commission to commemorate the 100th birthday of our 40th President, Ronald Wilson Reagan. This bill passed in the House with wide bipartisan support and here by unanimous consent.

On June 3, we will host a celebration in the Capitol, with the State of California sending their statue of Ronald Wilson Reagan to join the collection of State statues from around the country. In February 2011, we will commemorate his 100th birthday.

To his beloved Nancy, his family, and all of us who believe that the best days are ahead in this shining city on a hill, I stand in humble gratitude for his service and great pride that Congress has finally agreed to enact legislation to commemorate one of the most important Americans of the 20th century.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

SUPPLEMENTAL APPROPRIATIONS ACT, 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2346, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2346) making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Pending:

Inouye-Inhofe amendment No. 1133, to prohibit funding to transfer, release or incarcerate detainees detained at Guantanamo Bay, Cuba, to or within the United States.

McConnell amendment No. 1136, to limit the release of detainees at Guantanamo Bay, Cuba, pending a report on the prisoner population at the detention facility at Guantanamo Bay.

Cornyn amendment No. 1139, to express the sense of the Senate that the interrogators, attorneys, and lawmakers who tried in good faith to protect the United States and abide by the law should not be prosecuted or otherwise sanctioned.

Brownback amendment No. 1140, to express the sense of the Senate on consultation with State and local governments in the transfer to the United States of detainees at Naval Station Guantanamo Bay, Cuba.

AMENDMENT NO. 1133

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 hours of debate, equally divided and controlled between the leaders or their designees, with respect to amendment No. 1133, with the first 30 minutes under the control of the Republican leader, the second 30 minutes

under the control of the majority leader, and the final 60 minutes divided equally, with Senators permitted to speak for up to 10 minutes, with the final 5 minutes under the control of the Senator from Hawaii, Mr. INOUYE.

The Senator from South Carolina.

Mr. GRAHAM. Thank you, Mr. President.

No. 1, I would like to associate myself with the comments of the minority leader about Guantanamo Bay. It is a location that does protect our national interests in terms of a location. It is probably the best run military prison in the world. I have been there several times.

To the guard force and those who are serving at Guantanamo Bay, in many ways, you are the unsung heroes in this war because it is tough duty. You have to go through a lot to be a member of the Guantanamo Bay guard team.

They do a wonderful job. It is a very Geneva Conventions-compliant jail, and there are some pretty bad characters down there who make life miserable for our guard force. But those who serve at Guantanamo Bay do so with dignity and professionalism. Their motto, I believe, is ''honor bound.'' That certainly reflects upon them well.

The idea of the Congress saying we want to plan before we appropriate money to close Guantanamo Bay makes a lot of sense to me. We see a bipartisan movement here to make sure we know what we are going to do with the detainees who are housed at Guantanamo Bay. The American people should be rightly concerned about how we dispose of these prisoners. Quite frankly, they are not common criminals accused of robbing a liquor store; they are accused of being a member of al-Qaida or allied groups that have taken up arms against the United States. Their mission and their purpose is to destroy our way of life and to put our allies and friends in the Mideast into the dark ages. So if you do not want to go back to the dark ages in terms of humanity; if you want young girls to grow up without having acid thrown in their face; if you want a young woman to be able to have a say about the future of her children in the Mideast, then we need to come up with a rational policy regarding fighting al-Qaida and, once we catch them, how to dispose of their cases and make sure they are not only fairly treated but their mission and their goals are defeated and they do not return to the fight.

We have seen in Iraq that there are Muslim populations that do not want to be part of the al-Qaida agenda. Al-Qaida followed us to Iraq because they understood if we were successful there in creating a democracy in the heart of the Mideast, it would be a threat to their agenda. Iraq has a way to go, but I am very proud of the Iraqi people. They have come together. They are making political reconciliations. Their army and police forces are getting stronger. The story of the surge is that the Iraqi people joined with our forces and coalition forces and delivered a mighty blow against al-Qaida. Al-Qaida is, quite frankly, in the process of being defeated by the Iraqi people with our help. Now the fight goes to Pakistan and Afghanistan. I cannot think of a more noble cause than to take up arms and fight back against these terrorists who wish the world ill, who will do anything in the name of their religion to have their way, and who would make life miserable for parts of this world and eventually make life miserable for us.

Imagine a caliphate being established in Baghdad, which was their plan, to put the Mideast in constant turmoil. We would not be able to travel freely in this world. We could not interact or do business with the people in the Mideast. It is a very oil-rich region, so it is in our national security interests to stand with moderate people in the Mideast and other places where al-Qaida attempts to take over, and fight back. But when we fight back, we don't have to be like them. Quite frankly, if we are like them when we fight back, we will lose.

This is an ideological struggle. There is no capital to conquer. There is no navy to sink or air force to shoot down. We cannot kill enough of the terrorists to win the war. What we have to do is contain them, fight them, and empower those who live in the region who want to live in a different way, give them the capacity to defend themselves and bring about a stable life in their countries. That is what we are trying to do in Iraq. If we win in Iraq, we will have a democracy in the heart of the Arab world that will be an ally to this country in perpetuity. We will have replaced a dictator named Saddam Hussein, and we will have a place where we can show the world that there are Muslims who do not want to be governed by the al-Qaida agenda, and to me that is a major win in the war on terror. Now we are in Afghanistan. We have lost ground, but we are about to recapture that ground from the Taliban, which are al-Qaida sympathizers and, quite frankly, allowed them to operate in Afghanistan late in the last century and early in this century to plan the attacks of 9/11.

So that is why we are fighting. That is why we are in this discussion. That is why we are concerned about releasing these prisoners within the United States, and that is why we are concerned about Guantanamo Bay. We have every right and reason to be concerned as to how we move forward.

I want to move forward. We need a plan to move forward. We should not close Guantanamo Bay until we have a comprehensive, detailed, legal strategy as to what we will do with these prisoners. Where we put them is only possible if people know what we will do with them. So we have to explain to the American people and our allies the disposition plan. What are we going to do with these detainees? Then where you put them becomes possible. Without what to do, we are never going to find where to put them.

I do believe the President and our military commanders are right when they say it is time to start over. It is a shame we are having to start over, because Guantanamo Bay is a well-run jail. But as I mentioned before, this ideological struggle we are engaged in, the enemy has seized upon the abuses at Abu Ghraib, the mistakes at Guantanamo Bay, and they use that to our detriment. They inflame populations in the Mideast based on our past mistakes. Our commanders have told me to a person that if we could start over with detention policy and show the world that we have a new way of doing business—a better way of doing business—it would improve the ability of our troops to operate in the regions in question where the conflict exists; it would undercut the enemy; it would help our allies be more helpful to us. Our British friends are the best friends we could hope to have, and they have had a hard time with our detainee policy. So we have every reason in the world to want to start over, but the Congress is right not to allow us to start over until we have a plan. The Congress, in a bipartisan fashion, is absolutely right to keep Guantanamo Bay open until we have a complete plan. I do believe this President understands how to move forward with Guantanamo Bay.

The best way to move forward, in my opinion, is to collaborate with the Congress, to look at the military commission system, which I think is the proper venue to dispose of any war crimes trials. Remember, these people we are talking about have been accused of taking up arms against the United States. They are noncitizen, enemy combatants who represent a military threat. Military commissions have been used to try people such as this for hundreds of years. We did trials with German saboteurs who landed on the east coast of the United States for the purpose of sabotaging our industries. They were captured and tried in military commissions. So there is nothing new about the idea of a military commission being used against an enemy force.

I do think the President is right to reform the current commission. I, along with Senator MCCAIN, Senator WARNER, and others—Senator LEVIN particularly—had a bill that set up a military commission process that received complete Democratic support on the Armed Services Committee, and four Republicans. I think that document is worth going back to. The ideas the President has put on the table about reforming the commission, quite frankly, make a lot of sense to me.

So we do need to move forward. We do need to start over. If we could start over with a new detention policy that is comprehensive, it would help our war effort, it would help operations in the countries in question and in the

Mideast at large, and it would repair damage with our allies. Quite frankly, we have lost a lot of court decisions. It would give us a better chance to win in court.

What do I mean by starting over? Come up with a disposition plan that understands that the detainees at Guantanamo Bay represent a military threat and apply the law of armed conflict in their cases. That means we have to treat them humanely. The Geneva Conventions now apply to detainees under Common Article 3 held at Guantanamo Bay based on a 2006 Supreme Court decision. We are bound by that convention because we are the leader of the convention. We have signed up to the convention. As a military lawyer for 25 years, I hold the Geneva Conventions near and dear to my heart, as every military member does, because it will provide protections to our troops in future wars. Yes, I know al-Qaida will not abide by the conventions but, quite frankly, that is no excuse for us to abandon what we believe in. When you capture an enemy prisoner, it becomes about you, not them. They don't deserve much, but we have to be Americans to win this war. There are plenty people in this world who would cut your head off without a trial. I want to show the world a better way. How we dispose of these prisoners can help us in the overall ideological struggle.

What I am proposing is that we come up with a comprehensive plan that will reform the military commissions and that the President come back to the Congress and we have another shot at the commissions to make them more due process friendly but we realize that the people we are trying are accused of war crimes and we apply the law of armed conflict.

I have been a military lawyer, as I said, for 25 years. The judges and the jurors and the lawyers who administer justice in a military commission setting are the same people who administer justice to our own troops. It is a great legal forum. You have rights in the military legal system. You get free legal counsel. Usually cost is not an object. The men and women who wear the uniform who serve as judge advocates take a lot of pride in their job. They are great Americans. They are great officers. They believe in justice. We have seen verdicts, and the few verdicts we have had at Guantanamo Bay indicate that our juries are rational. Our military jurors do hold the prosecution to the standards of proof and they balance the interests of all parties. As I say, I have never been more impressed with the legal system than within our military justice system. Military commissions need to be as much like a court-martial as possible, but practicality dictates some differences.

The one thing this body needs to understand is that it is illegal under the Geneva Conventions to try an enemy prisoner in civilian court. Why is that? You are afraid that civilian justice, jurors and judges, will have revenge on their mind. They are not covered by the Geneva Conventions. Participants in a military commission are covered by the convention—every lawyer, every judge, every juror. They have an obligation to hold to the tenets of the convention and any misconduct on their part in a trial could actually result in prosecution to them or disciplinary action, and that would not be true in the legal world. So having these trials in a military commission setting is the proper venue because they are accused of war crimes. Having the trials in military commissions is consistent with the Geneva Conventions. It is a world-class justice system. Quite frankly, it is the best place to balance our national security interests.

But to the hard part. We can do that. We can reform the commissions. Some of these detainees can be repatriated back to third countries in a way I think is rational and will not hurt our national security interests. But there is going to be a group of detainees—maybe half or more—where the evidence is sound and certain that they are a member of al-Qaida, but it is not of the type that you would want to go to a criminal trial with. It may have third country intelligence service information where the third country would not participate in a criminal trial because it would compromise their operations. Some type of evidence would be such that you would not disclose it in a criminal trial because it would compromise national security. You have to remember, when you try someone criminally, you have to prove the case beyond a reasonable doubt. You have to share the evidence with the defendant. You have to go through the rigors of a criminal prosecution. Under a military commission people are presumed innocent, and that is the way it should be. But I want America to understand that we are not charging everyone as a war criminal; we are making the accusation that you are a member of al-Qaida. In military law what you have to do if you are accusing someone of being part of the enemy force is prove by a preponderance of the evidence that you are, in fact, a part of the enemy force.

So what I would propose is to set up a hybrid system. For every detainee once determined to be an enemy combatant by our military or CIA, there will be a process to do that, a combat status review tribunal, and we need to improve that process—but you run each detainee through that process and if the military labels them as an unlawful enemy combatant, a member of al-Qaida, then we will do something we have never done in any other war, and that is allow that detainee to go into Federal court.

Under article 5 of the Geneva Conventions, status decisions are made by the military, not by civilian judges. It is usually done by an independent member of the military in an administrative setting. These are administrative hearings. But this war is different. There will never be an end to this war. We will never have a signing on the Missouri as we did in World War II. I realize that. An enemy combatant determination could be a de facto life sentence. So I am willing to build in more due process to accommodate the nature of this war.

What I have proposed is that every detainee determined to be an enemy combatant by our military would go to a group of military judges with uniform standards where the Government would have to prove to an independent judiciary by a preponderance of the evidence that the person is, in fact, an enemy combatant, and if our civilian judges who are trained in reviewing evidence agree with the military, that person can be kept off the battlefield as long as there is a military threat. About 12 percent of the detainees released from Guantanamo Bay have gone back to the fight. The No. 2 al-Qaida operative in Somalia is a former Gitmo detainee. It is true we put people in Gitmo, in my opinion, where the net was cast too large and they were not properly identified. You are going to make mistakes. What I want to do is have a process that our Nation can be proud of: transparent, robust due process, an independent judiciary checking and balancing the military, but never losing sight that the goal is to make sure that the determination of enemy combatant is well founded and, if it is, not to release people back to the fight knowing they are going to go back and kill Americans. That doesn't make us a better nation, to have a process where you have to let people go when the evidence is sound and clear they are going to go back to the fight. That does not make us a better people. You do not have to do that under the law of armed conflict. Let's come up with a new system that will give every detainee a full and fair hearing in Federal court. If they are tried for war crimes, put them in a new military commission, and every verdict would be appealed to civilian judges. Let the trials be transparent. Balance national security against due process. But never lose sight of the fact that we are dealing with people who have taken up arms against the United States. Some of them are so radical and their hearts have been hardened so much, they are so hate-filled, it would be a disaster to this country and the world at large to let them go in the condition that exists today.

Where to put them. Mr. President, 400,000 German and Japanese prisoners were housed in the United States during World War II, and 15 to 20 percent, according to the historical record, were hardened Nazis. A hardened Nazi is at the top of the pecking order when it comes to mass murder. The idea that we cannot find a place to securely house 250-plus detainees within the United States is not rational. We have done this before. They are not 10 feet tall.

It is my belief that you need a plan before you close Gitmo, and when you look at a new facility, it needs to be run by the military because under the Geneva Conventions you cannot house enemy prisoners in civilian jails.

I look forward to working with the President of the United States to start over, but we need a plan to start over—a plan to try these people, consistent with the law of armed conflict, in a military commission that is reformed, that will administer justice fairly and balanced and will realize that these people present a military threat. We need a system to allow for keeping the detainees off of the battlefield—who are committed jihadists—that will allow them to have their day in court with an independent judiciary but also will allow a process that will keep them off the battlefield as long as they are dangerous. If the judges agree with the military on the enemy combatant, you should have an annual review process to determine whether they present a military threat. No one should be held without a pathway forward, but no one should be released because you think this is a crime we are dealing with.

If you criminalize this war and do not use the law of armed conflict, you are going to make a huge mistake. There are countries that have terror suspects in jail right now that are about to have to release them because under criminal law you cannot hold them indefinitely. Under military law, you can hold the enemy force off the battlefield if they are properly identified as part of that force, as part of the military threat. That has been the law for hundreds of years, and it ought to be the law we apply. Where we put them is important, but what we do with them is more important, how we try them and detain them.

We have a chance to show the world that there is a better way, a chance to showcase our values. Yes, give them lawyers and put the evidence against them under scrutiny. Put burdens on ourselves, make us prove the case—not just say it is so, prove it in a court that is appropriate for the venue we are talking about, appropriate for the decisions we are about to make. Put that burden on us, and treat them humanely because that is the way we are. That may not be the way they are, but that is the way we are. That makes us better than they. The fact that we will do all these things and they won't is a strength of this Nation, not a weakness. Some people in the past have lost sight of that. The fact that we give them lawyers and a trial based on the evidence, not prejudice and passion, makes us stronger.

We will find a better way to do what we have been doing in the past. We will find a way to close Gitmo, and we will come up with a new plan because we are Americans and we are committed to our value system and committed to beating this enemy.

I look forward to working with the Members of this body to come up with a comprehensive disposition plan that will find a new way to try these people, a new process to hold them off the battlefield, and always operating within our values, which will allow our commanders the chance to start over in the region. Every military commander I have talked to said it would be beneficial to this country to start over with detainee policy. They also understand that we are at war and we need to have a national security system.

As to where we put them, there were six prison camps in South Carolina during World War II. There is a brig near the city of Charleston, a naval brig. It is not the location, because it is near a population center. The place I have in mind is an isolated part of the United States—if necessary—that will be run by the military, with a secure perimeter, that will be operating within the Geneva Conventions requirement, that will have a justice system attached to it, that will be transparent and open where we can administer justice and reattach our Nation to the values we hold so dear.

Part of war is capturing prisoners. That is part of war. We know what the other side does when they capture a prisoner. Let the world know that America has a better way, a way that will not only make us safe but help us win this war.

In conclusion, the goal of this effort to start over is to undermine the enemy's propaganda that has been used against us because of our past mistakes, allow our allies to come join us in a new way forward, and protect us against a vicious enemy that needs to be held off the battlefield, maybe forever. Some of these people are literally going to die in jail, and that is OK with me because I think the evidence suggests that if we ever let them out, they would go back to killing Americans, our friends, and our allies. I will not shed a tear. The way to avoid getting killed or going to jail forever is, not to join al-Qaida. If you have made that decision to do so, let it be said that this Nation is going to stand up to you and fight back, within our value system. Some of these people will never see the light of day, and that is the right decision. Some of them can be released.

Let's have a process that understands what we are trying to do as a nation. Make sure it is national security oriented, make sure it is within our value system but also that everything we do is as a result of a nation that has been attacked by these people. They have not robbed a liquor store; they have tried to destroy our way of life. The legal system I am proposing recognizes that distinction.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I rise to express my strong support for the Inouye-Inhofe amendment and suggest to my colleagues that this should not be a controversial amendment. In fact, I commend my colleagues on the Democratic side for recognizing the futility of trying to put funding in the bill that we are debating here without having a plan with which to close Guantanamo Bay.

It seems to me, at least, that a lot have gotten up and argued that having Guantanamo Bay open as a detention facility makes our country less safe. I argue the contrary. That didn't exist prior to 9/11, and we were attacked anyway. The people who want to attack us don't need an excuse; they are going to attack us anyway. They are going to attack us because they hate us and they hate our way of life and the things we stand for and because that is what they do. They have hate in their hearts. I believe we need to have a place where we can detain people like that. It seems to me at least that the Guantanamo Bay facility fits perfectly within the definition of what makes sense. It is a state-of-the-art facility, a $200 million facility. Nobody has ever escaped from it. It is a very secure facility. It is hundreds of miles away from American communities.

One thing I point out to my colleagues is that we have already expressed our view here in the Senate about whether these detainees ought to be transferred somewhere here into American society and into facilities in American communities and neighborhoods. In July of 2007, we took a vote in the Senate, and by a vote of 94 to 3, the Senators voted in favor of a resolution that would prevent these detainees from coming here—being released into American society or transferred into facilities in American communities and neighborhoods. Those in favor of that resolution at the time included both the current Vice President of the United States and the current Secretary of State.

My hope would be that this amendment offered by the Senator from Oklahoma and the Senator from Hawaii will receive that same measure of support that was accorded to the amendment adopted in the Senate in July of 2007 by a vote of 94 to 3. This amendment should receive that same measure of support.

As I noted last week in a speech on the floor, President Obama told us, when he issued his January 22 Executive order to close Guantanamo, that he would work with Congress on any legislation that might be appropriate. Instead of consulting Congress, the President asked for $80 million to close Guantanamo, with no justification or indication of any plan.

I believe any plan to close Guantanamo that includes bringing these terrorists into the United States is a mistake. We don't want the killers who are held there to be brought here into our communities.

It is deeply troubling that not only does the Obama administration wish to hold open the possibility that some detainees might be transferred to facilities in American communities, it is

even considering freeing some of them into American society. These are the 17 Chinese Uighers whose Combat Status Review Tribunal records were deemed insufficient to support the conclusion that they are enemy combatants but who cannot be returned to China because of fear that the Chinese Government will torture or kill them.

At a press conference on March 26, ADM Dennis Blair, the Director of National Intelligence, said this:

If we are to release them [the Uighers] in the United States, we need some sort of assistance for them to start a new life.

It is hard to believe that this administration is seriously considering freeing these men inside the United States and, most outrageous of all, paying them to live freely within American communities and neighborhoods. The American people don't want these men walking the streets of America's neighborhoods.

The American people don't want these detainees held in a military base or a Federal prison in their backyard either. These are not common criminals; these are hardened killers bent on the destruction of the United States. They are resourceful, these people are innovative, and they understand the strategic vulnerabilities of the United States and how to exploit those very vulnerabilities. Who would have predicted that this group of people would basically be able to steal a fleet of planes and cause death and destruction on the scale and magnitude of Pearl Harbor? It is hard to imagine a more dangerous set of circumstances to put upon an American community.

Since President Obama seems set on a course to bring terrorists into the United States, I strongly support the efforts of Senators INHOFE and INOUYE to introduce this amendment. The amendment would prevent any funding in the bill from being used to transfer detainees held at Guantanamo Bay to any facility in the United States or to construct, improve, modify, or otherwise enhance any facility in the United States for the purpose of housing any Guantanamo detainees.

If we must close Guantanamo Bay, it should not result in Americans being less safe. Bringing these detainees to the United States would make Americans less safe, and we should not do it.

Transferring these detainees would also stress the civilian governments in the communities where the detainees would be placed. They would be faced with overwhelming demands, from roadblocks to identification checks, along with having the increased security personnel necessary to deal with what is an obvious threat. The value of homes and businesses would decline.

I can tell you that South Dakotans definitely don't want these detainees in their State. I hope my support of the Inouye-Inhofe amendment will help to ensure that they will not be transferred to South Dakota or to anywhere else in the United States.

My view is that no Guantanamo detainee should be brought to this country to be incarcerated and certainly should not be brought into the United States and freed. The Senate has clearly spoken on that front, as I said, by a vote of 94 to 3 on a resolution, in July 2007, that detainees housed at Guantanamo Bay should not be released into American society and not transferred stateside into facilities in American communities and neighborhoods.

Guantanamo is secure. The facility is a $200 million state-of-the-art prison. No one has ever escaped, and the location makes it extremely difficult to attack. Best of all, it is located hundreds of miles from American communities. If the President wants to close Guantanamo, he must do so in a way that keeps America safe. In my view, America is less safe if Guantanamo detainees are brought into the United States.

I appreciate the hard work of Senator INHOFE and Senator INOUYE on this issue. I hope when we have the vote today, my colleagues will adopt this amendment with the same level of support that we adopted the resolution back in July of 2007 by a vote of 94 to 3, stating very clearly that it is the view of the Senate that these detainees should not be brought into American communities, into American neighborhoods. I would argue they ought to be held right where they are, in a place that is safe, that is secure, that is state of the art, where they receive the very best of treatment, where no one has ever escaped, hundreds of miles away from American communities and neighborhoods.

I hope my colleagues will support this amendment.

I yield the floor. I suggest the absence of a quorum, and I ask unanimous consent that the quorum call be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, it is my understanding that we are on the supplemental appropriations bill at this point.

The ACTING PRESIDENT pro tempore. That is correct.

Mr. DURBIN. Mr. President, I want the record to show that I support President Obama's supplemental request for the remainder of fiscal year 2009. This supplemental provides critical funding for military and security efforts in Afghanistan, Pakistan, and Iraq. A small portion is for international programs, including assistance to Jordan, one of our important allies in the Middle East. Jordan is struggling with a huge influx of Iraqi refugees that strains its national services and particularly its water resources. Jordan has been a friend and ally, and it is right that in the supplemental bill we give them a helping hand because the war in Iraq has created a situation which we should address in Jordan.

It also provides additional support to the Global Fund which partners with other nations to tackle AIDS, tuberculosis, and malaria. I have worked with my colleagues for years to provide adequate funding for the Global Fund. I am glad this supplemental request from the Obama administration continues critical food assistance to help meet urgent needs of the world's poorest, which is also included. Funding is provided to help stem the flow of drugs and violence across our border in Mexico.

At home, the supplemental includes money to prepare and to respond to a global disease pandemic, including the recent H1N1 virus. This $1.5 billion went through my subcommittee and is money well spent so the President can have resources to respond quickly to any outbreak of disease or pandemic; that we would have adequate money for vaccinations, as well as providing medications, should people be stricken. We are looking ahead, planning ahead, thinking ahead, hoping the H1N1 will disappear from the world scene before the next flu season but being prepared if it does not or if something else threatens us.

This bill also provides funds critical to helping President Obama meet a key campaign promise—bringing an end to the war in Iraq. In late February, President Obama made an important announcement to thousands of marines at Camp Lejeune: bringing an end to the war in Iraq. After only 5 weeks into office, he delivered on his major campaign promise to end one of the longest wars in American history.

The President's plan is measured, thoughtful, and will bring an end to this costly and unnecessary war. The supplemental also wisely shifts resources to the real sources of the September 11 attacks on America—Afghanistan. For too long, this war in Afghanistan did not receive adequate civilian and military resources as they had been diverted to the war in Iraq. The supplemental corrects this mistake.

It also focuses resources on Pakistan, a nuclear-armed nation struggling with insurgents based in the border area with Afghanistan. It provides pay and allowances to our brave men and women in the U.S. military. These are some of the many important needs which deserve our support.

The President should be commended for recently presenting a budget for 2010 which moves away from repeated supplementals. This got to be a habit around here. We didn't go through an orderly debate on the budget about wars. Every time President Bush wanted money for a war, he said: I am declaring this an emergency. It will not be considered in the ordinary budget process. Here it is.

An emergency is defined as something unanticipated. After 5 or 6 years

of emergencies, you begin to realize you can anticipate next year we are going to have another unanticipated emergency.

This President, President Obama, wants to change that so that we go to an orderly budget process. This supplemental bill will be the last of the requests, and I think it is one we should honor as he tries to tackle some situations that were given to him when he took office just a few months ago. The President inherited many challenges at home and abroad, and I hope, on a bipartisan basis, we can help him address them.

This supplemental appropriations bill will provide critical funding for our troops in Afghanistan and Iraq, and I hope Congress passes it.

Unfortunately, my colleagues on the other side of the aisle have decided to use this legislation to open a debate about the future of Guantanamo. They have filed a number of amendments related to this issue. I am sure it is not their intention, but these amendments will have the effect of slowing down delivery of critical funding for our troops. Nevertheless, it is their right to offer these amendments, and though they are not germane to this legislation, they raise policy questions which we can debate.

Senator INOUYE, the chairman of the Appropriations Committee, has offered an amendment, which has broad support on both sides of the aisle, that will eliminate any funding in this bill for closing Guantanamo and make clear that none of the funds in this bill can be used to transfer Guantanamo detainees to the United States.

Here is the bottom line: There will not be any Guantanamo funding in this bill. So for the Republicans to bring up a series of Guantanamo amendments tells me they are more intent on raising an issue than on responding to the critical need this supplemental addresses.

These amendments are also premature. President Obama has not yet presented his plan for closing Guantanamo to the Congress and the American people. When he does, we will have plenty of opportunity to debate it. This bill, which will provide critical funding for our troops, is not the right place for this debate. This is not the right time. In fact, some of the amendments would have the effect of tying President Obama's hands, preventing him from moving forward with the closure of Guantanamo before he has even had the chance to present his plan.

There is a great irony here. For 8 long years, Republicans opposed congressional oversight of the Bush administration's counterterrorism efforts. When Democrats in the minority during the Bush years would ask for oversight by congressional committees so that we could get more information about a variety of issues relative to terrorism, we were told: No, the President has an important job to do and don't bother him, Congress; leave him alone.

For 8 years, Republicans criticized Democrats who asked questions about the misguided war in Iraq and controversial policies related to interrogation, detention, and warrantless surveillance.

For 8 years, they claimed congressional oversight was nothing more than micromanaging the important and critical work of the Commander in Chief.

Now, after 8 long years, the Republicans are unwilling to give President Obama a few short months to formulate and present a plan for closing Guantanamo.

Let's take one example. The distinguished minority leader, Senator MCCONNELL, has offered an amendment that would require the President to submit a detailed report to Congress on each detainee at Guantanamo Bay, including a summary of the evidence against each detainee.

For many years, the Bush administration refused to provide Congress with even a list of the names of the detainees at Guantanamo. They claimed that a disclosure of those names would threaten national security. I don't recall Senator MCCONNELL or anyone from his side of the aisle protesting this lack of disclosure by the previous administration.

Yesterday, Senator MCCONNELL said his amendment is designed to prevent released Guantanamo detainees from getting involved in terrorism. He said:

> Recidivism is of great concern for those of us who have oversight responsibilities here in Congress.

I do not recall Senator MCCONNELL, or any other Republican, protesting when the Bush administration, over the course of many years, released hundreds of Guantanamo detainees, some of whom have actually been involved in acts of terrorism since they were released.

So during the Bush years, while Guantanamo was churning hundreds of detainees, some being released and returned to their countries, there was not a whimper or a peep from the Republican side of the aisle. Now that President Obama has said the days of Guantanamo are numbered, they are coming in asking for detailed accounting of every single detainee. It is clearly a double standard.

There is also concern that the McConnell amendment could taint prosecutions of Guantanamo detainees by requiring the Obama administration to turn over critical evidence to Congress. Imagine for a moment that we gathered evidence that can be used successfully to either detain or prosecute one of the detainees, and Senator MCCONNELL insists that it be shared with Members of Congress. Is that in the interest of national security? I don't think so.

For 7 years after the 9/11 attacks, the Bush administration failed to convict any of the terrorists who planned these attacks. At President Obama's direction, career prosecutors are now reviewing the files of each Guantanamo detainee and gathering evidence to determine if each detainee can be prosecuted. Isn't that what we want, an orderly process looking at each detainee to determine whether they are guilty of wrongdoing, deciding whether they can be prosecuted, whether they should be detained and doing this with the understanding that a lot of the information is classified and most of it should be carefully guarded so as not to jeopardize the prosecution?

The McConnell amendment would say: Let Congress take a look at each detainee and all the evidence. That does not make sense, and I hope Members of the Senate will reject it.

The last thing Congress should do is interfere with the efforts of the Obama administration to gather evidence against terrorists that could ultimately bring them to justice.

There is another amendment. Senator JOHN CORNYN of Texas has an amendment that has 18 detailed findings about the Bush administration's use of abusive interrogation techniques, such as waterboarding.

Among other things, the Cornyn amendment claims these techniques ''accomplished the goal of providing intelligence necessary to defeat additional terrorist attacks against the United States.'' To say the least, we could debate that proposition for quite some time.

Former Vice President Cheney has been burning up the cable channel airwaves in recent weeks. He claims waterboarding produced valuable intelligence in the interrogation of al-Qaida leader Abu Zubaydah. But back in 2004, Vice President Cheney also told us the Bush administration had learned from interrogations at Guantanamo that the Iraqi Government had trained al-Qaida in the use of biological and chemical weapons. We now know there was no such link between al-Qaida and Iraq. This was part of the justification for the invasion of Iraq, and Vice President Cheney told us the interrogation at Guantanamo was producing the information to confirm a link that never existed.

What about Abu Zubaydah? Just last week in the Judiciary Committee we heard testimony from a former FBI agent who actually interrogated him. He testified under oath in our committee that he obtained valuable intelligence from Abu Zubaydah using traditional interrogation techniques and that abusive techniques, such as waterboarding, are ''harmful, slow, ineffective, and unreliable.''

Senator CORNYN does not serve on the Intelligence Committee. I don't know the basis for his claim that waterboarding produced intelligence that prevented terrorist attacks. I do know the Intelligence Committee, under Senator DIANNE FEINSTEIN's leadership, is now conducting a detailed, thoughtful, and thorough investigation into the Bush administration's detention and interrogation practices.

I have said publicly—others have said it as well, including the majority leader, Senator REID—that before we talk about creating an outside commission, the Senate Intelligence Committee should be allowed to do its work so Members of Congress can at least learn, through open and classified information, what did happen. But Senator CORNYN can't wait. Senator CORNYN wants to pass out ''get out of jail free'' cards to the previous administration before we even have a thorough examination of what happened.

One of the things the Intelligence Committee is reviewing is the effectiveness of these techniques in obtaining useful intelligence. The Senate is certainly not in a position today to go on record with conclusions such as those in Senator CORNYN's amendment before the Intelligence Committee even completes its investigation. It is not only premature, it certainly is questionable as to whether we should be engaged in this debate until their work is done.

I might remind Senator CORNYN, and those following this debate, that the Intelligence Committee is a bipartisan committee. It works in a bipartisan fashion. Senator BOND and Senator FEINSTEIN and others can continue to work together to come to good conclusions, to provide the Senate with good evidence, before we jump at the Cornyn amendment, which reaches conclusions not based on fact.

Senator CORNYN's amendment would also express the sense of the Senate that no one involved in authorizing the use of abusive interrogation techniques, such as waterboarding, should be prosecuted or sanctioned. It is inappropriate for Congress to interfere in ongoing investigations by the Justice Department.

During the Bush administration, political interference significantly undermined the credibility and effectiveness of the Justice Department. Attorney General Holder has pledged to restore the integrity and the independence of that department.

There are two ongoing investigations into the Bush administration's interrogation practices. One investigation is looking into the CIA's destruction of evidence of interrogation videotapes. The other is an investigation of Justice Department attorneys who authorized abusive techniques such as waterboarding.

Here is the reality: Both of these investigations didn't begin under President Obama. They began under the Bush administration. Both are being conducted by Department of Justice attorneys. So the suggestion that this is some partisan witch hunt is obviously false.

You wonder, with these two Department of Justice investigations underway and with the Senate Intelligence Committee doing a thorough investigation of this subject, why does Senator CORNYN want to come to the floor and have the Senate go on record saying that nothing possibly could have been done that was illegal or wrong? That would be the height of irresponsibility, should we pass that amendment.

Decisions about whether crimes were committed should be made by career prosecutors based on the facts and the laws, not political considerations or statements made by Senators on the floor without evidence to back them up. I urge my colleague from Texas to withdraw his amendment and allow the Justice Department to do its work.

There is an organization which I like and respect very much called Amnesty International. When you take a look at JOHN CORNYN's amendment, he would qualify for some amnesty award because he wants the Senate to go on record offering amnesty when it comes to the interrogation of detainees by not only—and let me go through the list—any person who relied in good faith on those opinions at any level of our Government, but also it includes Members of Congress who were briefed on the interrogation program.

To offer this kind of a statement ahead of time, without any gathering of evidence or fact, is, in my mind, an indication of how nervous some people are on the other side of the aisle. We should let this run its course in a professional manner. We shouldn't make a political decision, and we should defeat the Cornyn amendment.

Several of my Republican colleagues came to the floor yesterday to criticize President Obama's intention to close Guantanamo and argue it should remain open. I listened carefully to their arguments, and, frankly, there were enough red herrings to feed all the detainees at Guantanamo.

One of my colleagues said President Obama wants to close Guantanamo ''to be more popular with the Europeans.''

Well, I know President Obama. I served with him. He was my colleague in the Senate. His first interest is the United States and its safety. But the safety of the United States also involves being honest about what has happened. What happened at Abu Ghraib and what happened at Guantanamo has sullied the reputation of the United States and has endangered alliances which we have counted on for decades. President Obama is trying to change that. By closing Guantanamo and responsibly allocating those detainees to safe and secure positions, he is going to send a message to the world that it is a new day in terms of America's foreign policy.

The American people want to see that. They want a safer world and believe that if the United States can work closely with our allies around the world who are opposed to terrorism, we will be safer. That is what President Obama is setting out to do. Some of those allies may, in fact, be European. They may be African or Asian. They could be from all corners of the Earth. But if they share our values and want to work for common goals, President Obama wants to work with them.

GEN Colin Powell and many other military leaders have said for some time that closing Guantanamo will make America safer. Experts say Guantanamo is a recruitment tool for al-Qaida and hurts our national security. That is why President Obama, like President Bush, Senator JOHN MCCAIN, and many others, wants to close Guantanamo.

Some of my Republican colleagues argued that Guantanamo is the only appropriate place to hold the detainees because ''we don't have a facility that could handle this in the United States'' and American corrections officers would ''have no idea what they are getting into.'' Well, I would say to my colleagues who made those statements that they ought to take a look at some of our secured facilities in the United States and they ought to have a little more respect for the men and women who are corrections officers, who put their lives on the line every single day to keep us safe and who make sure those who are dangerous are detained and incarcerated.

The reality is, we are holding some of the most dangerous terrorists in the world right now in our Federal prisons, including the mastermind of the 1993 World Trade Center bombing, the ''shoe bomber,'' the ''Unabomber,'' and many others.

Senator MCCONNELL said yesterday, ''No one has ever escaped from Guantanamo.'' Well, that is true, to the best of my knowledge. But it is also true that no prisoner has ever escaped from a Federal supermaximum security facility in the United States.

In fact, the Bureau of Prisons is currently holding 347 convicted terrorists. Is Senator MCCONNELL going to come to the floor and say they should be moved from these Federal correctional facilities because they pose a threat to the United States being incarcerated in the continental United States? I haven't heard that. But in his efforts to keep Guantanamo open at any cost, he wouldn't even consider allowing a detainee to be brought to the United States for trial and being held, even temporarily, in any type of secure facility.

Republicans are criticizing the President, but the reality is, they do not have a plan themselves to deal with Guantanamo. I assume, from Senator MCCONNELL's statements, he would leave it open. He doesn't care about the impact this might have on the United States around the world. If he has a plan to close it, I would like to hear it. I think he ought to come forward and join with President Bush, join with President Obama, join General Powell, join Senator MCCAIN, Senator GRAHAM, and others who have said Guantanamo should be closed. Otherwise, unfortunately, he is being critical of the President's intentions without producing his own approach.

The Bush administration had many years to deal with Guantanamo, but they didn't follow through. President

Obama has taken on the challenge of solving one of the toughest problems his administration faces, beyond the state of our economy. The President is taking the time to carefully plan for the closing of Guantanamo, with the highest priority being the protection of America's national security.

I urge my Republican colleagues to withdraw these Guantanamo amendments. These amendments don't fit in the supplemental appropriations bill. They tie the President's hands and keep him from making the necessary decisions to keep us safe and to make sure terrorists do not, in any way, threaten the United States. They also slow down our efforts to provide critical funding for our troops in Afghanistan and Iraq.

I hope when this matter comes before the Senate in the hours ahead, my colleagues will read carefully and closely, particularly the amendments by Senator CORNYN and by Senator MCCONNELL. The amendment by Senator CORNYN, which grants a sense-of-the-Senate amnesty to those who were involved in interrogation techniques, is not consistent with a nation that is guided by the rule of law. For that Senator to make conclusions in his amendment that have not been supported by evidence and fact should be grounds enough for us to reject his amendment.

I don't know where these investigations in the Department of Justice or the Intelligence Committee will lead, but if we are truly sworn to uphold the Constitution and the laws of our land, we should allow them to run their course with the facts and law being honestly considered by those different panels.

Senator MCCONNELL's amendment, which asks for more detailed information about detainees at Guantanamo than any Republican ever dared ask under the Bush administration, could jeopardize the prosecution of terrorists. Is that a good idea? It is certainly not. I certainly hope my colleagues will join me in opposing the McConnell amendment as well.

I yield the floor.

The PRESIDING OFFICER (Mr. BEGICH). The Senator from Virginia.

Mr. WEBB. Mr. President, I ask unanimous consent to speak with respect to an amendment I have filed.

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

Mr. WEBB. Mr. President, I have filed an amendment to this supplemental appropriations bill which is designed to put more transparency and more measurable control factors into the way we are spending these appropriations with respect to the situation in Pakistan.

I would begin by saying I have a great deal of concern, as do many Members of this body, with respect to the achievability of some of the strategic objectives that have been laid out by the new administration. We are still looking for clear and measurable end points to the strategy itself. At the same time, I believe the new administration deserves an opportunity to attempt to bring a greater sense of stability into that region. It is a big gamble.

As I mentioned to General Petraeus when he was testifying, and as I mentioned to other witnesses before the Armed Services and the Foreign Relations Committee, the biggest gamble we face with respect to the policies that have been announced in Afghanistan and Pakistan are that we are basically allowing ourselves to be measured by unknowns, over which we have no real control. In Afghanistan, this is very clear, when we put as one of our objectives the creation of an Afghani national army. I asked General Petraeus if he could tell me at what point in the Afghan history has there ever been a viable national army, and the answer is, except for a period of about 30 years when the Afghanis were sponsored by the Soviets, there was no viable national army. And even there it was not one you would measure in the same context of what we are saying we are going to attempt to achieve. So that puts our success in the hands of a rather speculative venture but one I hope we can achieve in some form.

I would also point out an article in the New York Times today, which points out there was a good bit of American weaponry ammunition found in the aftermath of battle between the Taliban and American forces, which shows there are munitions that were procured by the Pentagon that now seem to be in the hands of the troops who are fighting against Americans. I would point out that is not unusual for this region. When I was Secretary of the Navy more than 20 years ago, one thing we were seeing in the Persian Gulf, with the Iranian boghammers attempting to attack our vessels, was that some of the rocket-propelled grenades that were found in these boghammers actually could be traced back to weapons we had given the Afghani anti-Soviet fighters in Afghanistan. It is a common occurrence in this region.

The question is, How we can minimize those sorts of occurrences?

With respect to Pakistan, the situation is even more difficult.

We have very few control factors in Pakistan in terms of where our money goes when we send it in or what happens to our convoys that go through Pakistan on the way to Afghanistan. Eighty percent of the logistical supplies that go to Afghanistan go by ground through Pakistan. We cannot defend those convoys. We have had many occurrences since last summer where they have been interrupted, where they have been attacked, trucks have been destroyed, and other vehicles have been stolen, et cetera.

In Pakistan there are a number of reputable observers who point out that some elements in the Pakistani military, particularly in their intelligence services, actually have continued to assist the Taliban. Because of—No. 1, the vulnerability of our supply routes; No. 2, the instability of the Government itself, obviously which we are attempting to assist; and No. 3, the focus of Pakistan in terms of its principal national security objectives as being India rather than Afghanistan itself—that leads to a situation where we must have a measurable source of control and accountability over the money we are going to appropriate to assist the situation in Pakistan as it relates to international terrorism, the future stability of Pakistan, and attempting to defeat al-Qaida.

With all that in mind, I asked a series of questions last week in the Armed Services Committee to Admiral Mullen, the Chairman of the Joint Chiefs of Staff. This basically was the line of questioning. First, do we have evidence that Pakistan is increasing its nuclear program in terms of weapon systems, warheads, et cetera? Admiral Mullen gave me a one-word answer—yes. I declined to pursue that answer because I didn't believe that was the appropriate place to have a further discussion. But I did say, and I believe now, this should cause us enormous concern at a time when we are having so much discussion in this country about the potential that Iran would obtain nuclear weapons, where Pakistan, an unstable regime in a very volatile part of the region, not only possesses nuclear weapons but is increasing its nuclear weapons program.

I then asked Admiral Mullen: Can you tell me what percentage of the $12 billion that has gone to Pakistan since 9/11 has gone toward its defense measures related to India or to other areas that are not designed to address directly the terrorist threat or the activities of the Taliban? The answer was we do not know. No. We cannot measure those with any degree of validity because of the opaqueness in the Pakistani Government.

I then asked him: Do we have appropriate control factors, in terms of where future American money will go? Secretary Gates indicated there were improved control factors, but we do not have the control factors in Pakistan as now exist even in countries such as Afghanistan, with all the difficulties in that country.

With all of that in mind, I drafted a simple amendment. I hope this can go into the managers' package. I believe all of us who are going to step forward right now and attempt to assist the administration can agree that what we should have is a simple statement from the Congress, from the appropriators, that none of the funds we are appropriating could be used for either of these two purposes—No. 1, to support, expand, or in any way assist the development or deployment of the nuclear weapons program of the Government of Pakistan; or, No. 2, to support programs for which these funds in the appropriations act have not been identified.

It is a very simple amendment. It simply says no money will go directly or indirectly to assist Pakistan's nuclear weapons program; No. 2, no money will be spent in any way other than the way we have identified it in this program and that the President must certify this and must come back every 90 days and recertify whether any funds have been appropriated for those purposes.

I hope the managers of this bill can accept this amendment. If not, I will seek a vote on the floor.

I yield the floor.

AMENDMENT NO. 1144

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise to speak about amendment No. 1144, the Protecting America's Communities Act, which I am offering to H.R. 2346, the supplemental appropriation bill.

Before I begin my comments, I ask unanimous consent to add Senator COBURN as an original cosponsor of S. 1071, which is a collateral stand-alone bill, as well as a cosponsor to amendment No. 1144.

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

Mr. CHAMBLISS. Mr. President, this amendment amends immigration law to prohibit any detainee held at Guantanamo Bay Naval Facility from being transferred or released into the United States. It is a little bit different from the vote we are going to be taking at 11:30.

There are over 240 terrorists in U.S. custody at the military detention facility in Guantanamo Bay, Cuba. Let me just describe some of the individuals who reside at Guantanamo. Khalid Sheikh Mohammed—or KSM—is the self-proclaimed, and quite unapologetic, mastermind of the 9/11 attacks. KSM admitted he was the planner of 9/11 and other planned, but foiled attacks against the U.S. In his combatant status review board, he admitted he swore allegiance to Osama bin Ladin, was a member of al-Qaida, was the military operational commander for all foreign al-Qaida operations, and much more. KSM and four other detainees, who are charged with conspiring to commit the terrible 9/11 attacks, remain at Guantanamo.

In addition, Gitmo uses Abd al-Rahim al-Nashiri who was responsible for the October 2000 USS Cole bombing which murdered 17 U.S. sailors and injured 37 others. Also residing a Gitmo are Osama bin Ladin's personal bodyguards, al-Qaida terrorist camp trainers, al-Qaida bombmakers, and individuals picked up on the battlefield with weapons trying to kill American soldiers—our young men and women who patriotically serve their country. The detainees at Guantanamo are some of the most senior, hardened, and dangerous al-Qaida figures we have captured.

These are exactly the type of individuals we hope never get past our front lines and enter into the United States. However, as one of his very first acts in January, President Obama ordered the closure of Guantanamo, but 4 months later he still does not have a plan to accomplish this. Officials in his administration have stated publicly that some of these detainees could be brought to the U.S., and some could even be freed into the United States.

The disposition of the detainees at Gitmo is not a new issue. Over the past several years, the military has transferred the majority of detainees held at Gitmo to other countries. However, the success of these transfers is mixed at best. According to a Defense Intelligence Agency report from December 2008, 18 former detainees are confirmed and 43 are suspected of returning to the fight after being released from Guantanamo. This represents a recidivism rate of over 11 percent. Just two months later this rate rose to 12 percent. These individuals do not even represent the most serious and dangerous terrorists we have captured. The most dangerous detainees remain at Gitmo. This data has likely risen since December, but the Department of Defense refuses to release the information under instructions from the administration. If we start to release or transfer the most hardened terrorists left at Gitmo, these numbers will only increase further.

One thing that is clear: we know that these detainees have remained loyal to al-Qaida and Osama bin Ladin despite being captured and remain a danger to our national security. We have statements from detainees avowing it is their goal to kill Americans, claiming that they ''pray every day against the United States.'' Al-Qaida searches every day for operatives who can evade our enhanced security mechanisms in its quest to commit another attack against our homeland. It is important to remember that most detainees held at Guantanamo were captured on the battlefields in Afghanistan or Iraq and were determined to be a threat to our Nation's security. Whatever their ties to terrorists groups or activities, these individuals should never be given the privilege of crossing our borders, even if incarcerated. To do so would be nothing short of an invitation for al-Qaida to operate inside our homeland. KSM and other high value detainees at Gitmo are no different, and do not conceal their intent to harm Americans if given the chance.

My amendment would prevent those terrorists at Gitmo from having that chance. Article I, section 8 of the Constitution grants Congress the right to ''establish a uniform rule of naturalization.'' The Supreme Court has determined that the power of Congress ''to exclude aliens from the United States and to prescribe the terms and conditions on which they come in'' is absolute. My legislation capitalizes on the clear and absolute authority of Congress to determine who enters our borders by first adding to the list of those inadmissible to the United States those detained at Gitmo as of January 1 of this year.

However, because Congress delegates to the executive branch parole authority, this administration could still bring those terrorists detained at Gitmo into the United States. Parole authority is granted to the Attorney General to allow aliens, who are otherwise not qualified for admission to the U.S., permission to enter our country on a case-by-case basis—essentially a waiver for those otherwise inadmissible. Although aliens paroled into the U.S. are not considered ''admitted'' for purposes of our immigration laws, they are within the borders of our country and therefore become eligible to apply for asylum or seek other legal protections.

To deal with this, my legislation also eliminates parole authority for the executive branch as it pertains to those individuals detained at Gitmo as of January 1, 2009. As such, there is no basis for President Obama to allow these detainees to be transferred to U.S. soil.

The Protecting America's Communities Act also provides protections for American citizens in the event President Obama decides to try to exercise some other authority to bring these Gitmo detainees to the U.S., such as the authority granted to him via Article II of our Constitution. Again, we know that if the detainees were transferred to the U.S., they would seek legal protection under the generous legal rights our Constitution grants our citizens. However, our courts and our legal system were not established to try individuals detained on the battlefield. Because of the nature of the global war on terror and evidence gathered against them from the battlefield or through intelligence, the detainees are unlikely to be suitable for prosecution within the U.S. criminal courts. There is no ''CSI Kandahar'' in which evidence picked up off the battlefield is carefully marked and the chain of custody is observed.

There is too much at stake to grant the unprecedented benefit of our legal system's complex procedural safeguards to foreign nationals who were captured outside the United States during a time of war. Allowing these terrorists to escape conviction—or worse yet, to be freed into the U.S. by our courts—because of legal technicalities would tarnish the reputation of our legal system as one that is fair and just. Prohibiting the detainees from entering into the U.S., as the Protecting America's Communities Act does, is one small step in the right direction.

Further, if these individuals were to be brought to the U.S. by President Obama to be tried on our Article III courts and not convicted, the only mechanism available to our Government to continue to detain these individuals would be via immigration law. However, the current immigration laws

on our books are insufficient to ensure that these detainees would be mandatorily detained and continued to be detained until they can successfully be removed from our borders.

Although I am adamantly opposed to bringing any of these detainees to the U.S., and I do not believe the President has independent authority to do so, I believe we need legislation to safeguard our citizens and our communities in the event they are brought here. To that end, my legislation makes mandatory the detention of any Gitmo detainees brought to the U.S.

It also strengthens and clarifies the authority of the Secretary of the Department of Homeland Security to detain any of the Gitmo detainees until they can be removed. This statutory fix is needed because in 2001, the Supreme Court decided the case of Zadvydas v. Davis, holding that unless there is a reasonable likelihood that an alien being held by the Government will actually be repatriated to their government within a given period of time, that alien must be released and cannot be detained by the U.S. Government for more than 6 months.

We all know a major issue facing our country in dealing with those folks detained at Gitmo is finding a country to take them. For example, there are 17 Chinese Uighurs being held at Gitmo who have been cleared for transfer to another country. However, the United States will not send them back to China for fear they might be treated unfairly by the Chinese Government. No other country to date is willing to take them. Therefore, my legislation provides authority to the Secretary of Homeland Security to continue to detain these individuals and provides for a periodic review of their continued detention until they can safely be removed to a third country.

In addition, my legislation prohibits any of those individuals detained at Gitmo from applying for asylum in the event they are brought here. Now, there are a number of other proposals to prohibit funding from being used to transfer to or detain the Gitmo terrorists in the United States—I am going to support those provisions—but those are not permanent. Those will have to be renewed annually. Congress would have to maintain this prohibition in all future spending bills.

Although I do believe this is a good short-term solution, and I support those measures, I want to be confident that Congress does not drop the ball in the future. We need a more permanent solution to this problem, and the Protect America's Communities Act provides exactly that.

I urge the President to develop a policy that would allow closure for the families of the victims of 9/11 that will prevent terrorists from stepping foot on U.S. soil and will keep them off the battlefield where they will attempt to kill our men and women in future combats.

However, we cannot wait for the President to assure us that none of these detainees will be brought to America. The stakes are too high, and in order to maintain the highest degree of security and safety in our country, we need to adopt the Protect America's Communities Act to ensure that they never step foot inside of our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to give some views on Guantanamo. I have had the privilege of serving with the distinguished Senator who has just concluded his remarks on the Intelligence Committee of the Senate. But I strongly disagree with him. I would like to have the opportunity to make the case.

First of all, Guantanamo is not sovereign territory of the United States. Under a 1903 lease, however, the United States exercises complete jurisdiction and control over this naval base.

In December 2001, the administration decided to bring detainees captured overseas in connection with the war in Afghanistan and hold them there outside of our legal system. That was the point: To hold these detainees outside of the U.S. legal system.

This was revealed in a December 2001 Office of Legal Council memorandum by John Yoo of the Justice Department.

He wrote this:

> Finally, the Executive Branch has repeatedly taken the position under various statutes that [Guantanamo] is neither part of the United States nor a possession or territory of the United States. For example, this Office [Justice] has opined that [Guantanamo] is not part of the ''United States'' for purposes of the Immigration and Naturalization Act . . . Similarly, in 1929, the Attorney General opined that [Guantanamo] was not a ''possession'' of the United States within the meaning of certain tariff acts.

The memo concludes with this statement:

> For the foregoing reasons, we conclude that a district court cannot properly entertain an application for a writ of habeas corpus by an enemy alien detained at Guantanamo Bay Naval Base, Cuba. Because the issue has not yet definitively been resolved by the courts, however, we caution that there is some possibility that a district court would entertain such an application.

This set the predicate for Guantanamo: Keep these individuals outside of the reach of U.S. law, and set up a separate legal system to deal with them.

Now, was this right or wrong? It was definitively wrong, because since then the Supreme Court has rejected this position in four separate cases.

First, in Rasul v. Bush in 2004, the court ruled that American courts, in fact, do have jurisdiction to hear habeas and other claims from detainees held at Guantanamo.

Second, in Hamdi v. Rumsfeld, also in 2004, the Court upheld the President's authority to detain unlawful combatants, but stated that this authority was not ''a blank check.'' In particular, the Court ruled that detainees who were U.S. citizens, such as Yasser Hamdi, had the rights that all Americans are guaranteed under the Constitution.

Third, in Hamdan v. Rumsfeld in 2006, the Court declared invalid the Pentagon's process for adjudicating detainees and extended to Guantanamo detainees the protection from cruel, inhuman, and degrading treatment found in Common Article Three of the Geneva Conventions.

The administration responded by pushing through Congress the Military Commissions Act. This legislation expressly eliminated habeas corpus rights and limited other appeals to procedure and constitutionality, leaving questions of fact or violations of law unresolvable by all Federal courts. This happens nowhere else in American law. But this Military Commissions Act was enacted in the fall of 2006.

That law was then challenged through the courts and overturned in the final Supreme Court decision in this area, Boumediene v. Bush, decided in 2008.

In Boumediene, the Supreme Court stated that the writ of habeas corpus applied to detainees even when Congress had sought to take away jurisdiction. It stated that detainees must be allowed access to Federal courts so that a judicial ruling on the lawfulness of their detention could be made.

Writing for the majority in the Boumediene decision, Justice Kennedy wrote the following:

> The laws and the Constitution are designed to survive, and to remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the framework of the law.

Several habeas petitions have been filed and reviewed in the DC Circuit since the Boumediene decision, and that process is ongoing today.

In sum, these four Supreme Court rulings make one thing exceedingly clear: The legal rights of these detainees are the same under the Constitution, whether they are kept on American soil or elsewhere.

Attempts to diminish or deny these legal rights have only served to delay the legal process at Guantanamo Bay.

In fact, only 3 of the roughly 750 detainees held at Guantanamo have been held to account for their actions.

One is David Hicks, an Australian. He pled guilty to charges and has since been released by the Australian Government.

Salim Hamdan, Bin Laden's driver, was found guilty of providing material support for terrorism by his military commission. He was sentenced to 5.5 years, but having already served 5 years in Guantanamo, he was released to Yemen in November of 2007.

Ali Hamza al Bahlul, a Yemeni who was al-Qaida's media chief, was found guilty of conspiracy and providing material support for terrorism in November of 2008. He refused to mount a defense on his own behalf and was given a life sentence.

Today, there are approximately 240 detainees incarcerated at Guantanamo.

In 2007, nearly 2 years ago, I introduced an amendment to the Defense authorization bill to close Guantanamo Bay within 1 year and transition all detainees out of that facility.

The amendment was cosponsored by 15 Senators. Unfortunately, it was not allowed to come up for debate.

Within 2 days of his inauguration, President Obama issued an Executive Order announcing the closure of Guantanamo within 1 year and ordering a review of each detainee.

Let me say this: I believe closing Guantanamo is in our Nation's national security interest. Guantanamo is used not only by al-Qaida but also by other nations, governments, and individuals, people good and bad, as a symbol of America's abuse of Muslims, and it is fanning the flames of anti-Americanism around the world.

As former Navy General Counsel Alberto Mora said in 2008:

> Serving U.S. flag-rank officers . . . maintain that the first and second identifiable cause of U.S. combat deaths in Iraq—as judged by their effectiveness in recruiting insurgent fighters into combat—are, respectively the symbols of Abu Ghraib and Guantanamo.

I deeply believe closing Guantanamo is a very important part of the larger effort against terror and extremism. It is a part of the effort to show that Americans are not hypocritical, that we do not pass laws and then say that there is a certain group of people who are exempt from these laws.

Detentions at Guantanamo have caused tension between the United States and our allies—the allies we try to get to contribute more forces and other support for the war in Afghanistan, and they are a rallying point for the recruitment of terrorists.

So, closing it is a critical step in restoring America's credibility abroad, as well as restoring the value of the American judicial system.

The executive branch task force responsible for ensuring that Guantanamo closes within the year is reviewing the evidence on each of the roughly 240 detainees to determine the following:

Who can be charged with a crime and be prosecuted; who can be transferred to the custody of another country, like the 500 or so detainees who have already left Guantanamo; who poses no threat to the United States but cannot be sent to another nation; and, finally, who cannot be released because they do pose a threat but cannot be prosecuted, perhaps because the evidence against them is the inadmissible product of coercive interrogations.

Let me be clear. No one is talking about releasing dangerous individuals into our communities or neighborhoods as some would have us believe.

The best option is to prosecute the terrorists who plotted, facilitated, and carried out attacks against the United States.

Let's look at the record for a moment.

The United States has prosecuted individuals in Federal court for the bombings of U.S. Embassies and the 1993 World Trade Center attack. It has prosecuted individuals plotting to bomb airplanes, for attending terrorist training camps, and for inciting violent acts against the United States.

According to a report, ''In Pursuit of Justice: Prosecuting Terrorism Cases in the Federal Courts,'' issued in May of last year, more than 100 terrorism cases since the beginning of 2001 have resulted in convictions.

The individuals held at Guantanamo pose no greater threat to our security than these individuals convicted of these crimes, who are currently held in prison in the United States and are no danger to our neighbors, to our communities. The Bush administration had estimated that out of the 240 detainees at Guantanamo, 60 to 80 could be prosecuted for crimes against the United States or its allies. Current efforts to try these cases are ongoing.

In the event that detainees cannot be tried in Federal court or in standard courts martial, the Obama administration has recently proposed revisions to military commissions. This is an issue we are going to have to look at very closely in the coming weeks.

Our system of justice is more than capable of prosecuting terrorists and housing detainees before, during, and after trial. We have the facilities to keep convicted terrorists behind bars indefinitely and keep them away from American citizens.

The Obama administration will determine which civilian and military facilities are best to accomplish these goals. One example is the supermax facility in Florence, CO.

It is not in a neighborhood or community. It is an isolated supermax facility. It has 490 beds. They are reserved for the worst of the worst. This facility houses not only drug kingpins, serial murderers, and gang leaders, but also terrorists who have already been convicted of crimes in the United States.

There have been no escapes, and it is far, as I said, from America's communities and neighborhoods, as are just about all the maximum and supermax facilities.

This facility has housed terrorists such as Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, and at least six of his accomplices; Omar Abdel-Rahman, known as the ''Blind Sheikh,'' who was behind a plot to blow up New York City landmarks, including the United Nations; Richard Reid, the al-Qaida ''shoe bomber,'' who tried to blow up an airliner in flight; four individuals involved in the 1998 bombings of Embassies of the United States in Kenya and Tanzania; Ahmed Ressam, the ''Millennium Bomber,'' who was detained at the Canadian border with explosives in his car as he was headed to the Los Angeles airport; Iyman Faris, the al-Qaida operative who plotted to blow up bridges in New York City; Jose Padilla, the U.S. citizen held for 3½ years as an enemy combatant based on allegations that he had wanted to detonate a dirty bomb inside the United States and was later convicted of material support to terrorism; 9/11 conspirator Zacarias Moussaoui; the ''Unabomber,'' Theodore Kaczynski; and Oklahoma City bombers, one of whom is now deceased, Timothy McVeigh and Terry Nichols.

These 20 are just an example of terrorists who have been or are being held inside the United States.

So there is ample evidence that the United States can and, in fact, does hold dangerous convicts securely and without incident.

As I said earlier, I believe that not all detainees can be prosecuted.

The Bush administration had identified a second group of 60 to 80 who could be transferred out of Guantanamo, if another nation could be found that would accept them.

Again, the Obama administration is finding some success in moving these detainees abroad.

Since January of this year, there have been stories indicating that certain European nations may accept some of the detainees. A few days ago, France accepted an Algerian detainee from Guantanamo. These countries recognize that closing Guantanamo is in the best interests of everyone, and are willing to be part of the solution. We sincerely thank them.

Finally, let me address the third category of detainees, which presents the thorniest problem.

The Executive Order Task Force will likely determine that there are some detainees who can neither be tried, nor transferred, nor released. Secretary Gates recently testified that there were 50 to 100 of these detainees.

The President has the authority to detain such people under the laws of armed conflict, and he very well may need to exercise that authority. I would support his doing so.

In my view, this authority should be constrained and in keeping with the Geneva Conventions. Detainees should only be held following a finding by the executive branch that this action is legal under international law.

These detainees should have the right to have a U.S. court review this determination, much as the Boumediene decision guaranteed that habeas petitions of detainees will, in fact, be heard. That judicial determination should be reviewed periodically to determine whether the detainee remains a threat to national security and should continue to be detained.

In this, there is a protocol that I believe will stand court scrutiny and enable the President to continue the detention of everyone who remains a national security threat to the United States.

Guantanamo, despite all the rhetoric on this floor, has been a symbol of abuse and disregard for the rule of law

for too long. Four Supreme Court decisions should convince even the most recalcitrant of those among us; it is in our own national security interests that Guantanamo be closed as quickly and as carefully as possible.

The fact is, no Member of Congress wants to see, or advocates, the reckless release of terrorists, or anyone who is a threat to our national security, into our communities. It does not have to, and it will not be done that way.

Of the 240 detainees at Guantanamo right now, some can be tried. Some have been declared not to be enemy combatants. Others may need to be detained in the future, but only in a way that is consistent with our laws and our national security interests.

I believe we should close Guantanamo. I support the President in this regard. This is a very important decision we are going to make. I very much regret that this amount was in the supplemental bill without a plan, and I think that is the key. The plan was not there. How would the money be used? Nobody knew. So it fell smack-dab into the trap that some want to spring throughout the United States: That this administration or this Senate would release detainees into the neighborhoods and communities of the United States.

As shown on this chart, this supermax facility is not in a neighborhood or a community. Yes, we have maximum security prisons in California eminently capable of holding these individuals as well, and from which people do not escape.

I believe this has been an exercise in fear-baiting. I hope it is not going to be successful because I believe American justice is what makes this country strong in the eyes of the world. American justice is what people believe separates the United States from other countries. American justice has to be applied to everyone because, if it is not, we then become hypocrites in the eyes of the world.

We should return to our values. One of the largest symbols of returning to these values is, in fact, the closure of the facility at Guantanamo Bay.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. There is 15 minutes 56 seconds.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be notified after 10 minutes and that the approximately 6 minutes be reserved for Senator INHOFE.

Mr. INHOFE. Mr. President, reserving the right to object—and I do not think I will object—I did not hear the request the Senator made. Will the Senator repeat it, please.

Mrs. HUTCHISON. It is to reserve the 10 minutes I had scheduled and to reserve 6 minutes for you, I say to the Senator.

Mr. INHOFE. Mr. President, that 6 minutes would be immediately prior to Senator INOUYE's closing; is that right?

I do not object. I thank the Chair.

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

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise in support of the amendment to prohibit funds from the supplemental being used for relocation of Guantanamo Bay prisoners.

President Obama has asked for $100 million in the regular 2010 Defense appropriations bill for his proposal to close Guantanamo Bay. As Congress considers that plan for 2010, it is reasonable for us to ask the President to come to Congress with his plan so we can consider the funding requirements as part of the normal oversight process. But right now, I think it is clear, from all the debate we have heard, the President does not have a plan. Instead, he is proceeding with a decision to close Guantanamo Bay, even though there is no viable alternative for the detainment of terrorist combatants.

On September 11, 2001, we know the United States peered into the face of evil, when 19 foreign terrorists brought the violence of extremism to our soil, claiming the lives of nearly 3,000 Americans.

That day changed the course of American history. In the 8 years since, America has boldly waged the global war on terror in an effort to prevent terrorism from ever reaching American shores again.

This conflict has presented our Nation with operational challenges which we had not seen before. It is where to and how to detain captured terrorists who are enemy combatants but do not represent legal combatants of a country. They are not an organized military. They do not have the honor code that any military of a country has. No. They are terrorists. They do not have an honor code. Therefore, how and where we detain them has been a unique situation for our country.

Included in the detainees at Guantanamo Bay is the self-confessed mastermind of 9/11, Khalid Shaikh Mohammed. Since just after 9/11, these enemy combatants have been at a prison facility that is a U.S. Naval Base at Guantanamo Bay in Cuba. I have been there. Conditions are good. Medical service and food is good. Customs of the combatants are recognized and respected.

My colleagues are discussing Guantanamo, saying it is divisive. They are talking about the whole issue of what is torture. I think it is very important that we separate what is torture from detaining enemy combatants who must be detained because they have information and because they are either suspects or known terrorists or are self-confessed terrorists who want to harm and kill Americans and our allies.

So as we are discussing the issue of where they are detained, I think we should put aside the issue of what is torture, which is a legitimate issue for discussion but not in where these prisoners are housed. This issue should be: Is this a secure facility? Are conditions clean? Does it meet the standards of any American prison? Does it protect Americans by holding the detainees in a secure place from which it would be very difficult for them to escape?

One other point, because it has been brought out that we have secure prisons in America. Well, there is a difference here because we are putting these enemy combatants who do not have an honor code on American soil, if that is the choice that is made, and we are also allowing people from the outside to then start plotting for their escape into America's neighborhoods.

I believe the President's initiative saying we would close Guantanamo Bay within a year is premature, and I am extremely concerned that this deadline, when there is no alternative and no plan for these dangerous terrorists, is taking precedence over the plan that must be put forward for the security of Americans.

There are five scenarios that have been outlined here on the floor about what we would do with these detainees: hand them over to their home countries for incarceration, transfer them to a neutral country, transfer them to prisons in America, send them to U.S. facilities abroad, or release them outright. Unfortunately, every one of these options heightens the threat to the lives of Americans.

Let's talk about putting them in America. That is the worst of these options. By taking this action, we allow people to plot the takeover of a prison or the escape of these detainees, put them in cell phone range where they could be talking to the outside. That would be the worst option.

In 2007, the Senate voted 94 to 3 expressing its firm opposition to any plans to release Guantanamo detainees into American society or to house them in American facilities. So what about other countries? What about putting them out into other countries? That, too, is very dangerous. In January, it was reported that former Guantanamo detainee Said Ali al-Shihri, who had been released into the custody of Saudi Arabia, has subsequently resurfaced as a terrorist operative. Today, he is one of the al-Qaida leaders in Yemen and is charged with planning and executing acts of violence against the United States and its allies. He is not the exception. According to the Pentagon, as many as 61 enemy combatants released from Guantanamo have since reconnected with terrorist networks and renewed their commitment to destroying America and our way of life. Even more frightening, these 61 former prisoners came from the group of 500 who were deemed ''less dangerous'' and thus were released. That means the approximately 270 detainees currently housed in Guantanamo represent the most nefarious of prisoners.

Clearly, a viable alternative to Guantanamo has not been identified. Expediting closure of this detention facility without absolutely assuring that American lives would be safe, not endangered by this act, would place misguided foreign policy goals above the protection of our homeland and our people. Moreover, it signals a dangerous return to the pre-9/11 mindset.

Before setting a deadline to close this facility at Guantanamo Bay—a U.S. naval base where they have been secured and from which there have been no escapes and no attempts to escape—before setting that deadline, the American people must be assured that the transfer or release of these detainees will not increase the risk to American citizens at home or abroad. As it stands, the administration cannot give that assurance today. We must require a plan before this order is executed. Not doing so is a pre-9/11 mentality that we cannot afford to adopt.

We must remember what happened on 9/11. We were complacent. We were a people who never thought we would be attacked on our homeland by people even within this society who were helping to plot this destruction. We cannot go back to the mentality of ''everything is going to be OK and we won't be attacked again.'' There are people in Guantanamo and all over the world today who are plotting to undo the freedom in America and the ability to live with diversity and in peace, and we must hold up that flag of America and what it represents for the world. That is what will make America good in the eyes of the world—not releasing terrorists to harm other people and our allies.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I wish to inquire how much time we have before the Senator from Hawaii wraps it up.

The PRESIDING OFFICER. The Senator from Oklahoma has 5 minutes.

Mr. INHOFE. Mr. President, first of all, let me just say that on February 2, I was in Guantanamo Bay. It was one of several trips I have made down there. I wish to suggest that one of the trips I made was right after 9/11. At that time, I did quite a bit of research to try to understand why people have this obsession about closing Guantanamo. I looked at the resources down there, and I couldn't figure it out. That was several years ago. Now, as recently as 2 months ago, I still have a hard time figuring that out.

I wish to suggest to my colleagues—and I have been listening to some of those who are objecting to the action we are about to take today—there cannot be a case at all that there are human rights abuses in Guantanamo Bay.

Eric Holder, the new Attorney General, went down there just a short while ago. He came back, and he witnessed the same thing I did—he was down there about the same time—that during the recent visit, the military detention facilities at Gitmo meet the highest international standards and are in conformity with article 3 of the Geneva Convention.

Then, on February 20, a short time after that, Vice Chief of Naval Operations Admiral Walsh went down and issued a detailed report following a 2-week review. I go down for 1 day at a time; he was down there for 2 whole weeks with a whole team. The team conducted multiple announced and unannounced inspections of all of the camps, in daylight and at nighttime, keeping in mind that there are six different levels of security down there, which is a resource we can't find in any of our other installations to which we have access. Anyway, they talked to all of the detainees in the yards and everyone else, and they found that their conditions were in conformity with article 3 of the Geneva Convention.

So this shouldn't even be controversial. This is something on which we all agree.

I would suggest that we don't have any cases where people are being neglected. Right now, they have better health care than they have ever had before. There is a medical practitioner, a doctor, a nurse, for every two detainees there. There is even a lawyer for each detainee who is there. From their own statements to me, these individuals are eating better, living better than they have at any other time of their lives.

The big problem is, if we did close it, we would have to do something with these people. I heard one of the Senators who is on the opposite side of this issue say a few minutes ago: Well, that is fine because right now they are disposing of them.

They have only, in the last 3 months, found one place. It has dropped down from 241 to 240. If that is a success story, I am not sure I understand what success is.

The bottom line is, there are things down there that we can't replicate anywhere else, and they are being well cared for.

One thing that hasn't been talked about enough is the existence of the expeditionary legal complex that is in Gitmo. This took 12 months to build. It cost $12 million. This is where they can have tribunals.

One of the things people say is: Well, they can be put into our justice system.

We can't do that because these are detainees, and tribunals have a different set of procedures they use and it has to be a special type of a court that is set up. We do have that provision down there. We do have that court that is set up. We are in the process of trying these people.

So if you don't do this, there are a couple of choices—only three choices—on getting rid of these people. One is, you either leave them there and try them and try to adjudicate them or you can send them out someplace. Well, we have already tried that. Countries won't receive these people, and I can't blame them. The third choice would be to somehow have them intermingled into our system here, set up in some 17, as they suggested, places for them. So none of the options are good, but this is one resource that has served America well. We have had it since 1903.

I would ask my good friend, the senior Senator from Hawaii, if he knows of any deal that America has that is better than this. It is $4,000 a year. That is all it costs. So it is a resource we need to keep, we have to keep.

The only argument I hear against it is: Oh, the Europeans don't want them. Where are the Europeans? I am getting a little bit tired of having them dictate what we do in the United States. What if they came forward and said: You have to close the Everglades tomorrow. Would we roll over and close the Everglades? No, we wouldn't. So I think there are a lot of options out there, and this is the best option.

Quite frankly, I go a lot further than this amendment. I think we need to keep this resource open. It has served us well in the past, and it should serve us well in the future. I urge my colleagues to support the Inouye-Inhofe amendment.

Mr. CARDIN. Mr. President, starting from his very first days in office, President Obama has taken bold action to demonstrate to the world that the United States will lead by example, particularly in the area of protecting and promoting human rights. I am especially proud that Congress is working with him to help restore faith in the United States as a friend, ally, and leader in the global community. I believe American leadership is still sorely needed in the world today. I am privileged to chair the Helsinki Commission, which is one of the key tools available to help this administration engage like-minded nations who have made a common commitment to promoting democracy, human rights, and the rule of law.

I want to make it clear that I fully support President Obama's decision to close the detention facility at Guantanamo Bay, Cuba. In recent years, no other issue has generated as much legitimate criticism of the United States as the status and treatment of detainees at Guantanamo Bay. Having said that, I think the amendment offered by the chairman of the Appropriations Committee and the senior Senator from Oklahoma to strip the Guantanamo funding from the underlying bill makes sense. We are not ready to move forward just yet. Reviewing the status of and transferring or releasing the detainees is an extremely complicated matter. It wouldn't be appropriate for any Congress to give any administration the funding to do this absent a detailed plan on how to proceed. President Obama is working on such a plan

and I am confident he will provide it to Congress in a timely fashion, at which point I am optimistic Congress will indeed provide this administration with the funding it needs to close the detention facility at Guantanamo Bay and begin to address the abuses and excesses of the previous administration and repair our badly damaged reputation abroad, which is critical to enlisting other nations in the continuing struggle against global terrorism.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The Senator's time has expired.

The Senator from Hawaii is recognized.

Mr. INOUYE. Madam President, I rise today to discuss the Guantanamo amendment which I offered along with Senator INHOFE. As all of my colleagues know, the amendment would strip the funding from the supplemental that was requested to begin the process of closing Guantanamo.

Let me say at the outset that despite some of the rhetoric concerning this issue, this amendment is not a referendum on closing Guantanamo. Instead, it should serve as a reality check since, at this time, the administration has not yet forwarded a coherent plan for closing this prison.

In the committee markup, I included language which would have delayed the obligation of funding for Guantanamo until the administration forwarded such a plan. I also included provisions which would not have allowed prisoners to be relocated to the United States or released if they still pose a threat to our Nation. But after listening to the debate and reading media reports, it became clear that this message was not getting through. Rather than cooling the passions of those who are justifiably concerned with the ultimate disposition of the prisoners, the funding which remained in the bill became a lightning rod far overshadowing its impact and dwarfing the more important elements of this critically needed bill.

Instead of letting this bill get bogged down over this matter, as chairman of the committee, I determined that the best course was to eliminate the funds in question. The fact that the administration has not offered a workable plan at this point made that decision rather easy.

But let me be very clear: We need to close the Guantanamo prison. Yes, it is a fine facility, state of the art, and I too have visited the prison site. Yes, the detainees are being cared for, with good food, good service, and good medical care. Our service men and women are doing great work. But the fact is that Guantanamo is a symbol of the wrongdoings that have occurred, and we must eliminate that connection.

Guantanamo serves as a sign to many in the Arab and Muslim world of the insensitivities that some under our command demonstrated at the Abu Ghraib prison. It is a constant reminder that what we call ''enhanced interrogation techniques'' is referred to nearly universally elsewhere in the world as torture. Yes, we should not kid ourselves; the fact that Guantanamo remains open today serves as a powerful recruiting tool for al-Qaida.

We Americans have short memories, but that is not so in other cultures. For example, when the Japanese Prime Minister visited Yasukini shrine, which commemorates Japanese soldiers from World War II, the Chinese were outraged. This controversy was for events that are now more than 65 years old.

In Korea, the name of the dictator Toyotomi Hideyoshi is still remembered today for the thousands of ears and noses which were cut off Koreans and sent to him to prove to him how many Koreans his soldiers had killed. That atrocity is still remembered today by millions of Koreans, even though it occurred more than 400 years ago.

The dehumanizing photographs of detainees at Abu Ghraib are no longer fresh in our minds, but that is not true in the Middle East, where the populace remembers the degradation with disgust. When they think of Guantanamo, they remember those photos. Those images are still crystal clear to them. The wrongdoing has not been forgotten.

The closure of Guantanamo is a requirement for this country to help overcome some of the ill will still felt by Muslims around the world. To many, Guantanamo is considered an affront to the Muslim religion. Stories of improper respect for the Koran by prison officials, even though inaccurate, serve as a reminder to millions of Muslims that this prison must be closed.

Many of our colleagues are justifiably concerned about how the terrorists at Guantanamo will be handled. They deserve answers. But so too we must begin planning to close this prison. That work needs to begin soon for the good of our Nation and the men and women still serving in harm's way.

It is up to the administration to fashion a plan that can win the support of the American people and its congressional representatives. As we approach the fiscal year 2010 budget, this will be a key element of our continued review of this matter.

I support the amendment for the reasons I have stated and urge its adoption.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the amendment No. 1131.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—90

Akaka	Dorgan	McConnell
Alexander	Ensign	Menendez
Barrasso	Enzi	Merkley
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murkowski
Begich	Gillibrand	Murray
Bennet	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reid
Boxer	Hatch	Risch
Brown	Hutchison	Roberts
Brownback	Inhofe	Sanders
Bunning	Inouye	Schumer
Burr	Isakson	Sessions
Burris	Johanns	Shaheen
Cantwell	Johnson	Shelby
Cardin	Kaufman	Snowe
Carper	Kerry	Specter
Casey	Klobuchar	Stabenow
Chambliss	Kohl	Tester
Coburn	Kyl	Thune
Cochran	Landrieu	Udall (CO)
Collins	Lautenberg	Udall (NM)
Conrad	Lieberman	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Crapo	Martinez	Webb
DeMint	McCain	Wicker
Dodd	McCaskill	Wyden

NAYS—6

Durbin	Leahy	Reed
Harkin	Levin	Whitehouse

NOT VOTING—3

Byrd	Kennedy	Rockefeller

The amendment (No. 1133) was agreed to.

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

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Madam President, I voted in favor of the amendment offered by Senator INOUYE, No. 1133, because I believe it makes sense for Congress to review the administration's plan to close Guantanamo before providing funding. I continue to believe that President Obama made the right decision to close Guantanamo, and I look forward to reviewing his plan to do so. While closing Guantanamo may not be easy, it is vital to our national security that we close this prison, which is a recruiting tool for our enemies.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The Senator from Georgia.

AMENDMENT NO. 1144

Mr. CHAMBLISS. Madam President, I ask unanimous consent to temporarily set aside the pending amendment and to call up my amendment, No. 1144, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS], for himself, Mr. ISAKSON, Mr. BURR, and Mr. COBURN, proposes an amendment numbered 1144.

The amendment is as follows:

(Purpose: To protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base)

On page 7, line 25, strike the period at the end and insert ''and, in order for the Department of Justice to carry out the responsibilities required by Executive Orders 13491, 13492, and 13493, it is necessary to enact the amendments made by section 203.''

SEC. 203. IMMIGRATION LIMITATIONS FOR GUANTANAMO BAY NAVAL BASE DETAINEES.

(a) SHORT TITLE.—This section may be cited as the ''Protecting America's Communities Act''.

(b) INELIGIBILITY FOR ADMISSION OR PAROLE.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(3), by adding at the end the following:

''(G) GUANTANAMO BAY DETAINEES.—An alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, is inadmissible.''; and

(2) in subsection (d)—

(A) in paragraph (1), by inserting ''or (5)(B)''; and

(B) in paragraph (5)(B), by adding at the end the following: ''The Attorney General may not parole any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.''.

(c) DETENTION AUTHORITY.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking ''Attorney General'' each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(8) GUANTANAMO BAY DETAINEES.—

''(A) CERTIFICATION REQUIREMENT.—An alien ordered removed who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, shall be detained for an additional 6 months beyond the removal period (including any extension under paragraph (1)(C)) if the Secretary of Homeland Security certifies that—

''(i) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien; and

''(ii) the Secretary is making reasonable efforts to find alternative means for removing the alien.

''(B) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (A) without limitation after providing the alien with an opportunity to—

''(I) request reconsideration of the certification; and

''(II) submit documents or other evidence in support of the reconsideration request.

''(ii) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate the authority to make or renew a certification under this paragraph to an official below the level of the Assistant Secretary for Immigration and Customs Enforcement.

''(C) INELIGIBILITY FOR BOND OR PAROLE.—No immigration judge or official of United States Immigration and Customs Enforcement may release from detention on bond or parole any alien described in subparagraph (A).''.

(d) ASYLUM INELIGIBILITY.—Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

''(E) GUANTANAMO BAY DETAINEES.—Paragraph (1) shall not apply to any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.''.

(e) MANDATORY DETENTION OF ALIENS FROM GUANTANAMO BAY NAVAL BASE.—Section 236(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)) is amended—

(1) in each of subparagraphs (A) and (B), by striking the comma at the end and inserting a semicolon;

(2) in subparagraph (C), by striking '', or'' and inserting a semicolon;

(3) in subparagraph (D), by striking the comma at the end and inserting ''; or''; and

(4) by inserting after subparagraph (D) the following:

''(A) as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.''.

(f) STATEMENT OF AUTHORITY.—

(1) IN GENERAL.—Congress reaffirms that—

(A) the United States is in an armed conflict with al Qaeda, the Taliban, and associated forces; and

(B) the entities referred to in subparagraph (A) continue to pose a threat to the United States and its citizens, both domestically and abroad.

(2) AUTHORITY.—Congress reaffirms that the President is authorized to detain enemy combatants in connection with the continuing armed conflict with al Qaeda, the Taliban, and associated forces until the termination of such conflict, regardless of the place at which they are captured.

(3) RULE OF CONSTRUCTION.—The authority described in this subsection may not be construed to alter or limit the authority of the President under the Constitution of the United States to detain enemy combatants in the continuing armed conflict with al Qaeda, the Taliban, and associated forces, or in any other armed conflict.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, later today, or at some point in time, with respect to the supplemental, there will be an amendment that will seek to strike funds that have been put in this supplemental for the purpose of providing additional loan money to the IMF. I would like to talk about that for a moment because this is a proposal of the President which has the bipartisan support of members of the Foreign Relations Committee, and it has serious implications with respect to the health of the world's economy. It also has serious implications with respect to America's leadership.

Madam President, everybody understands that the United States of America is not alone in wrestling with an economic crisis that is global at this point. We all understand how it began. We understand the implications of our own irresponsibility with respect to the regulatory process and the greed and other excesses that drove what happened on Wall Street and what has affected the lives of millions of Americans, but it has also affected the lives of people around the globe. The fact is, what started in the United States has now spread to countries around the world, and it continues to reverberate beyond our financial systems into all of our economies. The global economic crisis is in fact seriously affecting emerging markets and developing countries, and they are now experiencing severe economic declines and massive withdrawals of capital.

We don't know yet where this crisis will end, but we know we do have an ability to be able to address this crisis in various ways. One of the most powerful instruments, one of the most powerful tools available to the leaders of the governmental financial marketplace, is the IMF itself. President Obama understood early on that our actions on the global stage in response to this financial and economic crisis would be a very important test of America's leadership. That is why in his first major meeting abroad at the G–20 leader summit in London, the President called for an expansion of the IMF's new arrangements to borrow. It is often referred to just as the NAB—the new arrangements to borrow. The President proposed expanding that up to about $500 billion in order to help the world's economies avoid collapse.

This crisis of the last months has offered us a vivid illustration of how the increasing interconnectedness of our global economic financial system actually comes with a greater susceptibility to systemic risk. The IMF contains risk, deals with risk, minimizes risk by serving as a bulwark against rolling financial failures, and it addresses volatility in the global financial system. The result of that is actually to help everybody. The NAB is a contingency fund to which many countries contribute, and today other countries are looking to the United States to deliver on our earlier commitment.

Japan has committed $100 million, the European Community members have already committed $100 billion, and may well commit up to $160 billion. In the last few weeks, countries such as Canada, Switzerland, China, South Korea, Norway, Australia, the Czech Republic, India, and others have all offered commitments in the billions of dollars in order to support the IMF. The President's promise helped to galvanize this global response, and it is critical that we, the United States, having galvanized this response, having helped to lead people to the watering hole, now fulfill our obligations ourselves. We need to do our part, and we need to approve the President's request for up to $100 billion of authority. In fact, in terms of the budget authority here, this is scored at about $5 billion. Why? Because this is a loan process, and it is a loan process over which the United States continues to have input and the ability, in fact, to help make decisions.

The reasons to support the President's request frankly go far beyond

the need of other countries at their moment of economic vulnerability. A fortified IMF is in our interest also. There are real national security concerns about the way this crisis could trigger a political crisis around the world. It is, in fact, a crisis which has already brought down the Governments of Iceland and several east European countries. It has helped to spark riots in Europe and Southeast Asia, and it will very likely be a driving political force for a long time to come.

For all the volatility that we have seen, Madam President, we value our investment in the IMF all the more for the things we have not seen. The fund has been able so far to act swiftly to stave off balance of payment crises in countries such as Pakistan. Obviously, whatever we can do to avoid economic crisis in Pakistan right now is critical to the survival of that democracy and to the ultimate success, we hope, against the insurgencies the Government of Pakistan and the people of Pakistan are fighting.

We are also seeing the steps taken by the IMF thus far are also lending strong support to key U.S. allies, including Mexico, Poland, and Colombia. These are vulnerable nations with very important American interests at play. Successes obviously don't make headlines the same way that failures do, but make no mistake; IMF financing has helped to stabilize several potentially volatile situations in this crisis already.

Madam President, I am not alone in warning of the security threat that is posed by this crisis. Back in March, the Director of National Intelligence, ADM Dennis Blair, testified before Congress about the risks in front of our Nation. This is what he said:

The primary near-term security concern of the United States is the global economic crisis and its geopolitical implications.

That is a remarkable statement coming from a person who is in the middle of struggling with potential dirty bombs and terrorism and counterterrorism and the threat of al-Qaida in various parts of the world. He nevertheless still emphasizes that the primary threat is a global economic crisis, and I believe we need to understand the full implications of it.

Madam President, I ask unanimous consent to have printed in the RECORD a letter signed by 14 former National Security Advisers and Secretaries of State, Defense, and Treasury, all urging us to move expeditiously to live up to the President's commitment.

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

THE BRETTON WOODS COMMITTEE,
Washington, DC, May 14, 2009.

DEAR MADAM SPEAKER AND MAJORITY LEADER REID: We are writing to express support for the Administration's request for prompt enactment of additional funding for the International Monetary Fund.

As you well know, the global economic crisis has had a severe impact on emerging markets and developing countries. As conditions deteriorate in these countries, they endanger America's own growth along with U.S. jobs and exports. The IMF is the best instrument to provide these countries with the short term loans that will enable them to weather the crisis.

At the April G–20 Leaders Summit, the President urged other nations to provide additional resources for the IMF. The legislation increases the size and membership in the New Arrangements to Borrow—a contingency facility that will permit continued international lending when the IMF's existing resources are drawn down. The new agreement also opens the way for greater participation by major emerging market countries who will contribute for the first time to this facility.

It is important to note that other governments are providing more than 80% of the new funding required, and Japan, China and countries in Europe have already approved their new IMF contributions. As the global economic leader, it is now incumbent on the United States to promptly to meet its obligations.

A stronger and more responsive IMF is essential to the restoration of confidence in the global economy and financial system and thus to our own economic recovery. We urge Congress to move expeditiously on the President's request.

Respectfully yours,

James A. Baker, III; Nicholas F. Brady; Frank C. Carlucci; Henry Paulson; Lee H. Hamilton; Colin L. Powell; Henry Kissinger.

Condoleezza Rice; W. Anthony Lake; Robert Rubin; Robert McFarlane; Brent Scowcroft; Paul H. O'Neil; Paul A. Volcker.

Mr. KERRY. Madam President, I emphasize that the signatures on this letter come from both sides of the aisle, from respected public servants and admired strategists, such as GEN Brent Scowcroft, Henry Kissinger, Colin Powell, James Baker, Robert Rubin, Lee Hamilton, and Paul Volcker. All of them urge us to complete the task of providing the support funding for the IMF.

If there is one lesson we should take away from the worst impacts of this global crisis, it is that we should never underestimate the severity of these economic challenges or the urgency of tackling them head on rather than deferring the tough decisions. The IMF needs a robust contingency fund. Let me emphasize this is a contingency fund. This is a fund that doesn't represent money that is transferred to the IMF, and then they take on some spending spree, nor does it represent money that goes to the IMF and is used for IMF expenses. This is a direct loan program—loan only—and in the past the United States has actually made money when we have made these loans.

The fact is that this financial crisis is still brewing. For example, in central and Eastern Europe, in this part of the world where we saw the Berlin Wall and a repressive Communist regime of Eastern Europe crash down 20 years ago, we see the risk that if we don't act, it is possible that the economies of Eastern Europe will come crashing down too. Then we will replace an era of promise and progress in Eastern Europe with one of soaring unemployment, instability, and a retrenchment of the influence and ideals that we have been investing in and helping those countries to put more permanently in place.

The IMF is the best channel for providing balance of payment assistance to emerging and developing markets that are currently suffering as a consequence of their economies and banking systems. In some cases, political systems are collapsing around them. The alternative to having a legitimate and robust IMF to deal with countries at risk is, frankly, not a pretty one. IMF loans come with strings attached, but they are mainly financial strings not strategic strings.

As we balance the domestic and global demands of this crisis, we need to be warned that in cutting corners for short-term savings, we risk creating far greater costs down the road. As it stands now, the large and urgent financing needs projected for emerging markets and developing countries cannot be met from existing IMF lending reserves. There is no cost-free, risk-free option, and lendings to the new arrangements for borrowing allows us to leverage our contribution toward a global capacity to manage economic risks. Managing those risks benefits all of us.

The reasons to act, in fact, go well beyond foreign policy interests. This is not a foreign policy issue. In fact, our domestic economic interests are also vulnerable if we fail to stem economic crises in other countries.

Why is that? Well, for a very simple reason. Expanding the IMF's NAB resources is actually essential to our overall strategy for restoring the health of the U.S. economy, for our exports, and it helps us to secure U.S. jobs.

Some in America might take the short-term view. We have heard that before. Some in America may try to appeal to the lowest common denominator and say to people: Well, why on Earth are we sending money to some fund that might, in fact, help a foreign country, when we ought to be just focused on the bailout at home? Well, the reality is that is a completely, totally false choice. The truth is, America's economic recovery depends not just on our own stimulus package and on spending here, and not just on fiscal and monetary policy and programs that sustain domestic demand, but we also need to sustain demand abroad. We sell to those countries. We have millions of Americans making products that go to those countries and, in fact, those emerging markets in developing countries have been, up until now, some of the best growth opportunities for American investment and for American jobs to be able to supply goods.

Economic growth abroad helps us to kick economic growth into gear at home. That is why we need the IMF to help protect the markets we export to and from which they import American products.

Let me just be specific about that. Between 2003 and 2008, U.S. exports grew by 8 percent per year in real terms. Since 2000, our exports show a 95-percent correlation to foreign country growth rates. In large part, our economy was benefiting from the rapid growth of other economies in other parts of the world. During that period, the role of exports in driving American economic growth actually increased. The share of all U.S. growth attributable to export growth rose from 25 percent in 2003 to almost 50 percent in 2007, and then almost 70 percent in 2008.

Now, unfortunately, our exports peaked in July of last year, and they have been falling ever since then. Most of our partners are in recession. In the first quarter of 2009, our real exports were 23 percent lower than in the first quarter of 2008.

Our export decline is now contributing to the recession in the United States. With an export share in GDP of 12 percent, a 23-percent decline of that share of GDP, if you sustain that 23 percent over the course of the year it actually makes a negative contribution to the GDP of the United States of 2.5 percent. In other words, if our domestic demand were stagnant, our GDP would fall by nearly 3 percent. With that, we lose a lot of jobs and a lot of the struggle to get our economy back into gear just becomes that much more complicated and that much more delayed.

Congress passed, and the President signed, a stimulus plan that is designed to boost domestic demand. But if we fail to act, all the money we have spent to stimulate our own economy could actually be offset completely by the decline in exports.

We need to help these foreign countries lift themselves out of recession. Our recovery now depends on many of these countries that are now at risk. Some foreign countries can take care of themselves with a stimulus of their own and in cleaning up their own banking sectors. But many other countries, especially emerging market economies, have been so hard hit that they need a helping hand.

Some countries have been cut off abruptly from capital markets and shut out of the credit markets by the banking problems originating in the United States and Europe. Let me give an example. We exported to a lot of countries our notions about how one ought to bank and how you, in fact, use banks to leverage and to go out and create jobs by investing in businesses. The fact is that many banks in Western Europe practiced that so effectively that they bought up banks in Eastern Europe, and so banks in parts of Eastern Europe, when they stopped lending, stopped lending because the banks in the western part of Europe are taking care of their immediate home-based problems and their capital problems, and the result is those eastern economies are particularly hard hit. This crisis actually started with us, and it is reverberating because of this and these systemic failures, and it will hurt more if it reverberates back to us because we failed to help some of those countries to hold up the export demand as well as to sustain their political systems which we have invested in very deeply since the end of the Cold War.

As countries recover, the United States is going to gain. We are going to be spared the risk of an even more precipitous decline in our exports, with greater job loss. In time, our export growth will resume and people in export industries across our country are going to be able to go back to work.

While we take part in a global effort to increase the NAB, we also have to shore up our influence inside the IMF and give greater voice to the emerging markets. The President is looking to increase by approximately $8 billion America's quota subscription to the IMF. These quotas actually determine how the IMF assigns voting rights, and it decides on access to IMF funding. This increase in the U.S. quota is part of a larger practice to address long overdue governance reform and create greater legitimacy for the IMF.

It is also part of a two-way street. If we want major exporting companies to step up and contribute for the first time to, amongst other things, this expanded NAB facility, then we need to show that they can have a larger voice in the IMF itself. It also makes certain the United States can keep its current voting weight in order to maintain our leadership in the IMF so we have the ability to shape the future of the institution.

Before I finish, I would like to directly speak to two misconceptions that I think are involved in the amendment that will seek to strike this particular portion. The first is a very important point, and I wish to emphasize it. I spoke about it a moment ago, but I really wish to emphasize it.

The United States, in providing lending money to the New Arrangements to Borrow, to the IMF, is not giving away money. We are not spending money. This is a deposit fund. It goes into an account, and we get an IMF interest-bearing asset in exchange for those funds. It actually can turn out to be a good investment because, while we participate in the IMF because of the enormous benefit it brings to the United States and to the world in terms of emerging countries and their markets, in fact, the United States has earned money historically on its participation in the IMF. According to the Treasury Department's most recent report to Congress, the fact is, we have been on the plus side. This is not a payout, therefore, of the IMF; it is an exchange of assets. We put assets in the fund, and we get an interest-bearing asset in exchange for those funds. This is a particular arrangement that has worked out very sufficiently for the U.S. Treasury in the past.

Second, let me be very clear on what is being asked here. The NAB, the New Arrangements to Borrow, is a contingency fund to be used only when other resources of the IMF are exhausted. The United States and other members of the NAB have control over these funds, and the IMF needs to get approval from the NAB providers in order to draw down on these funds. So we have to think of this as an insurance fund over which the United States continues to have control.

We have before us legislation to replenish the IMF's resources just in time for it to be able to stand up and help fight this crisis. With this money, the IMF will be able to help many countries revive their economies. With this money, the IMF will be ready in case the crisis deepens and creates more victims. With this money, America is able to lead at a moment of crisis and keep the promise of the President and help us to sustain the viability of emerging markets and countries, which is vital in the context of the struggle against extremism and religious fanaticism and terrorism, which we see has its prime targets in places that are failing. The ability to be able to prevent that failure is in the strategic as well as in the economic interests of our country. The world is looking to us to keep our word.

I urge support for the request of the President.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator form Georgia is recognized.

AMENDMENT NO. 1164

Mr. ISAKSON. Madam President, I ask unanimous consent that the pending amendment be set aside and amendment No. 1164, which is at the desk, be pending.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. ISAKSON], for himself, Mr. DODD, Mr. LIEBERMAN, and Mr. CHAMBLISS, proposes an amendment numbered 1164.

Mr. ISAKSON. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to expand the application of the homebuyer credit, and for other purposes)

At the end of title V, insert the following:

SEC. 504. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ELIMINATION OF FIRST-TIME HOMEBUYER REQUIREMENT.—

(1) IN GENERAL.—Subsection (a) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''who is a first-time homebuyer of a principal residence'' and inserting ''who purchases a principal residence''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 36 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Section 36 of such Code is amended by striking ''**FIRST-TIME HOMEBUYER**

CREDIT'' in the heading and inserting ''**HOME PURCHASE CREDIT**''.

(C) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 36 and inserting the following new item:

''Sec. 36. Home purchase credit.''.

(D) Subparagraph (W) of section 26(b)(2) of such Code is amended by striking ''homebuyer credit'' and inserting ''home purchase credit''.

(b) ELIMINATION OF RECAPTURE EXCEPT FOR HOMES SOLD WITHIN 3 YEARS.—Subsection (f) of section 36 of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 36 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 36-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.''.

(c) EXPANSION OF APPLICATION PERIOD.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''December 1, 2009'' and inserting ''June 1, 2010''.

(d) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''December 1, 2009'' and inserting ''June 1, 2010''.

(e) ELIMINATION OF INCOME LIMITATION.—Subsection (b) of section 36 of the Internal Revenue Code of 1986 is amended to read as follows:

''(b) DOLLAR LIMITATION.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the credit allowed under subsection (a) shall not exceed $8,000.

''(2) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$4,000' for '$8,000'.

''(3) OTHER INDIVIDUALS.—If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $8,000.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased on or after the date of the enactment of this Act.

Mr. ISAKSON. I know the Senator from Iowa wishes to speak, but first I ask unanimous consent that Senator DODD, Senator LIEBERMAN, and Senator CHAMBLISS be added to the amendment.

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

Mr. ISAKSON. Madam President, this amendment is very simple. You heard me many times come to the floor to talk about the housing tax credit. The tax credit we finally amended to repeal the payback provision of $8,000 for first-time home buyers has brought an improvement in home sales of 40 percent at the entry level.

This amendment merely removes the means test of a maximum income of $150,000 for a couple and $75,000 for an individual, and it removes the means test that they have to be a first-time home buyer, which means any home buyer buying a home for their principal residence would receive an $8,000 tax credit and there would be no limitation to their income to disqualify them.

I have always fought on this floor for a maximum tax credit of $15,000, and I know how difficult that has been. But in the evidence of what has happened with the current $8,000 with the means test, by removing it I am confident we will have a significant improvement in the housing market in America, which in turn will cause a significant improvement in the economy of the United States of America, as happened in 1968, 1974, 1981, 1982 and 1990 to 1991. Housing took America into a recession, and it was only when it recovered that America began to come out.

This improvement in that amendment, with this amendment, will be better for the people of the United States of America and better for our economy. I encourage my colleagues at an appropriate time to cast a favorable vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 1140, AS MODIFIED

Mr. COCHRAN. Madam President, I have a unanimous consent request that has been cleared. I ask unanimous consent that the pending Brownback amendment be modified with the changes at the desk.

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

The amendment, as modified, is as follows:

At the end of title III, add the following:

SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I wish to speak about the effort that seems to be underway here now—and I guess we will be having some more amendments this afternoon from the other side of the aisle—to prevent the President from addressing a serious national security problem: the continued operation of the detention center at Guantanamo Bay, Cuba.

It is long past time we close this facility. On May 23, 2007, almost exactly 2 years ago, I introduced legislation to close that detention center. Since that time, unfortunately, it has only become more imperative that we act. It remains the case that there is simply no compelling reason to keep the facility open and not to bring the detainees to maximum-security facilities here in the United States.

This Nation has long been a beacon of democracy, a champion of human rights throughout the world. Over the past 8 years, however, we have repeatedly betrayed our highest principles. Torture was authorized in direct violation of the law, and we intentionally put detainees beyond the most basic rules of law, including secret tribunals where detainees lacked opportunities to challenge their confinement and lacked sufficient due process.

These errors are manifest in the detention center at Guantanamo Bay, where the very purpose was to avoid providing legal safeguards that are enshrined in our Constitution and the Geneva Conventions to detainees and to prevent independent courts from reviewing the legality of the administration's actions. That was the purpose of Guantanamo as a detention center. Now that the Supreme Court has definitively ruled that constitutional protections apply at Guantanamo, it truly serves no purpose.

Closing the facility, however, does not just follow from a commitment to our most cherished values and constitutional principles; rather, closure is essential for our national security. As long as the detention center at Guantanamo Bay is open, it remains a recruiting tool for those who wish to do us harm and provides ammunition for our enemies.

This is not just my view but is the view of military and foreign policy officials. The Director of National Intelligence, Dennis Blair, has said:

The detention center has become a damaging symbol for the world . . . it is a rallying cry for terrorist recruitment and harmful to our national security, so closing it is important for our national security.

That is from Dennis Blair, our Director of National Intelligence.

Former Navy general counsel Alberto Mora has said:

There are serving U.S. flag-rank officers who maintain that the first and second identifiable causes of U.S. combat deaths in Iraq—as judged by their effectiveness in recruiting insurgent fighters into combat—are, respectively, the symbols of Abu Ghraib and Guantanamo.

Retired Air Force MAJ Matthew Alexander, who led the interrogation team that tracked down Abu Mus'ab al-Zarqawi, the leader of al-Qaida in Iraq, said:

I listened time and time again to foreign fighters, and Sunni Iraqis, state that the number one reason they had decided to pick arms and join al-Qaida was the abuses at Abu Ghraib and the authorized torture and abuse at Guantanamo Bay.

Let me repeat that. Matthew Alexander, a retired Air Force major who led the interrogation team who tracked down the leader of al-Qaida in Iraq said this.

I listened time and time again to foreign fighters, and Sunni Iraqis, state that the number one reason that they had picked up arms and joined al-Qaida was the abuse at Abu Ghraib and the authorized torture and abuse at Guantanamo Bay.

It cannot get much clearer than that. Colin Powell, Henry Kissinger, Madeline Albright, James Baker, Warren Christopher have all called for Guantanamo to be closed, as has Secretary of Defense Gates and Chairman of the Joint Chiefs Admiral Mullen.

As former Secretary of State Colin Powell said:

Guantanamo has become a major, major problem . . . if it were up to me, I would close Guantanamo not tomorrow but this afternoon.

That was Colin Powell.

Indeed, even President Bush repeated time and time again his desire to shut down Guantanamo, I am sure because of all the information that was given to him by his Joint Chiefs of Staff and by his intelligence services. So President Obama should be applauded for taking a step that military and foreign policy officials insist will directly and immediately improve our national security.

The President has set up a special task force to review the status of the detainees remaining at Guantanamo and to make recommendations on what to do with these individuals. The administration faces some difficult decisions it inherited from the previous administration.

Guantanamo was conceived—Guantanamo as a detention center, I should say, was conceived outside the law. And bringing detainees back into our legal system, as the Supreme Court has rightly found necessary, involves some very difficult policy issues.

I, myself, greatly look forward to the President's plan, and I will judge it carefully. Closing Guantanamo and simply replicating the same deficient legal process in the United States would be purely symbolic and meaningless.

As the administration undertakes its review of the detainees at Guantanamo and considers the most appropriate way to close the facility, the last thing Congress should do is handcuff the President.

What I am hearing are some arguments on the other side of the aisle basically saying, through these amendments they are offering, Guantanamo Bay should remain open. That is the thrust of the amendments: Guantanamo should remain open.

Make no mistake, if these amendments become law, the President's ability to take the step that military and foreign policy officials—Republicans and Democrats and Independents alike—have all said is needed will be very difficult. It will be difficult for the President to take the steps necessary to close Guantanamo Bay. Al-Qaida and those who wish to cause us harm will continue to have a major recruiting tool at their disposal.

I would not say this is the intention of the people offering those amendments, but listen to what our intelligence officers have said and what our military officers have said, that the biggest recruiting tool for those in Afghanistan and the Taliban and al-Qaida is a continued detention center at Guantanamo Bay.

So while it may not be the intention of those people offering the amendments to have this as a recruiting tool for al-Qaida and the Taliban, those who have been in our intelligence service tell us that is, in fact, what is happening. It is the biggest recruiting tool for those who wish to do us harm. While it may not be the intention of those offering the amendments, that is what is going to be the practical effect, if those amendments are adopted.

One other thing. President Obama's decision to close Guantanamo Bay is already starting to pay some dividends. Countries such as Portugal and Ireland have made offers to join Albania in accepting detainees who cannot be returned to their home countries.

Just last week, France accepted Lakhdar Boumediene, an Algerian suspected in a bomb plot against the Embassy of the United States in Sarajevo. The assistance of our allies is critical. Yet to obtain that assistance will only be more difficult if we, ourselves, are unwilling to do what we ask our allies to do; that is, to accept detainees on our own soil in secure detention facilities.

We say: Oh, no, we cannot take them here but, France, you can take them and, Ireland, you can take them, and Portugal. They will say what kind of fairness is there in that?

Indeed, I feel the statements and the arguments of many on the other side of the aisle are simply to scare the American people, unduly scare the American people, and spread this kind of fear and misinformation by suggesting that closing the facility at Guantanamo Bay will somehow mean the terrorists will be walking Main Street or, as the junior Senator from Arizona claimed: Khalid Shaikh Mohammed and his partners will be our neighbors—will be our neighbors if they are in secure detention facilities.

This is the kind of language that rightfully gets Americans fearful that they are going to be our neighbors. Well, the fact is, those individuals who can be tried in Federal court can and will be vigorously prosecuted. Federal courts have successfully prosecuted terrorists in the past. In fact, between September 12, 2001, and the end of 2007, 145 terrorists were convicted in American courts. How many American people know that, that 145 were convicted in American courts.

Likewise, U.S. prisons are already holding some of the world's most dangerous terrorists in the United States. Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing, is in jail in the United States.

Zacarias Moussaoui, the 9/11 coconspirator, is in jail in the United States; Richard Reid, the ''shoe bomber,'' in jail in the United States. Several al-Qaida terrorists responsible for bombing Embassies in Kenya and Tanzania are in jail in the United States.

The men, women, and military officials who run these facilities have a proven track record. I ask those who are saying that Khalid Shaikh Mohammed and his partners will be our neighbors, I ask them: Can you point to any prisoner who has escaped from a Federal maximum security facility? Point to one. Just point to one.

Well, we have no greater duty than to protect the American people. That is the oath we all take. National security is our first job. In this regard, the President is undertaking a process that will result in the closing of a national stain on our character and a recruiting tool for those who wish to do us harm.

He is taking a step our military and foreign policy officials make clear will make us safer. The President should not be handcuffed and should not be prevented from improving our national security, as the other side in those amendments wish to do.

Finally, we must never forget that people around the world know we are right and the terrorists are wrong. Of the 5 or 6 billion people who live in the world, only a handful think the terrorists are right. All the rest are on our side. They know we are right and the terrorists are wrong.

If we wish to defeat the terrorists, therefore, we should remain faithful to our ideals and our values. We will not win this war with secret prisons, with torture chambers, with degrading treatment, with individuals denied basic human rights.

Rather, we will win this by upholding our values and insisting on legal safeguards that are the very basis of our system of Government and democracy. It is time to close Guantanamo Bay. There is no reason to keep it open and every reason, for our national security, to shut its doors.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NO. 1173

Mr. CORKER. Madam President, I ask unanimous consent that the pending amendment be set aside and that we call up amendment No. 1173.

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

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Tennessee [Mr. CORKER], for himself, Mr. GRAHAM, and Mr. LIEBERMAN, proposes an amendment numbered 1173.

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

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

The amendment is as follows:

(Purpose: To provide for the development of objectives for the United States with respect to Afghanistan and Pakistan)

On page 97, between lines 11 and 12, insert the following:

AFGHANISTAN AND PAKISTAN POLICY

SEC. 1121. (a) OBJECTIVES FOR AFGHANISTAN AND PAKISTAN.—Not later than 30 days after the date of the enactment of this Act, the President, based on information gathered and coordinated by the National Security Council, shall develop and submit to the appropriate committees of Congress the following:

(1) A clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan.

(2) Metrics to be utilized to assess progress toward achieving the objectives developed under paragraph (1).

(b) REPORTS.—

(1) IN GENERAL.—Not later than March 30, 2010 and every 90 days thereafter, the President, on the basis of information gathered and coordinated by the National Security Council and in consultation with Coalition partners as appropriate, shall submit to the appropriate committees of Congress a report setting forth the following:

(A) A description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan developed under subsection (a)(1).

(B) Any modification of the metrics developed under subsection (a)(2) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification.

(C) Recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(2) FORM.—Each report under this subsection may be submitted in classified or unclassified form. Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

Mr. CORKER. Madam President, I ask unanimous consent that Senators LUGAR, ISAKSON, COLLINS, and BENNETT be added as cosponsors to this amendment.

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

Mr. CORKER. Madam President, I am pleased to offer this amendment with my colleagues, Senator GRAHAM of South Carolina and Senator LIEBERMAN. This amendment would basically do two things.

Today, we have before us a supplemental appropriations bill. A large amount of the money in this bill is for our military operations and other operations in Afghanistan and Pakistan. This amendment is being offered without criticism. But, in fact, what we have today is a major shift in our policies in Afghanistan and Pakistan. I doubt that there is a person in this body who can clearly articulate what our mission is in these two countries, to the standpoint of actually laying out objectives.

I think many Senators were part of a luncheon we had 2 weeks ago where, when the President of Afghanistan was asked what our mission was in Afghanistan, he could not articulate in any way that was comprehendible what our mission was in that country.

I do not offer those comments again in criticism. I realize there are a lot of changes underway. I realize there is going to be a new general on the ground; possibly it will take until August for that confirmation to take place.

I realize this administration is working with many agencies in trying to develop a plan that will be effective in this country. If one were to listen to the state of the mission, one would think our mission is very similar in Afghanistan to that of Iraq, minus actually having a democratically functioning government.

I know all of us have had some concerns about some of the issues within Government in both countries and where Government funding actually ends up. So this is an amendment, a bipartisan amendment, that is being put forth asking the administration to do two things: Asking that we, in essence, all understand this policy so that, in fact, we have a policy that is equal to the tremendous sacrifice our men and women in uniform are putting forth on our behalf and do so daily.

First of all, the amendment would require the President to submit to Congress a clear statement of objectives for Afghanistan and Pakistan and the benchmarks that will be used to quantify progress toward achieving those objectives.

Again, this is not tying their hands. There are no timetables that say certain things have to happen by a certain time. This is, in essence, asking the administration to lay out to us so we all know and can articulate those and, hopefully, even our men and women in the field can articulate these, to lay those out in a way by which we can understand the benchmarks.

Then, secondly, it asks that they come before us and actually give us quarterly updates, after a period of time, toward those objectives and how they are actually progressing. I would hope that actually, at some point, the managers of the bill might be able to even accept this by unanimous consent because I cannot imagine why anybody in this body would want to vote the billions and billions of dollars toward these efforts that we rightfully are supporting today—do not get me wrong, but I cannot imagine not wanting the administration to come back to us with these benchmarks and these objectives so we all can measure our progress there.

We have been there 8 years. Our men and women in uniform have given and given and given; many have lost their lives, many have lost limbs. It would seem to me that everyone in this body, regardless of which side of the aisle they are on, would want to clearly understand what our mission is there and our way of evaluating that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1156

Mr. LIEBERMAN. Madam President, I call up amendment No. 1156.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, and Mr. BURRIS, proposes an amendment numbered 1156.

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

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

The amendment is as follows:

(Purpose: To increase the authorized end strength for active duty personnel of the Army)

At the end of title III, add the following:

SEC. 315. (a) INCREASE IN FISCAL YEAR 2009 AUTHORIZED END STRENGTH FOR ARMY ACTIVE DUTY PERSONNEL.—Paragraph (1) of section 401 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4428) is amended to read as follows:

''(1) The Army, 547,400.''.

(b) INCREASE IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVEL FOR ARMY PERSONNEL.—Paragraph (1) of section 691 of title 10, United States Code, is amended to read as follows:

''(1) For the Army, 547,400.''.

(c) FUNDING.—

(1) MILITARY PERSONNEL, ARMY.—The amount appropriated by this title under the heading ''MILITARY PERSONNEL, ARMY'' is hereby increased by $200,000,000, with the amount of such increase to be available for purposes of costs of personnel in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(2) OPERATION AND MAINTENANCE, ARMY.—The amount appropriated by this title under the heading ''OPERATION AND MAINTENANCE, ARMY'' is hereby increased by $200,000,000, with the amount of such increase to be available for purposes of costs of operation and maintenance in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(3) LIMITATION ON AVAILABILITY.—Amounts appropriated by paragraphs (1) and (2) shall be available only for the purposes specified in such paragraph.

(4) EMERGENCY REQUIREMENT.—For purposes of Senate enforcement, the amounts appropriated by paragraphs (1) and (2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

Mr. LIEBERMAN. Madam President, I am very pleased to rise now to offer this amendment on behalf of a bipartisan group: Senators THUNE, BEGICH, GRAHAM, and BURRIS, all of us members of the Armed Services Committee.

I take the floor today to speak on their behalf and mine for a constituency that every Member of the Senate represents; and that is, the men and women who serve in the U.S. Army.

On September 11, 2001, the Army's active-duty strength was just 480,000, after a decade in which we in Congress cut it nearly in half after the Cold War ended.

In the wake of the terrorist attacks of September 11, many Members of Congress urged a major expansion of the military and the Army for the years of war that were clearly ahead. But, unfortunately, that did not happen. We watched with growing concern as our soldiers—members of a force too small for the missions we had assigned to them—served through repeated deployments, heroically, but under increasing stress.

Finally, 3 years ago, the administration and Congress increased the size of the active-duty component of the U.S. Army from 480,000—the level on 9/11—to 547,400. That was to be realized over a period of years.

In February of this year, the Army reached that goal well ahead of the schedule that had been originally anticipated, fortunately, because every man and woman who joined the Army is necessary and has been critically necessary. So now we actually have 549,000 active-duty soldiers.

Recall that I said the statutory end strength of the Army is 547,400. So the Army now is literally at a strength greater than its current authorization. This achievement expresses the patriotic commitment of the American men and women who have answered the call of duty. In other words, recruitments and reenlistments have been so high that there are more people in the Army than the statutory end strength.

But there is still not enough. I will explain why.

Growing the force was clearly necessary to support our troops in the Army, our soldiers who are bearing the major responsibility for the wars we have been fighting in Iraq and Afghanistan. But these increased numbers simply have not proved sufficient to relieve the continued strain on our soldiers. That is what this amendment intends to do during the remainder of this fiscal year, covered by this supplemental appropriations bill.

I want to talk about dwell time. It is a term the military uses. What is ''dwell time''? It is down time but not R&R time. It is time that is spent back here at home in the bases, with the families, not just recovering from the last deployment, but also, obviously, preparing and training and upgrading for the next. And perhaps most significantly to the men and women of the Army, it is precious time for our soldiers to spend with their families.

Today, dwell time of members of the U.S. Army is about slightly more than 1 to 1. That means for every year of deployment, they are back home at the base, training, preparing, spending time with their family, for a year—1 to 1.

General Casey said—and everybody in our military says—that is simply inadequate; too much duty, too quickly, too much stress on our men and women in the U.S. Army, in the military.

General Casey said he has the goal to get the ratio to 1 to 2—2 years at home for every 1 year out at war—and to do so by 2011. In fact, he would like to take it higher than the 1 to 2—beyond that—hoping that our conflicts we are in in Iraq and Afghanistan do not require that many American military by that time.

Incidentally, the dwell-time ratio is particularly dire for a category in our Army called ''enablers.'' They are involved as Army aviators, engineers, people involved in intelligence, surveillance, and reconnaissance work. They really are under dwell-time pressure.

As the Presiding Officer knows, the Obama administration is implementing what I consider to be a very responsible strategy, and a correct strategy, for drawing down our force in Iraq. But if you combine the Iraq and Afghanistan wars, and the planned increase in Army presence in Afghanistan, as we slowly decrease in Iraq, Army deployments will actually increase for the rest of this year.

This is what General Casey, the Army Chief of Staff, said to the Armed Services Committee the other day: It is a simple question of supply and demand. If the supply of the Army stays only constant or even goes down, and yet the demand—which is the increasing deployments for at least the remainder of this year, and probably well into next year—goes up, the dwell time—the time these soldiers of ours, heroes of ours, have to spend away from the war zone back at base—will not rise from the unacceptable level it is at now.

Our military leadership has made clear in public statements that things are going to get worse before they get better.

Army Chief of Staff Casey recently warned that the number of deployed soldiers will actually, as I said, rise through the rest of the year. Admiral Mullen, Chairman of the Joint Chiefs of Staff, told the Senate Armed Services Committee last week that the Army faces a ''very rough time'' over at least the next 2 years before it reaches what Admiral Mullen called the ''light at the end of the tunnel.''

Keep in mind, these predictions do not reflect or absorb the possibility of a new crisis or new crises elsewhere in the world outside of Iraq and Afghanistan—what such a crisis would place in the way of additional demands on our soldiers—a possibility that recent experience warns us to at least keep in mind as a possibility.

So we are in a situation now where we have a constant level of soldiers on Active Duty, demand in the short term going up, and, therefore, dwell time—time away from the battlefield—not rising. This equation leads to strain and stress on our soldiers. Unfortunately, there are facts that show this strain and stress. The Army is on track this year to overtake the grim record of suicides of our Active-Duty Army personnel that we saw last year, in 2008. The murder a week or two ago of five soldiers by a fellow soldier in Baghdad was a devastating example, I fear, of the stress on our deployed force. We hear increasingly stories of the stress on the families back home. Any of us who have visited military bases, spoken to the families, hear this constantly as a growing appeal to do something to increase the dwell time. The fact is, we are not, and that really does hurt.

I think we can say—as was said the other day at an Armed Services Committee hearing by witnesses before us from the Defense Department who were talking about all we are doing to improve the quality of life of our men and women in uniform, including housing for their families, health care, childcare, et cetera, et cetera—benefits—all true. So we are improving the benefits to our men and women in the

U.S. Army, but so long as there are not enough of them, which there are not today, the major factor of stress, which is how often, how many times are they going to be sent back to Iraq and Afghanistan, or how frequently, will not change. That is what this amendment aims to do something about.

I wish to make clear what is obvious to everyone: that our Army is not broken. This is the greatest—this is the next greatest generation of the American military, performing with unbelievable skill, heroism, resilience, agility, and personal compassion in Iraq and Afghanistan. Our Army is not broken, but it is, as General Casey said the other day, out of balance. Secretary of the Army Geren said—summarizing this part of his testimony before the Armed Services Committee—the U.S. Army is ''busy, stretched, and stressed.'' And he is right. We have to give those heroes in uniform some help, and the best help we can give them is more people in uniform fighting alongside them.

Here is a strange twist. In the face of the current crisis in manpower, the administration has been forced to effectively direct the Army to not only stop growing but to actually shrink by the end of the year as deployments overseas increase, dropping back from over 549,000 soldiers to the statutory limit of 547,400. In other words, this supplemental appropriations bill closes a gap that existed in the Army's ability to pay for the 547,400 they are entitled to, but they are still over by 1,600 soldiers. Therefore, there is a guidance out that directs the Army to take drastic measures to cut back; in fact, reducing their recruiting goals this year by 13,000 soldiers, which the Army knows it can meet, and cutting its retention goal by 10,000 troops, which the Army also knows it can meet. So here we have this ironic—really worse than that—moment where we need more troops and more soldiers and the Army is going to be forced to cut back.

I must tell my colleagues that I think it is going to be hard to shrink the Army in this way by the end of this year because so many of our troops are reenlisting, which is quite remarkable—so committed to the cause, proud of their service, want to keep fighting for the United States alongside the others in their unit. Obviously, some are affected by the economy and the instability and difficulty in finding job opportunities in the economy.

So I think it would be a terrible mistake to order the Army to cut its ranks at this time, which would mean less dwell time for our soldiers. That is why Senators GRAHAM, BEGICH, THUNE, BURRIS, and I introduced this bipartisan amendment which would enable the Army to maintain its current strength and continue to grow for the remainder of this fiscal year as the Secretary of Defense determines. No compulsion here.

Current law forces the Army to get smaller before the end of the year. This amendment would say it can grow beyond the 547,400 within the limit of the waiver that the Army has, and it provides the money to do that, which is an additional $400 million for the remainder of this fiscal year—frankly, a small price. It is a significant amount of money, but when we think about the impact it will have on the lives of just about every man and woman wearing the proud uniform of the U.S. Army, it is more than worth it.

I wish to explain, while I have a moment and while I see no one else on the Senate floor, that the amendment literally will increase the minimum end strength for the Active-Duty Army from the statutory level it is at now up to 547,400. When that point is reached, it gives the Secretary of the Army a 2-percent waiver, and that means that working with the Secretary of Defense, the Secretary of the Army could actually raise the Army as high as 558,000 by the end of the fiscal year. I don't expect that to be possible in the next few months, but it gives that latitude and the money to back it up.

The second part of the amendment provides additional funds to help the Army cover the immediate personnel shortfall it faces because of the toll the ongoing conflicts are taking on the force.

If I may add just this final argument of reality. The Vice Chief of Staff, Peter Chiarelli, told the Senate Armed Services Subcommittee on Readiness last month that the Army has about 30,000 soldiers among that current 549,000 who are, for one reason or another—three reasons, actually—not available to meet the requirements of the Army, not able to be directly involved.

For example, nearly 10,000 soldiers now either serve as Wounded Warriors or support their recovery, while thousands more are not deployable because of injuries they have suffered, often not in conflict, but that are, nonetheless, though less severe, disabling enough that they can't be deployed. So the truth is, there already is a 30,000-gap beneath the 549,000 that is on the books as actively deployed.

The best way to honor the sacrifice and service of these soldiers will be to ensure that their brothers and sisters in arms go to battle with reinforcements who can take their place; to guarantee that the Army can build those enabler units I talked about that the service needs most now on the front lines in Afghanistan and Iraq—and both battlefields are now beginning to compete for those uniquely trained enablers; and to provide the Army leadership with the flexibility it needs to have the manpower for the theater while giving our troops more time at home.

I wish to go to two final questions. Would growing the force today relieve the strain on the force when it matters most? And is this a proposal we can afford? In terms of the first, we know the greatest demand in the theater falls upon our most junior soldiers, such as the Army's privates and specialists who face the most difficult dwell time ratios in the force and keep going back and forth.

If we commit to growing the force now, these are the types of troops we can recruit, train, and deploy in this time of greatest need, and we can retain them. In short, if provided the additional personnel, the U.S. Army can definitely use them and use them well.

In terms of the second question, of course, I am concerned about the long-term costs of increasing the size of the force. The price of military personnel has risen over the past decade because we better recognize the service of our soldiers, and we are taking better care of them. Nonetheless, I don't see how we can explain to our soldiers and their families that we in Congress decided that we could not afford reinforcements at a time when the force is so stressed under the strain of war and still performing so brilliantly.

The Army is not broken, I wish to stress. It is out of balance, and it needs our support to come into balance. This amendment would provide the funds to give the Secretary of the Army and the Secretary of Defense the option—not mandatory—to raise the number of Active-Duty military personnel, from now until the end of this fiscal year, to a level above—slightly above—the 547,400 now statutorily authorized.

I hope our colleagues on both sides of the aisle will join us in giving this amendment unanimous support. I honestly think it is just about the best thing we can do for the heroes of the U.S. Army who serve us every day to protect our security and our freedom.

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

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

Mr. GRAHAM. Madam President, I call up the Lieberman-Graham amendment No. 1157.

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. GRAHAM. Madam President, I will talk about the amendment, if I may.

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. GRAHAM. Madam President, I wished to thank Senator LIEBERMAN for his leadership on this issue. We have been working together on what I think is a very big deal for the American people in the overall war effort. As many of you know, particularly our colleagues and the public at large, we have had a discussion in this Nation about whether we should release more

photos showing detainee abuse in the past.

The President of the United States has decided to stand for the proposition that releasing these photos would jeopardize the safety of our men and women serving overseas and Americans abroad, as well as civilians serving in the war zones. He has indicated the photos don't add anything to the past debate about detainee abuse. They are more of the same. No new person is implicated. These photos, again, were taken by our own folks, detailing abuse, and a lot of that has been dealt with already and prosecuted.

The President, I think rightfully, has determined, after consulting with his combat commanders, that if we release these photos, it would not help us understand any more about detainee problems in the past than we already know. But it would be a tremendous benefit to the enemy. The enemy used these photos in the past to generate resentment against our troops. It has been a propaganda tool. The President is rightfully concerned that to release more photos would add nothing to the overall knowledge base we have regarding detainee abuse, and it is simply going to put American lives in jeopardy. I applaud the President, who stood for our troops and men and women and the civil servants overseas.

There are a lot of mysteries in this world, but there is no mystery on what would happen if we release those photos. I can tell you, beyond a shadow of a doubt, that if these photos get into the public domain, they will inflame populations where our troops are serving overseas and increase violence against our troops.

What we have done—Senator LIEBERMAN and myself—is we came up with an amendment that addresses the lawsuit before our judicial system about the photos. This amendment says any detainee photos that are certified by the Secretary of Defense, in consultation with others, that would result in harm to our men and women serving overseas, jeopardize the war effort, and put our troops in harm's way, with Presidential approval, those photos cannot be released for a 5-year period of time. To me, that is a reasonable compromise. It doesn't change FOIA, in its basic construct, but it provides congressional support to the President's decision that we should not release these photos.

Senator LIEBERMAN and myself have been to the theater of operations many times. We have met with al-Qaida operatives who have switched sides, basically, and they have told us firsthand how at prison camps in Iraq, the Abu Ghraib photos were used in the past to recruit new members to al-Qaida and generate resentment against our troops.

I applaud the President. This legislation will help the administration in court. I thank Senator LIEBERMAN, who, above all else, puts his country and the security of our men and women ahead of any political calculation. For that, I very much appreciate his leadership and his friendship. I wish to recognize what he did.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Madam President, I thank my friend from South Carolina for his kind words, first, but also for working together on this in a bipartisan way. Senator GRAHAM serves in the Senate, but he also serves in the U.S. Air Force. When we travel with him, he usually remains behind to do some time and be of service in the battle zones. That is the kind of person he is. He is an extremely skilled lawyer.

We approached this trying to do what was right from a legal point of view but also understanding what the President, to his great credit, understood and expressed in the decision he has made on these photos. These are old photos. They portray, I fear, behavior that is unacceptable and, in fact, has been made illegal by the Detainee Treatment Act and the Military Commissions Act, which Senator GRAHAM played the leading part in drafting. This behavior portrayed in the pictures already has also been made illegal by Executive order of President Obama. So what purpose is served by putting these pictures out now? What good purpose? None. It is a kind of voyeurism, frankly, to see the pictures just for the sake of seeing the pictures. Maybe in a normal time that would be OK; it probably would be. Disclosure and transparency are values our country, our Government, holds high. But there is something different now, and this is what President Obama recognizes. We are at war. When you are at war, you have to ask the question the President asked General Petraeus, General Odierno, and others: Will the public release of these pictures endanger America, American military personnel, and American Government personnel serving overseas?

The answer came back loud and clear: Yes, it will. So the President, with strength and decisiveness, stepped onto what I am sure he knew was politically controversial ground. He did what he thought was right for the country as Commander in Chief. As Senator GRAHAM said, we applaud him greatly for that. We are at war, and you don't do the things when you are at war that you might do at other times.

This proposal basically codifies into law the process President Obama suggested in reaching the decision he made to fight the release of these pictures.

Last week, the President made exactly the right decision as Commander in Chief that will protect our troops in Iraq, Afghanistan and elsewhere and make it easier for them to carry out the missions that we have asked them to do.

After consulting with General Petraeus, General Odierno and others, the President decided to fight the release of photographs that depict the treatment of detainees in U.S. custody. Those photographs are the subject of a Freedom of Information Act lawsuit filed by the American Civil Liberties Union.

Last fall, the Second Circuit court of appeals ordered the release of those photographs. Instead of appealing that decision to the Supreme Court, government lawyers agreed to release the images as well as others that were part of internal Department of Defense investigations.

I strongly believe that the President's decision to fight the release of the photographs was the right one. Today, Senator GRAHAM and I introduced this amendment to H.R. 2346, the supplemental appropriations bill for Iraq and Afghanistan, that will codify the President's decision and establish a procedure to prevent the detainee photos from being released.

Before the President decided to fight the Second Circuit decision, Senator GRAHAM and I sent a letter to the President making the case that the release of the photographs serves no public good.

The behavior depicted in those photographs has been prohibited by Congress in the Detainee Treatment Act and the Military Commissions Act as well as by Executive orders issued by President Obama. Meanwhile, the Department of Defense has investigated the allegations of detainee abuse for the purpose of holding those responsible accountable.

We also know that the release of the photographs will make our service men and women deployed overseas less safe. There is compelling evidence that the images depicting detainee abuse at Abu Ghraib was a great spur to the insurgency in Iraq and made it harder for our troops to succeed in their mission there.

Now we learned valuable lessons from those pictures. And as I said, Congress and this President have taken steps to prevent that abuse from ever happening again.

But the same is not true about these pictures. These pictures depict past abuses that have already been addressed and we know that the release will only empower the propaganda operations of al-Qaida and other Islamist terrorist organizations.

Even before 9/11, terrorist groups like al-Qaida recognized the immense value of using propaganda to recruit and radicalize followers around the world. Since 9/11, the al-Qaida propaganda operation has only gotten more sophisticated. Should pictures like these be released, we know that they will be circulated immediately on al-Qaida connected Web sites and many other Web sites that readily post images just like this.

And to be clear, it is not al-Qaida leadership we are worried about—they are committed to destroying America regardless of what happens with these photos. Rather it is the thousands of

young men—and some women—around the world who may not otherwise be inclined to sympathize with or support al-Qaida but may change their minds after seeing these photos. Those recruits are the ones that keep al-Qaida and other Islamist terrorist groups vibrant and capable of planning and executing attacks against us.

By introducing this legislation today, we do not condone the behavior depicted in the photographs. We expect that those responsible for the mistreatment of detainees will be held accountable. And that is exactly what the Department of Defense has done with the internal investigations it has conducted.

This bill—the Detainee Photographic Records Protection Act—would establish a procedure just like the one that led to the President's decision not to release the photos.

This legislation would authorize the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs, to certify to the President that the disclosure of photographs like the ones at issue in the ACLU lawsuit would endanger the lives of our citizens or members of the Armed Forces or civilian employees of the U.S. Government deployed abroad.

The certification would last 5 years and could be renewed by the Secretary of Defense if the threat to American personnel continues. Also, the language in the bill is clear that it would apply to the current ACLU lawsuit that gave rise to the President's decision last week.

Let me state clearly that we cannot become complacent about the stark reality that we are still at war with enemies who continue to seek to attack America and kill Americans. In the heated partisan environment in Washington, we are unfortunately sometimes more engaged in finger pointing and recriminations than being focused on defeating the vicious determined enemy we face.

I applaud President Obama for the actions he has taken in the past week on the photos and the military commissions and I believe that this legislation will provide him with an important tool to assist him in leading the war on terror.

Bottom line: I hope, again, this can be a bipartisan amendment, which it is, but I hope it will be supported by Members across the aisles. When we do that, we are all going to be saying we know we are at war and that we have no higher responsibility than to protect the security of our country and our military personnel, which would be endangered if these pictures go out.

For a quick moment, I speak as chairman of the Homeland Security Committee, which I am privileged to lead. These pictures will be a recruiting device for al-Qaida and the rest of the terrorist ilk. These pictures will go up instantaneously on jihadist terrorist recruiting Web sites. Not just people elsewhere in the world but people in the United States will be drawn to those Web sites and perhaps recruited through these pictures into a life of terrorism, where the essential target will be America and Americans. There is no reason to let that happen, and this amendment will make sure, in an orderly and fair way, that it doesn't happen while we are at war.

Again, I thank my friend from South Carolina. I gather we are waiting for word on whether we can introduce the amendment soon.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. GRAHAM. Madam President, here is a closing thought. The President understands very well, and I know Senator LIEBERMAN does, and I think we all understand we have some damage to repair. We have made mistakes in this war. Detainee operations are essential in every war. Part of war is to capture prisoners and how you dispose of them can help or hurt the war effort. There have been times in the past where detainee operations have hurt the war effort. We need to start over. That is why we need to look at a new system to replace the one we have regarding military commissions—but keep it in the military setting—and a way to start over with basic detainee operations in a comprehensive manner. But in repairing the damage of the past, you have to make sure you are not creating future damage. If you release these photos, you will not repair damage from the past, and you will not bring somebody to justice that is in these photos whom we already don't know about. There will not be a new person named. It is more of the same. So it doesn't contribute to repairing the damage of the past, but it sure does create damage for the future.

The one fact I am very aware of is that the young men and women serving overseas today—soldiers, military members, and civilians—have done nothing wrong. They should not pay a price for the people who did something wrong in the past whom we already know about.

If you release these photos, Americans are going to get killed for no good reason. That is why we need to pass this amendment—to help the President defeat this lawsuit that would lead to violence against Americans who are doing their job and have done nothing wrong. They should not be punished for something somebody has done in the past, which has already been addressed.

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

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

AMENDMENT NO. 1157

Mr. GRAHAM. Madam President, it is my understanding that there is an agreement we can bring up the amendment at this time. Therefore, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1157 on behalf of Senator LIEBERMAN, myself, and Senator MCCAIN.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. LIEBERMAN, and Mr. MCCAIN, proposes an amendment numbered 1157.

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

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

The amendment is as follows:

(Purpose: To provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act))

At the appropriate place, insert the following:

SEC. _____. DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Detainee Photographic Records Protection Act of 2009''.

(b) DEFINITIONS.—In this section:

(1) COVERED RECORD.—The term ''covered record'' means any record—

(A) that is a photograph relating to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) PHOTOGRAPH.—The term ''photograph'' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(c) CERTIFICATION.—

(1) IN GENERAL.—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall submit a certification, in classified form to the extent appropriate, to the President, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or

(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) CERTIFICATION EXPIRATION.—A certification submitted under paragraph (1) and a renewal of a certification submitted under paragraph (2) shall expire 5 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and

(B) more than 1 renewal of a certification.

(d) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

Mr. GRAHAM. Madam President, Senator LIEBERMAN and I have already explained the need for this amendment. It will help the President win a lawsuit that is moving through our legal system regarding the release of photos of past detainee abuse. As I said, that will not help us to learn more, and it will only put American lives at risk, as the commanders have told the President. The Senate can avoid that by passing this targeted amendment.

I hope we can get a large vote for this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNET). 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.

AMENDMENT NO. 1147

Mr. KYL. Mr. President, I ask unanimous consent that the pending business be laid aside so that I may offer amendment No. 1147.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself and Mr. LIEBERMAN, proposes an amendment numbered 1147.

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

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

The amendment is as follows:

(Purpose: To prohibit funds made available for the Strategic Petroleum Reserve to be made available to any person that has engaged in certain activities with respect to the Islamic Republic of Iran)

At the end of title IV, add the following:

PROHIBITION ON USE OF FUNDS FOR THE STRATEGIC PETROLEUM RESERVE FOR PERSONS THAT HAVE ENGAGED IN CERTAIN ACTIVITIES WITH RESPECT TO THE ISLAMIC REPUBLIC OF IRAN

SEC. 410. None of the funds made available by this title or any other appropriations Act for the Strategic Petroleum Reserve may be made available to any person that has, during the 3-year period ending on the date of the enactment of this Act—

(1) sold refined petroleum products valued at $1,000,000 or more to the Islamic Republic of Iran;

(2) engaged in an activity valued at $1,000,000 or more that could contribute to enhancing the ability of Iran to import refined petroleum products, including—

(A) providing ships or shipping services to deliver refined petroleum products to the Islamic Republic of Iran;

(B) underwriting or otherwise providing insurance or reinsurance for such an activity; or

(C) financing or brokering such an activity; or

(3) sold, leased, or otherwise provided to the Islamic Republic of Iran any goods, services, or technology valued at $1,000,000 or more that could contribute to the maintenance or expansion of the capacity of the Islamic Republic of Iran to produce refined petroleum products.

Mr. KYL. Mr. President, let me briefly describe what this amendment does. The administration, as well as Members of Congress, have all been recently saying some important things about our ability to influence the actions of the country of Iran relative to their acquisition of a nuclear capability. Let me quote a couple of these statements that I think make a lot of sense.

Secretary Gates said:

The regional and nuclear ambitions of Iran continue to pose enormous challenges to the U.S. Yet I believe there are nonmilitary ways to blunt Iran's power to threaten its neighbors and sow instability throughout the Middle East.

The Secretary said that at an Armed Services Committee hearing in January of this year.

In March of this year, after an important NATO meeting, Secretary Clinton said the following:

I know that there's an ongoing debate about what the status of Iran's nuclear weapons production capacity is, but I don't think there is a credible debate about their intention. Our task is to dissuade them, deter them, prevent them from acquiring a nuclear weapon.

I think we would all agree with these two sentiments. One way to ''dissuade'' Iran from pursuing this nuclear capability, as Secretary Clinton put it, is to focus on the vulnerabilities of Iran and its leaders to cause them to change their plans by putting significant pressure on Iran and its leadership.

Where might those pressure points be? One of them that President Obama talked about in his campaign was the fact that Iran imports about 40 percent of the refined gasoline and diesel that its citizens use. It does not have an indigenous capability. That represents a vulnerability since there are only a few companies, maybe five, that supply that refined petroleum product to Iran. So one of the things we can do is to ensure that those companies have to decide whether they want to do business with Iran's $250 billion economy or our $13 trillion economy. There is legislation pending that Senator BAYH, Senator LIEBERMAN, and I have introduced that would deal with that subject.

But there is another way that we can deal with it, and it is focused on this legislation in front of us. That is how we spend U.S. money and whether, in fact, we pay money to these companies.

It turns out that the answer is yes. For example, in January, the Department of Energy announced its award of a contract to purchase 10.7 million barrels of crude oil for the Strategic Petroleum Reserve to two companies, Vitol and Shell Trading. The total cost of these contracts is $552 million. These two firms play a critical role in importing gasoline to the Islamic Republic of Iran.

Despite protests from the Congress, the Department of Energy actually completed those sales and the transfers of money in April of 2009. So that is not a contract we can affect. That is half a billion dollars of U.S. taxpayer money going to these two companies that do business directly with Iran. We should stop doing that. What this amendment says is that we are going to stop doing that with money that would be ordinarily spent on companies such as Vitol and Shell Trading.

The Department of Energy has outstanding contracts to add 6.2 million barrels of crude oil to the Strategic Petroleum Reserve with Shell Trading and a company called Glencore, which also sells gasoline to Iran. Last month, the Senate unanimously approved an amendment—it was amendment No. 980 to S. Con. Res. 13—to the budget to prevent Federal expenditures to companies doing business in the energy sector of the Islamic Republic of Iran on the matter I spoke to before. So this would be a complementary way for us to assure that Iran is not supported by these companies. This amendment would make clear our opposition to the use of taxpayer funds to pay to these companies that sell refined petroleum products to Iran. We wouldn't be able to use American taxpayer dollars, for example, to pay them to fill our Strategic Petroleum Reserve. There are plenty of other companies that can do that.

So if we are serious about confronting the Islamic Republic of Iran, we have to use all the economic and diplomatic tools at our disposal to focus pressure on that country and its leadership to cause them to stop pursuing their plans to become a nuclear power. I think most of us would agree that companies doing business with Iran should have to make a choice: Do they do business, as I said, with our $13 trillion economy or do they do business with Iran's $250 billion economy? This amendment doesn't get to that larger issue, but it does at least say that we are not going to spend taxpayer money with these five or so companies—some of which we are currently doing business with—by buying their oil for our Strategic Petroleum Reserve.

Mr. President, I am happy to answer any questions or have debate about this amendment. If my colleagues are willing to accept it without a vote, that is fine with me too. I think the important point is to get this proposition established. I can't imagine there is a great deal of controversy about this here in the body, but if anyone would like to debate me about it, I would be happy to do that at this time or when they are here.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1161

Mr. BROWN. I ask unanimous consent to set aside the pending amendments and call up amendment No. 1161.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. BROWN] proposes an amendment numbered 1161.

Mr. BROWN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require the United States Executive Director of the International Monetary Fund to oppose loans and other programs of the Fund that do not exempt certain spending by the governments of heavily indebted poor countries from certain budget caps and restraints)

On page 106, between lines 14 and 15, insert the following:

SEC. 1303. (a) EXEMPTION OF CERTAIN GOVERNMENT SPENDING FROM INTERNATIONAL MONETARY FUND RESTRICTIONS.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund that does not exempt spending on health care, education, food aid, and other critical safety net programs by the governments of heavily indebted poor countries from national budget caps or restraints, hiring or wage bill ceilings, or other limits on government spending sought by the Fund.

(b) CONFORMING REPEAL.—Section 7030 of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 874) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

Mr. BROWN. Mr. President, I begin by thanking the senior Senator from Mississippi for his good work and for his cooperation on bringing this amendment forward. I rise to offer amendment No. 1161, which is intended to ensure that the International Monetary Fund fulfills its mission in a manner consistent with American values and American objectives. This amendment would help ensure that the human cost of this economic crisis is not exacerbated, is not made worse, by cuts to nutrition and to health and to education programs.

Without a doubt, we are facing the greatest economic crisis in decades, a crisis that has worldwide implications. Unemployment is up, not just in my home State of Ohio or in the State of the Presiding Officer, of New Mexico, but across this Nation and around the world. In low-income countries, workers are toiling away for increasingly lower wages and children are all too often going without health care, without enough food, and with little education.

The World Bank estimates the global economic crisis will push an additional 46 million people into poverty this year. If the crisis persists, an additional 2.8 million children under 5 may die from preventable and treatable diseases between now and 2015.

As governments across the globe find themselves in dire straits, the IMF has stepped in to provide badly needed loans to countries in trouble but often at the expense of social spending programs. In the past, the IMF has loaned money to nations, often with the requirement that these countries balance their budgets, cut spending and raise interest rates. Of course, there is nothing wrong with balanced budgets, but in an economic crisis such as the one we currently face, how can the IMF ask countries to cut spending on education, on health care, on nutrition, in order to undertake policies that might actually cause more harm than good? The upshot of these policies is the world's weakest and most vulnerable are the ones who suffer. The first items cut from budgets are social spending programs. In fact, the IMF has actually required that countries cap spending on health care and education and nutrition.

If these conditions continue to be placed on countries receiving IMF funds, our attempts to provide assistance to those in need will be undercut, all in the name of fiscal responsibility. Let me be clear: The purpose of this amendment is not to inhibit IMF lending. I recognize the importance of the IMF and I recognize the role it will play in stabilizing the global economy, but it is especially for this reason we must be able to hold it accountable.

The administration's inclusion of IMF money in the supplemental appropriation is an opportunity for us to make a statement to the International Monetary Fund, to make sure that the money we loan to the IMF is used for programs that do not adversely affect the most vulnerable in the world. We must ensure the IMF doesn't force countries to cut spending for health care or education or nutrition at the expense of balanced budgets or shoring up central banks.

We must ensure that social spending—education, health care, nutrition—is protected not only for humanitarian and moral reasons but also for the long-term security and stability of those countries.

We must be able to hold the IMF accountable for its policies. We must use our voice and our vote to reflect our commitment to education, to the fight against global poverty, and to the welfare of workers everywhere. That is what this amendment will accomplish.

I yield the floor.

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

AMENDMENT NO. 1188

Mr. MCCAIN. Mr. President, amendment No. 1188 is at the desk. I ask unanimous consent for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK, proposes an amendment numbered 1188.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be waived.

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

The amendment is as follows:

(Purpose: To make available from funds appropriated by title XI an additional $42,500,000 for asssistance for Georgia)

At the end of title XI, add the following:

SEC. 1121. (a) ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA.—The amount appropriated by this title under the heading ''Europe, Eurasia and Central Asia'' is hereby increased by $42,500,000, with the amount of the increase to be available for assistance for Georgia.

(b) SOURCE OF FUNDS.—

(1) IN GENERAL.—The amount of the increase in subsection (a) shall be derived from amounts appropriated or otherwise made available by this title, other than amounts under the heading ''Europe, Eurasia and Central Asia'' and available for assistance for Georgia.

(2) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(A) administer the reduction required pursuant to paragraph (1); and

(B) submit to the Committee on Appropriations of the Senate and the Committee of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to the reduction required pursuant to paragraph (1).

Mr. MCCAIN. Mr. President, I rise to offer an amendment that will restore assistance to the Republic of Georgia, thereby fulfilling the commitment the United States has made to that country.

Last year, following the Russian invasion of Georgia, and the widespread destruction that took place throughout the country, the United States pledged $1 billion in aid to Georgia. The move had wide bipartisan support.

Thus far approximately three-quarters of the assistance has been delivered to Tblisi. Now the administration has requested that final step in fulfilling the U.S. pledge be incorporated into the supplemental bill and requested the remaining $242.5 million in assistance for Georgia.

The House measure includes this full funding. The Senate version, on the other hand, provides only $200 million, which makes it available not just for Georgia but other central Asian countries as well.

The amendment I am offering would move $42.5 million in existing funds under the international affairs title of the bill to fulfill the full amount of the American pledge. I would emphasize—I wanted to heavily emphasize—that in

doing so, this amendment does not increase the top line of the State Department budget by one penny, nor does it mean one penny more in taxpayer expenditure. It is consistent with the administration's budget request and with the promise that our Nation made to the Republic of Georgia following last year's strife.

The Georgian Government has stated that it plans to devote the assistance to projects that will address urgent requirements identified by the World Bank's recent Joint Needs Assessment. These include resettling internally displaced persons, rebuilding vital infrastructure following last year's Russian invasion, strengthening democratic institutions and law enforcement capabilities, and enhancing border security.

In fulfilling our pledge, we have the opportunity not only to enhance the stability of the democratic progress of Georgia but also to send a clear message to the region that the United States will stand by its friends. Such a signal is one of the utmost importance.

It has been just 8 months since the world's attention was riveted by Russia's invasion. Following the violence, there was talk of sanctions against Moscow. The Bush administration withdrew its submission to Congress of a nuclear cooperation agreement with Russia, and NATO suspended meetings of the NATO-Russia Council. That outrage quickly subsided, however, and it seems that the events of last August have been all but forgotten in some quarters.

A casual observer might guess that things returned to normal in this part of the world and that war in Georgia was a brief and tragic circumstance that has since been reversed. But, in fact, this is not the case.

While the stories have faded from the headlines, Russia remains in violation of the terms of the ceasefire to which it agreed last year. Russian troops continue to be stationed on sovereign Georgian territory. Thousands of Russian troops remain in South Ossetia and Abkhazia, greatly in excess of the preconflict levels.

Rather than abide by the ceasefire's requirement to engage in international talks on the future of the two provinces, Russia has recognized their independence, signed friendship agreements with them that effectively render them Russian dependencies, and have taken over their border controls.

All of this suggests tangible results to Russia's desire to maintain a sphere of influence in neighboring countries, dominate their politics, and circumscribe their freedom of action in international affairs.

Russian President Medvedev recently denounced NATO exercises in Georgia, describing them as ''provocative.'' Yet these ''provocative'' exercises did not involve heavy equipment or arms and focused on disaster response, search and rescue, and the like. Russia was even invited to participate in the exercises, an invitation Moscow declined.

We must not revert to an era in which the countries on Russia's periphery were not permitted to make their own decisions, control their own political futures, and decide their own alliances. Whether in Kyrgyzstan, where Moscow seems to have exerted pressure for the eviction of U.S. forces from the Manas base, to Estonia, which suffered a serious cyber-attack some time ago, to Georgia and elsewhere Russia continues its attempts to reestablish a sphere of influence.

Yet such moves are in direct contravention to the free and open rules-based international system that the United States and its partners have spent so many decades to uphold.

So let's not forget what has happened in Georgia and the pledges we have made to support a friend. I urge my colleagues to support this amendment and stand by the Republic of Georgia in its continuing time of need.

I want to emphasize again, the amendment does not increase the top line of the State Department budget by one penny, nor does it mean one penny more in taxpayer expenditures, consistent with the administration's budget request, and with the promise that our Nation made to the Republic of Georgia following last year's strife.

I suggest the absence of a quorum.

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

The assistant bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1181

Mrs. LINCOLN. Mr. President, I ask unanimous consent that the pending amendment be set aside and I call up my amendment No. 1181.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 1181.

The amendment is as follows:

(Purpose: To amend the Federal Deposit Insurance Act with respect to the extension of certain limitations)

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF LIMITATIONS.

(a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the margins 2 ems to the right;

(2) by striking ''evidence of debt by any insured'' and inserting the following: ''evidence of debt by—

''(A) any insured''; and

(3) by striking the period at the end and inserting the following: ''; and

''(B) any nondepository institution operating in such State, shall be equal to not more than the greater of the State's maximum lawful annual percentage rate or 17 percent—

''(i) to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

''(I) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

''(II) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

''(III) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

''(aa) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

''(bb) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

''(cc) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

''(ii) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).''.

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

Mrs. LINCOLN. Mr. President, I will be very brief.

I, first of all, want to say a special thanks to Chairman INOUYE and the ranking member, my neighbor from Mississippi, Senator COCHRAN, for their good work on this effort and really being thoughtful and timely on that we need in this bill we have before us.

The amendment I am offering today deals with an emergency challenge that is faced in our State of Arkansas. It is a specific problem just to us, and we need the Senate's help to immediately address that issue.

Unfortunately, as a result of the economic challenges our Nation now faces, these challenges are magnified for us in our State, and immediate and emergency intervention is essential; otherwise, our State's recovery will lag behind due to a lack of capital in our State because of the circumstances we are experiencing, as I said, with an unusual cap that is tied to the Federal rate. So we are working hard to solve this problem in our State. We are asking our Senate colleagues to work with us.

Mr. President, I ask unanimous consent that Senator PRYOR be added as a cosponsor to the amendment.

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

Mrs. LINCOLN. I thank the Acting President pro tempore.

Again, we look forward to being able to work with our colleagues to meet this challenge our State, and our State

alone, faces. Again, I thank the chairman and the ranking member for being able to work with us on this issue.

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

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

The assistant bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1143

Mr. RISCH. Mr. President, I ask unanimous consent that the pending amendment be set aside to call up my amendment No. 1143.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. RISCH], for himself, Mr. CORNYN, and Mr. BOND, proposes an amendment numbered 1143.

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

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

The amendment is as follows:

(Purpose: To appropriate, with an offset, an additional $2,000,000,000 for National Guard and Reserve Equipment)

At the appropriate in title III, insert the following:

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for ''National Guard and Reserve Equipment'', $2,000,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chief of the National Guard Bureau and an appropriate official for each of other reserve components of the Armed Forces each shall, not later than 30 days after the date of the enactment of this Act, submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the modernization priority assessment for the National Guard and for the other reserve components of the Armed Forces, respectively: *Provided further*, That the amount under this heading is designated as an emergency requirement and as necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(RESCISSIONS)

(a) IN GENERAL.—Of the discretionary amounts (other than the amounts described in subsection (b)) made available by the American Recovery and Reinvestment Act of 2009 (123 Stat. 115; Public Law 111–5) that are unobligated as the the date of enactment of this Act, $2,000,000,000 is hereby rescinded.

(b) EXCEPTION.—The rescission in subsection (a) shall not apply to amounts made available by division A of the American Recovery and Reinvestment Act of 2009 as follows:

(1) Under title III, relating to the Department of Defense.

(2) Under title VI, relating to the Department of Homeland Security.

(3) Under title X, relating to Military Construction and Veterans and Related Agencies.

(c) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) administer the rescission specified in subsection (a); and

(2) submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to the rescission in subsection (a).

Mr. RISCH. Mr. President and fellow Senators, I come to the floor to offer this important amendment. What this amendment does is simply appropriates $2 billion to the National Guard and Reserve equipment account. Mechanically, it does this by permitting the OMB to rescind $2 billion that has been previously appropriated in the stimulus package. It exempts from the rescission funds related to the Department of Defense, the Department of Homeland Security, and part of title X of that bill relating to military construction and veterans and related agencies. Otherwise, the OMB is directed to rescind $2 billion, which is the amount authorized for the National Guard and Reserve equipment account.

The reason for the amendment is that as our Guard units and Reserve units have been asked to serve in Iraq and Afghanistan over recent years, their equipment has been badly depleted. I have personal experience with this, as our Guard unit from Idaho had been dispatched to Iraq and spent time there. When they came back, a lot of their equipment was necessarily left behind for the use of the Iraqis and for the use of other American troops who were going to stay in Iraq. We have in Idaho over a period of time gone through a process by which some of this equipment has been replaced but not all. Obviously, this amendment does not apply just to Idaho; it applies to all States, all National Guard units, all Reserve units.

This is something that is badly needed. The National Guard certainly performs a valuable service to the Governors of each of the States, to the people of each of the States. This bill will help them get the equipment that badly needs replacing back in the queue where it belongs and back where it can be used by these Guard units and Reserve units.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I wish to compliment the distinguished Senator from Idaho. He puts his finger on a problem that affects not only Idaho but some other States as well, including my State of Mississippi, where we have had a large number of National Guard and Reserve officers, too—but his amendment goes directly to the National Guard—deployed to the theater, engaged in serious and dangerous operations in the theater, and we appreciate the fact that they are in need of having equipment and weapons that are suitable for the tasks and the challenges they face. It is a dangerous environment. This amendment will help deal with that serious problem. I thank the Senator for bringing it to the attention of the Senate.

Mr. RISCH. Mr. President, I thank the Senator. As has been pointed out, this is a situation that a number of States face. It will not cost any additional taxpayer dollars. It is a wise expenditure of taxpayer dollars.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1179

Mr. KAUFMAN. Mr. President, I ask unanimous consent to set aside the pending amendment for purposes of calling up an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I call up amendment No. 1179.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. KAUFMAN], for himself, Mr. LUGAR, and Mr. REED, proposes an amendment numbered 1179.

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

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

The amendment is as follows:

(Purpose: To ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations)

On page 71, between lines 13 and 14, insert the following:

(g) TRAINING IN CIVILIAN-MILITARY COORDINATION.—The Secretary of State, in consultation with the Secretary of Defense, shall seek to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations, and shall submit a report to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives not later than 90 days after the date of the enactment of this Act detailing how such training addresses current and future civilian-military coordination requirements.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to modify the amendment, and I send the modification to the desk.

Mr. COCHRAN. Mr. President, 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. KAUFMAN. 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. KAUFMAN. Mr. President, I am grateful to the chairman and ranking member for their work on this critical bill.

I am happy to be joined by Senators LUGAR and REED in introducing an amendment to ensure that civilians deployed to Afghanistan receive training that cultivates greater civilian-military unity of mission and emphasizes the importance of counterinsurgency and stability operations.

Last month, I had the distinct privilege of traveling with Senator REED to Afghanistan, Pakistan, and Iraq to visit our troops and assess regional developments and challenges.

During the trip, it was abundantly clear that we must build greater unity of mission between civilians and military in order to meet our growing needs in the region.

In Iraq and Afghanistan, we are engaged in a four-stage process of fighting insurgency by shaping the environment, clearing insurgents with military power, holding the area with effective security forces and police, and building through a combination of governance and economic development.

As we increase our military commitment and civilian capacity in Afghanistan, we must ensure that all U.S. personnel have the tools they need to succeed in this increasingly difficult mission.

In addition to sending 21,000 additional troops and trainers to Afghanistan, President Obama recently announced that we will send hundreds of civilians from the State Department, USAID, and other agencies to partner with the Afghan people and government in promoting economic development and governance.

These civilians will continue to work in tandem with the military in stabilizing Afghanistan and should therefore train in tandem to prepare for their deployment.

When surveyed, civilians serving in Afghanistan have confirmed that joint training with the military was the single most effective preparation. This sentiment underscores the urgency of this amendment, and highlights the critical need for increased joint training so we can meet current and future needs in Afghanistan.

Integrated training, specifically for military and nonmilitary personnel participating in provincial reconstruction teams, PRTs, is ongoing, and the next course will be held later this month at Camp Atterbury in Indiana.

Still, this training will include only about 25 nonmilitary personnel from State and USAID, and it is not scheduled to recommence for 9 months, after many of our brave men and women have already left for the region.

Especially given the increased need, this 9-month training cycle is woefully inadequate. We do not have 9 months to wait and we should not risk sending civilians to Afghanistan without the training they need to be safe, secure, and effective.

We must therefore increase the frequency of training programs, such as the one at Camp Atterbury and we also must ensure this training includes a greater focus on counterinsurgency and stability operations.

The military challenges we are facing today are unlike conventional wars of the past. I strongly agree with the assessment of leading defense experts that we must better prepare to win the wars we are in, as opposed to those we may wish to be in.

According to Secretary Gates, this will require ''. . . a holistic assessment of capabilities, requirements, risks, and needs'' which will entail, among other things, a rebalancing of our defense budget.

This also includes changing the way we prepare U.S. personnel for their mission, as reflected by the creation of the Counterinsurgency Academy in Kabul, where more civilians should train in greater numbers with the military once they are in Afghanistan.

An increased focus on counterinsurgency reflects the fact that we must undergo a military rebalancing to be better prepared to face an asymmetric threat.

Thanks to the leadership, vision, and integrity of Secretary Gates, General Petraeus, and others, we have moved in that direction, and we must continue along this path.

That is why I strongly support this supplemental, which contains increased funding for mine resistant ambush protected vehicles, or MRAPS, and other equipment to counter unconventional threats like improvised explosive devices. Such equipment is critical to advancing our security goals in Afghanistan and Iraq.

But most importantly, it provides needed defenses for our troops, so that we can keep our brave men and women out of harm's way in Iraq and Afghanistan.

It is in this same vein that we must also take every opportunity to prepare our civilians better. Increased civilian-military training focused on counterinsurgency and stability operations is essential to meeting this goal, and that is why I urge my colleagues to join Senators LUGAR, REED, and me in supporting this amendment.

Mr. President I appreciate the chairman and ranking member's assistance on this amendment, as well as the guidance I have received from Senator LEAHY.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MARTINEZ. 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. MARTINEZ. Mr. President, I ask unanimous consent that I be allowed to speak for 5 minutes as in morning business.

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

CUBAN INDEPENDENCE DAY

Mr. MARTINEZ. Mr. President, for Americans, Independence Day is the day we celebrate our freedom and the ideals on which our Nation was founded.

Today is a special day for Cubans who won their formal independence, with help from the United States, 107 years ago today. Today is independence day in Cuba, which serves as a reminder that there are those still struggling to exercise their fundamental rights, having spent the past 50 years under the repressive rule of a one-family regime.

Last month, 17 peaceful Cuban activists wrote to President Obama, noting that:

> A great majority of Cubans . . . desire profound democratic change in Cuba. The shining example of the civil rights movement in the United States is a beacon of hope so that full dignity for each Cuban can be restored. We want to determine our future through a democratic process.

His administration has taken actions with the well-being of Cubans in mind.

While I appreciate the President's willingness to address some of the challenges facing the Cuban people, I also ask that he consider implementing policies that will empower the Cuban people, not empower the regime.

Wholesale change in Cuba won't come from Washington. It can only come from Havana. The Cuban people will not truly be free until all prisoners of conscience are freed from prison.

Additionally, the regime must end the practice of harassing and detaining those who exercise their fundamental human rights.

The Cuban people are also entitled to freedom of the press, freedom to assemble, and freedom to worship. Finally, the Cuban people must be given the right to freely choose who governs them and how they will be governed.

On the day we recognize Cuba's independence from Spain 107 years ago, we should also recognize the Cuban people's right to independence from the repressive regime that currently denies them these fundamental freedoms.

Mr. President, 107 years ago, as the United States and those freedom fighters in Cuba who struggled mightily for more than a quarter of a century, by that time, to free themselves from the yoke of colonialism, the United States and Cuba, after freeing Cuba from Spain, sat together to form the new Cuban Republic. And 107 years ago on a day like today, the United States ceded to the Cuban people their right to be an independent nation.

It is amazing how nurtured and closely bound the history of our Nation is with the history of the nation that saw

my birth. It is with that in mind that this unique role and the fact that only a very small body of water, called the Florida Straits, separates us, has created this entangled web of history between these two nations that have so much been a part of my life.

As we look to the future, it is right that we continue to be the greatest single beacon of hope, as these dissidents expressed to President Obama, for those in Cuba who look for freedom, who look for the opportunity to have a democratic government they can elect.

Today the Cuban people continue to be ruled by the tyrannical hand of two brothers who seized power in 1959 on January 1. That is a long time ago. Since that day until today, there has not been a legitimate election, there has never been the opportunity for the Cuban people to freely express themselves without the fear of repression or political prison.

Today there are dozens of Cuban people who are in prison merely for expressing the ideas that this country has so nurtured over the time of its existence—freedom, democracy, and rule of law. It is with that hope that today I have come to the Senate floor to commemorate this very important date on the calendar in history that intertwines Cuba and the United States.

Mr. President, I yield the floor.

Mr. COCHRAN. Mr. President, 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. 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.

AMENDMENT NO. 1155

Mr. NELSON of Florida. Mr. President, Senator LANDRIEU and I have filed an amendment that we hope the Appropriations Committee will accept for $2 million to be appropriated, set aside for the Consumer Product Safety Commission.

You would wonder why a sum of money of that size compared to the scope of the appropriations bills out here would need to have direction to the Consumer Product Safety Commission. Of course, I wonder the same thing because they have a budget that is certainly much more robust than it has been in the past as a result of the Consumer Product Safety Commission authorization bill we passed last year. Nevertheless, we have an emergency that has arisen with regard to a consumer product for which the Safety Commission Acting Chairman has said they do not have enough money. So Senator LANDRIEU and I are offering this amendment.

Let me tell you what this consumer threat is. On or about the years 2004–2005, because of the high demand for construction in the aftermath of two very active hurricane seasons—2004 and 2005—as a matter of fact, we had four hurricanes just in my State of Florida within a 6-week period. Those four hurricanes covered up the entire State. Then, of course, you remember the active hurricane season of 2005, which ended in the debacle in New Orleans, with Hurricane Katrina and hitting the Mississippi coast. Then along came Hurricane Rita, which also hit the Texas coast as well as Louisiana.

In the aftermath of that, of course, there was a lot of construction. One of the essential items in construction, even in the State of the esteemed ranking member of the Appropriations Committee, is something known as drywall because you put up the studs in a unit—let's say a home—and you put drywall on it, and that makes the walls.

Drywall is usually made with gypsum, which is mined and produced in America. It is actually a byproduct of the mining of phosphate. On the outside of the gypsum they put something like a cardboard-thick paper, and that becomes a drywall sheet that actually is the facing of a wall. But because there was such a demand for this drywall in the aftermath of those hurricane years, they started importing from China something known as Chinese drywall.

Well, we think Chinese drywall is in as many as 100,000 homes in this country. Just in my State, the State of Florida, it may be in 36,000 to 50,000 homes.

Here is what is happening. People who live in homes with Chinese drywall are getting sick. First of all, if you enter the home—as I have, in several homes in Florida—there is a pungent kind of smell that is something like rotten eggs. For this Senator, whose respiratory system is very sensitive to any of these things, once I was in there for 5 or 10 minutes, suddenly I found my respiratory system choking up.

When you talk to these people whose homes have this Chinese drywall, sure enough, that is what is happening. But that is not what is only happening. Normally, copper tubing—whether it is part of the plumbing or whether it is part of an air conditioner—as it gets old, it gets green. The bright shiny copper turns green. Not so in a home with Chinese drywall. It starts turning black and crusty, and it starts deteriorating the coils on an air conditioner.

Mr. President, this is no kidding. Some of those houses I visited have had to replace the coils in the air conditioner three times.

Or what about the house outside of Bradenton, FL, that I went to, where just a month before the elderly couple had gone on a trip to Cozumel, Mexico, where they had bought for the wife a silver bracelet. They brought it back. It had been in the house a month, and it had turned completely black. So, obviously, you can see that something has happened.

What about going into the bathroom? You have a mirror in the bathroom and, suddenly, you start seeing the reflective part of the mirror start chunking off.

What about the kids who have respiratory problems and their pediatrician is telling the parents: Get that child out of the house. Well, where do they go?

I visited one single mother. She took her child and moved in with her mother. But she is still paying the mortgage payments. What about that other family down the street who did not have family close by? They had to move out and rent a place. But they are still, because their mortgage company will not work with them, having to pay the mortgage in order not to lose their house.

What about the poor homebuilder? The poor homebuilder is having trouble enough as it is in the economy we are in with the sale of houses going down. The poor homeowner asks: Who is responsible for this? And maybe the homebuilder is not even around because they might have gone bust because of the economy. So who does the poor homeowner turn to?

Well, I can tell you, a lot of those homeowners are turning to their elected officials.

The sad thing is we have people in dire need, and all of the pleas to the Consumer Product Safety Commission—which, by the way, drug their feet 2 and 3 years ago on defective toys coming in from China—they say even though they have the legal authority—and they do—to impound this stuff, to freeze the assets of the distributing company of this stuff—they have the authority under existing law to stop the importation of this Chinese drywall—they have refused thus far to do anything about it.

Now, they did do this: They got with the EPA and the EPA did a test. The EPA is releasing that test result, I believe, today. That test result is showing that when they compared Chinese drywall to American drywall—in the first chemical composition test—the difference from American drywall is that the Chinese drywall contains sulfur; thus, the smell of rotten eggs; strontium, which is some derivative, possibly, of some kind of nuclear process; and elements found in acrylic paint. Those are the results thus far.

Thus, we come to the amendment of Senator LANDRIEU and myself for $2 million to the Consumer Product Safety Commission to go to the next test—which will take most of that $2 million—and that is, to subject the Chinese drywall to conditions one finds in a house—and now we are finding it in about 20 States, not just in the South—subjecting it to the conditions of humidity and the heat of the summer to see what gases are emitted so that doctors can analyze this stuff as to how it is affecting the health of our people.

If you are a homeowner with this Chinese drywall, this is no little emergency. The least we can do, even though the CPSC has drug its feet, is to give them the resources to go to

that next step and make this additional test so we know what we are dealing with to protect the health of our people.

Mr. President, I yield the floor.

Mr. COCHRAN. 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.

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

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

AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, I rise to talk about an amendment I have filed, amendment No. 1189. I am told the Democrats will object to my asking that it be pending, but I am going to talk about it. I hope very much I will have the opportunity to offer this amendment in regular order. As a right of a Senator, I hope that will be given. I don't know why it is being objected to, but I would very much like to speak on it. I hope I am not going to be prohibited from the opportunity to offer it, since I am on the floor in a timely manner trying to offer an amendment, as we have been asked to do.

The amendment I hope to call up is amendment No. 1189. It is an amendment to try to help those automobile dealers that have been notified, particularly by Chrysler, with a deadline of June 9, and told they are going to have to shut their doors of those dealerships by June 9. They were given 3 weeks' notice.

The President's task force on the auto industry has taken unprecedented steps to negotiate with each of the affected stakeholders to bring General Motors and Chrysler closer to sustainable viability. I know Members of this body sincerely appreciate the enormity of their task; however, there are many growing concerns with their actions. The group that has arguably taken the biggest hit by their negotiations is the auto dealers.

Auto dealers are some of the biggest and best employers in our Nation, in small towns across my State and every State. Many of them are the largest employers in their entire counties. Auto dealers run a tough business. They assume a lot of risk. They purchase the vehicles from the manufacturer. Each dealer is forced to move their product in order to make payroll, to cover overhead, to pay property taxes, or close their doors, all of which is no cost to the manufacturer. These are all dealer expenses.

While I understand that if an auto dealer is forced to close their doors because the dealer is unable to make the business profitable, of course, we can understand that would be the choice of the dealer and they would be closed. But I don't understand why General Motors or Chrysler would arbitrarily shut down thousands of operating and profitable dealers across our country.

The Treasury Department has backpedaled from any involvement in the decision to shut down auto dealers across the Nation. A recent Treasury press release states:

> As was the case with Chrysler's dealer consolidation plan, the task force was not involved in deciding which dealers or how many dealers were part of GM's announcement.

An earlier press release from the Treasury said:

> The sacrifices by the dealer community alongside those of auto workers, suppliers, creditors, and other Chrysler stakeholders are necessary for this company and the industry to succeed.

I don't think that is any kind of help for our dealers that are taking the risk and the responsibility for all the costs of their dealership.

Before the closing announcements were made, another Treasury press release regarding Chrysler Fiat, on April 30, says:

> It is expected that the terminated dealers will wind down their operations over time and in an orderly manner.

However, Chrysler, in their notification to close 789 dealers on May 14—last Thursday—has given dealers until June 9 to wind down. That is just over 3 weeks—3 weeks. Chrysler determined that an orderly wind-down—an orderly manner—to sell all their inventory, sell all their parts, get rid of all their special equipment—3 weeks.

My amendment simply states that no funds shall be expended from the Treasury to an auto manufacturer which has notified a dealership that it will be terminated without providing at least 60 days for that dealership to wind down its operations and sell its inventory. Sixty days, that is what we are asking for.

We are not asking that any decisions be changed. It is not our place to do that. However, we are saying that with all the taxpayer dollars that are going into the automobile manufacturers, the road kill here is the auto dealer and they have done nothing that would be unbusinesslike. They have taken the risks. They employ people in the community. They pay the taxes in the community. Sometimes they are the largest employer in the community. Yet they are given 3 weeks to close down their operations. If we are going to help anyone in this country without one taxpayer dollar going into it, it should be these auto dealers, by giving them 60 days to have an orderly process to close down their operations.

I wish we could go further. I disagree with the decision to arbitrarily close down profitable auto dealers. I wish to give my colleagues an example. There is a town in my State called Mineral Wells. In that town of less than 20,000 people is Russell Whatley, a Chrysler dealer, whose family has owned his dealership for 90 years. It is the oldest dealership in Texas. Russell doesn't sell 1,000 cars a year, but he has been profitable. He actively supports his community. He has actively supported many employees. What is it going to save Chrysler to close Mr. Whatley's profitable dealership in Mineral Wells? I can't even imagine, but it isn't my decision to make. However, I am going to say that I do think Mr. Whatley deserves 60 days to have the orderly process that Treasury itself said they would expect from the auto manufacturers.

I am worried about Mineral Wells when Mr. Whatley's dealership is closed, just as I am worried about communities all over this country with dealerships that are going to be arbitrarily closed. If they have 3 weeks to sell their inventory, what is that going to do to them and to the people who have to go out and find jobs? I don't think it is right. I think we should pass my amendment.

The reason I am offering it on this bill is because this is a bill that is going to go through quickly, and this is a deadline that is coming very fast. If we can let those dealers know they are going to have 60 days, at least, for the orderly processing of their closures, I am told by dealers this will help them immensely in that process, and it will not cost the taxpayers one dime—not one dime.

I hope we will pass this amendment. I hope the majority will allow this to be brought up in the regular order. I was told when I came to the floor that I would have the opportunity to offer this amendment and get into the line for a record vote. I hope that will be done, because we don't have much time to help these dealers. With all the money we are putting into the automobile manufacturers, and all of the help we are giving to others affected by that industry, the ones who have been left out are the auto dealers.

I hope that giving them 60 days—2 months—to shut down a business that may have been in place for 25, 30, or 90 years is the least we can do in these troubling times. We are taking some very different positions that we have never taken as a Senate because these are tough times, and sometimes that is necessary. But this is the least we can do in fairness to a business that has done nothing to produce cars that won't sell. It has done nothing that has caused any of the financial problems of General Motors, and I think they deserve a break that will not cost the taxpayers a penny.

I am going to be here, and I will ask the majority to allow amendment No. 1189 to become pending right after the votes that will occur very shortly.

Mr. President, I have another amendment, and it is an amendment that I hope will help all of the hospitals in this country that are giving medical care on an emergency basis to illegal immigrants in our country get some reimbursement from the Federal Government for those costs.

We have had in place funding—called section 1011 funding—for 5 years. I am only trying to extend this program so that all of the States that deal with

the growing problem of taxpayer dollars—that the hospitals that have to absorb these costs will be able to recoup some of those costs from the Federal Government. The program provided $200 million over 5 years to help hospitals and doctors recoup these costs. It was not 100 percent reimbursement, I assure you.

In my State of Texas, we had about $600 million in uncompensated care in 1 year, and we were able to obtain $50 million in reimbursement. That was a little bit of help that helped many of the hospitals make it. These are eligible for any hospital in America. I hope we will be able to pass an amendment on this bill to alleviate that situation.

I am told that the Finance Committee is objecting to this amendment because it is in their jurisdiction. You know, I think it is incumbent upon the Finance Committee to work with me on this very important issue for all the States in our country, because this is a Federal problem, and it should not be put on the local communities to foot the bill for emergency care that they are required by Federal law to give, but not get reimbursement from the Federal Government.

I hope the Finance Committee will agree to work with me on that. I urge the majority to allow amendment No. 1189, which is filed and has no objections, that I know of, to be in the next set of votes.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. 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.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, would the regular order bring back amendment No. 1136?

The PRESIDING OFFICER. It would.

AMENDMENT NO. 1136, AS MODIFIED

Mr. MCCONNELL. Mr. President, that is an amendment of mine, and I send a modification to the desk.

The PRESIDING OFFICER. The regular order has been called for.

The Senator has a right to modify the amendment at this time.

The amendment, as modified, is as follows:

At the end of title III, add the following:

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Naval Station Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Naval Station Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Naval Station Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Naval Station Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Naval Station Guantanamo Bay.

(d) ADDITIONAL MATTERS TO BE INCLUDED IN INITIAL REPORT.—The first report submitted under subsection (a) shall also include the following:

(1) A description of the process that was previously used for screening the detainees described by subsection (c)(4) prior to their release or transfer from detention at Naval Station Guantanamo Bay, Cuba.

(2) An assessment of the adequacy of that screening process for reducing the risk that detainees previously released or transferred from Naval Station Guantanamo Bay would return to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(3) An assessment of lessons learned from previous releases and transfers of individuals who returned to terrorist activities for reducing the risk that detainees released or transferred from Naval Station Guantanamo Bay will return to terrorist activities after their release or transfer.

(e) FORM.—Each report submitted under subsection (a), or parts thereof, may be submitted in classified form.

(f) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

Mr. DURBIN. 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.

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

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

AMENDMENT NO. 1136

Mr. DURBIN. Mr. President, one of the amendments which is being discussed and has been filed by the minority leader, Senator MCCONNELL of Kentucky, relates to detainees at Guantanamo. I am hoping we will have an opportunity to debate this amendment because I think it is an important amendment, and I hope colleagues will pay close attention to it. It is not an amendment which is casual or inconsequential. It is an amendment which could have a very negative impact on our treatment of detainees who are guilty of crimes or involved in terrorist activities.

It is interesting that Senator MCCONNELL has brought this amendment before the body to be considered. It appears that when President Bush—the previous President—announced that he was closing Guantanamo, we didn't have this rush to the microphones on the Republican side of the aisle and objecting. In fact, I don't recall any objection from their side of the aisle when President Bush made that recommendation.

It is also interesting that during the years the Guantanamo Detention Facility has been open the requests that are being made now of this President were not made of the previous President. All the suggestions that perhaps there would be release of detainees from Guantanamo who may cause harm in some part of the world, those suggestions weren't made under the previous President.

Literally hundreds of detainees at Guantanamo have been released by President Bush in the previous administration. It was found that many of them were either brought in with no charges that could be proved or once investigation of the evidence was commenced, they learned there was nothing that could be established. They were released and returned to countries of origin and other places around the world—hundreds of them in that case. I don't recall a single Republican Senator, or any Senator for that matter, coming to the floor and objecting to the release of those hundreds of detainees from Guantanamo by President Bush. It happened. They did not object.

But now there is a new President and a new approach by the Republican side of the Senate. Senator MCCONNELL has come forward with a proposal that calls on the President—not the Attorney General but the President—to provide detailed information about every detainee at Guantanamo—information which has never been requested by previous Senators and the previous administration.

I will make an exception to what I just said. At one point, when the Bush administration was asked for the names of the detainees and their countries of origin, the Bush administration objected and said it could compromise national security to release their

names. That was the only request made. It was denied.

Now come the Republicans, with the new Obama administration, with a brandnew outlook, and they want to know everything about the detainees. It is a long amendment. It goes on for five pages and a lot of detail here about the detainees at Guantanamo. Basic information—name and country of origin, and it goes on for quite a while. Most of it, I think, may be salutary and wouldn't have a negative impact, but there is one paragraph in particular which I think is dangerous. It is a request for information in the McConnell amendment of the President of the United States, and let me read what the request is. It is a request for ''a current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.''

Paragraph (1) refers to all the detainees in custody at Guantanamo. So what Senator MCCONNELL is asking for is a summary of the evidence, intelligence, and information justifying detention. This could compromise a prosecution of a detainee. It could put us in a position where someone who truly is dangerous cannot be prosecuted because of this request for information by Senator MCCONNELL.

Senator MCCONNELL wants, I guess, 535 Members of Congress to have a chance to read through the evidence, intelligence, and information about each detainee. Well, some of that may be classified; some may not. Even the information that is classified may leak, with 535 Members of Congress and other staff people. Do we want to run the risk of jeopardizing the prosecution of someone who is a danger to the United States to satisfy the curiosity of a Senator? I don't think so.

Secondly, once this has been presented, if Senator MCCONNELL has his way, then there is a very real possibility that should someone—a known terrorist—be brought to the United States, or any other place for trial under the laws of the United States, they could, in fact, ask—as they do in ordinary criminal cases—for the presentation of all the evidence the State has against them, which would include this document, which would include not only the evidence, intelligence, and information, but quite possibly the work product of the prosecutors who are holding this detainee.

We could not only compromise his prosecution, we could end up with a ''not guilty'' of someone who is dangerous to the United States simply to satisfy the curiosity of a Senator who files this amendment. I think that goes too far. I can't believe that it is in the best interests of the safety of this country for us to allow this McConnell amendment to pass and to require the President to provide to Senator MCCONNELL a current summary of the evidence, intelligence, and information used to justify the detention of each detainee.

Why? Why in the world would we want to compromise any attempt at prosecution? We don't want to do that. Men and women—career prosecutors—are currently reviewing each of these cases to determine whether we can go forward with prosecution. The record of the previous administration is not very good when it comes to prosecuting these detainees. President Obama has said he wants to put that behind us and to deal with these people on an honest basis.

I have listened to the statements that have been made on the floor by the Republican Senators who have come forward with amendments. Many of them clearly want to keep Guantanamo open forever. They talk about a $200 million state-of-the-art facility in glowing terms. Well, I have been there, and I have seen it. I have seen the men and women in uniform who toil there each day under tough climate conditions. It gets pretty hot down there. I know they are working hard for their country. But I think they know, and we know, that continuing Guantanamo is going to continue to deteriorate the reputation of the United States around the world—not because of what our soldiers and sailors and military have done there, but simply because it has become a symbol that is being used by terrorists around the world to recruit enemies against the United States.

That is why President Bush called for the closure of Guantanamo, and that is why President Obama has done the same thing. Yet the Republican platform now seems to be ''Guantanamo forever.'' They have built this platform on fear—fear that somehow this administration would be so negligent that it would release terrorists into the United States, into the communities and neighborhoods of this country. Nothing could be further from the truth. Not this President, or any President I can recall of either political party, would ever find themselves in a position to jeopardize the safety of this country by releasing detainees who would be dangerous to the United States.

But this fear mongering is what has been the basis for their position on the other side of the aisle when it comes to the security of the United States.

Those who are arguing that we cannot safely hold a terrorist in the prisons of America—that is the argument; don't let a detainee from Guantanamo ever be considered for a jail or prison of the United States—have overlooked the obvious. Currently, we have 208 inmates in the Bureau of Prison facilities of the United States who are sentenced to international terrorism—208 already there; 66 U.S. citizens, 142 non-U.S. citizens. In addition to that, 139 inmates in our U.S. Bureau of Prisons have been sentenced for domestic terrorism; 137 U.S. citizens and 2 non-U.S. citizens. Do the math. That is 347 people who have been convicted of terrorism, international and domestic, currently being held in the prisons of the United States.

Do I feel less safe in Illinois—in Springfield or Chicago—because of that? No, because I know they are being held by professionals in facilities that have a record of safely holding these individuals.

The other side suggests if we put one of these Guantanamo detainees in a U.S. prison, they will be on the street in a heartbeat. I can't imagine that. That is not going to happen. The President wouldn't let it happen. Our Bureau of Prisons wouldn't let that happen either.

Then there is this other aspect. If we decided at some point to prosecute a Guantanamo detainee in the courts of the United States for a crime, some of the language that has been brought to us by the Republicans would make that impossible. You know why. Well, one amendment by the Senator from Georgia, Mr. CHAMBLISS, would not allow the Attorney General to bring that person from Guantanamo Naval Station into the continental United States. The amendment prohibits that. We couldn't even bring them in to try them for a crime, couldn't even bring them in to hold them accountable in a court of law for terrorism.

Another amendment says we can't hold these prisoners in any U.S. prison facility. How do we try a person in the United States and not at least, when they are not in trial, hold them in some prison facility? That is just common sense. The person is dangerous. They are, of course, detained in a secure facility during the course of the trial. Some of the Republican amendments would make that impossible.

I don't understand what they are headed to. I think they want to keep this Guantanamo facility, as we have known it, open forever, without resolution of the people who are there. That is fundamentally unfair. I have said on the floor of the Senate before, and it is worth repeating, that there are people being held at Guantanamo for whom there are no charges. I know one person in particular who is being represented by a pro bono lawyer in Chicago. This man has been held for 7 years at Guantanamo. Originally, he was from Gaza in the Middle East. There was a report that he was dangerous. With that report, he was arrested, taken to Guantanamo, and held. After 6 years, he was notified there were no charges against him; he would be free to go if he could figure out where to go. And that has been the problem. He has been waiting for a year for permission to return to Gaza. He is now 26 years old. From the age of 19 to 26 he has been sitting in Guantanamo. Guantanamo forever? For him, it must feel like forever.

It is about time that we mete out justice. For those being held unfairly, they should be released. For those where there are no charges, we should acknowledge that and return them as quickly and safely as possible. For those who are a danger to the United States, we should continue to detain

them so they never pose a hazard to our country. For those who can be tried, let's try them before our courts of law.

President Obama is going through that arduous, specific process now on each one of these detainees. While his administration is working to clean up this mess that he inherited from the previous administration, the Republicans in the Senate are doing everything they can to block his way and make it impossible for him to resolve the situation at Guantanamo.

I would say the McConnell amendment, page 3, paragraph (2), is a dangerous amendment. It is an amendment that could compromise the ability of the United States of America to prosecute those who could be a danger to our country. Why would we possibly do that?

I urge my colleagues, if I am not given the authority under the rules of the Senate to strike that paragraph, to oppose this amendment.

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

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

Mr. DURBIN. Mr. President, what is the business pending before the Senate?

The PRESIDING OFFICER. The McConnell amendment No. 1136.

AMENDMENT NO. 1199 TO AMENDMENT NO. 1136

Mr. DURBIN. I have sent an amendment to the desk. I ask the clerk to report the amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 1199 to amendment No. 1136.

On page 3, strike lines 1–4 and insert the following:

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Guantanamo Bay.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1199 WITHDRAWN

Mr. DURBIN. Mr. President, I would like to withdraw the pending amendment I just filed.

The PRESIDING OFFICER. The amendment is withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009—CONFERENCE REPORT

Mr. MCCAIN. Mr. President, the majority leader requested that I begin the discussion on the conference report for the Weapon Systems Acquisition Reform Act of 2009. We await the presence of the chairman of the Armed Services Committee. I begin by thanking him for his leadership, his really nonpartisan addressing of this compelling issue.

The last time I was on the floor, I talked a lot about the terrible cost overruns that were associated recently with literally every new weapon system we have acquired. When I tell some of my constituents and friends, they are staggered by the numbers—a small littoral combat ship that is supposed to cost $90 million ends up costing $400 million and has to be scrapped; airplanes costing, depending on how you look at it, half a billion dollars each.

Working together on both sides of the aisle, and under the leadership of Chairman LEVIN, we have come up with legislation that has gone through the Congress rather rapidly.

I would also like to say that the President of the United States called us, Members of the House, leaders of the Armed Services Committees, to the White House, where we pledged our support and our rapid addressing of this challenge.

The only thing more important than the substance of this conference report is the demonstration of bipartisanship that went into how the underlying bills were created and guided through the legislative process.

As I said, I know the chairman of the committee is going to be here shortly, and he will discuss many of the specific aspects of this bill. But it does emphasize starting major weapons systems off right by having those systems obtain reliable and independent cost estimates and subjecting them to rigorous developmental testing and systems engineering early in their acquisition cycle. It does a lot of things. As I say, Senator LEVIN will enumerate many of them.

What we are trying to do is address a process where there is a need for a weapon system which takes years to develop. Technical changes are incorporated time after time in a desire—and a laudable one—to reach 100 percent perfection. But then the cost overruns grow and grow.

The Future Combat Systems, an Army innovation to address conflicts of the future, was supposed to cost $90 billion. It is up to $120 billion. Even more, we still do not have operational vehicles. So, very appropriately, the Secretary of Defense announced that he would be eliminating much of this program to try to get the costs under control.

I would like to say a word about the Secretary of Defense, who has agreed to continue to serve this country under one of the most difficult and trying positions one can have in Government. The Secretary of Defense has announced, I think very appropriately, that we would be reducing and eliminating some programs that have maybe had a good reason for a beginning but certainly have had such incredible cost overruns that they no longer are a worthwhile expenditure of the taxpayers' dollars.

Early in the first couple of weeks of the new administration, a group of us attended a gathering. The President of the United States and I had an exchange about the Presidential helicopter. Some years ago, we decided the Presidential helicopter, which is 30 years old, needed replacement. We finally reached a point where we had not built one completely yet, and it was more than the cost of Air Force One—you cannot make that up; it is hard to believe—as one technological change after another was piled on, to the point where neither the President nor the Secretary of Defense felt it was worth the cost. The President does need a new helicopter. We need to embark on that effort. But what we just went through should be an object lesson, and we should learn from the lessons and cost overruns.

I note the presence of the distinguished chairman of the Armed Services Committee in the Chamber. I again thank him for his leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am pleased to join with Senator MCCAIN in bringing to the floor the Weapon Systems Acquisition Reform Act. We introduced this bill. We did it on February 23, I believe, and we did it to address some of the problems in the performance of the Department of Defense major defense acquisition programs at a time when growth and cost overruns on these programs have simply reached levels which are unaffordable, unsustainable, and unconscionable, in some cases. Since that time, the bill has made rapid legislative progress.

I thank Senator MCCAIN for all he has done. This was a bipartisan effort. Our colleagues on the Armed Services Committee worked out the differences that existed, and we unanimously recommended it to the Senate. But the magnitude of this problem is such that we must move quickly on it. The President has asked us to get the bill to his desk by Memorial Day, and it is our hope we will be able to do that.

On May 7, the bill passed the Senate unanimously. A week later, a companion bill passed the House. We

worked out the differences between the Senate and the House in record speed. The ability to do this was based on the working relationship which has been built up here. We work on a bipartisan basis in the Armed Services Committee. We work on a bicameral basis with the House and the Senate. When it comes to issues of national security, particularly, we are able to act so quickly.

I publicly thank not only Senator MCCAIN, as I have, and colleagues of ours on the Armed Services Committee, but also Chairman IKE SKELTON and JOHN MCHUGH of the House Armed Services Committee.

This is a tremendously important bill. It has major reforms. It is going to address some of the most persistent underlying problems we have had that led to the failure of defense acquisition programs. What are those problems? The Department relies too often on unreasonable cost and schedule estimates. Second, too often the Department insists on unrealistic performance expectations. Third, the Department too often uses immature technologies. Fourth, too often the Department adopts these very costly changes to program requirements, to production quantities, and to funding levels right in the middle of the ongoing program.

The conference report I hope we will be able to consider in the next few minutes is going to address these problems in the following ways:

First, we provide for a strong new Senate-confirmed Director of Cost Assessment and Program Evaluation. That person is going to report directly to the Secretary of Defense to ensure that defense acquisition programs are based on sound cost estimates. The independence of that office is new, and it is essential. That person goes directly to the Office of the Secretary of Defense, not as the situation is now where there is a level of bureaucracy between the cost estimator and assessor and the Secretary of Defense.

Second, we require the Department to rebuild systems engineering and developmental testing organizations and capabilities which have been almost dismantled or reduced significantly. We want to ensure that design problems are understood and addressed early in the process.

Third, we establish mechanisms to ensure early tradeoffs are made between cost, schedule, and performance objectives so that we do not overcommit to what the Secretary of Defense has called ''exquisite'' program requirements.

Fourth, we require the increased use of competitive prototyping so that we select the best systems and prove they can work before we start building them.

Fifth, we establish new requirements for continuing competition.

Sixth, we address the problem of organizational conflicts of interest to ensure we get the best possible results out of the defense industry.

Seventh, we require regular program reviews and root cause analyses to address developing programs in acquisition programs.

Finally, we establish tough new Nunn-McCurdy requirements, so-called. We put teeth in the Nunn-McCurdy approach. We establish a presumption of program termination and the requirement that continuing programs be justified from the ground up to ensure we do not throw good money after bad on failing programs. If a program is failing, now it is too easy to get by the Nunn-McCurdy test of continuing a program. It is going to be a lot harder to jump that hurdle should programs be failing in the middle or costing a lot more or taking a lot longer.

So we have a strong bill. It is going to help change the acquisition culture of the Department of Defense, and it is going to point our acquisition system in the direction it needs to go. We hope Members of the Senate will join us in supporting this effort and send the bill to the President for his signature.

Our staff has done extraordinary work, particularly Peter Levine and Creighton Greene on my staff, and Chris Paul and Pablo Corrillo on Senator MCCAIN's staff. And, again, I thank all Members and the leadership for bringing this bill, pushing it along, and giving us the encouragement and support that is so essential to get a bill of this magnitude to the floor of the Senate in record time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent that the Senate now proceed to the conference report to accompany S. 454 and vote immediately on adoption of the conference report; that upon adoption of the conference report, the Senate then resume consideration of H.R. 2346 and the McConnell amendment No. 1136, as modified by the Levin language to the McConnell amendment, with the time equally divided and controlled between Senators MCCONNELL and DURBIN or their designees; that upon disposition of the McConnell amendment, the Senate then proceed to vote in relation to the Brownback amendment No. 1140, as modified; that prior to the first and third vote, there be 2 minutes of debate equally divided and controlled in the usual form; that after the first vote in this sequence, the succeeding votes be 10 minutes in duration, with no amendments in order to the amendments in this agreement.

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

Under the previous order, the Senate will proceed to the consideration of the conference report to accompany S. 454. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 454) to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, May 20, 2009.)

Ms. COLLINS. Mr. President, the Weapon Systems Acquisition Reform Act of 2009 would strengthen and reform the Department of Defense acquisition processes by bringing increased accountability and transparency to major defense acquisition programs. Simply put, the bill would build discipline into the planning and requirements process, keep projects focused, help prevent cost overruns and schedule delays, and ultimately save taxpayer dollars.

I would like to thank Senators CARL LEVIN and JOHN MCCAIN, and Representatives IKE SKELTON and JOHN MCHUGH for their work on this important issue and their continued efforts to improve procurement at the Department of Defense. I was proud to join Senators LEVIN and MCCAIN in co-sponsoring this bill in the Senate.

This legislation would improve DOD's planning and program oversight in many ways. First, the bill would create a new Senate-confirmed Director of Independent Cost Assessment and Program Evaluation to be the ''principal cost estimation official'' at the Department.

The bill also mandates that the Department carefully balance cost, schedule, and performance as part of the requirements development process, building discipline into the procurement process long before a request for proposals is issued or a contract is awarded.

I applaud the ''bright lines'' this legislation would establish regarding organizational conflicts of interest by DOD contractors. These reforms would strengthen the wall between government employees and contractors, helping to ensure that ethical boundaries are respected. While contractors are important partners with military and civilian employees at DOD, their roles and responsibilities must be well defined and free of conflicts of interest as they undertake their critical work supporting our Nation's military.

I appreciate the conferees including an amendment that I offered on the floor with Senator CLAIRE MCCASKILL regarding earned value management, EVM. EVM provides important visibility into the scope, schedule, and cost of a program in a single integrated system, and when properly applied, EVM

can provide an early warning of performance problems.

GAO has observed that contractor reporting on EVM often lacks consistency, leading to inaccurate data and faulty application of the EVM metric. In other words, garbage in, garbage out.

The conference report would require that the Department of Defense issue an implementation plan for applying EVM consistently and reliably to all projects that use this project management tool.

The implementation plan would also provide enforcement mechanisms to ensure that contractors establish and use approved EVM systems and require DOD to consider the quality of the contractor's EVM systems and reporting in the past performance evaluation for a contract. With improved EVM data quality, both the government and the contractor will be able to improve program oversight, leading to better acquisition outcomes.

The conference report would strengthen the Department's acquisition planning, increase and improve program oversight, and help prevent contracting waste, fraud, and mismanagement. Ultimately, it will help ensure that our military personnel have the equipment they need, when they need it, and that tax dollars are not wasted on programs that were doomed to fail.

Mr. DURBIN. Mr. President, the Weapons Systems Acquisition Reform Act of 2009 takes steps in the right direction to reform the way the Department of Defense buys major weapons systems.

When it comes to these multi-billion-dollar systems, the challenges of managing acquisitions are tremendous.

Officials at the Department of Defense manage 96 major defense acquisition programs—the Department's most expensive programs.

Each program costs hundreds of millions of dollars to research and develop and billions of dollars more to purchase. Together, these programs account for $1.6 trillion in defense spending.

These major defense acquisition programs have seen a shocking growth in cost. Over the last 20 years, the costs of these programs have ballooned by $296 billion.

Costs especially exploded during the previous administration. Since 2003, the cost of major defense acquisition programs rose by $113 billion.

The Weapons Systems Acquisition Reform Act of 2009 takes important steps to bring this spending under control, without compromising on the quality of the systems purchased.

This is not the first time Congress has tried to reform the defense acquisition process. Nor will it likely be the last. But it is an important step at a critical time.

The legislation would create an independent director of cost assessment who would verify the estimated cost of a program before allowing it to go forward.

It builds in additional checkpoints to help make sure that programs are ready on time.

It enhances the R&D capabilities at the Department of Defense. Numerous studies have found that the R&D capabilities of the Army, Navy, and Air Force are in desperate need of strengthening.

It requires defense contractors to build a strong wall between their R&D and construction offices when both offices work on the same defense project.

Finally, it gives combatant commanders more authority to procure products that meet the immediate needs of troops in theater.

Secretary Gates has been rightly frustrated with the inability of the regular procurement process to field equipment, like MRAPs, that are needed immediately by troops on the ground. This legislation will help change that.

I commend Senators LEVIN and MCCAIN for their leadership in developing this thoughtful and needed legislation. I look forward to its being signed into law by President Obama.

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided prior to a vote on the adoption of the conference report.

Mr. LEVIN. Mr. President, both Senator MCCAIN and I spoke on this matter. I ask unanimous consent to yield back all remaining time. I think I can do this with the consent of Senator MCCAIN.

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

The question is on agreeing to the conference report.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that if present and voting, the Senator from West Virginia (Mr. ROCKEFELLER), would vote ''yea.''

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—95

Akaka	Begich	Boxer
Alexander	Bennet	Brown
Barrasso	Bennett	Brownback
Baucus	Bingaman	Bunning
Bayh	Bond	Burr
Burris	Hutchison	Nelson (NE)
Cantwell	Inhofe	Nelson (FL)
Cardin	Inouye	Pryor
Carper	Isakson	Reed
Casey	Johanns	Reid
Chambliss	Johnson	Risch
Coburn	Kaufman	Roberts
Cochran	Kerry	Sanders
Collins	Klobuchar	Schumer
Conrad	Kohl	Sessions
Corker	Kyl	Shaheen
Cornyn	Landrieu	Shelby
Crapo	Lautenberg	Snowe
DeMint	Leahy	Specter
Dodd	Levin	Stabenow
Dorgan	Lieberman	Tester
Durbin	Lincoln	Thune
Ensign	Lugar	Udall (CO)
Enzi	Martinez	Udall (NM)
Feingold	McCain	Vitter
Feinstein	McCaskill	Voinovich
Gillibrand	McConnell	Warner
Graham	Menendez	Webb
Grassley	Merkley	Whitehouse
Gregg	Mikulski	Wicker
Hagan	Murkowski	Wyden
Harkin	Murray	

NOT VOTING—4

Byrd	Kennedy
Hatch	Rockefeller

The conference report was agreed to.

Mr. DURBIN. I move to reconsider the vote by which the conference report was adopted.

Mr. MENENDEZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPPLEMENTAL APPROPRIATIONS ACT, 2009—Continued

AMENDMENT NO. 1136

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2346, and there will be 10 minutes of debate prior to a vote in relation to amendment No. 1136 offered by the Senator from Kentucky, Mr. MCCONNELL.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I urge my colleagues to take a close look at Senator MITCH MCCONNELL's amendment, which is next up to be considered. Particularly, I ask you to turn to page 3 of this amendment. You will find in the first paragraph on page 3 a troubling requirement which Senator MCCONNELL will make of this administration.

What Senator MCCONNELL is asking is that 60 days from the passage of this bill and every 90 days thereafter, the President of the United States provide to Members of the Senate and the House:

> a current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

It is not enough for Senator MCCONNELL to ask for the identity of these people, the countries they are from, the likelihood they will be transferred to some other place, the likelihood they might be engaged in terrorism, he is asking for the President to disclose the work product of the prosecutors who are holding these detainees and determining whether a criminal case can be brought against them. For what

earthly purpose? Why would we possibly want to jeopardize the prosecution of someone who may be guilty of terrorism or a crime threatening the United States? To satisfy our curiosity? I think it is a mistake.

I will tell my colleagues, if it is sent to us even in classified form, it might be leaked. In addition, if a trial should follow, one of the first discovery motions from any defendant is this information: Judge, if the President can share this information with 535 Members of Congress, the defendant should be able to see the information as well. Why would we possibly want to jeopardize a prosecution to satisfy the curiosity of the Senator from Kentucky, or any Senator for that matter?

This paragraph should have been stricken. The rest of it you may find good or bad, but this is a dangerous paragraph.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, it is my understanding that earlier in the day my good friend from Illinois was suggesting that I had been a Johnny-come-lately on the issue of Guantanamo. So I would like to remind my colleagues that I offered an amendment 2 years ago right here on the floor of the Senate that passed 94 to 3 opposing bringing people at Guantanamo to the United States, and I believe my good friend from Illinois was not among the 3.

I would also remind him that I differed with the opinion of the previous President that Guantanamo ought to be closed. I don't think it ought to be closed; I think it ought to be left open. I also have differed with other Republicans on our side who have believed that Guantanamo ought to be closed, but none of them have said: Until you have a game plan for what to do with them.

We had the vote earlier today, with only six Senators dissenting on this Guantanamo issue and about whether there would be money not only in this bill but in any other bill spent for the purpose of bringing these detainees to the United States.

Now let's talk about what this amendment does—the one the Senator from Illinois was just describing incorrectly, in my view. My amendment calls on the administration to share its findings with Congress in a classified report—a classified report—that would indicate the likelihood of detainees returning to terrorism—we know many of them have been doing that—the likelihood of their returning to terrorism. It would also report on any effort al-Qaida might be making to recruit detainees once they are released from U.S. custody. The last requirement is particularly important, given that many of the remaining 240 detainees at Guantanamo are from Yemen, which has no rehabilitation program to speak of, and from Saudi Arabia which has a rehab program but which hasn't been entirely successful at keeping detainees from rejoining the fight after rehabilitation.

This is a simple amendment that reflects the concerns that Americans have about the danger of releasing terrorists, either here or in their home countries, where they could then, of course, return to the fight. Until now, the administration has offered vague assurances—quite vague assurances—that it will not do anything to make Americans less safe. This amendment says Americans expect more than a vague assurance, and it would require it.

Some have argued such a reporting requirement would reveal classified information. We just heard the Senator from Illinois say that. Nothing could be further from the truth. It would simply require the administration to share this information with a very limited, specific group in Congress with relevant oversight responsibilities which already has access to the most classified information imaginable—the very same people who already have access to this information.

Some have said a reporting requirement isn't necessary. This is also false. First, because we know the recidivism rate of detainees who weren't even considered a serious threat—this is the people they let go because they didn't think they were a serious threat—12 percent of them have gone back to the fight. It is perfectly clear we need to know whether any of the current detainees who may be released in the future pose a similar or even greater threat of returning to the battle. Moreover, a reporting requirement has proven to be necessary by the simple fact that the administration has been so reluctant to share any details whatsoever about its plans for the inmates at Guantanamo.

Senator SESSIONS, the ranking member of the Judiciary Committee, has made at least two formal requests for information from the Attorney General: First, in a letter of April 2 and, second, in a letter of April 4. To this day, Senator SESSIONS has not received a reply to either one. If the administration isn't willing to share information on these terrorists voluntarily, except, of course, with those folks in Europe, then Congress will have to require it through the kind of legislation my amendment represents.

Some have argued this reporting requirement would also hinder prosecutions by making evidence public. We just heard that from my good friend from Illinois. This is also false for reasons I have already enumerated. It would only require a summary of the administration's findings, and the summary would only have to be shared with a small group—a very small group—of Members in a classified setting. This has never disrupted prosecutions in the past. It will not disrupt prosecutions in the future.

Some have further suggested that a reporting requirement would be onerous. This is false. The administration says it already has begun its review of detainees. My amendment simply asks that it share with us the details of that review. Subsequent reports would be made on a quarterly basis, which is hardly onerous, particularly given the gravity of the issue.

Americans would like to have assurance that the President's arbitrary deadline to close Guantanamo by next January will pose no threat to themselves or their families. In fact, just today—this very day—FBI Director Mueller testified before a House Judiciary Committee about his concerns that detainees who are currently held at Guantanamo could present a serious risk not only upon transfer to their home countries but even upon transfer to maximum security prisons in the United States. He cited concerns for their ability to radicalize others and to conduct terrorist operations.

As to the latter, he cited gang leaders who have been able to run their gangs from prison as proof that terrorists could—I will continue on leader time, Mr. President.

The FBI Director just today cited the following: The possibility that gang leaders who have been able to run their gangs from prison as proof that terrorists could do the same. Imagine that. Terrorists in a prison in your home State organizing other prisoners.

The Director of the FBI has access to classified information. We recognize him as one of our Nation's top law enforcement officials. He is someone who should be taken seriously. That is what he said today.

Americans don't want terrorists plotting attacks against us anywhere. They certainly don't want them doing so in our backyards or down the road in the local prison. And Americans don't want terrorists whom we release attacking our service men and women overseas. That is why the administration should be required to let us know whether any terrorists released or transferred from Guantanamo pose a risk to our military servicemembers overseas. That is what my amendment would do.

With all due respect to my friend from Illinois, any other characterization of it, I must suggest, would be inaccurate.

I urge the approval of the amendment.

Mr. DURBIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. DURBIN. Mr. President, I won't dwell on the double standard. I won't dwell on the fact that when President Bush suggested Guantanamo be closed, I don't recall a single Republican Senator—certainly not Senator MCCONNELL or those who have spoken recently—objecting. I won't dwell on the fact that when there were releases of hundreds of detainees from Guantanamo, there was no requirement of an accounting by the Republican side of

the aisle about these people and where they were headed. I certainly won't argue the double standard that this President has stepped forward and said he will come forward with a plan in detail of how to do this in a responsible way.

Does anyone in this Chamber seriously believe President Obama would release a terrorist into their community, into their neighborhood? Can you really say that with a straight face? I don't think you can. The American people know better. This President is responsible. Like every President, he wants to protect us, and to suggest otherwise is not responsible.

The Senator from Kentucky has discussed many things today. He has failed to note that we currently have in U.S. prisons 347 inmates being held for terrorism. Currently, in your Federal prison in your State in your backyard, in your neighborhood, according to the Senator from Kentucky, 347 convicted terrorists are in our prisons today—not at Guantanamo, in our prisons.

I will get back to the bottom line. Why in the world would we jeopardize the prosecution of any detainee at Guantanamo with the requirement of the McConnell amendment that the President disclose evidence, intelligence, and information to justify the detention of the detainee? It is far better for us not to request that information and successfully prosecute that person than to satisfy the curiosity of the Senator from Kentucky.

I yield the floor.

Mr. MCCONNELL. Mr. President, I wish to retain some of my leader time for rebuttal.

Let me just use a moment of my leader time to reiterate the fundamental point. The Director of the FBI thinks this is a problem; he just said so today. I know the Senator from Illinois is a great lawyer and understands all of these matters fully. We think it is important for the relevant Members of Congress to be assured that these terrorists do not have the kind of profile that would warrant their release.

This is not an attack on the current administration. The previous administration mistakenly released a number of detainees who went back to the battlefield. Why should we not learn from the experience of the past and apply it to the future? I hope my amendment will be adopted.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

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

The result was announced—yeas 92, nays 3, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—92

Akaka	Enzi	Merkley
Alexander	Feingold	Mikulski
Barrasso	Feinstein	Murkowski
Baucus	Gillibrand	Murray
Bayh	Graham	Nelson (NE)
Begich	Grassley	Nelson (FL)
Bennet	Gregg	Pryor
Bennett	Hagan	Reed
Bingaman	Harkin	Reid
Bond	Hutchison	Risch
Boxer	Inhofe	Roberts
Brown	Inouye	Sanders
Brownback	Isakson	Schumer
Bunning	Johanns	Sessions
Burr	Johnson	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Coburn	Landrieu	Thune
Cochran	Lautenberg	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Vitter
Corker	Lincoln	Voinovich
Cornyn	Lugar	Warner
Crapo	Martinez	Webb
DeMint	McCain	Whitehouse
Dodd	McCaskill	Wicker
Dorgan	McConnell	Wyden
Ensign	Menendez	

NAYS—3

Burris	Durbin	Leahy

NOT VOTING—4

Byrd	Kennedy
Hatch	Rockefeller

The amendment (No. 1136), as modified, was agreed to.

AMENDMENT NO. 1140, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate prior to the vote in relation to amendment No. 1140, as modified, offered by the Senator from Kansas, Mr. BROWNBACK.

The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, this is a very simple amendment. I hope we can get everybody's support. I wish to read it because it is so short, simple, and straightforward:

It is the sense of the Senate that the Secretary of Defense should consult with State and local government officials before making any decision about where detainees at Naval Station Guantanamo Bay, Cuba, might be transferred, housed, or otherwise incarcerated as a result of the implementation of the Executive Order of the President to close the detention facilities at Naval Station Guantanamo Bay.

We should all be for that. We put this as ''should'' instead of a requirement. In Leavenworth, KS, they are very concerned about this. They need to be consulted. In Alexandria, VA, the 20th hijacker, Moussaoui, was tried, and here is what the mayor of Alexandria said:

We would be absolutely opposed to relocating Guantanamo prisoners to Alexandria. We would do everything in our power to lobby the President, the Governor, Congress, and everybody else to stop it. We have had this experience and it was unpleasant. Let someone else have it.

I think we need to consult with the local communities and let them speak. That is why I urge a unanimous vote in favor of this sense-of-the-Senate amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I am for it.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. BROWNBACK. Mr. President, I ask for the yeas and nays.

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

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Oklahoma (Mr. COBURN).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted ''yea.''

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—94

Akaka	Enzi	Merkley
Alexander	Feingold	Mikulski
Barrasso	Feinstein	Murkowski
Baucus	Gillibrand	Murray
Bayh	Graham	Nelson (NE)
Begich	Grassley	Nelson (FL)
Bennet	Gregg	Pryor
Bennett	Hagan	Reed
Bingaman	Harkin	Reid
Bond	Hutchison	Risch
Boxer	Inhofe	Roberts
Brown	Inouye	Sanders
Brownback	Isakson	Schumer
Bunning	Johanns	Sessions
Burr	Johnson	Shaheen
Burris	Kaufman	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Kyl	Tester
Chambliss	Landrieu	Thune
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Levin	Vitter
Corker	Lieberman	Voinovich
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Whitehouse
Dodd	McCain	Wicker
Dorgan	McCaskill	Wyden
Durbin	McConnell	
Ensign	Menendez	

NOT VOTING—5

Byrd	Hatch	Rockefeller
Coburn	Kennedy	

The amendment (No. 1140), as modified, was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I have conferred with the bill managers, and I am told this will be the last rollcall vote tonight. There is still opportunity for people to talk to the managers about amendments they wish to offer or try to work things out so they can accept them. Senator INOUYE is willing to accept a number of amendments, but we need unanimous consent to do that.

We are going to have a cloture vote probably about 10 or 10:30 in the morning. We will decide what time we are going to come in tomorrow morning—9 or 9:30—and have a cloture vote 1 hour after that. The Parliamentarians will be working tonight to find out what amendments are germane postcloture.

AMENDMENT NO. 1191

Mr. LEAHY. Will the distinguished majority leader yield?

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I want to call up an amendment and have it pending to H.R. 2346, an amendment numbered 1191.

The PRESIDING OFFICER. Is there objection?

Mrs. HUTCHISON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. Mr. President, I understand objection has been heard. Among the people on this amendment are Senator GREGG, Senator SHELBY, myself, and Senators KERRY and DODD, as well as Senator LUGAR.

Mrs. HUTCHISON. Mr. President, I withdraw my objection.

Mr. LEAHY. I thank the Senator for withdrawing her objection. Again, I ask unanimous consent to call up amendment No. 1191 to the bill.

The PRESIDING OFFICER. Is there any objection to setting aside the pending amendments?

Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. KERRY, proposes an amendment numbered 1191.

Mr. LEAHY. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for consultation and reports to Congress regarding the International Monetary Fund)

On page 102, line 9, strike ''In'' and everything thereafter through the end of line 14 on page 106, and insert in lieu thereof the following:

In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G–20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: Provided, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this act: Provided further, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.''

and

(2) in subsection (b)

(A) by inserting ''(1)'' before ''For the purpose of;

(B) by inserting ''subsection (a)(1) of after ''pursuant to''; and

(C) by adding at the end the following:

''(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund.''.

SEC. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

''SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63–2 and 63–3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.''

''SEC. 65. QUOTA INCREASE.

''(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.''

''SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.

''(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: Provided, That at least 30 days prior to any such vote, the Secretary shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the use of proceeds from the sale of such gold: Provided further, That the Secretary of the Treasury shall seek to ensure that:

(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low- income lending from the Fund by making available Fund resources of not less than $4 billion;

(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and/or grants, as appropriate to a country's circumstances;

(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this act, to also use such proceeds for the purpose of assisting low-income countries.''

''SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54–4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: Provided, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights

to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights.''

Mr. LEAHY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 1189

Mrs. HUTCHISON. Mr. President, I would like to call up amendment No. 1189, also for the purposes of having it pending, and then I would like to speak about what I am trying to do with the majority.

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 1189.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: to protect auto dealers)

At the appropriate place, insert the following new section:

No funds shall be expended from the Treasury to an auto manufacturer which has notified a dealership that it will be terminated without providing at least 60 days for that dealership to wind down its operations and sell its inventory.

Mrs. HUTCHISON. Mr. President, this amendment I have put on the table, and which is now pending, I think is so important because we must try to help the Chrysler dealers that have only gotten 3 weeks' notice to shut down. I am working with the Senators from Michigan who have concerns about whether this amendment would in any way delay the bankruptcy proceedings so that Chrysler can come out of that, and I do not want to disrupt that whole effort that is being made to help Chrysler. So we are working with the White House and with the Senators from Michigan and the people who are representing Chrysler to try to come up with language that will assure that nothing that we do would affect the timeliness of Chrysler being able to come out of bankruptcy and the courts.

What we are trying to do, however, should not cost Chrysler anything. We want to try to move forward, if we can, to get this agreement and the correct language so as not to affect the bankruptcy in any way but to give these dealers more than 3 weeks' notice for shutting down a dealership that has been in their family or one that they own and in which they have made their investments. They are looking at bankruptcy too.

Many times these dealerships are the largest employer in a whole community, in a whole county, and we know hundreds of them—over 700 across this country, 789 on May 14—3 weeks' notice to shut down.

I know we can do better in this country, Mr. President, and I want to work with everyone who is affected. I have talked to the chairman of the Banking Committee who has agreed to clear this if it meets all the tests so it will not hurt the bankruptcy. But these dealers are forced into bankruptcy too, and I hope we can give them just 60 days instead of 3 weeks. It is only adding 3 weeks. They will then have much more capability to have an orderly process to shut down their businesses. We are not trying to affect the decision. We are not trying to reach into Chrysler's decisions that they have made that will shut down these dealerships. We are just asking for 3 more weeks to let them shut down in, hopefully, a little bit better situation. Let them get some help to know what they have to do and to sell all the parts, all the equipment, and try to get their financial arrangements in order.

This will also be good for the surviving dealerships because, hopefully, they are going to buy some of this equipment, and they will need financing to do that as well. Our taxpayers are funding a lot of auto manufacturers' operations. I think the least we can do for many of those people who are paying these taxes—and that is the dealers—is to give them a chance.

I have a list of the number of dealers in these States that are getting shut down, and I am just asking for some kind of equity for them. It is not equity when they are going to be shut down anyway, but 3 weeks is just not rational.

So I don't want to hurt the Chrysler situation. I don't want to delay their bankruptcy. I don't want to in any way obstruct what they are trying to do because I want Chrysler to succeed. I do. So I am going to work with the Senators from Michigan, and I am going to work with the White House to try to come up with language that would say this doesn't delay the bankruptcy, and try to go forward and give these dealers that 3 extra weeks—the 3 weeks that will help them have an orderly shutdown and, hopefully, keep their employees a little longer because this is a big hit to many people in this country—789 dealerships, 3 weeks' notice, Mr. President. I don't think that is the way our country should be operating in this crisis.

Ms. MIKULSKI. Mr. President, will the Senator yield for a question?

Mrs. HUTCHISON. I will be happy to yield.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I will only take a moment because I know the Senator from Oregon is on a tight schedule and wants to call up his amendment. But is the Senator proposing legislation?

Mrs. HUTCHISON. I am proposing an amendment that would give just 3 more weeks to the Chrysler dealers that are going to be shut down—3 more weeks for that process.

Ms. MIKULSKI. I thank the Senator for answering the question. I, too, am deeply troubled by the plight of these dealers, and I ask unanimous consent to be listed as a cosponsor of the amendment.

Mrs. HUTCHISON. I thank the Senator, and I would be glad to list the Senator as a cosponsor.

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

Mrs. HUTCHISON. Mr. President, I also ask unanimous consent that Senators COCHRAN, BROWN, MCCASKILL, and BOND be listed as cosponsors.

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

The Senator from Oregon.

AMENDMENT NO. 1185

Mr. MERKLEY. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 1185, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. MERKLEY] proposes an amendment numbered 1185.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate on the use by the Department of Defense of funds in the Act for operations in Iraq in a manner consistent with the United States–Iraq Status of Forces Agreement)

At the appropriate place in title III, insert the following:

SENSE OF SENATE ON USE OF FUNDS FOR OPERATIONS IN IRAQ

SEC. 315. It is the sense of the Senate that funds appropriated or otherwise made available to the Department of Defense by this title for operations in Iraq should be utilized for those operations in a manner consistent with the United States–Iraq Status of Forces Agreement, including specifically that—

(1) the United States combat mission in Iraq will end by August 31, 2010;

(2) any transitional force of the United States remaining in Iraq after August 31, 2010, will have a mission consisting of—

(A) training, equipping, and advising Iraqi Security Forces as long as they remain nonsectarian;

(B) conducting targeted counter-terrorism missions; and

(C) protecting the ongoing civilian and military efforts of the United States within Iraq; and

(3) through continuing redeployments of the transitional force of the United States remaining in Iraq after August 31, 2010, all United States troops present in Iraq under the United States–Iraq Status of Forces Agreement will be redeployed from Iraq by December 31, 2011.

Mr. MERKLEY. Mr. President, I ask unanimous consent that Senator WHITEHOUSE be added as a cosponsor of the amendment.

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

Mr. MERKLEY. Mr. President, the amendment I offer this evening is very straightforward. Put simply, I offer

this amendment to support and affirm President Obama's plan to end the war in Iraq. This amendment expresses the sense of the Senate that the funding provided in this bill will be used in accordance with the United States-Iraq Status of Forces Agreement signed this past fall. This agreement—SOFA as it is often referred to—makes it clear that our combat mission in Iraq will end next summer.

President Obama has been unwavering in his commitment to get our troops out of Iraq. He has repeatedly stated—and in very straightforward terms—that by August 31, 2010, our combat mission in Iraq will end. President Obama has gone further and declared that any troops remaining in Iraq after that date will be either training Iraqi forces, conducting targeted counterterrorism missions, or protecting U.S. personnel still in Iraq.

After 6 years of intense military operations in Iraq, the time has come to empower the Iraqis to provide their own national security. We must continue to provide training to protect U.S. personnel in the country and to conduct narrowly focused counterinsurgency missions when necessary. The United States should also provide funding for projects that rebuild Iraq's infrastructure, strengthen its economy, and improve the living conditions of its citizens.

Colleagues, next month, the 41st Brigade Combat Team of the Oregon National Guard will send 3,000 soldiers to Iraq. This is the largest deployment of the Oregon National Guard since World War II. I honor these men and women for their valiant and critical service, but I hope in the near future we will know that this is the last such deployment of our men and women we will send to Iraq.

I urge adoption of this amendment.

AMENDMENT NO. 1138

Mr. President, on behalf of Senator DEMINT, I would like to call up amendment No. 1138 and ask that it be reported by number.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. MERKLEY], for Mr. DEMINT, proposes an amendment numbered 1138.

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

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

The amendment is as follows:

(Purpose: To strike the provisions relating to increased funding for the International Monetary Fund)

Beginning on page 100, strike line 12 and all that follows through page 107, line 21.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, if I could interrupt the Senator from Oregon just to add two more cosponsors to amendment No. 1189. I ask unanimous consent to add Senator LAUTENBERG and Senator MENENDEZ.

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

The Senator from Oregon.

AMENDMENT NO. 1179, AS MODIFIED

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Kaufman amendment, No. 1179, be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 71, between lines 13 and 14, insert the following:

(g) TRAINING IN CIVILIAN-MILITARY COORDINATION.—The Secretary of State, in consultation with the Secretary of Defense and the Administrator of the United States Agency for International Development, shall seek to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations, and shall submit a report to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives not later than 90 days after the date of the enactment of this Act detailing how such training addresses current and future civilian-military coordination requirements.

Mr. MERKLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

AMENDING THE AMERICAN RECOVERY AND REINVESTMENT ACT

Mr. BURRIS. Mr. President, as I address the Chamber this evening, our great country is in the grips of an unprecedented economic crisis. In our lifetime, it has never been harder for American men and women to find a job, to get a loan, or to make ends meet. This Congress has boldly taken action in the form of a landmark stimulus package, but millions of Americans are still waiting and wondering. It is a question I hear each and every time I travel home to Illinois: Where is our stimulus relief? They are waiting for help, waiting for results, waiting to fulfill the promise of the American dream, which suddenly seems just out of reach. It is our duty to provide relief in a timely manner, Mr. President. But in the rush to allocate stimulus funds, we must not be too hasty. As we work to get this economy back on track, we need to make sure that every dollar—every dollar—is spent wisely.

I have vast experience in this area. During my three terms as Comptroller of the State of Illinois, I worked hard to maintain accountability as money was distributed, so I know how difficult it is.

I will also understand the importance of transparency and robust oversight. That is why I, along with my colleagues, Chairman LIEBERMAN, Ranking Member COLLINS, and Senator MCCASKILL, have introduced S. 104, the Enhanced Oversight of State and Local Economic Recovery Act to amend the American Recovery and Reinvestment Act. This measure would set aside up to one-half of 1 percent of all the stimulus funds and allow State and local governments to use this administrative expense reserve to distribute and track the stimulus money as it is received and spent.

These costs are currently unfunded, leaving taxpayers with no concrete assurance that their money is being efficiently delivered to where it is most needed. Our legislation would change that, mandating careful oversight and strict regulation as every dollar is spent. This measure represents common sense and simple good governance. I urge my colleagues to join me as we work to ensure transparency and accountability.

This bill would be an excellent start, but I think we should even go further. The American people demand not just basic reform but a sweeping expansion of oversight and accountability for their stimulus dollars. When this Congress passed the American Recovery and Reinvestment Act, and President Obama signed it into law, we took a bold step toward starting to rebuild our economy. But we must ensure that our efforts are not penny wise and pound foolish. Without transparency, without accountability, without oversight, we will not be effective. We cannot allow billions of dollars to disappear blindly into State treasuries. Perhaps these dollars would be spent wisely, perhaps not. Perhaps is not good enough for the American people and it is also not good enough for me. As a former comptroller, I know better than to simply trust that these funds will be put to good use. That is why I have introduced this bill, to make available the funds to track and regulate every dollar of taxpayers' money, to keep government officials honest and accountable to the people they serve.

We owe it to the hard-working men and women of this country to send targeted relief on swift wings, and this legislation is an essential part of that.

I thank Chairman LIEBERMAN, Ranking Member COLLINS, and my friend from the great State of Missouri, Senator MCCASKILL, for joining me in this effort. I ask all my colleagues to support this essential legislation. We must act without delay.

I yield the floor.

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

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

AMENDMENT NO. 1167

Mr. BENNET. Mr. President, I ask unanimous consent to set aside the pending amendments so that I may call up my amendment No. 1167.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BENNET], for himself, and Mr. CASEY, proposes an amendment numbered 1167.

The amendment is as follows:

(Purpose: To require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children)

On page 4, between lines 2 and 3, insert the following:

SEC. 103. MILITARY FAMILY NUTRITION PROTECTION.

(a) CHILD NUTRITION PROGRAMS.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

''(14) COMBAT PAY.—

''(A) DEFINITION OF COMBAT PAY.—In this paragraph, the term 'combat pay' means any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

''(i) is the result of deployment to or service in a combat zone; and

''(ii) was not received immediately prior to serving in a combat zone.

''(B) EXCLUSION.—Combat pay shall not be considered to be income for the purpose of determining the eligibility for free or reduced price meals of a child who is a member of the household of a member of the United States Armed Forces.''.

(b) SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—Section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) COMBAT PAY.—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this subparagraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

''(i) is the result of deployment to or service in a combat zone; and

''(ii) was not received immediately prior to serving in a combat zone.''.

Mr. BENNET. Mr. President, my amendment ensures that active-duty soldiers do not lose family benefits, nutrition benefits that they have come to count on. It is wrong that a combat family would actually loose WIC benefits and child nutrition benefits just because the military loved one gets called up.

I thank my colleagues Senators JOHANNS and CASEY for their support of this amendment. I appreciate the great work of the chairman on this important piece of legislation.

I urge, at the appropriate time, adoption of the amendment.

I yield the floor and 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. 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.

AMENDMENT NO. 1201 TO AMENDMENT NO. 1167

Mr. REID. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1201 to amendment No. 1167.

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

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

The amendment is as follows:

At the end of the amendment, add the following:

This section shall become effective 3 days after enactment.

Mr. INOUYE. Mr. President, I certify that the information required by Senate rule XLIV, related to congressionally directed spending has been available on a publicly accessible congressional Web site in a searchable format at least 48 hours before a vote on the pending bill.

MORNING BUSINESS

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

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

SCHOOL SAFETY PATROL LIFESAVING AWARD RECIPIENTS

Mr. REID. Mr. President, I rise today to recognize the actions of the five young Americans who are this year's School Safety Patrol Lifesaving Award recipients as chosen by the American Automobile Association.

The American Automobile Association, AAA, began the School Safety Patrol Program in 1920 as a way to promote traffic safety amongst school children. Since 1949, the AAA School Safety Patrol Program has awarded its highest honor, the Lifesaving Award, to those patrollers who have acted to save the life of another. This year five heroic School Safety Patrollers are receiving this award, and it is my great honor to recognize their courageous actions.

In nearby Alexandria, VA, Norman Wallace was at his bus patrol post helping to safely direct fellow Hybla Valley Elementary School students exit the bus when he spotted a vehicle coming towards a 5-year-old girl who was crossing in front of the bus. Acting quickly, Norman pulled the young girl from harm's way. His courageous actions ensured that the girl went unharmed.

Lulu Beltran showed great foresight while performing her duty as an AAA school safety patroller at Dixie Downs Elementary School in St. George, UT. While a fellow student was crossing the street, Lulu noticed that an approaching vehicle was not slowing down. After assessing the situation, Lulu moved swiftly and pulled her fellow student out of harm's way.

Working with her patrol advisor at Minnehaha Elementary School in Vancouver, WA, Sierra Clark acted bravely to prevent a fifth-grade girl from being hit when a vehicle suddenly sped around a corner. As the vehicle approached the crossing, Sierra snapped into action and pushed the girl out of danger.

Hunter Turner was patrolling a busy intersection near his Strassburg School in Sauk Village, IL, when a student began to cross the street without checking for cars first. As a car turned the corner, Hunter pulled the student back onto the sidewalk. If not for Hunter's valiant action, the student would have been struck.

After only 2 weeks at his school safety patrol post at Waterville Primary School in Waterville, OH, Matthew Krause prevented a kindergartener from stepping off a sidewalk just as a truck passed. Matthew's awareness of his surroundings and attentiveness to his duties ensured that this 5-year-old remained unscathed.

The five patrollers whom I have spoken of exemplify values such as courage, alertness, and a commitment to safety, all of which the AAA School Safety Patrol Program has promoted over the years. Patrollers throughout our Nation serve an important role in ensuring that our young people safely navigate traffic hazards to and from school, and I thank them for their work.

CUBAN INDEPENDENCE DAY

Mr. NELSON of Florida. Mr. President, today I rise on behalf of the people of Florida and all Americans, to recognize Cuban Independence Day. We stand in solidarity with the people of Cuba as they fight for democratic change and independence in their homeland, and struggle for a day when basic dignity and freedom of expression is possible without fear of persecution. Tyranny, dictatorships, and political repression have no place in this hemisphere. Now more than ever, the United States must continue to press the Cuban regime, beginning with freeing all political prisoners. We must never waiver in our support for the Cuban people, as they continue their

fight for freedom and self-determination.

VOTE EXPLANATION

Mr. ENSIGN. Mr. President, I was unavoidably absent on the afternoon of May 19, 2009. Had I been present, I would have voted yes on rollcall vote 194, in favor of final passage of H.R. 627, the Credit Cardholders' Bill of Rights Act of 2009.

CONFIRMATION OF LARRY ECHO HAWK

Mr. UDALL of New Mexico. I rise today to support the nomination of a man I am proud to call my friend—Larry Echo Hawk. He is President Obama's nominee to be Assistance Secretary of Indian Affairs. He was approved unanimously by this body last night. And he is a wonderful choice.

Before I talk about why Larry is so qualified for this position, I want to say a few quick words about how committed he is to this job.

Larry was a law professor. And as many of you know, that is a pretty nice job.

More importantly, as a former BYU quarterback, Larry was named to be the faculty member who oversees the BYU Athletics Department.

What I am saying is, rather than spending his days being worshipped by law students, publishing groundbreaking articles, and watching college football games from the 50-yard line, Larry has chosen to serve his country in the Interior Department. If that is not commitment, I don't know what is.

We are very lucky that Larry is so committed to this position because I can think of nobody who is better suited for it.

Larry's resume speaks for itself. He has the kind of depth and breadth of experience that would make him equal to any job. Over the course of his career, he has been an advocate and an academic—an elected official, a private attorney and a marine. He has worked to put criminals behind bars and to keep children in school. He has fought drug use, domestic violence, and bigotry. And throughout this broad and varied career, he has retained a passionate commitment to his people—the first Americans. As he moved from job to job and even State to State, he never stopped working to improve the lives of our country's Native Americans.

Larry's work has won him awards and acclaim from around the country and across the political spectrum. Just recently, a respected law professor suggested that Larry replace Justice Souter on the Supreme Court. This is a man who really could do anything.

And Larry is more than a very accomplished lawyer and public servant. He is a deep and innovative thinker.

Larry grew up in Farmington, NM, but I first got to know him when we were both elected state attorneys general in 1990. At the time, Larry was the first Native American to be elected to a statewide constitutional office anywhere in the United States.

And Larry's path breaking did not stop there. Shortly after his election, he began to spread what, at the time, was a very new idea—conflicts with tribes should not be settled in court.

Back then, state AGs were in court with the tribes all the time. Nobody won those cases because the bad blood on both sides turned any outcome into a defeat.

Larry was the first to say, ''We can do better.'' And he was right.

I followed Larry's advice, and as a result New Mexico's relationship with our tribes was more productive for everybody involved.

The author Dov Seidman has written that, ''Laws tell you what you can do. Values inspire in you what you should do.''

Larry knows the law well enough to understand what is possible. But, more importantly, he has the values to know when it is time to expand the realm of the possible—to break old habits and try new ideas. He is a leader who can bring change to a Bureau that desperately needs it.

At BIA, we need somebody who can work with tribal governments and tribal members with an attitude of respect. We need somebody who combines a deep knowledge of Indian issues with the compassion that comes from common experience and common culture. We need a great mind connected to a great heart.

In short, we need Larry Echo Hawk. I thank you all for supporting his nomination.

ADDITIONAL STATEMENTS

CELEBRATING THE 100 YEAR BIRTHDAY OF POWELL, WYOMING

• Mr. BARRASSO. Mr. President, on May 25, 2009, we will celebrate the centennial of Powell, WY. Located in the valley of the Shoshone River, Powell is surrounded by the Absaroka and Big Horn mountain ranges, and is east of Yellowstone National Park.

One hundred years ago, the U.S. Reclamation Service offered for sale lots in a tract of land designated as the Powell Townsite. The sale began the last week in May 1909 and by June 30 of that year all lots in the square mile tract were purchased. The sale totaled $16,750. While a thriving community was officially born May 25, 2009, the area had been occasionally populated for tens of thousands of years. Stone circles provide the archaeological and ethnohistorical evidence to show that the Shoshone and Crow had active family organizations, camp activities, and domestic life in the area.

Perhaps the first White man to view what would become Powell was Lewis and Clark's colleague, John Colter. During the winter of 1807, Colter made the solitary trek from Fort Manuel Lisa to inform the Native Americans living near the Clark Fork River that a new trading post had been established. On his way back, he viewed the sagebrush flats along the Stinking Water River. Just a century later, the town of Powell would be born—and the river renamed Shoshone.

In 1906, the U.S. Reclamation Service established an engineering camp on the sagebrush flats and called it Camp Colter. Yet when the townsite was offered for sale, a new name was necessary since another location in the Big Horn Basin was also named for the Lewis and Clark explorer. The town's forefathers chose to honor Major John Wesley Powell, an early explorer, conservationist and reclamationist—and the former head of the U.S. Reclamation Service Geodetic Survey.

Powell is a terrific community. On the town's centennial blog, Cathy Howard Miller writes, ''Powell—a small town where everyone knows you and you know them, a place to raise children, where you can feel safe.'' Cathy's words sum up the reason why Powell was elected as one of 10 All-America Cities in 1994. With a population of 5,381, its economy is based upon oil, irrigated farming, ranching, tourism, and agricultural support services. Home of the Powell High School Panthers and the Northwest College Trappers, Powell is a great place to live, work, and raise a family.

Mr. President, I encourage my colleagues to join me in wishing Powell, WY, a happy birthday.•

TRIBUTE TO DR. MYLES BRAND

• Mr. BAYH. Mr. President, today I recognize a constituent and a dear friend, Dr. Myles David Brand, a man of uncommon integrity and vision whose leadership has restored an ethos of scholastic achievement to collegiate athletics in America.

Dr. Brand took over as the fourth chief executive officer of the National Collegiate Athletics Association, NCAA, in January 2003, and the intervening years have been marked by an unyielding focus on reorienting the NCAA's priorities in ways aimed to nurture and support the student athlete.

Dr. Brand delivered a watershed speech in 2001 at the National Press Club, in which he enunciated the mission statement that would come to define his tenure leading the NCAA: ''Academics must come first.''

Dr. Brand warned against the ''bleeding of the entertainment industry with intercollegiate athletics'' and cautioned that falling academic performance ''risks undermine the integrity of a system of higher education that is without question right now leading the world.''

''Athletic success,'' he said, ''cannot substitute for academic success. Universities must be seen, and understood, and judged by their achievements as

academic institutions, not sports franchises.''

As NCAA president, Dr. Brand spearheaded the most comprehensive package of academic reforms governing college athletics in our lifetime. Under his leadership, the NCAA raised eligibility standards for freshmen and toughened requirements that its 400,000 scholarship athletes make annual progress toward a degree to maintain their eligibility. Dr. Brand's reforms subjected teams with poor overall academic performance to unprecedented penalties, including bans on bowl games and postseason play.

The result: Today, NCAA graduation rates exceed those of the general student population in every demographic category. Last year, the NCAA's overall graduation rate for its student athletes stood at 79 percent. The graduation rate of female student athletes outpaced nonathletes by 8 percent, while the graduation rate for African-American male student athletes was 10 percent higher than their nonathletic peers.

For redefining what is scholastically possible in such a short time span, Dr. Brand will forever be known as the NCAA's ''Education President.''

It should be noted that despite Dr. Brand's unrelenting focus on helping students make the grade, he has never lost sight of the joy of making the shot. ''Anyone who thinks that college is only about the library, the lecture hall, and the laboratory really doesn't understand what happens in college,'' he once told a journalist.

I can personally attest that Myles Brand harbors an unsurpassed love for the game played on the field and a belief in the power of the NCAA to be a dreammaker for young people.

Yet he has remained true to his pledge that ''academics must come first.'' In 2003, Dr. Brand became the first university president ever chosen to lead the NCAA. A philosopher by training and inclination, Dr. Brand has earned admiration as a level-headed leader interested in critical examination and reform. USA Today called him ''the strongest, most vocal and influential leader college sports has had in . . . decades.''

Prior to taking over the NCAA, the people of the great State of Indiana enjoyed a front-row seat to his many accomplishments in academia. From 1994 to 2002, he served as the 16th president of my alma mater, Indiana University. Dr. Brand led IU through a period of remarkable growth, attracting record enrollments, doubling research funding, and establishing the university as a national leader in the life sciences and information technology. He increased the school's endowment by a factor of four and tripled the number of endowed chairs. Under Dr. Brand's leadership, IU created a nationally renowned School of Informatics and developed the Central Indiana Life Sciences Initiatives. His trailblazing leadership was recognized in 2001 when Time Magazine named Indiana University its ''College of the Year.''

When Dr. Brand left IU to assume the NCAA presidency, he did not have to go far—traveling 40 miles up State Road 37 from Bloomington to Indianapolis, where the NCAA is headquartered.

The NCAA has been a model corporate constituent under Dr. Brand's management, employing more than 410 Hoosiers with well-paying jobs while maintaining a strong community presence. It has helped hundreds of charities, schools and local organizations throughout Indiana, such as United Way and the Susan G. Komen Breast Cancer Foundation. After Hurricane Katrina ravaged the Gulf Coast, the NCAA dispatched teams of student athletes and considerable financial resources to the region to rebuild family homes.

Dr. Myles David Brand is a loving and devoted husband to his wife, Peg; a wonderful father and grandfather; and a special leader who I am proud to recognize today for his contributions to college sports, the State of Indiana, and the country as a whole.●

REMEMBERING PEGGY BURGIN

● Mr. BEGICH. Mr. President, I wish to commemorate the life of a very special resident of my home State of Alaska, Peggy Burgin.

Mrs. Burgin was the embodiment of a true Alaskan. While living in Alaska, she witnessed such historical events as the 1964 earthquake and the construction of the Trans-Alaska pipeline. Mrs. Burgin devoted much of her life to volunteering for many community groups. She leaves behind many friends who are grateful to have known this remarkable woman.

On behalf of her family and her many friends, I ask today we honor Peggy Burgin's memory. I ask that her obituary, published May 12, 2009, in the Anchorage Daily News, be printed in the RECORD.

The information follows:

[From the Anchorage Daily News, May 12, 2009]

Peggy Arlene Burgin, 89, died peacefully May 5, 2009, at Alaska Regional Hospital, where she received exceptional loving care from the entire staff. A celebration of life is being planned for June. Born Aug. 16, 1919, in Bellingham, Wash., to Michael and Minnie Burns, she worked from an early age to help her widowed mother and younger brother. She went to business college, was president of the Alpha Chapter of Beta Sigma Phi sorority and was a lifelong Democrat. She moved to Anchorage in July 1947 to marry Lee Morrow, a veteran Air Force pilot with postwar Alaska dreams. Ten months later the small plane he was co-piloting disappeared in the Susitna Valley and was never recovered. Shaken, she returned briefly to Washington, but her love for Alaska drew her right back. Working for an air cargo firm and later First National Bank of Anchorage, she made an impact as a single determined woman in a rough young town. She met and married another Alaska enthusiast, Fred Burgin, and together with their children, Salli, Jim and Judi, they experienced many adventures including the 1964 earthquake, pipeline construction and homesteading in Point MacKenzie. There she homeschooled the kids, shot a bear that tried to join them in the cabin and ran the homestead while Fred was away at construction jobs.

As a Teamster, Peggy was hired to start the Teamster Credit Union (now Denali Alaskan Federal Credit Union), where she achieved her goal of helping members start businesses and buy homes. Politically involved, both Peggy and Fred received their territorial voter registrations from Senator E.L. ''Bob'' Bartlett and often canceled each other's vote. Peggy was one of the founding members of the Bartlett Democratic Club, rarely missing the weekly meetings. She chaired and worked on many campaigns and was a delegate for Alaska at Clinton's presidential caucus.

Although busy with career and family, she was the ultimate volunteer and contributor with this partial list of organizations that benefited from her enthusiasm: Inlet View PTA, Alaska Regional Hospital Auxilliary, Alaska Native Hospital gift shop, Anchorage Senior Activity Center, Anchorage Unitarian Fellowship, Teamster 959 Retirees, Alaskan Commission on Aging, Pioneers of Alaska, STAR, Victims for Justice, Blood Bank of Alaska, women's equality groups and several credit unions. Peggy was a devoted friend to people of all ages and walks of life, always willing to give kids a hand up or a haven. She valued education, writing and courtesy and was described by one friend as one of the last true pioneer ladies—elegant, gracious, generous and as tough as nails. She loved traveling to Hawaii, Washington and New York and even toured China. She enjoyed staying connected to her myriad friends, watching Alaska politics on cable and getting her hair ''fluffed'' (her word) at Trendsetters.

Peggy was predeceased by her daughter Judi, and her husbands, Lee and Fred. She is survived by her son and daughter-in-law, Jim Burgin and Janice Ray, daughter, Salli Burgin; grandchildren, Erin Malone (Jason Dallman), Devin Malone, Dante Modaffari, and Bryant Burgin; great-granddaughters, Ava and Lena Malone-Dallman, all of Alaska and Washington; and by her brother, Robert Burns and family of Idaho. The family wishes to thank Peggy's doctors, Kathleen Case and Vernon Cates, for her many years of energetic health.●

REMEMBERING NORVAL POHL

● Mr. CORNYN. Mr. President, I wish to pay tribute to Dr. Norval Pohl, former president of the University of North Texas, who passed away last week after a courageous battle against pancreatic cancer.

Dr. Pohl joined the UNT com unity in 1999 as the executive vice president and provost and became the university's 13th president in October 2000.

Under Dr. Pohl's leadership at UNT, enrollment grew from 27,000 to over 32,000 students. During the same period, the university's Latino enrollment increased by 48 percent and African-American enrollment increased by 43 percent. Financial aid awards increased from $57.8 million to $172.2 million, and annual giving to UNT increased from $4.7 million to $13.4 million. Dr. Pohl is also recognized for addressing title IX issues with the acquisition of the Liberty Christian School

property, which increased both academic and athletic space for the university.

Among his other accomplishments, he worked to advance UNT as a public research institution. He fulfilled a long held desire at UNT for an engineering school by establishing the College of Engineering and creating a permanent home for engineering at the UNT Research Park.

After leaving UNT, he joined the faculty at Embry-Riddle Aeronautical University's Prescott campus and was named chief academic officer in January of this year.

Dr. Pohl spent the better part of his career in higher education serving as both an administrator and a professor at several universities across the southwest. Dr. Norval Pohl was a great asset to the academic communities he served and he will be missed at the universities he leaves behind. I would like to express my condolences to Dr. Pohl's family and friends and my admiration for his devotion to higher education.●

TRIBUTE TO ADMIRAL JOHN HENRY TOWERS

● Mr. ISAKSON. Mr. President, I wish to honor and commemorate in the RECORD of the Senate ADM John Henry Towers, pioneer naval aviator, on the 90th anniversary of the first crossing of the Atlantic Ocean in an airplane on May 8, 2009.

Admiral Towers was born and raised in Rome, GA, and graduated from the U.S. Naval Academy with the class of 1906. As one of the earliest of all naval aviators, he participated in the development of new aviation technology and the application of air power as a part of the surface fleet. By the time World War II was over, Admiral Towers was the senior surviving aviator of the Navy.

In every chapter of the early development of naval aviation, John Towers made his mark. He organized the Navy's entry into aviation in 1911. Admiral Towers worked very closely with Glenn Curtiss in designing the first naval aircraft and due to his efforts became known to his peers as the ''Crown Prince of Aviation.''

Towers held aviation records for endurance, altitude, and speed. He survived a fall out of an airplane in 1913 by hanging onto the aircraft strut as it crashed into the Severn River from 1,300 feet. Unfortunately, his pilot-in-training, ENS, William Billingsly, was killed and became the first naval aviation fatality. As a result, Towers mandated seat belts and harnesses in all naval aircraft after the crash. He also took the Assistant Secretary of the Navy Franklin Delano Roosevelt, future President of the United States, for his first airplane ride, which secured a special friendship that lasted their whole careers.

Admiral Towers was the first to use naval aircraft in combat in the Mexican War in 1914. Then, in 1919, he conceived, organized, and commanded the first flight of three Navy NC-flying boats to fly across the Atlantic Ocean, fulfilling his early vision to be the first flight across the Atlantic Ocean. The flights began at Rockaway Beach, NY, on May 8, 1919, and one of the planes made it to Plymouth, England, on May 31, 1919. It was Towers' vision that inspired others and changed the world forever. The flight actually lasted 52 hours 31 minutes, for a distance of 3,936 nautical miles.

Towers and his group became international celebrities. During their Atlantic crossing, the Nation was on pins and needles reading about the happenings each day, particularly when they received the news that Towers' float boat NC–3 went down and was lost at sea for 5 days. After he sailed the seaplane 200 miles to the Azores, his became a household name around the world.

The significance of this epic flight affected the psyche of the American public because until that time, we were largely protected from invasion by having two oceans on either side of us. When the airplane made that first Atlantic crossing, Americans became aware that we were not immune from future wars on our soil. In addition, Britain, France, and Germany were more advanced in aviation than the United States. When the United States beat them across the Atlantic, we were immediately thrust into a ''super power'' status. The U.S. Navy beat the world in crossing the Atlantic.

Admiral Towers' career was a stubborn, determined battle to gain acceptance for aviation from a Navy that was dominated by battleship admirals. He was the first to integrate women into the U.S. Navy and U.S. Marines by creating the W.A.V.E.S. in 1942. The W.A.V.E.S. eventually grew to 12,000 women officers and 75,000 enlisted women. He was also the first to obtain four stars in any branch of service in the State of Georgia and was awarded the Distinguished Service Medal.

Apollo 17 honored the admiral and his contribution to aviation by naming a crater on the Moon in his name. In addition, he was honored by Time magazine and placed on the front cover for his efforts during World War II. Towers began in naval aviation at its inception in 1911 and remained dedicated to the field through his retirement in 1947. He is a member of five Aviation Halls of Fame.

It is a privilege to pay tribute to the remarkable life of ADM John Henry Towers.●

REMEMBERING CECIL E. HARRIS

● Mr. JOHNSON. Mr. President, today I recognize and congratulate the outstanding career of Cecil Harris, decorated Navy pilot. For his heroic actions in World War II, Cecil received the Navy Cross, Silver Star, Distinguished Flying Cross, and the Air Medal. His bravery is again being honored in with the dedication of the Cecil E. Harris Highway in northeast South Dakota.

This Cresbard native was enrolled in the Northern State Teachers College when he enlisted in the Navy in March 1941 and was sent to northern Africa. After the Japanese attack on Pearl Harbor nine months later, Cecil's remarkable flying abilities were noted and he was moved to the Pacific to combat the Kamikaze attacks. Cecil shot down 24 enemy warplanes in 81 days while never taking a single bullet on his own plane, making him the second-ranking World War II Naval Ace.

After the war, Cecil returned home to become a teacher and coach. In 1951, he was called to Tennessee to train pilots for the Korean war. He was then promoted to captain and sent to the Pentagon. He retired in June 1967 after serving 27 years in the Navy. He passed away in 1981 and is buried in Arlington Cemetery.

This stretch of Highway 20 will bear the name of a dedicated and decorated war hero. Cecil Harris exemplified South Dakota values in his unwavering commitment to his country, and I commend the South Dakota Department of Transportation for honoring this outstanding individual.●

RECOGNIZING ROSEPINE CONCERT BAND

● Ms. LANDRIEU. Mr. President, today I wish to recognize 72 young musicians from Rosepine High School. On April 29, 2009, these students travelled from the heart of Vernon Parish in Louisiana to compete against 28 bands at the Music in the Parks Festival in Williamsburg, VA. Although Rosepine was the smallest school to compete in their class, hailing from a town of approximately 1,300 people, they received a superior rating and were ranked ''Top of All Bands.''

As a reward for this outstanding accomplishment, the entire band received an educational tour of both historic Williamsburg and Washington, DC. I trust that they were inspired and motivated by their trip to our Nation's Capital.

These bright young stars are proof that with hard work, determination, and the right amount of support and encouragement, anything is possible. I believe that constant support and supervision from families and instructors can guide students to a path of success and achievement. In addition, I would like to congratulate Rosepine's band director, Tra Lantham, and thank him for his dedication and commitment to the students as well as the school's music department.

I ask that these names be printed in the Record. I thank these young people and their parents for coming to our Nation's Capitol to learn about the workings of the U.S. Senate:

Mandi Alford, Samantha Allardyce, Jason Allardyce, Kelvin Ayala, Lindsey Aycock, Mark Bailes, Matt Blount, Brandon Boggs, Chloe Brausch, Haley Brown, Hannah Cardy, Zachary Cardy, Jeffery Cox, Ann Cox, Brittany Darrah, Jacob Dearmon, Taylor

Deladurantaye, Nick Deladurantaye, Jamison Deladurantaye, Josh Ducote.

Victoria Evans, Chris Funderburk, Daygan Gardner, Chase Gill, Austin Granger, Ryan Hess, Chris Hughes, Jessica Islas, Elizabeth Kellner, Daniel Linn, Kaitlyn Lockhart, Wyatt Maricle, Blake Maricle, Kaymen Megl, Austin Merilos, Sydney Merilos, Joseph Myers, Katlyn Peavy, Bradley Richard, Josie Slaydon.

Courtney Smith, Eden Solinsky, Devin Stephens, Cory Stephens, Emilee Stewart, Teagan Suire, Dustin Thompson, Tito Torres, Jossie Willis.●

HONORING HOWE AND HOWE TECHNOLOGIES

● Ms. SNOWE. Mr. President, this week is National Small Business Week, a time when our country focuses on the immense efforts our 27 million small businesses make to the health and vitality of our Nation's economy. As we are presently engaged in two wars, innovative companies that produce cutting-edge defense products are critical to our Nation's military success. In that vein, I rise to recognize the colossal efforts of one such small business from my home State of Maine, Howe and Howe Technologies.

Located in the southern Maine town of Eliot, Howe and Howe Technologies focuses on the design and production of extreme vehicles, specifically tanks. And for brothers Mike and Geoffrey Howe, the company's owners, building tanks has been a passion for over a decade. After high school, they began work on the original Ripsaw 1, their first unmanned vehicle, in the garage of their childhood home. By 2004, they were entering their vehicle in an endurance test for unmanned vehicles that was sponsored by the military. While they did not win that trial, the brothers received a boost of confidence that their products could compete in the long run, leading to the establishment of Howe and Howe Technologies in 2006.

Each of the company's tanks is designed with a particular use in mind. For instance, the Subterranean Rover 1, or SR1, was commissioned by the Shoal Creek Mine in Alabama to specifically withstand the harsh conditions of coal mines. The PAV1, or Badger, was built for the California Protection Services for use by SWAT teams and other law enforcement agencies. And the Ripsaw MS1, which is currently being tested by the U.S. Army, is an unmanned ground vehicle, or UGV, designed especially for military use. Howe and Howe's vehicles are critical to our military's mission, as they are unmanned vehicles that can be placed in dangerous situations without harm to personnel. Additionally, the vehicles can operate for almost 300 miles until refueling, can be controlled remotely, and provide the military with a faster alternative to the unmanned vehicles they presently have.

The Howe brothers take pride in their work, and industry experts are certainly taking notice. The Ripsaw MS1, which is Howe and Howe's latest vehicle, was just selected by Popular Science magazine as ''The Fastest Tank'' in the listing of its 2009 Invention Awards. The magazine publishes these awards annually to highlight a diverse array of creative and innovative products America's businesses are manufacturing, from power shock absorbers to IV catheters. Additionally, Howe and Howe has recently learned that its PAV1 Badger will be acknowledged as the ''World's Smallest Tank'' in the ''2010 Guinness Book of World Records.''

Last Saturday was Armed Forces Day, a day to reflect on the significant sacrifices our men and women in uniform have made on behalf of our Nation's security. Let us also pay homage to those civilians who assist them by creating state-of-the-art products that make their missions safer and stronger, and that ultimately save lives. I congratulate Mike and Geoffrey Howe and everyone at Howe and Howe Technologies for their exceptional work ethic and inventive products, and wish them continued success.●

REMEMBERING SERGEANT AUBIE L. ATKINS, JR.

● Mr. VITTER. Mr. President, I wish to honor and recognize SGT Aubie L. Atkins, Jr., for making the ultimate sacrifice in service to our country. Nearly 67 years after his death in WWII, he will be home for good and laid to rest next to his parents in their Claiborne Parish town of Athens. I would like to take a few moments to speak of his courage and heroism.

Atkins grew up in Athens, LA, and attended Louisiana Tech University for 1 year before enlisting in the Army in 1941. He was trained in communications and assigned to the crew of a B–25 Mitchell bomber in the 405th Bombardment Squadron in the southwestern Pacific. Atkins, along with seven other crew members, took off aboard a bomber nicknamed ''The Happy Legend'' from Port Moresby on a mission to bomb Buna on December 5, 1942. Unfortunately, their plane went down and disappeared near the Kokoda Pass, Papua New Guinea. Military authorities believed the plane was shot down by the Japanese during a bombing run. The crew was declared dead, and all were memorialized on the tablets of the missing at Manila American Cemetery, Philippines, by the American Battle Monuments Commission.

Members of the 1st Australian Corps found the crash in February 1943 along with the pilot's remains and Atkins' identification tags, but because enemy troops remained in the vicinity, the allied soldiers had to abandon the site. Several attempts were launched to retrieve wreckage and the airmen's remains, but the wreckage was in a water-filled crater making it too difficult and dangerous. But, in 2005 Atkins' remains were identified using DNA that was donated in 2007 by his last surviving sibling, just months before her own death.

There is no doubt that December 5, 1942, was a tragic day, not only for the families of the fallen crew members but also for the B–25 family, the community, and the Nation. On Saturday, May 16, Sergeant Atkins was properly buried with full military honors, including a jet flyover and a 21-gun salute. Although all of Atkins' seven siblings are deceased, three subsequent generations were present to honor and pay their respects.

Thus, today, I honor the memory of fellow Louisianan Aubrey Atkins, Jr., and thank him for his devotion and service to our country.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the presiding officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13303 OF MAY 22, 2003, WITH RESPECT TO THE STABILIZATION OF IRAQ—PM 20

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication. This notice states that the national emergency with respect to the stabilization of Iraq declared in Executive Order 13303 of May 22, 2003, as modified in scope and relied upon for additional steps taken in Executive Order 13315 of August 28, 2003, Executive Order 13350 of July 29, 2004, Executive Order 13364 of November 29, 2004, and Executive Order 13438 of July 17, 2007, is to continue in effect beyond May 22, 2009.

Obstacles to the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in the country, and the development of political, administrative, and economic institutions in Iraq continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. Accordingly, I have determined that it is necessary to continue the national emergency with respect to this threat and maintain in force the measures taken to deal with that national emergency.

BARACK OBAMA.

THE WHITE HOUSE, *May 19, 2009*.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:49 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 896. An Act to prevent mortgage foreclosures and enhance mortgage credit availability.

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

At 11:53 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1088. An Act to amend title 38, United States Code, to provide for a one-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by National Veterans' Employment and Training Services Institute.

H.R. 1089. An Act to amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and reemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.

H.R. 1170. An Act to amend chapter 21 of title 38, United States Code, to establish a grant program to encourage the development of new assistive technologies for special adapted housing.

H.R. 2182. An Act to amend the American Recovery and Reinvestment Act of 2009 to provide for enhanced State and local oversight of activities conducted pursuant to such Act, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 120. Concurrent resolution supporting the goals and ideals of National Women's Health Week, and for other purposes.

The message further announced that pursuant to 22 U.S.C. 3003, and the order of the House of January 6, 2009, the Speaker appoints the following Members of the House of Representatives to the Commission on Security and Cooperation in Europe: Mr. HASTINGS of Florida, Co-Chairman, Mr. MARKEY of Massachusetts, Ms. SLAUGHTER of New York, Mr. MCINTYRE of North Carolina, Mr. BUTTERFIELD of North Carolina, Mr. SMITH of New Jersey, Mr. ADERHOLT of Alabama, Mr. PITTS of Pennsylvania, and Mr. ISSA of California.

At 2:50 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 627) to amend the Truth in Lending Act to establish fair and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1088. An act to amend title 38, United States Code, to provide for a one-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by National Veterans' Employment and Training Services Institute; to the Committee on Veterans' Affairs.

H.R. 1089. To amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and reemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1170. An act to amend chapter 21 of title 38, United States Code, to establish a grant program to encourage the development of new assistive technologies for specially adapted housing; to the Committee on Veterans' Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 120. Concurrent resolution supporting the goals and ideals of National Women's Health Week, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, May 20, 2009, she had presented to the President of the United States the following enrolled bill:

S. 896. An Act to prevent mortgage foreclosures and enhance mortgage credit availability.

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–1669. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Carbofuran; Final Tolerance Revocations'' (FRL–8413–3) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1670. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Iodosulfuron-methyl-sodium; Pesticide Tolerances'' (FRL–8412–6) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1671. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, the Department's annual report on Joint Officer Management; to the Committee on Armed Services.

EC–1672. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Clyde A. Vaughn, Army National Guard of the United States, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–1673. A communication from the General Counsel, Department of Defense, transmitting, the report of legislative proposals relative to the National Defense Authorization Bill for Fiscal Year 2010; to the Committee on Armed Services.

EC–1674. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC–1675. A communication from the Principal Deputy, Defense Research and Engineering, Department of Defense, transmitting, pursuant to law, a report entitled ''Defense Production Act Annual Fund Report for Fiscal Year 2008''; to the Committee on Banking, Housing, and Urban Affairs.

EC–1676. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Fair Credit Reporting Affiliate Marketing Regulations; Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003'' (RIN1557–AD14) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Banking, Housing, and Urban Affairs.

EC–1677. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New Jersey Reasonable Further Progress Plans, Reasonably Available Control Technology, Reasonably Available Control Measures and Conformity Budgets'' (FRL–8905–7) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Environment and Public Works.

EC–1678. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona, California, Hawaii, and Nevada'' (FRL–8905–8) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Environment and Public Works.

EC–1679. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation'' (FRL–8904–5) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Environment and Public Works.

EC–1680. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Michigan; Consumer Product Rule'' (FRL–8908–1) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Environment and Public Works.

EC–1681. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Minnesota'' (FRL–8907–3) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Environment and Public Works.

EC–1682. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Louisiana: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL–8905–4) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Environment and Public Works.

EC–1683. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''The Treatment of Data Influenced by Exceptional Events (Exceptional Event Rule): Revised Exceptional Event Data Flagging Submittal and Documentation Schedule for Monitoring Data Used in Designations for the 2008 Ozone NAAQS'' (FRL–8907–1) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Environment and Public Works.

EC–1684. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Extension of Port Limits of St. Louis, Missouri'' (CBP Dec. 09–16) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Finance.

EC–1685. A communication from the Broadcasting Board of Governors, transmitting, pursuant to law, the Board's Annual Report for 2008; to the Committee on Foreign Relations.

EC–1686. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Revision of the Requirements for Publication of License Revocation'' (Docket No. FDA–2009–N–0100) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1687. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Substances Prohibited From Use in Animal Food or Feed; Confirmation of Effective Date of Final Rule; Correction'' (RIN0910–AF46) received in the Office of the President of the Senate on May 14, 2009; to the Committee on Health, Education, Labor, and Pensions.

EC–1688. A communication from the Senior Procurement Executive, Office of the Chief Acquisition Officer, General Services Administration, Department of Defense, and National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–32, Technical Amendments'' (FAC 2005–32) received in the Office of the President of the Senate on May 15, 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–1689. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, an annual report on applications made by the Government for authority to conduct electronic surveillance and physical searches during calendar year 2008; to the Committee on the Judiciary.

EC–1690. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations; Smith Creek at Wilmington, NC'' ((RIN1625–AA09)(Docket No. USCG–2008–0302)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1691. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Crewmember Identification Documents'' ((RIN1625–AB19)(Docket No. USCG–2007–28648)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1692. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Blue Water Resort and Casino APBA National Tour Rounds 1 & 2; Colorado River, Parker AZ'' ((RIN1625–AA00)(Docket No. USCG–2008–1220)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1693. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Mill Creek, Fort Monroe, VA, USNORTHCOM Civic Leader Tour and Aviation Demonstration'' ((RIN1625–AA00)(Docket No. USCG–2009–0263)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1694. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Allegheny River, Pittsburgh, PA'' ((RIN1625–AA00)(Docket No. USCG–2009–0175)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1695. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Barge BDL235, Pago Pago Harbor, American Samoa'' ((RIN1625–AA00)(Docket No. USCG–2009–0159)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1696. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; St. Thomas Harbor, Charlotte Amalie, U.S.V.I.'' ((RIN1625–AA00)(Docket No. USCG–2009–0179)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1697. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Allegheny River, Pittsburgh, PA'' ((RIN1625–AA00)(Docket No. USCG–2009–0149)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1698. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Red Bull Air Races; San Diego Bay, San Diego, CA'' ((RIN1625–AA00)(Docket No. USCG–2009–0119)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1699. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Alternate Compliance Program: Vessel Inspection'' ((RIN1625–AA92)(Docket No. USCG–2004–19823)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1700. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Corrections; Hatteras Boat Parade and Firework Display, Trent River, New Bern, NC'' ((RIN1625–AA00)(Docket No. USCG–2008–0309 formerly USCG–2008–0046)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1701. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; IJSBA World Finals, Colorado River, Lake Havasu City, AZ'' ((RIN1625–AA00)(Docket No. USCG–2008–0320)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1702. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones (including 2 regulations): [USCG–2008–0245], [USCG–2008–0246]'' (RIN1625–AA00) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1703. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Events; Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, MD'' ((RIN1625–AA08)(Docket No. USCG–2008–0154)) received in the Office of the President of the Senate on May 11, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1704. A communication from the Acting Chairman, Surface Transportation Board, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''STB Ex Parte No. 542 (Sub–No. 16) Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2009 Update'' (Board Decision No. 39783) received in the Office of the President of the Senate on May 13, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1705. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations; Derby, Kansas'' (MB Docket No. 09–33) received in the Office of the President of the

Senate on May 14, 2009; to the Committee on Commerce, Science, and Transportation.

EC–1706. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Promoting Diversification of Ownership in the Broadcasting Services'' (MB Docket No. 07–294) received in the Office of the President of the Senate on May 14, 2009; 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–20. A joint memorial adopted by the Legislature of the State of Washington relative to the United States Fish and Wildlife Service working cooperatively with the state's regulatory agencies and energy producers; to the Committee on Energy and Natural Resources.

SENATE JOINT MEMORIAL 8001

Whereas, in 2006 the voters passed Initiative No. 937, targets for energy conservation and the use of eligible resources, including wind, by the state's large utilities; and

Whereas, in 2007 the Legislature adopted the goals of reducing greenhouse gas emissions to 1990 levels by 2020, reducing emissions to 25 percent below 1990 levels by 2035, and reducing emissions to 50 percent below 1990 levels by 2050; and

Whereas, during this time of economic uncertainty, the construction and operation of wind and other alternative energy sites presents an opportunity to bring new jobs and valuable economic opportunities to Washington communities; and

Whereas, the increased use of wind and other alternative energy resources produced in Washington will help move the state towards energy independence, and help to decrease the billions of dollars Washingtonians currently pay each year for imported fuel; and

Whereas, the federal endangered species act (16 U.S.C. Sec. 1531 et seq.) can pose significant challenges, including regulatory uncertainty, for those seeking to develop wind and other alternative energy projects in locations that could potentially impact any wildlife listed as threatened or endangered; and

Whereas, the United States Fish and Wildlife Service, housed within the United States Department of the Interior, is the agency with primary responsibility for implementing and enforcing the federal endangered species act;

Now, Therefore, Your Memorialists respectfully pray that the United States Fish and Wildlife Service work cooperatively with the state's regulatory agencies and energy producers to resolve these federal endangered species act issues in a manner that allows the continued development of Washington's wind and other alternative energy resources while at the same time protecting threatened and endangered wildlife.

Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the Secretary of the Department of the Interior, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–21. A joint memorial adopted by the Legislature of the State of Washington relative to urging the enactment of legislation to eliminate the 24 month Medicare waiting period for participants in Social Security Disability Insurance; to the Committee on Finance.

SENATE JOINT MEMORIAL 8013

Whereas, created in 1965, the federal Medicare program provides health insurance coverage for more than 40 million Americans; although most of those enrolled are senior citizens, approximately 6 million enrollees under the age of 65 have qualified because of permanent and severe disabilities, such as spinal cord injuries, multiple sclerosis, cardiovascular disease, cancer, or other illness or disorder; and

Whereas, despite the physical and financial hardships wrought by these conditions and the fact that Social Security Disability Insurance (SSDI) is designed for individuals with a work history who paid into the social security system before the onset of their disability, federal law mandates a 24 month waiting period from the time a disabled individual first receives SSDI benefits to the time Medicare coverage begins; a prerequisite to Medicare, the SSDI program itself delays benefits for 5 months while the person's disability is determined, effectively creating a 29 month waiting period for Medicare; and

Whereas, this restriction affects a significant number of Americans in need; as of January 2002, there were approximately 1.2 million disabled persons who qualified for SSDI and were awaiting Medicare coverage, many of whom were unemployed because of their disability; consequently, under these conditions, by the time Medicare began, an estimated 77 percent of those individuals would be poor or nearly poor, 45 percent would have incomes below the federal poverty line, and close to 40 percent would be enrolled in state Medicaid programs; and

Whereas, furthermore, it has been estimated that as many as one-third of the individuals currently awaiting coverage may be uninsured and likely to incur significant medical expenses during the 2 year waiting period, often with devastating consequences; studies indicate that the uninsured are likely to delay or forgo needed care, leading to worsening health and even premature death, and the American Medical Association has determined that death rates among SSDI recipients are the highest in the first 24 months of enrollment; and

Whereas, eliminating the 24 month waiting period not only would prevent worsening illness and disability for SSDI beneficiaries, thereby reducing more costly future medical needs and potential longterm reliance on public health care programs, but could also save the Medicaid program as much as 4.3 billion dollars at 2002 program levels, including nearly 1.8 billion dollars in savings to states and 2.5 billion dollars in federal savings that would help offset a substantial portion of the accompanying increase in Medicare expenditures; and

Whereas, recognizing the consequences of the waiting period to those suffering from amyotrophic lateral sclerosis (ALS), or Lou Gehrig's disease, the 106th Congress passed H.R. 5661 in 2000 and eliminated the requirement for enrollees diagnosed with the disease; in passing H.R. 5661, the congress acknowledged the enormous difficulties faced by those diagnosed with severe disabilities and established precedent for the exception to be extended to all the disabled on the Medicare waiting list;

Now, therefore, your Memorialists respectfully urge the United States Congress to enact legislation to eliminate the 24 month Medicare waiting period for participants in Social Security Disability Insurance.

Be it resolved, that copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–22. A joint memorial adopted by the Legislature of the State of Washington relative to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

SENATE JOINT MEMORIAL 8012

Whereas, the Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the United Nations General Assembly on December 18, 1979, became an international treaty on September 3, 1981, and by August 2006, one hundred eighty-five nations including all of the industrialized world, except the United States, have agreed to pursue the Convention's goals; and

Whereas, the United States supports and has a position of leadership in the United Nations, was an active participant in the drafting of the Convention and signed the Convention in 1980, but to date has not ratified it; and

Whereas, the spirit of the Convention is to affirm faith in fundamental human rights, in the dignity and worth of each person, and in the goal of equal rights, opportunities, and protections for women and girls; and

Whereas, the Convention provides a comprehensive framework for advancing the rights, opportunities, and protections for women and girls, half the world's population, which framework is implemented by individual countries in ways appropriate to their own countries; and

Whereas, much research has found that discrimination based on sex results in less education for girls and women, fewer job opportunities and lower pay for women, slower national economic productivity and growth, and retards the ability of developing countries to grow their economies and contribute to global economic recovery; and

Whereas, women in every country play fundamentally important economic roles in their economies and frequently constitute the major economic support for their families; and

Whereas, although women in many parts of the world have made major gains in struggles for equality in social, business, political, legal, education, and other fields, much more needs to be accomplished; and

Whereas, through its active support and moral leadership, the United States can help create a world where women and girls have equal legal protections, human rights, education and economic opportunities, personal safety, health care, and more;

Now, therefore, your Memorialists respectfully pray that President Obama and Secretary Clinton place the United Nations Convention on the Elimination of All Forms of Discrimination Against Women in the highest category of priority in order to accelerate the treaty's passage through the Senate Foreign Relations Committee and the full United States Senate with the goal of ratification by the United States; and that the Washington State Legislature urge the Senate Foreign Relations Committee to pass this treaty favorably out of Committee and recommend it be approved by the full United States Senate: Be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, Hillary Clinton, Secretary of State, Hilda Solis, Secretary of Labor, the President of the United States Senate, the Speaker of the House of Representatives, and each

member of Congress from the State of Washington.

POM–23. A joint memorial adopted by the Legislature of the State of Washington relative to electronic medical and health records; to the Committee on Health, Education, Labor, and Pensions.

SENATE JOINT MEMORIAL 8003

Whereas, expanded health information technology has the potential to revolutionize the delivery of health care in the United States by enabling continuity of care, improving cost efficiency, lowering rates of medical malpractice, decreasing duplicative care, providing better care management for patients, and producing better health outcomes; and

Whereas, major investments in the hardware and software infrastructure required to facilitate the expansion of health information technology are being made now by health care providers; and

Whereas, the health information systems currently being constructed are often incapable of communicating with each other; and

Whereas, the costs to providers of maintaining incompatible systems in the name of proprietary licensing will grow exponentially with every delay in reaching a universal standard of interoperability; and

Whereas, the benefit from health information technology is only derived from the ability of systems to communicate with each other on a fully compatible platform; and

Whereas, a national public-private partnership has recently commenced with leadership from the United States department of health and human services to define standards of interoperability with the goal of implementing electronic health records for all Americans by the year 2014;

Now, therefore, your Memorialists respectfully pray that Congress institute a date certain, no later than January 1, 2013, at which time all vendors, suppliers, and manufacturers of health information technology must comply with a uniform national standard of interoperability, such that all electronic medical and health records can be readily shared and accessed across all health care providers and institutions while at the same time preserving the proprietary nature of health information technology producers that will encourage future innovation and competition: Be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the Secretary of the United States Department of Health and Human Services, the Governor of the State of Washington, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–24. A joint memorial adopted by the Legislature of the State of Washington relative to the issuance of a commemorative stamp by the United States Postal Service; to the Committee on Veterans' Affairs.

HOUSE JOINT MEMORIAL 4005

Whereas, the Nisei veterans of the Second World War provided the avenue for Japanese-Americans to prove their loyalty to the United States by serving as the ultimate patriots in the Armed Forces; and

Whereas, these veterans served in the 442nd Regimental Combat Team, the 100th Infantry Battalion, and the Military Intelligence Service (MIS); and

Whereas, the 100th Infantry Battalion and 442nd Regimental Combat Team of the United States Army were comprised of Japanese-Americans who fought in Europe during the Second World War; and

Whereas, the 100th Infantry Battalion and 442nd Regimental Combat Team were members of the most highly decorated military unit of its size in the history of the United States Armed Forces, with twenty-one Medal of Honor recipients, numerous Purple Hearts, and many other awards; and

Whereas, tens of thousands of lives were saved because the MIS used their knowledge of Japanese language and culture to help the Allies end the Second World War quickly in the Pacific; and

Whereas, the Nisei veterans' proud American legacy continues, however many Nisei veterans have passed away and those still alive are now in their eighties and nineties; and

Whereas, these Nisei veterans should be publicly commemorated;

Now, therefore, your Memorialists respectfully pray that the United States Postal Service issue a postage stamp in commemoration of the Nisei veterans' service in the United States Armed Forces during the Second World War: Be it

Resolved, That copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each Member of Congress from the State of Washington.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 663. A bill to designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the ''Yvonne Ingram-Ephraim Post Office Building''.

H.R. 918. A bill to designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the ''Stan Lundine Post Office Building''.

H.R. 1284. A bill to designate the facility of the United States Postal Service located at 103 West Main Street in McLain, Mississippi, as the ''Major Ed W. Freeman Post Office''.

H.R. 1595. A bill to designate the facility of the United States Postal Service located at 3245 Latta Road in Rochester, New York, as the ''Brian K. Schramm Post Office Building''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ROCKEFELLER for the Committee on Commerce, Science, and Transportation.

*Lawrence E. Strickling, of Illinois, to be Assistant Secretary of Commerce for Communications and Information.

*Rebecca M. Blank, of Maryland, to be Under Secretary of Commerce for Economic Affairs.

*John D. Porcari, of Maryland, to be Deputy Secretary of Transportation.

*J. Randolph Babbitt, of Virginia, to be Administrator of the Federal Aviation Administration for the term of five years.

*Aneesh Chopra, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

Mr. ROCKEFELLER. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

*National Oceanic and Atmospheric Administration nominations beginning with Mark H. Pickett and ending with Ryan A. Wartick, which nominations were received by the Senate and appeared in the Congressional Record on May 14, 2009.

*National Oceanic and Atmospheric Administration nominations beginning with Heather L. Moe and ending with Marina O. Kosenko, which nominations were received by the Senate and appeared in the Congressional Record on May 14, 2009.

By Mr. KERRY for the Committee on Foreign Relations.

*Judith A. McHale, of Maryland, to be Under Secretary of State for Public Diplomacy.

*Robert Orris Blake, Jr., of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State for South Asian Affairs.

By Mr. DODD for Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

*Seth David Harris, of New Jersey, to be Deputy Secretary of Labor.

*Linda A. Puchala, of Maryland, to be a Member of the National Mediation Board for a term expiring July 1, 2009.

*Linda A. Puchala, of Maryland, to be a Member of the National Mediation Board for a term expiring July 1, 2012.

*John Q. Easton, of Illinois, to be Director of the Institute of Education Science, Department of Education for a term of six years.

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

*Marisa J. Demeo, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Florence Y. Pan, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

*Cass R. Sunstein, of Massachusetts, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget.

*David Heyman, of the District of Columbia, to be an Assistant Secretary of Homeland Security.

*Robert M. Groves, of Michigan, to be Director of the Census.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. LIEBERMAN):

S. 1081. A bill to prohibit the release of enemy combatants into the United States; to the Committee on the Judiciary.

By Mr. CRAPO (for himself and Mr. JOHNSON):

S. 1082. A bill to amend the Internal Revenue Code of 1986 to allow individuals to

defer recognition of reinvested capital gains distributions from regulated investment companies; to the Committee on Finance.

By Mr. SCHUMER (for himself and Mrs. GILLIBRAND):

S. 1083. A bill to require that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included so that respondents may indicate Caribbean extraction or descent; to the Committee on Homeland Security and Governmental Affairs .

By Mrs. GILLIBRAND (for herself and Mr. SCHUMER):

S. 1084. A bill to require that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included so that respondents may indicate Dominican extraction or descent; to the Committee on Homeland Security and Governmental Affairs .

By Mr. MENENDEZ (for himself, Mrs. GILLIBRAND, Mr. KENNEDY, and Mr. SCHUMER):

S. 1085. A bill to amend the Immigration and Nationality Act to promote family unity, and for other purposes; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. GRASSLEY):

S. 1086. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERRY:

S. 1087. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas; to the Committee on Finance .

By Ms. LANDRIEU:

S. 1088. A bill to authorize certain construction in coastal high hazard areas using assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BAUCUS (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ROBERTS, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. LINCOLN, Mr. HARKIN, Mrs. MURRAY, Mr. PRYOR, Mr. BOND, Mr. JOHNSON, Mr. DORGAN, Mr. WYDEN, Mr. LUGAR, Mrs. MCCASKILL, and Mr. ENZI):

S. 1089. A bill to facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish an agricultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself and Ms. CANTWELL):

S. 1090. A bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources; to the Committee on Finance.

By Mr. WYDEN:

S. 1091. A bill to amend the Internal Revenue Code of 1986 to provide for an energy investment credit for energy storage property connected to the grid, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 1092. A bill to establish a program to provide loans for use in carrying out residential, commercial, industrial, and transportation energy efficiency and renewable generation projects; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1093. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for increasing motor vehicle fuel efficiency, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 1094. A bill to amend the Internal Revenue Code of 1986 to provide for an energy carrier production tax credit, and for other purposes; to the Committee on Finance.

By Mr. WYDEN:

S. 1095. A bill to amend the Clean Air Act to convert the renewable fuel standard into a low-carbon fuel standard, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WYDEN:

S. 1096. A bill to require the Secretary of Energy to establish an EnergyGrant Competitive Education Program to competitively award grants to consortia of institutions of higher education in regions to conduct research, extension, and education programs relating to the energy needs of the region; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1097. A bill to require the Secretary of Energy, in coordination with the Secretary of Labor, to establish a program to provide for workforce training and education, at community colleges, in sustainable energy; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 1098. A bill to establish EnergySmart transport corridors to promote the planning and development of measures that will increase the energy efficiency of the Interstate System and reduce the emission of greenhouse gases and other environmental pollutants, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COBURN (for himself, Mr. BURR, Mr. BUNNING, Mr. CHAMBLISS, Mr. ALEXANDER, and Mr. INHOFE):

S. 1099. A bill to provide comprehensive solutions for the health care system of the United States, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. GRAHAM, and Mr. MCCAIN):

S. 1100. A bill to provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); to the Committee on the Judiciary.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 1101. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a Food Protection Training Institute, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

S. 1102. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VITTER (for himself, Mr. MCCONNELL, Mr. ENSIGN, Mr. MCCAIN, Mr. COBURN, Mr. INHOFE, Mr. HATCH, Mr. DEMINT, Mr. SESSIONS, Mr. CHAMBLISS, Mr. RISCH, Mr. ENZI, Mr. BOND, and Mr. BUNNING):

S. 1103. A bill to amend the Help America Vote Act of 2002 to establish standards for the distribution of voter registration application forms and to require organizations to register with the State prior to the distribution of such forms; to the Committee on Rules and Administration.

By Mr. INOUYE (for himself, Mr. ALEXANDER, Mr. AKAKA, and Mr. KAUFMAN):

S. 1104. A bill to amend the Public Health Service Act to establish the Nurse-Managed Health Clinic Investment program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

S. 1105. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque; to the Committee on Indian Affairs.

By Mrs. LINCOLN (for herself, Ms. LANDRIEU, and Mr. BURRIS):

S. 1106. A bill to amend title 10, United States Code, to require the provision of medical and dental readiness services to certain members of the Selected Reserve and Individual Ready Reserve based on medical need, and for other purposes; to the Committee on Armed Services.

By Mr. DURBIN (for himself, Mr. GRAHAM, and Mr. HATCH):

S. 1107. A bill to amend title 28, United States Code, to provide for a limited 6-month period for Federal judges to opt into the Judicial Survivors' Annuities System and begin contributing toward an annuity for their spouse and dependent children upon their death, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. DODD, and Mr. LIEBERMAN):

S. 1108. A bill to require application of budget neutrality on a national basis in the calculation of the Medicare hospital wage index floor for each all-urban and rural State; to the Committee on Finance.

By Mrs. GILLIBRAND:

S. 1109. A bill to provide veterans with individualized notice about available benefits, to streamline application processes or the benefits, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1110. A bill to amend title XVIII of the Social Security Act to create a sensible infrastructure for delivery system reform by renaming the Medicare Payment Advisory Commission, making the Commission an executive branch agency, and providing the Commission new resources and authority to implement Medicare payment policy; to the Committee on Finance.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1111. A bill to require the Secretary of Health and Human Services to enter into agreements with States to resolve outstanding claims for reimbursement under the Medicare program relating to the Special Disability Workload project; to the Committee on Finance.

By Mr. DODD (for himself and Mr. REED):

S. 1112. A bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. PRYOR (for himself, Ms. SNOWE, Mr. NELSON of Nebraska, and Mr. WICKER):

S. 1113. A bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1114. A bill to establish a demonstration project to provide for patient-centered medical homes to improve the effectiveness and

efficiency in providing medical assistance under the Medicaid program and child health assistance under the State Children's Health Insurance Program; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 46

At the request of Mr. ENSIGN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 46, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 292

At the request of Mr. SPECTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 292, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 423

At the request of Mr. AKAKA, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 451

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 451, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 566

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

S. 581

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

S. 597

At the request of Mrs. MURRAY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 597, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 607

At the request of Mr. UDALL of Colorado, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S. 607, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that are subject to ski area permits, and for other purposes.

S. 634

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 688

At the request of Ms. SNOWE, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. DODD) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 688, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 693

At the request of Mr. HARKIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 693, a bill to amend the Public Health Service Act to provide grants for the training of graduate medical residents in preventive medicine.

S. 717

At the request of Mr. CARDIN, his name was added as a cosponsor of S. 717, a bill to modernize cancer research, increase access to preventative cancer services, provide cancer treatment and survivorship initiatives, and for other purposes.

At the request of Mrs. LINCOLN, her name was added as a cosponsor of S. 717, supra.

S. 730

At the request of Mr. ENSIGN, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 730, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear, and for other purposes.

S. 749

At the request of Mr. COCHRAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 749, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 796

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 796, a bill to modify the requirements applicable to locatable minerals on public domain land, and for other purposes.

S. 801

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 801, a bill to amend title 38, United States Code, to waive charges for humanitarian care provided by the Department of Veterans Affairs to family members accompanying veterans severely injured after September 11, 2001, as they receive medical care from the Department and to provide assistance to family caregivers, and for other purposes.

S. 819

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 819, a bill to provide for enhanced treatment, support, services, and research for individuals with autism spectrum disorders and their families.

S. 823

At the request of Ms. SNOWE, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from Georgia (Mr. ISAKSON) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 844

At the request of Mr. LAUTENBERG, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 844, a bill to amend the Public Health Service Act to prevent and treat diabetes, to promote and improve the care of individuals with diabetes, and to reduce health disparities relating to diabetes within racial and ethnic minority groups, including African-American, Hispanic American, Asian American, Native Hawaiian and Other Pacific Islander, and American Indian and Alaskan Native communities.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite-tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 908

At the request of Mr. BAYH, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 979

At the request of Mr. DURBIN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 979, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

S. 982

At the request of Mrs. MCCASKILL, her name was added as a cosponsor of S. 982, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 1012

At the request of Mr. ISAKSON, his name was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1012, supra.

S. 1023

At the request of Mr. DORGAN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1023, a bill to establish a non-profit corporation to communicate United States entry policies and otherwise promote leisure, business, and scholarly travel to the United States.

S. 1026

At the request of Mr. CORNYN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

S. 1066

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1071

At the request of Mr. CHAMBLISS, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1071, a bill to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

S. RES. 151

At the request of Mr. BUNNING, the names of the Senator from Washington (Ms. CANTWELL), the Senator from New Mexico (Mr. UDALL), the Senator from Florida (Mr. NELSON) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. Res. 151, a resolution expressing support for a national day of remembrance on October 30, 2009, for nuclear weapons program workers.

At the request of Mr. SCHUMER, his name was added as a cosponsor of S. Res. 151, supra.

AMENDMENT NO. 1133

At the request of Mr. JOHANNS, his name was added as a cosponsor of amendment No. 1133 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1138

At the request of Mr. VITTER, his name was added as a cosponsor of amendment No. 1138 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1139

At the request of Mr. INHOFE, his name was added as a cosponsor of amendment No. 1139 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1140

At the request of Mr. INHOFE, his name was added as a cosponsor of amendment No. 1140 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1143

At the request of Mr. RISCH, the name of the Senator from Missouri (Mr. BOND) was withdrawn as a cosponsor of amendment No. 1143 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

At the request of Mr. RISCH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of amendment No. 1143 proposed to H.R. 2346, supra.

AMENDMENT NO. 1144

At the request of Mr. CHAMBLISS, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of amendment No. 1144 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. GRASSLEY):

S. 1086. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENZI. President, I rise to speak on the introduction of the Livestock Marketing Fairness Act. I want to also acknowledge that I am joined in introducing this legislation by Senators DORGAN, GRASSLEY, and JOHNSON. The Packers and Stockyards Act of 1921 was enacted at a time when there was significant concentration in the livestock and poultry industry. That law has since provided livestock producers, the family farmers and ranchers of our country, with a remedy to protect themselves against manipulative and anti-competitive practices in the marketplace. However, since the early 1920s our domestic livestock industry has changed significantly and so too have the ways in which producers market their livestock. Gone are the days when a simple handshake between buyer and seller was all you needed. Changes in marketing have introduced new ways for bad actors to manipulate prices and this legislation is designed to strengthen the laws originally enacted in the Packers and Stockyards Act.

It is no secret that the packing industry in the U.S. has again become increasingly consolidated. In 1985, the four largest packers accounted for 39 percent of all cattle slaughtered in the U.S. Twenty years later, the top four firms controlled over 69 percent of the domestic cattle slaughter and this statistic does not even include the acquisitions that have taken place in the industry since 2007. Being big in agriculture is not bad, but it does present opportunities for a select few to manipulate the market for their own gain. The Livestock Marketing Fairness Act strikes at the heart of one particular anti-competitive practice. Over the years, livestock producers, feeders, and packers have been given a number of new marketing tools for price discovery and hedging risk. One of those tools is the forward contract where a buyer and seller agree to a transaction at a specified point of time in the future. However, certain types of forward contracting agreements have become ripe for price manipulation. This is because a growing number of packing operations own their own livestock or control them through marketing agreements. These firms then can buy from themselves when prices are high and buy from others when prices are low. Captive supplies are animals that packers own and control prior to slaughter. The Livestock Marketing Fairness Act prohibits certain arrangements that provide packers with the opportunity use their captive supplies to manipulate local market prices. First, the legislation requires that forward contracts contain a ''firm base price'' which is derived from an external source. Though not outlined in the legislation, commonly used external sources of price include the live cattle futures market or wholesale beef market. This ensures that both buyers and sellers have a basis for how pricing in a contract will be derived at the time

the contract is agreed upon. Second, the bill requires that forward contracts be traded in open, public markets. This guarantees that multiple buyers and sellers can witness bids as well as offer their own. The Livestock Marketing Fairness Act also ensures that trading of contracts be done in a manner that provides both small and large buyers and sellers access to the market. Contracts are to be traded in sizes approximate to the common number of cattle or pigs transported in a trailer, but the law does not prohibit trading from occurring in multiples of those contracts for larger livestock orders.

I travel to Wyoming nearly every weekend and have heard the same concerns from many of our ranchers. They want to be competitive in the market and sell the best animals possible so that they can continue the work that so many in their family have done for so many years. However, this problem is not isolated to Wyoming. Livestock producers from coast to coast are finding that with consolidation there are fewer and fewer buyers for their animals and their options for marketing too are being lost. This legislation not only increases openness in forward contracting but preserves the right for ranchers to choose the best methods for selling their animals without worry that their agreements will be subject to manipulation. The bill does not apply to producer cooperatives who often own their processing facility. The legislation also carefully targets the problem—large packers owning captive supplies—by also exempting packers that only own one facility and those that do not report for mandatory price reporting. The Livestock Marketing Fairness Act does not apply to agreements based on quality grading nor does it affect a producer's ability to negotiate contracts one-on-one with buyers. Therefore, sellers can still choose from a variety of methods including the spot market, futures market, or other alternative marketing arrangements.

This bill is common sense and ensures that our ranchers have access to a competitive market in these difficult economic times. Ranchers aren't asking for a handout. What I am asking for is a level-playing field and an equal opportunity for our ranchers to succeed. I am pleased to say that I am joined by my colleagues on both sides of the aisle in working to address this problem. I encourage my other colleagues to support the Livestock Marketing Fairness Act and to join me in giving ranchers an honest chance to make a living.

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. 1086

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 ''Livestock Marketing Fairness Act''.

SEC. 2. PURPOSE.

The purpose of the amendments made by this Act is to prohibit the use of certain anti-competitive forward contracts—

(1) to require a firm base price in forward contracts and marketing agreements; and

(2) to require that forward contracts be traded in open, public markets.

SEC. 3. LIMITATION ON USE OF ANTI-COMPETITIVE FORWARD CONTRACTS.

(a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 192), is amended—

(1) by striking ''Sec. 202. It shall be'' and inserting the following:

''SEC. 202. UNLAWFUL PRACTICES.

''(a) IN GENERAL.—It shall be'';

(2) by striking ''to:'' and inserting ''to—'';

(3) by redesignating subsections (a), (b), (c), (d), (e), (f), and (g) as paragraphs (1), (2), (3), (4), (5), (7), and (8), respectively, and indenting appropriately;

(4) in paragraph (7) (as redesignated by paragraph (3)), by designating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately;

(5) in paragraph (8) (as redesignated by paragraph (3)), by striking ''subdivision (a), (b), (c), (d), or (e)'' and inserting ''paragraph (1), (2), (3), (4), (5), or (6)'';

(6) in each of paragraphs (1), (2), (3), (4), (5), (7), and (8) (as redesignated by paragraph (3)), by striking the first capital letter of the first word in the paragraph and inserting the same letter in the lower case;

(7) in each of paragraphs (1) through (5) (as redesignated by paragraph (3)), by striking ''or'' at the end;

(8) by inserting after paragraph (5) (as redesignated by paragraph (3)) the following:

''(6) except as provided in subsection (c), use, in effectuating any sale of livestock, a forward contract that—

''(A) does not contain a firm base price that may be equated to a fixed dollar amount on the day on which the forward contract is entered into;

''(B) is not offered for bid in an open, public manner under which—

''(i) buyers and sellers have the opportunity to participate in the bid; and

''(ii) buyers and sellers may witness bids that are made and accepted;

''(C) is based on a formula price; or

''(D) subject to subsection (b), provides for the sale of livestock in a quantity in excess of—

''(i) in the case of cattle, 40 cattle;

''(ii) in the case of swine, 30 swine; and

''(iii) in the case of other types of livestock, a comparable quantity of the type of livestock determined by the Secretary.''; and

(9) by adding at the end the following:

''(b) ADJUSTMENTS.—The Secretary may adjust the maximum quantity of livestock described in subsection (a)(6)(D) to reflect advances in marketing and transportation capabilities if the adjusted quantity provides reasonable market access for all buyers and sellers.

''(c) EXEMPTION FOR COOPERATIVES.—Subsection (a)(6) shall not apply to—

''(1) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

''(A) own, feed, or control livestock; and

''(B) provide the livestock to the cooperative for slaughter;

''(2) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1635a)) information on the price and quantity of livestock purchased by the packer; or

''(3) a packer that owns 1 livestock processing plant.''.

(b) DEFINITIONS.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)) is amended by adding at the end the following:

''(15) FIRM BASE PRICE.—The term 'firm base price' means a transaction using a reference price from an external source.

''(16) FORMULA PRICE.—

''(A) IN GENERAL.—The term 'formula price' means any price term that establishes a base from which a purchase price is calculated on the basis of a price that will not be determined or reported until a date after the day the forward price is established.

''(B) EXCLUSION.—The term 'formula price' does not include—

''(i) any price term that establishes a base from which a purchase price is calculated on the basis of a futures market price; or

''(ii) any adjustment to the base for quality, grade, or other factors relating to the value of livestock or livestock products that are readily verifiable market factors and are outside the control of the packer.

''(17) FORWARD CONTRACT.—The term 'forward contract' means an oral or written contract for the purchase of livestock that provides for the delivery of the livestock to a packer at a date that is more than 7 days after the date on which the contract is entered into, without regard to whether the contract is for—

''(A) a specified lot of livestock; or

''(B) a specified number of livestock over a certain period of time.''.

By Mr. KERRY:

S. 1087. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Energy Fairness for America Act which repeals tax incentives for the oil and gas industry. This is the third consecutive Congress in which I have introduced this legislation. Some of the provisions of prior versions of my legislations were enacted last year, but more can be done. At a time when we are trying to incentivize clean energy, we should not continue to provide unnecessary tax incentives to the oil and gas industry.

The Energy Fairness for America Act would repeal the section 199 manufacturing deduction for income attributable to domestic production of oil and gas. The domestic manufacturing deduction was designed to replace export-related tax benefits that were successfully challenged by the European Union. Producers of oil and gas did not benefit from this tax break. Initial legislation proposed to address the repeal of the export-related tax benefits and to replace them with a new domestic manufacturing deduction. That legislation only provided the deduction to industries that benefited from the export-related tax benefits. However, the final product extended the deduction to include the oil and gas industry as well.

The tax code provides numerous other preferences to the oil and gas industry. This legislation would repeal provisions that do not promote low-carbon energy sources and further our addiction to oil. The Energy Fairness

for America Act would repeal the credit for the crude oil and natural gas produced from marginal wells, expensing of intangible drilling costs and 60-month amortization and capitalized intangible drilling costs, exception from the passive loss rules for working interests in oil and gas properties, and percentage depletion for oil and gas wells. In addition, it would increase the amortization period from two years to seven years for geological and geophysical expenditures incurred by independent producers in connection with oil and gas exploration in the U.S.

This legislation will help align our tax code with our broader energy goals. Our focus should be on lowering carbon emissions and encouraging renewable energy sources, not rewarding the oil and gas industry. I urge my colleagues to join me in eliminating these unnecessary tax breaks.

By Mr. BAUCUS (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ROBERTS, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. LINCOLN, Mr. HARKIN, Mrs. MURRAY, Mr. PRYOR, Mr. BOND, Mr. JOHNSON, Mr. DORGAN, Mr. WYDEN, Mr. LUGAR, Mrs. MCCASKILL, and Mr. ENZI):

S. 1089. A bill to facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish an agricultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, this Nation and this body have debated divisive trade issues for more than a century. In the 1820s, the cotton, indigo, and rice exporting southern States quarreled with northern States intent on protecting nascent manufacturing In the 1930s, President Hoover's appeals to save American jobs brought the Smoot-Hawley tariff.

Since the Second World War, America has moved to open the world's markets and our own. We are better for it. But divisive trade debates do and will continue. Few debates have been as long and contentious as those regarding our economic sanctions on Cuba.

I am introducing legislation today to bring this divisive debate to an end. I do so not as an ideologue or a partisan. I am neither the Cuban government's friend nor its staunchest enemy. I instead am a Montanan. Like most Montanans, I take no pleasure in disagreement. Like most Montanans, I try to make a deal when I can. Like most Montanans, I stick to the facts.

Here is how I see the facts. Opening Cuba to our exports means money in the pockets of farmers and ranchers across America. Lifting financing and other restrictions on U.S. agriculture could increase U.S. beef exports from states like Montana and Colorado from $1 million to as much as $13 million. Lifting these restrictions could allow agricultural exporters in States like North Dakota and Arkansas to obtain nearly 70 percent of Cuba's wheat market, nearly 40 percent of its rice market, and more than 90 percent of its poultry market. Lifting these restrictions could allow America's farmers and ranchers to export as much as $1.2 billion in total agricultural goods to Cuba.

The facts also show that European and other exporters already reap these benefits. Europe has scrapped its Cuba sanctions. Just last week, EU officials were in Havana calling for full normalization of ties. Those officials made no secret of wanting to solidify ties with Cuba now to get the jump on the U.S.

Those are the facts as I see them. But that is not all I see. I am not blind to the Cuban people's suffering or the crimes of their government. I am not deaf to the calls for political and religious freedom just 90 miles off our shores. But I also see that increased trade ties historically have led to improved political ties, whether between Argentina and Brazil in this hemisphere or between former rival nations in Europe.

Am I certain that increased trade will improve our political ties with Cuba? I am not. But I am certain that we have had these sanctions in place for over 5 decades. I am certain that five decades of sanctions have made no Cuban freer, no nation more prosperous, and no government more democratic. I am certain that one side has gotten its chance and its way. I am certain that the status quo must now change.

Here is how I propose to change our status quo with Cuba. My bill, which 15 other Democratic and Republic Senators have joined, would help U.S. farmers and ranchers sell their products to Cuba by facilitating cash payment for agricultural goods, authorizing direct transfers between U.S. and Cuban banks, and creating a U.S. agricultural export promotion fund. This bill also eases restrictions on exports of medicines and medical devices. It allows all Americans to travel to Cuba—not just one particular group.

John Stuart Mill wrote that ''Commerce first taught nations to see with goodwill the wealth and prosperity of one another. Before, the patriot . . . wished all countries weak, poor, and ill-governed but his own . . .'' For too long, America has stood atop our barricade of sanctions and looked down upon a weak, poor, and ill-governed Cuba. Let us now open our commerce with Cuba. Let us wish them wealth, prosperity, and an abundance of all that we value and hold dear in America.

By Mr. WYDEN (for himself and Ms. CANTWELL):

S. 1090. A bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise to discuss the subject of U.S. energy policy and to introduce a series of bills to address this issue, S. 1090–S. 1098.

Americans consume too much oil, and they pay too high a price for it. National security pays a price. The environment pays a price and the economy clearly pays a price. It's clear that Americans can no longer afford the energy policy of the status quo.

Last summer, when crude oil prices approached $150 dollars a barrel, Americans were sending roughly $1.7 billion dollars a day to foreign countries to pay to cover their addiction to oil. That's $1.7 billion a day that was not invested here at home. Rather it went into the pockets of oil producers in foreign countries—and often to countries that oppose America's interests and undermine American security. A third of the oil Americans use comes from the OPEC oil cartel—a cartel that includes governments who are either openly hostile to the United States or who provide a haven and support to those who are. American dependence on their oil is a recipe for disaster.

Oil prices have retreated, but America's addiction to oil has not let up. The Nation's transportation system is almost entirely fueled by it. When the price of oil goes up, transportation costs go up, which means shipping costs and the cost of everything that has to be shipped goes up right along with it.

On top of all the other faults oil brings with it, burning fossil fuels is bad for our health and the health of our planet. Burning fossil fuels produces 86 percent of the man-made greenhouse gases released into the environment every year in the U.S. Motor fuels have become cleaner over the years, but they still heat up the environment with greenhouse gases, just like burning coal at electric generation plants. Continuing to rely on energy sources that do harm to the air, land and water is a failed policy and bad for America's future.

Spelling out the problem, however, is the easy part. There is no silver bullet when it comes to remaking the way the entire nation consumes energy and encouraging the development of viable alternatives. No one person, organization or piece of legislation can do it alone.

If America is going to get on the path to real energy independence, Americans not only have to build that path, every American is going to have to commit to changing course in the way they use energy. While I believe that Government cannot simply legislate such transformative change, it is my view that government can provide the incentives and framework needed to empower Americans to rise to the challenge.

While I cannot tell you where the next advancement in green energy will

come from, I know that given the right tools and incentives there is no limit to what American ingenuity can achieve. This is why today I am offering a series of proposals to speed up our progress toward a cleaner energy future. My proposals address the spectrum of solutions needed to get there. They start with harnessing the intellectual power of our colleges and universities to invent new energy technologies. They create new incentives for businesses to turn those technologies into new energy products. They give consumers incentives to buy and install those new energy technologies in their homes and businesses.

If America is going to cut back in its use of oil, then it needs to take a hard look at the single largest user of oil, the transportation sector. Today, I am proposing a three-pronged program to dramatically reduce the amount of oil Americans use every day to get to work, do their errands, and transport American products to market.

First, I propose to dramatically revise the Renewable Fuel Standard that now requires gasoline and diesel fuel providers to blend larger and larger amounts of ethanol and other biofuels into motor fuel. I strongly support the continued development of biofuels, especially those that do not require the use of food grains like corn and oils used to make them. But as we have seen in recent years, you cannot divert large amounts of food grains and oils without impacting the supply and price of those commodities. Last year, nearly a third of the U.S. corn crop was used for ethanol production, leading to more expensive food for families at a time when they can least afford it. That does not make sense to me.

The current standard also does not do enough to genuinely reduce the amount of oil being consumed. In part this is because fuels like ethanol simply do not contain as much energy per gallon as the gasoline it is intended to replace. The existing standard is aimed at replacing less than 15 percent of U.S. gasoline and diesel fuel with renewable fuels. I think we can do better, which is why my proposal aims to replace a third of those fuels with new low-carbon fuels. Right now a third of the United States gasoline is imported from OPEC countries. Let us aim to get this country off OPEC oil once and for all.

I want to make it clear that I am not proposing these changes because I am opposed to using renewable fuels. I have already introduced legislation—S. 536—to allow biomass from Federal lands to be used in the production of biofuels. Under the existing Renewable Fuel Standard, biomass from Federal lands is prohibited from being used as a renewable fuel. This makes no sense from either an energy perspective or an environmental perspective. Allowing for the use of fuel derived from biomass from Federal lands will reduce the threat of catastrophic wild fires, help make those forests healthier, and open up a variety of economic opportunities for hard hit rural communities. It is also a step towards a sound national energy policy.

However, if the U.S. is going to have a Renewable Fuel Standard for motor fuels, then it really ought to be a standard open to all renewable fuels, not just a chosen few. This is why my legislation would allow a range of energy sources to qualify as motor ''fuels'' including electricity for plug-in cars, methane to fuel compressed natural gas vehicles, and hydrogen for fuel cells. Initially, these low-carbon fuels could come from conventional sources, such as electricity from the electric grid, but eventually they would need to come from renewable energy sources.

Singling out ethanol as the only additive approved for motor fuel only creates a market for ethanol, which in turn discourages research and investment in other promising fuels. Creating a technology neutral ''low-carbon'' standard to replace traditional fossil fuels with alternative lower-carbon domestic fuels opens the door for a whole host of advancements and innovations yet unknown.

In addition to supplying new, cleaner, renewable transportation fuels, I will also be introducing legislation to authorize the U.S. Department of Transportation to designate ''Energy Smart Transportation Corridors'' so that these fuels will be readily available for consumers. By working with trucking companies, fuel providers, and State and local officials, the Transportation Department would establish which alternative fuels would be available and where they could be purchased. They would standardize other features such as weight limit standards geared towards reducing fossil fuel use and the release of greenhouse gases. The corridors would also include designation of other methods of freight and passenger transportation, such as rail or mass transit—to help reduce transportation fuel use.

Beyond empowering Americans to make more energy efficient choices, my legislation would make sure that energy efficient choices are within the reach of more Americans. Because I believe that energy efficient vehicles should not just be a luxury item for affluent Americans, I will be reintroducing legislation to provide tax credits to Americans who purchase fuel efficient vehicles. Vehicles getting at least 10 percent more than national average fuel efficiency would get a $900 tax credit. The credit would increase up to $2,500 as vehicle fuel efficiency increased. The bill also provides a tax credit for heavy truck owners to install fuel saving equipment. And it would increase both the gas guzzler tax and the civil penalty for vehicle manufacturers who miss their legally-required Corporate Average Fuel Economy, CAFE, requirements. The technology-neutral tax credit is designed to get more fuel-efficient vehicles on the road by making fuel-efficient vehicles an affordable choice for more Americans.

But reducing oil use by the transportation sector alone is not enough. Some forty percent of energy use in the U.S. is consumed in buildings. So I am introducing legislation to empower American families—as well as small and mid-sized businesses—to save energy and install clean energy equipment. The ''Re-Energize America Loan Program'' will create a $10 billion revolving loan program to allow home and property owners and small and mid-sized businesses, schools, hospitals and others to make clean energy investments. This zero-interest loan program would be administered at the State level, not by bureaucrats in Washington, DC, so it will be tailored to regional needs. It would be financed through the transfer of Federal energy royalties paid on the production of coal, gas and oil, and renewable energy from Federal land. It would empower Americans and businesses to help themselves and help their country start laying the groundwork for an entirely different energy future.

States like Oregon have enormous potential for development of renewable energy—solar, wind, geothermal, biomass, wave and tidal. The challenge is to find new ways to harness these energies. Renewable energy is also not just about fuel that goes into cars or electricity for homes or buildings. Renewable energy can also be used to heat homes and buildings, and power factories and businesses. So I am introducing legislation to provide tax credits for the production of energy from renewable sources, such as steam from geothermal wells, or biogas from feedlots or dairy farms that is sold directly to commercial and industrial customers. A separate credit would be available if this renewable energy is used right on site to heat a building or provide energy for the dairy.

The goal of this bill is to foster the development of new renewable energy technologies while expanding the market for renewable energy beyond the wind farms and electric generation plants already in place. The amount of the tax credit will no longer be tied to the way energy is produced but rather the amount of energy produced. This will help new energy technologies get in the game, and reward solutions that create the most energy. I am also introducing legislation to end the current tax penalty on biomass, hydroelectric, wave and tidal energies and other forms of renewable energy that are only eligible for half of the available Federal production tax credit. America needs all of these resources if it is going to move into a new energy future. My goal is to create a level playing field and give all of these technologies the full tax benefit in order to stimulate investment and get more renewable energy projects built.

One big advantage of renewable energy is that some form of it can be found on every corner, and in every

corner of the country. Whether it's a solar panel on a home or store—or geothermal power plant—there is renewable energy potential virtually everywhere. One set of technologies that can make renewable energy even more available are energy storage technologies. These are solutions that can store solar energy during the day for use at night, or store wind energy when the wind blows, to be used when it does not.

Simply put, not enough attention has been paid to the use of energy storage technologies, which can also address daily and seasonal peaks in energy demand such as all of those air conditioners that Americans will soon be putting to good use during the summer's hottest days. Federal funding for energy storage technologies has been virtually nonexistent. So I am introducing legislation to create an investment tax credit that will help pay for the installation of energy storage equipment both by energy companies who connect it to the electric transmission and distribution system and for on-site use in buildings, homes, and factories. Any number of different types of storage technology can qualify—batteries, flywheels, pumped water storage, to name a few. The credit would be based on the energy stored, not on the technology used.

The goal throughout the bills I am introducing today is not to pick winners and losers. The goal is to encourage innovation and installation.

Last but not least, America not only needs new solutions to our energy problems. It needs a skilled workforce to make them a reality. So, I am also proposing an ''Energy Grant'' Higher Education program to provide $300 million a year to America's colleges and universities to work on regional energy problems. This program is modeled on the highly successful SeaGrant research and education program that has been run by the U.S. Department of Commerce for more than 30 years and the SunGrant program established to research biofuels. The EnergyGrant program would fund groups of colleges and universities to do research and develop education programs aimed at unique opportunities and challenges in each region of the country. Why rely solely on the Federal Government research programs to come up with solutions for regional energy issues when labs and research departments at colleges and universities around the country can contribute to the effort?

The Senate Energy Committee has already adopted legislation I have proposed to create a $100 million a year, community college-based training program for skilled technicians to build, install and maintain the new American energy infrastructure of wind turbines, geothermal energy plants, fuel cells, and other 21st Century technologies. Without these skilled workers, this future will not happen and without effective training programs there won't be skilled workers to fill the jobs. I am also introducing this proposal as a stand-alone bill to help ensure that job training gets the attention that it needs. What good will ''green jobs'' do for Americans if Americans don't have the skills that these jobs will demand?

My goal in formulating this agenda has been to mobilize Americans and American resources to achieve authentic energy independence and a new energy future. To really accomplish this goal, I believe we must employ every tool at our disposal. But in the end the success or failure of any effort to transform the way Americans use energy will ultimately rest with the American people. There is no question that this will not be easy, but I have faith that the energy challenges facing the nation today are no match for the collective ingenuity, talent and energy of the American people. Let us put those resources to work.

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

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

S. 1090

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 ''Renewable Energy Parity and Investment Remedy Act'' or ''REPAIR Act''.

SEC. 2. TAX CREDIT PARITY FOR ELECTRICITY PRODUCED FROM RENEWABLE RESOURCES.

Subparagraph (A) of section 45(b)(4) of the Internal Revenue Code of 1986 is amended by inserting ''and before 2010'' after ''any calendar year after 2003''.

S. 1091

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 ''Storage Technology of Renewable and Green Energy Act of 2009'' or the ''STORAGE Act of 2009''.

SEC. 2. ENERGY INVESTMENT CREDIT FOR ENERGY STORAGE PROPERTY CONNECTED TO THE GRID.

(a) 20 PERCENT CREDIT ALLOWED.—Subparagraph (A) of section 48(a)(2) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of subclause (IV) of clause (i),

(2) by striking ''clause (i)'' in clause (ii) and inserting ''clause (i) or (ii)'',

(3) by redesignating clause (ii) as clause (iii), and

(4) by inserting after clause (i) the following new clause:

''(ii) 20 percent in the case of qualified energy storage property, and''.

(b) QUALIFIED ENERGY STORAGE PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) QUALIFIED ENERGY STORAGE PROPERTY.—

''(A) IN GENERAL.—The term 'qualified energy storage property' means property—

''(i) which is directly connected to the electrical grid, and

''(ii) which is designed to receive electrical energy, to store such energy, and to convert such energy to electricity and deliver such electricity for sale.

Such term may include hydroelectric pumped storage and compressed air energy storage, regenerative fuel cells, batteries, superconducting magnetic energy storage, flywheels, thermal, and hydrogen storage, or combination thereof.

''(B) MINIMUM CAPACITY.—The term 'qualified energy storage property' shall not include any property unless such property in aggregate—

''(i) has the ability to store at least 2 megawatt hours of energy, and

''(ii) has the ability to have an output of 500 kilowatts of electricity for a period of 4 hours.

''(C) ELECTRICAL GRID.—The term 'electrical grid' means the system of generators, transmission lines, and distribution facilities which—

''(i) are under the jurisdiction of the Federal Energy Regulatory Commission or State public utility commissions, or

''(ii) are owned by—

''(I) a State or any political subdivision of a State,

''(II) an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year, or

''(III) any agency, authority, or instrumentality of any one or more of the entities described in subclause (I) or (II), or any corporation which is wholly owned, directly or indirectly, by any one or more of such entities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 3. ENERGY STORAGE PROPERTY CONNECTED TO THE GRID ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 54C(d) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a facility which is—

''(A)(i) a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date), or

''(ii) a qualified energy storage property (as defined in section 48(c)(5)), and

''(B) owned by a public power provider, a governmental body, or a cooperative electric company.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 4. ENERGY INVESTMENT CREDIT FOR ONSITE ENERGY STORAGE.

(a) CREDIT ALLOWED.—Clause (i) of section 48(a)(2)(A) of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking ''and'' at the end of subclause (III),

(2) by inserting ''and'' at the end of subclause (IV), and

(3) by adding at the end the following new subclause:

''(V) qualified onsite energy storage property,''.

(b) QUALIFIED ONSITE ENERGY STORAGE PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

''(6) QUALIFIED ONSITE ENERGY STORAGE PROPERTY.—

''(A) IN GENERAL.—The term 'qualified onsite energy storage property' means property which—

''(i) provides supplemental energy to reduce peak energy requirements primarily on the same site where the storage is located, or

''(ii) is designed and used primarily to receive and store intermittent renewable energy generated onsite and to deliver such energy primarily for onsite consumption.

Such term may include property used to charge plug-in and hybrid electric vehicles if such vehicles are equipped with smart grid services which control time-of-day charging and discharging of such vehicles. Such term shall not include any property for which any other credit is allowed under this chapter.

''(B) MINIMUM CAPACITY.—The term 'qualified onsite energy storage property' shall not include any property unless such property in aggregate—

''(i) has the ability to store the energy equivalent of at least 20 kilowatt hours of energy, and

''(ii) has the ability to have an output of the energy equivalent of 5 kilowatts of electricity for a period of 4 hours.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 5. CREDIT FOR RESIDENTIAL ENERGY STORAGE EQUIPMENT.

(a) CREDIT ALLOWED.—Subsection (a) of section 25C of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

''(2) 30 percent of the amount paid or incurred by the taxpayer for qualified residential energy storage equipment installed during such taxable year, and''.

(b) QUALIFIED RESIDENTIAL ENERGY STORAGE EQUIPMENT.—

(1) IN GENERAL.—Section 25C of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively, and

(B) by inserting after subsection (d) the following new subsection:

''(d) QUALIFIED RESIDENTIAL ENERGY STORAGE EQUIPMENT.—For purposes of this section, the term 'qualified residential energy storage equipment' means property—

''(1) which is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121), or on property owned by the taxpayer on which such a dwelling unit is located, and

''(2) which—

''(A) provides supplemental energy to reduce peak energy requirements primarily on the same site where the storage is located, or

''(B) is designed and used primarily to receive and store intermittent renewable energy generated onsite and to deliver such energy primarily for onsite consumption.

Such term may include property used to charge plug-in and hybrid electric vehicles if such vehicles are equipped with smart grid services which control time-of-day charging and discharging of such vehicles. Such term shall not include any property for which any other credit is allowed under this chapter.''.

(2) CONFORMING AMENDMENT.—Section 1016(a)(33) of such Code is amended by striking ''section 25C(f)'' and inserting ''section 25C(g)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

S. 1092

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 ''Reenergize America Loan Program Act of 2009''.

SEC. 2. REENERGIZE AMERICA LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term ''Fund'' means the Reenergize America Loan Program Fund established by subsection (g).

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PROGRAM.—The term ''Program'' means the Green America Loan Program established by subsection (b).

(4) QUALIFIED PERSON.—The term ''qualified person'' means an individual or entity that is determined to be capable of meeting all terms and conditions of a loan provided under this section based on the criteria and procedures approved by the Secretary in a plan submitted under subsection (d).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(6) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) any other territory or possession of the United States; and

(E) an Indian tribe.

(b) ESTABLISHMENT.—There is established within the Department of Energy a revolving loan program to be known as the ''Reenergize America Loan Program''.

(c) ALLOCATIONS TO STATES.—

(1) IN GENERAL.—In carrying out the Program, the Secretary shall allocate funds to States for use in providing zero-interest loans to qualified persons to carry out residential, commercial, industrial, and transportation energy efficiency and renewable generation projects contained in State energy conservation plans submitted and approved under sections 362 and 363 of the Energy Policy and Conservation Act (42 U.S.C. 6322, 6323), respectively.

(2) ADMINISTRATIVE EXPENSES.—A State that receives an allocation of funds under this subsection may impose on each qualified person that receives a loan from the allocated funds of the State administrative fees to cover the costs incurred by the State in administering the loan.

(3) REPAYMENT AND RETURN OF PRINCIPAL.—Return of principal from loans provided by a State may be retained by the State for the purpose of making additional loans pursuant to—

(A) a plan approved by the Secretary under subsection (d); and

(B) such terms and conditions as the Secretary considers appropriate to ensure the financial integrity of the Program.

(d) APPLICATION.—A State that seeks to receive an allocation under this section shall—

(1) submit to the Secretary for review and approval a 5-year plan for the administration and distribution by the State of funds from the allocation, including a description of criteria that the State will use to determine the qualifications of potential borrowers for loans made from the allocated funds;

(2) agree to submit to annual audits with respect to any allocated funds received and distributed by the State; and

(3) reapply for a subsequent allocation at the end of the 5-year period covered by the plan.

(e) ALLOCATION.—In approving plans submitted by the States under subsection (d) and allocating funds among States under this section, the Secretary shall consider—

(1) the likely energy savings and renewable energy potential of the plans,;

(2) regional energy needs; and

(3) the equitable distribution of funds among regions of the United States.

(f) MAXIMUM AMOUNT; TERM.—A loan provided by a State using funds allocated under this section shall be—

(1) in an amount not to exceed $5,000,000; and

(2) for a term of not to exceed 4 years.

(g) REENERGIZE AMERICA LOAN PROGRAM FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Reenergize America Loan Program Fund'', consisting of such amounts as are transferred to the Fund under paragraph (2).

(2) TRANSFERS TO FUND.—From any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil, gas, coal, or alternative energy leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Mineral Leasing Act (30 U.S.C. 181 et seq.) that are deposited in the Treasury, and after distribution of any funds described in paragraph (3), there shall be transferred to the Fund $1,000,000,000 for each of fiscal years 2010 through 2020.

(3) PRIOR DISTRIBUTIONS.—The distributions referred to in paragraph (2) are those required by law—

(A) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(B) to other funds receiving amounts from Federal oil and gas leasing programs, including—

(i) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(ii) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5(c));

(iii) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(iv) the coastal impact assistance program established under section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a).

(4) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines to be necessary to provide allocations to States under subsection (c).

(B) ADMINISTRATIVE EXPENSES.—An amount not exceeding 5 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this subsection.

(5) TRANSFERS OF AMOUNTS.—

(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(h) FUNDING.—Notwithstanding any other provision of law, for each of fiscal years 2010 through 2020, the Secretary shall use to

carry out the Program such amounts as are available in the Fund.

S. 1093

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Oil Independence, Limiting Subsidies, and Accelerating Vehicle Efficiency Act'' or the ''OILSAVE Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. TAX CREDIT FOR FUEL-EFFICIENT MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by inserting after section 30D the following new section:

''SEC. 30E. FUEL-EFFICIENT MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount determined under paragraph (2) with respect to any new qualified fuel-efficient motor vehicle placed in service by the taxpayer during the taxable year.

''(2) CREDIT AMOUNT.—With respect to each new qualified fuel-efficient motor vehicle, the amount determined under this paragraph shall be equal to—

''(A) in the case of any vehicle manufactured in model year 2011, the applicable amount determined in accordance with the table contained in paragraph (3), and

''(B) in the case of any passenger automobile or non-passenger automobile manufactured in a model year after 2011, the lesser of—

''(i) the sum of—

''(I) $900, plus

''(II) $100 for each whole mile per gallon in excess of 110 percent of the respective industry-wide average fuel economy standard for such model year for all passenger automobiles and all non-passenger automobiles, or

''(ii) $2,500.

''(3) APPLICABLE AMOUNT.—For purposes of paragraph (2)(A), the applicable amount shall be determined as follows:

''(A) In the case of a passenger automobile which achieves:

''The fuel economy of:	The applicable amount is:
At least 33.2 but less than 34.2 ..	$900.
At least 34.2 but less than 35.2 ..	$1,000.
At least 35.2 but less than 36.2 ..	$1,100.
At least 36.2 but less than 37.2 ..	$1,200.
At least 37.2 but less than 38.2 ..	$1,300.
At least 38.2 but less than 39.2 ..	$1,400.
At least 39.2 but less than 40.2 ..	$1,500.
At least 40.2 but less than 41.2 ..	$1,600.
At least 41.2 but less than 42.2 ..	$1,700.
At least 42.2 but less than 43.2 ..	$1,800.
At least 43.2 but less than 44.2 ..	$1,900.
At least 44.2 but less than 45.2 ..	$2,000.
At least 45.2 but less than 46.2 ..	$2,100.
At least 46.2 but less than 47.2 ..	$2,200.
At least 47.2 but less than 48.2 ..	$2,300.
At least 48.2 but less than 49.2 ..	$2,400.
At least 49.2	$2,500.

''(B) In the case of a non-passenger automobile which achieves:

''The fuel economy of:	The applicable amount is:
At least 26.5 but less than 27.5 ..	$900.
At least 27.5 but less than 28.5 ..	$1,000.
At least 28.5 but less than 29.5 ..	$1,100.
At least 29.5 but less than 30.5 ..	$1,200.
At least 30.5 but less than 31.5 ..	$1,300.
At least 31.5 but less than 32.5 ..	$1,400.
At least 32.5 but less than 33.5 ..	$1,500.
At least 33.5 but less than 34.5 ..	$1,600.
At least 34.5 but less than 35.5 ..	$1,700.
At least 35.5 but less than 36.5 ..	$1,800.
At least 36.5 but less than 37.5 ..	$1,900.
At least 37.5 but less than 38.5 ..	$2,000.
At least 38.5 but less than 39.5 ..	$2,100.
At least 39.5 but less than 40.5 ..	$2,200.
At least 40.5 but less than 41.5 ..	$2,300.
At least 41.5 but less than 42.5 ..	$2,400.
At least 42.5	$2,500.

''(b) NEW QUALIFIED FUEL-EFFICIENT MOTOR VEHICLE.—For purposes of this section, the term 'new qualified fuel-efficient motor vehicle' means a passenger automobile or non-passenger automobile—

''(1) which is treated as a motor vehicle for purposes of title II of the Clean Air Act,

''(2) which—

''(A) in the case of a passenger automobile, achieves a fuel economy of not less than 110 percent of the industry-wide average fuel economy standard for the model year for all passenger automobiles, and

''(B) in the case of a non-passenger automobile, achieves a fuel economy of not less than 110 percent of the industry-wide average fuel economy standard for the model year for all non-passenger automobiles,

''(3) which has a gross vehicle weight rating of less than 14,000 pounds,

''(4) the original use of which commences with the taxpayer,

''(5) which is acquired for use or lease by the taxpayer and not for resale, and

''(6) which is made by a manufacturer during the period beginning with model year 2011 and ending with model year 2020.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23, 25D, 30, and 30D) and section 27 for the taxable year.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(2) MODEL YEAR.—The term 'model year' has the meaning given such term under section 32901(a) of such title 49.

''(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

''(4) FUEL ECONOMY; AVERAGE FUEL ECONOMY STANDARD.—The terms 'fuel economy' and 'average fuel economy standard' have the meanings given such terms under section 32901 of such title 49.

''(e) SPECIAL RULES.—

''(1) BASIS REDUCTION.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(2) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified fuel-efficient motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle.

''(3) CREDIT MAY BE TRANSFERRED.—

''(A) IN GENERAL.—A taxpayer may, in connection with the purchase of a new qualified fuel-efficient motor vehicle, transfer any credit allowable under subsection (a) to any person who is in the trade or business of selling new qualified fuel-efficient motor vehicles, but only if such person clearly discloses to such taxpayer, through the use of a window sticker attached to the new qualified fuel-efficient vehicle—

''(i) the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)), and

''(ii) a notification that the taxpayer will not be eligible for any credit under section 30, 30B, or 30D with respect to such vehicle unless the taxpayer elects not to have this section apply with respect to such vehicle.

''(B) CONSENT REQUIRED FOR REVOCATION.—Any transfer under subparagraph (A) may be revoked only with the consent of the Secretary.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not retransferred by a transferee.

''(4) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1).

''(5) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(6) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(7) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—A motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(f) TERMINATION.—This section shall not apply to property placed in service after December 31, 2020.''.

(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) BUSINESS CREDIT.—Section 38(c)(4)(B) is amended by redesignating clauses (i) through (viii) as clauses (ii) through (ix), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

''(i) the credit determined under section 30E,''.

(2) PERSONAL CREDIT.—

(A) Section 24(b)(3)(B) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30E,'' after ''30D,''.

(C) Section 25B(g)(2) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(D) Section 26(a)(1) is amended by striking '' and 30D'' and inserting ''30D, and 30E''.

(E) Section 904(i) is amended by striking ''and 30D'' and inserting ''30D, and 30E''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(a) is amended by striking ''plus'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', plus'', and by adding at the end the following new paragraph:

''(36) the portion of the new qualified fuel-efficient motor vehicle credit to which section 30E(c)(1) applies.''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting '', and'', and by adding at the end the following new paragraph:

''(38) to the extent provided in section 30E(e)(1).''.

(3) Section 6501(m) is amended by inserting ''30E(e)(6),'' after ''30D(e)(4),''.

(4) The table of section for subpart C of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30D the following new item:

''Sec. 30E. Fuel-efficient motor vehicle credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 3. CREDIT FOR FUEL SAVINGS COMPONENTS FOR CERTAIN VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45R. CREDIT FOR FUEL SAVINGS COMPONENTS FOR CERTAIN VEHICLES.

''(a) GENERAL RULE.—For purposes of section 38, the fuel savings tax credit determined under this section for the taxable year is an amount equal to the applicable percentage of the amount paid or incurred for 1 or more qualifying fuel savings components placed in service on a qualifying vehicle by the taxpayer during the taxable year.

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is equal to the sum of—

''(1) 5 percent, plus

''(2) 5 percentage points (not to exceed 45 percentage points), for each percent in excess of 2 percent by which the fuel economy achieved by the qualifying vehicle with 1 or more qualifying fuel savings components exceeds such qualifying vehicle without such component or components.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING FUEL SAVINGS COMPONENT.—The term 'qualifying fuel savings component' means any device or system of devices that—

''(A) is installed on a qualifying vehicle,

''(B) is designed to increase the fuel economy of such vehicle by at least 2 percent, the amount of such increase to be verified by the Administrator of the Environmental Protection Agency under the SmartWay Transport Partnership,

''(C) the original use of which commences with the taxpayer,

''(D) is acquired for use by the taxpayer and not for resale, and

''(E) has not been taken into account for purposes of determining the credit under this section for any preceding taxable year with respect to such qualifying vehicle.

''(2) QUALIFYING VEHICLE.—The term 'qualifying vehicle' means any vehicle subject to transportation fuels regulations under the Clean Air Act.

''(3) FUEL ECONOMY.—The term 'fuel economy' has the meaning given such term under section 32901 of such title 49.

''(d) SPECIAL RULES.—

''(1) NO DOUBLE BENEFIT.—

''(A) REDUCTION IN BASIS.—If a credit is determined under this section with respect to any property by reason of expenditures described in subsection (a), the basis of such property shall be reduced by the amount of the credit so determined.

''(B) OTHER DEDUCTIONS AND CREDITS.—The amount of any deduction or other credit allowable under this chapter for a qualifying vehicle shall be reduced by the amount of credit allowed under subsection (a) with respect to such vehicle.

''(2) CREDIT MAY BE TRANSFERRED.—

''(A) IN GENERAL.—A taxpayer may, in connection with the purchase of a qualifying fuel savings component, transfer any credit allowable under subsection (a) to any person who is in the trade or business of selling such components, but only if such person clearly discloses to such taxpayer, through the use of a sticker attached to the qualifying fuel savings component, the amount of any credit allowable under subsection (a) with respect to such component.

''(B) CONSENT REQUIRED FOR REVOCATION.—Any transfer under subparagraph (A) may be revoked only with the consent of the Secretary.

''(C) REGULATIONS.—The Secretary may prescribe such regulations as necessary to ensure that any credit described in subparagraph (A) is claimed once and not retransferred by a transferee.

''(3) ELECTION NOT TO CLAIM CREDIT.—No credit shall be allowed under subsection (a) for any component if the taxpayer elects to not have this section apply to such component.

''(e) TERMINATION.—This section shall not apply to property placed in service after December 31, 2020.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', plus'' , and by adding at the end the following new paragraph:

''(37) the fuel savings tax credit determined under section 45R(a).''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45Q the following new item:

''Sec. 45R. Credit for fuel savings components for certain vehicles and engines.''.

(2) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting '', and'', and by adding at the end the following:

''(39) in the case of a component with respect to which a credit was allowed under section 45R, to the extent provided in section 45R(d)(1)(A).''.

(3) Section 6501(m), as amended by this Act, is amended by inserting ''45R(d)(3)'' after ''45H(g)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009, in taxable years ending after such date.

SEC. 4. INCREASE IN GAS GUZZLER TAX.

(a) IN GENERAL.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

''(a) IMPOSITION OF TAX.—

''(1) IN GENERAL.—There is hereby imposed on the sale by the manufacturer of each automobile a tax equal to—

''(A) in the case of any automobile manufactured in model year 2011, the applicable tax amount determined in accordance with the table contained in paragraph (2), and

''(B) in the case of any automobile manufactured in a model year after 2011, if the fuel economy of the model type in which such automobile falls is less than 80 percent of the industry-wide average fuel economy standard for such model year for all automobiles, an amount equal to the lesser of—

''(i) an amount based on each mile per gallon reduction below such 80 percent equal to—

''(I) $1,000 for the first mile per gallon reduction, or

''(II) an aggregate amount equal to 125 percent of the previous dollar amount for each additional mile per gallon reduction, or

''(ii) $22,737.

For purposes of subparagraph (B), any fraction of a mile per gallon shall be rounded to the nearest mile per gallon and any fraction of a dollar shall be rounded to the nearest dollar.

''(2) APPLICABLE TAX AMOUNT.—For purposes of paragraph (1)(A), the applicable tax amount shall be determined as follows:

''If the fuel economy of the model type in which the automobile falls is:	The applicable tax amount is:
At least 24.2	$0.
At least 23.2 but less than 24.2 ..	$1,000.
At least 22.2 but less than 23.2 ..	$1,250.
At least 21.2 but less than 22.2 ..	$1,563.
At least 20.2 but less than 21.2 ..	$1,953.
At least 19.2 but less than 20.2 ..	$2,441.
At least 18.2 but less than 19.2 ..	$3,052.
At least 17.2 but less than 18.2 ..	$3,815.
At least 16.2 but less than 17.2 ..	$4,768.
At least 15.2 but less than 16.2 ..	$5,960.
At least 14.2 but less than 15.2 ..	$7,451.
At least 13.2 but less than 14.2 ..	$9,313.
At least 12.2 but less than 13.2 ..	$11,642.
At least 11.2 but less than 12.2 ..	$14,552.
At least 10.2 but less than 11.2 ..	$18,190.
Less than 10.2	$22,737.''.

(b) DEFINITION.—Section 4064(b) (relating to definitions) is amended by adding at the end the following new paragraph:

''(8) AVERAGE FUEL ECONOMY STANDARD.—The term 'average fuel economy standard' has the meaning given such term under section 32901 of title 49, United States Code.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 2009.

SEC. 5. INCREASE IN MANUFACTURER CAFE PENALTIES.

(a) IN GENERAL.—Section 32912 of title 49, United States Code, is amended—

(1) by striking ''$5'' in subsection (b) and inserting ''$50'', and

(2) by striking ''$10'' in subsection (c)(1)(B) and inserting ''$100''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to model years beginning after the date of the enactment of this Act.

SEC. 6. DEPLOYMENT OF LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGIES.

Section 756 of the Energy Policy Act of 2005 (42 U.S.C. 16104) is amended—

(1) by striking the section heading and all that follows through the end of subsection (b) and inserting the following:

''SEC. 756. DEPLOYMENT OF LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGIES.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term 'advanced truck stop electrification system' means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with, or for delivery, of those services.

''(3) AUXILIARY POWER UNIT.—The term 'auxiliary power unit' means an integrated system that—

''(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

''(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

''(4) HEAVY-DUTY VEHICLE.—The term 'heavy-duty vehicle' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds.

''(5) IDLE REDUCTION TECHNOLOGY.—The term 'idle reduction technology' means an advanced truck stop electrification system, auxiliary power unit, or other technology that—

''(A) is used to reduce idling; and

''(B) allows for the main drive engine or auxiliary refrigeration engine to be shut down.

''(6) LONG-DURATION IDLING.—

''(A) IN GENERAL.—The term 'long-duration idling' means the operation of a main drive engine or auxiliary refrigeration engine, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

''(B) EXCLUSIONS.—The term 'long-duration idling' does not include the operation of a main drive engine or auxiliary refrigeration engine during a routine stoppage associated with traffic movement or congestion.

''(7) LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGY.—The term 'low-greenhouse gas and fuel-saving technology' means any device, system of devices, strategies, or equipment that—

''(A) reduces greenhouse gas emissions; or

''(B) improves fuel efficiency.

''(b) LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGY DEPLOYMENT PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of the OILSAVE Act, the Administrator, in consultation with the Secretary of Energy, shall implement, through the SmartWay Transport Partnership of the Environmental Protection Agency, a program to support deployment of low-greenhouse gas and fuel-saving technologies.

''(B) PRIORITY.—The Administrator shall give priority to the deployment of low-greenhouse gas and fuel-saving technologies that meet SmartWay performance thresholds developed under paragraph (2)(B).

''(2) TECHNOLOGY DESIGNATION AND DEPLOYMENT.—The Administrator shall—

''(A) develop measurement protocols to evaluate the fuel consumption and greenhouse gas performance of transportation technologies, including technologies for passenger transport and goods movement;

''(B) develop SmartWay performance thresholds that can be used to certify, verify, or designate low-greenhouse gas and fuel-saving technologies that provide superior environmental performance for each mode of passenger transportation and goods movement; and

''(C)(i) publish a list of low-greenhouse gas and fuel-saving technologies;

''(ii) identify the greenhouse gas and fuel efficiency performance of each technology; and

''(iii) identify those technologies that meet the SmartWay performance thresholds developed under subparagraph (B).

''(3) PROMOTION AND DEPLOYMENT OF TECHNOLOGIES.—The Administrator shall—

''(A) implement partnership and recognition programs to promote best practices and drive demand for fuel-efficient, low-greenhouse gas transportation performance;

''(B) promote the availability of and encourage the adoption of technologies that meet the SmartWay performance thresholds developed under paragraph (2)(B);

''(C) publicize the availability of financial incentives (such as Federal tax incentives, grants, and low-cost loans) for the deployment of low-greenhouse gas and fuel-saving technologies; and

''(D) deploy low-greenhouse gas and fuel-saving technologies through grant and loan programs.

''(4) STAKEHOLDER CONSULTATION.—

''(A) IN GENERAL.—The Administrator shall solicit the comments of interested parties prior to establishing a new or revising an existing SmartWay technology category, measurement protocol, or performance threshold.

''(B) NOTICE.—On adoption of a new or revised technology category, measurement protocol, or performance threshold, the Administrator shall publish a notice and explanation of any changes and, if appropriate, responses to comments submitted by interested parties.

''(5) FREIGHT PARTNERSHIP.—

''(A) IN GENERAL.—The Administrator shall implement, through the SmartWay Transport Partnership, a program with shippers and carriers of goods to promote fuel-efficient, low-greenhouse gas transportation.

''(B) ADMINISTRATION.—The Administrator shall—

''(i) verify the greenhouse gas performance and fuel efficiency of participating freight carriers, including carriers involved in rail, trucking, marine, and other goods movement operations;

''(ii) publish a comprehensive greenhouse gas and fuel efficiency performance index of freight modes (including rail, trucking, marine, and other modes of transporting goods) and individual freight companies so that shippers can choose to deliver the goods of the shippers most efficiently with minimum greenhouse gas emissions;

''(iii) develop tools for—

''(I) freight carriers to calculate and improve the fuel efficiency and greenhouse gas performance of the carriers; and

''(II) shippers—

''(aa) to calculate the fuel and greenhouse gas impacts of moving the products of the shippers; and

''(bb) to evaluate the relative impacts from transporting the goods of the shippers by different modes and carriers; and

''(iv) recognize participating shipper and carrier companies that demonstrate advanced practices and achieve superior levels of fuel efficiency and greenhouse gas performance.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $19,500,000 for each of fiscal years 2010 through 2020.''; and

(2) by striking subsection (d) and inserting the following:

''(d) IMPROVING FREIGHT GREENHOUSE GAS PERFORMANCE DATABASES.—The Secretary of Commerce, in consultation with the Administrator, shall—

''(1)(A) define and collect data on the physical and operational characteristics of the truck fleet of the United States, with special emphasis on data relating to fuel efficiency and greenhouse gas performance to provide data for the performance index published under subsection (b)(5)(B)(ii); and

''(B) publish the data described in subparagraph (A) through the Vehicle Inventory and Use Survey as soon as practicable after the date of enactment of the OILSAVE Act, and at least every 5 years thereafter, as part of the economic census required under title 13, United States Code; and

''(2) define, collect, and publish data for other modes of goods transport (including rail and marine), as necessary.

''(e) REPORT.—Not later than 18 months after the date on which funds are initially awarded under this section and on a biennial basis thereafter, the Administrator shall submit to Congress a report containing a description of—

''(1) actions taken to implement the low-greenhouse gas and fuel-saving technology deployment program established under subsection (b), including—

''(A) the measurement protocols;

''(B) the SmartWay performance thresholds; and

''(C) a list of low-greenhouse gas and fuel-saving technologies; and

''(2) estimated greenhouse gas emissions and fuel savings from the program.''.

S. 1094

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 ''Renewable Energy Alternative Production Act'' or the ''REAP Act''.

SEC. 2. CREDIT FOR PRODUCTION OF RENEWABLE ENERGY.

(a) IN GENERAL.—Section 45 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(f) CREDIT ALLOWED FOR PRODUCTION OF NON-ELECTRIC ENERGY.—

''(1) IN GENERAL.—The credit allowed under subsection (a) shall be increased by an amount equal to the product of—

''(A) the dollar amount determined under paragraph (2), and

''(B) each million British thermal units (mmBtu) of qualified fuel which is—

''(i) produced by the taxpayer—

''(I) from qualified energy resources, and

''(II) at any facility during the 10-year period beginning on the date such facility was placed in service,

''(ii) not used for the production of electricity, and

''(iii) sold by the taxpayer to an unrelated person during the taxable year.

''(2) DOLLAR AMOUNT.—The dollar amount determined under this paragraph shall be the amount determined by the Secretary to be the equivalent, expressed in British thermal units, of the credit allowed under subsection (a) for 1 kilowatt hour of electricity.

''(3) REDUCTION FOR GRANTS, TAX EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—Rules similar to the rules of subsection (b)(3) shall apply for purposes of paragraph (1).

''(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) QUALIFIED FUEL.—The term 'qualified fuel' means an energy product which is produced, extracted, converted, or synthesized from a qualified energy resource through a

controlled process, including pyrolysis, electrolysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured cellulosic fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

''(B) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVES.—Rules similar to the rules of subsection (e)(11) shall apply for purposes of paragraph (1).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 45 of the Internal Revenue Code of 1986 is amended by striking ''**ELECTRICITY**'' and inserting ''**ENERGY**''.

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by striking ''Electricity'' in the item relating to section 45 and inserting ''Energy''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. ENERGY CREDIT FOR ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION FACILITIES.

(a) CREDIT ALLOWED.—Clause (i) of section 48(a)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''and'' at the end of subclause (III), and

(2) by adding at the end the following new subclause:

''(V) qualified onsite renewable non-electric energy production property,''.

(b) QUALIFIED ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) QUALIFIED ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION PROPERTY.—

''(A) IN GENERAL.—The term 'qualified onsite renewable non-electric energy production property' means property which produces qualified fuel—

''(i) from qualified energy resources,

''(ii) not used for the production of electricity, and

''(iii) used primarily on the same site where the production is located to replace an equivalent amount of non-renewable fuel (determined based on the number of British thermal units of non-renewable fuel consumed by the taxpayer in the prior taxable year) or to provide energy primarily on such site for a use that did not exist prior to the later of the date of the enactment of this paragraph or the date such property was placed in service.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) QUALIFIED FUEL.—The term 'qualified fuel' means an energy product which is produced, extracted, converted, or synthesized from a qualified energy resource through a controlled process, including pyrolysis, electrolysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured cellulosic fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

''(ii) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' has the meaning given such term by paragraph (1) of section 45(c).

''(iii) TERMINATION.—The term 'qualified onsite renewable non-electric energy production property' shall not include any property for any period after the date which is 10 years after the date of the enactment of the Renewable Energy Alternative Production Act.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 4. RENEWABLE NON-ELECTRIC ENERGY PRODUCTION FACILITIES ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 54C(d) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a facility which is—

''(A)(i) a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date), or

''(ii) a facility which produces qualified fuel (as defined in section 45(f)(4)(A)) which is derived from qualified energy resources (within the meaning of section 45(f)(4)(B)) and not used for the production of electricity, and

''(B) owned by a public power provider, a governmental body, or a cooperative electric company.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

S. 1095

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 ''America's Low-Carbon Fuel Standard Act of 2009''.

SEC. 2. LOW-CARBON FUEL PROGRAM.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by striking subsection (o) and inserting the following:

''(o) LOW-CARBON FUEL PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) BASELINE LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term 'baseline lifecycle greenhouse gas emissions' means the average lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, for transportation fuel sold or distributed as transportation fuel in 2005.

''(B) LIFECYCLE GREENHOUSE GAS EMISSIONS.—The term 'lifecycle greenhouse gas emissions' means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant emissions from land use changes), as determined by the Administrator, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

''(C) LOW-CARBON FUEL.—The term 'low-carbon fuel' means transportation fuel (including renewable fuel, electricity, hydrogen, and other forms of energy) that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that on annual average basis are equal to at least the following percentage less than baseline lifecycle greenhouse gas emissions determined in accordance with the following table:

''Calendar year:	**Applicable percentage less than baseline lifecycle greenhouse gas emissions:**
2015	20.0
2016	21.5
2017	23.0
2018	24.5
2019	26.0
2020	27.5
2021	29.0
2022	30.5
2023	32.0
2024	33.5
2025	35.0
2026	36.5
2027	38.0
2028	39.5
2029	41.0
2030	42.5
2031 and thereafter	Percentage determined under paragraph (2)(B)(ii).

''(D) RENEWABLE BIOMASS.—The term 'renewable biomass' means each of the following:

''(i) Planted crops and crop residue harvested from agricultural land cleared or cultivated at any time prior to December 19, 2007, that is either actively managed or fallow, and nonforested.

''(ii) Planted trees, bioenergy crops, and tree residue from actively managed tree plantations on non-Federal land cleared at any time prior to December 19, 2007, including land belonging to an Indian tribe or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States.

''(iii) Slash, brush, and those trees that are byproducts of ecological restoration, disease or insect infestation control, or hazardous fuels reduction treatments and do not exceed the minimum size standards for sawtimber, harvested—

''(I) in ecologically sustainable quantities, as determined by the appropriate Federal land manager; and

''(II) from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), other than—

''(aa) components of the National Wilderness Preservation System;

''(bb) wilderness study areas;

''(cc) inventoried roadless areas;

''(dd) old growth or late successional forest stands unless biomass from the stand is harvested as a byproduct of an ecological restoration treatment that fully maintains, or contributes toward the restoration of, the structure and composition of an old growth forest stand taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining large trees contributing to old-growth structure;

''(ee) components of the National Landscape Conservation System; and

''(ff) National Monuments.

''(iv) Animal waste material and animal byproducts.

''(v) Slash and pre-commercial thinnings that are from non-Federal forestland, including forestland belonging to an Indian tribe or an Indian individual, that are held in trust by the United States or subject to a restriction against alienation imposed by the United States, but not forests or forestland that are ecological communities with a global or State ranking of critically imperiled, imperiled, or rare pursuant to a State Natural Heritage Program, old growth forest, or late successional forest.

''(vi) Biomass from land in any ownership obtained from the immediate vicinity of

buildings and other areas regularly occupied by people, or of public infrastructure, at risk from wildfire.

''(vii) Algae.

''(viii) Municipal solid waste, including separated yard waste or food waste, including recycled cooking and trap grease.

''(E) RENEWABLE FUEL.—The term 'renewable fuel' means fuel that is—

''(i) produced from renewable biomass; and

''(ii) used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

''(F) TRANSPORTATION FUEL.—The term 'transportation fuel' means fuel for use in motor vehicles, motor vehicle engines, or nonroad vehicles (except for ocean-going vessels).

''(2) PROGRAM.—

''(A) REGULATIONS.—

''(i) IN GENERAL.—Not later than January 31, 2015, the Administrator shall promulgate regulations to ensure that the applicable percentage determined under subparagraph (B) of the transportation fuel sold or introduced into commerce in the United States, on an annual average basis, is low-carbon fuel.

''(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

''(I) shall contain compliance provisions applicable to producers, refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

''(II) shall not—

''(aa) restrict geographic areas in which low-carbon fuel may be used; or

''(bb) impose any per-gallon obligation for the use of low-carbon fuel.

''(B) APPLICABLE VOLUMES.—

''(i) CALENDAR YEARS 2015 THROUGH 2030.—For the purpose of subparagraph (A), the applicable percentage of the transportation fuel sold or introduced into commerce in the United States, on an annual average basis, that is low-carbon fuel for each of calendar years 2015 through 2030 shall be determined by the Administrator, in consultation with the Secretary of Energy, in accordance with the following table:

''Calendar year:	**Applicable percentage of transportation fuel sold that is low-carbon fuel:**
2015	10.0
2016	11.5
2017	13.0
2018	14.5
2019	16.0
2020	17.5
2021	19.0
2022	20.5
2023	22.0
2024	23.5
2025	25.0
2026	26.5
2027	28.0
2028	29.5
2029	31.0
2030	32.5.

''(ii) SUBSEQUENT CALENDAR YEARS.—

''(I) IN GENERAL.—For the purposes of subparagraph (A), the applicable percentage of the transportation fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, that is low-carbon fuel for calendar year 2031 and each subsequent calendar year shall be determined by the Administrator, in consultation with the Secretary of Energy, based on a review of the implementation of the program during calendar years specified in the tables established under this subsection, and an analysis of—

''(aa) the impact of the production and use of low-carbon fuel on the environment, including on air quality, climate change, conversion of wetland, ecosystems, wildlife habitat, water quality, and water supply;

''(bb) the impact of low-carbon fuel on the energy security of the United States;

''(cc) the expected annual rate of future commercial production of low-carbon fuel;

''(dd) the impact of low-carbon fuel on the infrastructure of the United States, including deliverability of materials, goods, and products other than low-carbon fuel, and the sufficiency of infrastructure to deliver and use low-carbon fuel;

''(ee) the impact of the use of low-carbon fuel on the cost to consumers of transportation fuel and on the cost to transport goods; and

''(ff) the impact of the use of low-carbon fuel on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices.

''(II) DEADLINE.—The Administrator shall promulgate rules establishing the applicable volumes under this clause not later than 14 months before the first year for which the applicable percentage will apply.

''(3) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2021, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate, with respect to the following calendar year, of the volumes of transportation fuel and low-carbon fuel projected to be sold or introduced into commerce in the United States.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2029, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the low-carbon fuel obligation that ensures that the requirements of paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The low-carbon fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refineries, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of transportation fuel sold or introduced into commerce in the United States; and

''(III) subject to subparagraph (C), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I).

''(4) MODIFICATION OF GREENHOUSE GAS REDUCTION PERCENTAGES.—

''(A) IN GENERAL.—In the regulations promulgated under paragraph (2)(A)(i), the Administrator may adjust the required percentage reductions in lifecycle greenhouse gas emissions for low-carbon fuel to a lower percentage if the Administrator determines that generally the reduction is not commercially feasible for low-carbon fuel made using a variety of feedstocks, technologies, and processes to meet the applicable reduction.

''(B) AMOUNT OF ADJUSTMENT.—In promulgating regulations under this paragraph, the specified percent reduction in greenhouse gas emissions from low-carbon fuel may not be reduced more than 10 percentage points below the percentage otherwise required under this subsection.

''(C) ADJUSTED REDUCTION LEVELS.—

''(i) IN GENERAL.—An adjustment in the percentage reduction in greenhouse gas levels shall be the minimum practicable adjustment for low-carbon fuel.

''(ii) MAXIMUM ACHIEVABLE LEVEL.—The adjusted greenhouse gas reduction shall be established at the maximum achievable level, taking cost in consideration, allowing for the use of a variety of feedstocks, technologies, and processes.

''(D) SUBSEQUENT ADJUSTMENTS.—

''(i) IN GENERAL.—After the Administrator has promulgated a final rule under paragraph (2)(A)(i) with respect to the method of determining lifecycle greenhouse gas emissions, the Administrator may not adjust the percent greenhouse gas reduction levels unless the Administrator determines that there has been a significant change in the analytical basis used for determining the lifecycle greenhouse gas emissions.

''(ii) CRITERIA AND STANDARDS.—If the Administrator makes the determination that an adjustment is required, the Administrator may adjust the percent reduction levels through rulemaking using the criteria and standards established under this paragraph.

''(iii) 5-YEAR REVIEW.—If the Administrator makes any adjustment under this paragraph, not later than 5 years thereafter, the Administrator shall review and revise (based on the same criteria and standards as required for the initial adjustment) the level as adjusted by the regulations.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide for the generation of an appropriate quantity of credits by any person that refines, blends, imports, or distributes transportation fuel that contains a quantity of low-carbon fuel that is greater than the quantity required under paragraph (2).

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to demonstrate compliance for the 12 month-period beginning on the date of generation.

''(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a low-carbon fuel deficit on condition that the person, in the calendar year following the year in which the low-carbon fuel deficit is created—

''(i) achieves compliance with the low-carbon fuel requirement under paragraph (2); and

''(ii) generates or purchases additional low-carbon fuel credits to offset the low-carbon fuel deficit of the previous year.

''(E) CREDITS FOR ADDITIONAL LOW-CARBON FUEL.—The Administrator may promulgate regulations providing—

''(i) for the generation of an appropriate quantity of credits by any person that refines, blends, imports, or distributes additional low-carbon fuel specified by the Administrator; and

''(ii) for the use of the credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(6) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of this subsection in whole or in part on petition by 1 or more States, by any person subject to the requirements of this subsection, or by the Administrator on the Administrator's own motion, by reducing the national percentage of low-carbon fuel required under paragraph (2)—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply of low-carbon fuel.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a petition for a waiver of the requirements of paragraph (2) not later than 90 days after the date on which the petition is received by the Administrator.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy and after public notice and opportunity for comment.

''(D) MODIFICATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—In the case of any table established under this subsection, if the Administrator waives at least 20 percent of the applicable percentage requirement specified in the table for 2 consecutive years, or at least 50 percent of the percentage requirement for a single year, the Administrator shall promulgate regulations (not later than 1 year after issuing the waiver) that modify the applicable volumes specified in the table concerned for all years following the final year to which the waiver applies, except that no such modification in applicable percentages shall be made for any year before calendar year 2016.

''(ii) ADMINISTRATION.—In promulgating the regulations, the Administrator shall comply with the processes, criteria, and standards established under paragraph (2)(B)(ii).

''(7) LOW-CARBON MARKET CONCENTRATION ANALYSIS.—

''(A) ANALYSIS.—

''(i) IN GENERAL.—Not later than January 1, 2015, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the low-carbon fuel production, import, and distribution industries using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

''(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

''(B) REPORT.—Not later than December 1, 2015, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

''(8) PERIODIC REVIEWS.—To allow for the appropriate adjustment of the requirements described in paragraph (2)(B), the Administrator shall conduct periodic reviews of—

''(A) existing technologies;

''(B) the feasibility of achieving compliance with the requirements; and

''(C) the impacts of the requirements of this subsection on each individual and entity described in paragraph (2).

''(9) EFFECT ON OTHER PROVISIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), nothing in this subsection, or regulations promulgated under this subsection, affects the regulatory status of carbon dioxide or any other greenhouse gas, or expands or limits regulatory authority regarding carbon dioxide or any other greenhouse gas, for purposes of other provisions (including section 165) of this Act.

''(B) ADMINISTRATION.—Subparagraph (A) shall not affect implementation and enforcement of this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2015.

SEC. 3. TRANSITION PROVISIONS.

(a) DEFINITIONS.—Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) ADDITIONAL RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'additional renewable fuel' means fuel that—

''(I) is—

''(aa) produced from renewable biomass; or

''(bb) low-carbon fuel;

''(II) is used to replace or reduce the quantity of fossil fuel present in—

''(aa) transportation fuel;

''(bb) home heating oil; or

''(cc) aviation jet fuel; and

''(III) has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 20 percent less than baseline lifecycle greenhouse gas emissions.'';

(2) by redesignating subparagraphs (I) through (L) as subparagraphs (J) through (M), respectively; and

(3) by inserting after subparagraph (H) the following:

''(I) LOW-CARBON FUEL.—The term 'low-carbon fuel' means renewable fuel that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 20 percent less than baseline lifecycle greenhouse gas emissions.''.

(b) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—Section 211(o)(5) of the Clean Air Act (42 U.S.C. 7545(o)(5)) is amended by striking subparagraph (A) and inserting the following:

''(A) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of the America's Low-Carbon Fuel Standard Act of 2009, the Administrator shall issue regulations providing—

''(I) for the generation of an appropriate quantity of credits by any person that produces, refines, blends, or imports additional renewable fuels or low-carbon fuels specified by the Administrator; and

''(II) for the use of the credits by the generator, or the transfer of all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(ii) INCREASED CREDIT.—For each of calendar years 2012 through 2014, the Administrator shall increase the amount of the credit provided under clause (i) in proportion to the extent to which the lifecycle greenhouse gas emissions of the additional renewable fuel is less than baseline lifecycle greenhouse gas emissions.''.

S. 1096

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

SECTION 1. ENERGYGRANT COMPETITIVE EDUCATION PROGRAM.

(a) DEFINITIONS.—In this section:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy, acting through the Director appointed under subsection (c).

(3) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(b) ESTABLISHMENT.—The Secretary shall establish and carry out a program to awards grants, on a competitive basis, to each consortium of institutions of higher education operating in each of the regions established under subsection (d) to conduct research, extension, and education programs relating to the energy needs of the regions.

(c) DIRECTOR.—The Secretary shall appoint a Director to carry out the program established under this section.

(d) GRANTS.—

(1) IN GENERAL.—The Secretary shall use amounts made available under this section to award grants, on a competitive basis, to each consortium of institutions of higher education located in each of at least 6 regions established by the Secretary that, collectively, cover all States.

(2) MANNER OF DISTRIBUTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in making grants for a fiscal year under this section, the Secretary shall award grants to each consortium of institutions of higher education in equal amounts for each region of not less than $50,000,000 for each region.

(B) TERRITORIES AND POSSESSIONS.—The Secretary may adjust the amount of grants awarded to a consortium of institutions of higher education in a region under this section if the region contains territories or possessions of the United States.

(3) PLANS.—As a condition of an initial grant under this section, a consortium of institutions of higher education in a region shall submit to the Secretary for approval a plan that—

(A) addresses the energy needs for the region; and

(B) describes the manner in which the proposed activities of the consortium will address those needs.

(4) FAILURE TO COMPLY WITH REQUIREMENTS.—If the Secretary finds on the basis of a review of the annual report required under subsection (g) or on the basis of an audit of a consortium of institutions of higher education conducted by the Secretary that the consortium has not complied with the requirements of this section, the consortium shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.

(e) USE OF FUNDS.—

(1) COMPETITIVE GRANTS.—

(A) IN GENERAL.—A consortium of institutions of higher education in a region that is awarded a grant under this section shall use the grant to conduct research, extension, and education programs relating to the energy needs of the region, including—

(i) the promotion of low-carbon clean and green energy and related jobs that are applicable to the region;

(ii) the development of low-carbon green fuels to reduce dependency on oil;

(iii) the development of energy storage and energy management innovations for intermittent renewable technologies; and

(iv) the accelerated deployment of efficient-energy technologies in new and existing buildings and in manufacturing facilities.

(B) ADMINISTRATION.—

(i) IN GENERAL.—Subject to clauses (ii) through (vi), the Secretary shall make grants under this paragraph in accordance with section 989 of the Energy Policy Act of 2005 (42 U.S.C. 16353).

(ii) PRIORITY.—A consortium of institutions of higher education in a region shall give a higher priority to programs that are consistent with the plan approved by the Secretary for the region under subsection (d)(3).

(iii) TERM.—A grant awarded to a consortium of institutions of higher education under this section shall have a term that does not exceed 5 years.

(iv) COST-SHARING REQUIREMENT.—As a condition of receiving a grant under this paragraph, the Secretary shall require the recipient of the grant to share costs relating to the program that is the subject of the grant in accordance with section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(v) BUILDINGS AND FACILITIES.—Funds made available for grants under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

(vi) LIMITATION ON INDIRECT COSTS.—A consortium of institutions of higher education may not recover the indirect costs of using grants under subparagraph (A) in excess of the limits established under paragraph (2).

(C) FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.—

(i) IN GENERAL.—A federally funded research and development center may be a member of a consortium of institutions of higher education that receives a grant under this section.

(ii) SCOPE.—The Secretary shall ensure that the scope of work performed by a single federally funded research and development center in the consortium is not more significant than the scope of work performed by any of the other academic institutions of higher education in the consortium.

(2) ADMINISTRATIVE EXPENSES.—A consortium of institutions of higher education may use up to 15 percent of the funds described in subsection (d) to pay administrative and indirect expenses incurred in carrying out paragraph (1), unless otherwise approved by the Secretary.

(f) GRANT INFORMATION ANALYSIS CENTER.—A consortium of institutions of higher education in a region shall maintain an Energy Analysis Center at 1 or more of the institutions of higher education to provide the institutions of higher education in the region with analysis and data management support.

(g) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, a consortium of institutions of higher education receiving a grant under this section shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the consortium of institutions of higher education under this section during the fiscal year.

(h) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish such criteria and procedures as are necessary to carry out this section.

(i) COORDINATION.—The Secretary shall coordinate with the Secretary of Agriculture and the Secretary of Commerce each activity carried out under the program under this section—

(1) to avoid duplication of efforts; and

(2) to ensure that the program supplements and does not supplant—

(A) the Sun Grant program established under section 7526 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8114); and

(B) the national Sea Grant college program carried out by the Administrator of the National Oceanic and Atmospheric Administration.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out—

(1) this section $300,000,000 for each of fiscal years 2010 through 2014; and

(2) the activities of the Department of Energy (including biomass and bioenergy feedstock assessment research) under the Sun Grant program established under section 7526 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8114) $15,000,000 for each of fiscal years 2010 through 2014.

S. 1097

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 ''Community College Energy Training Act of 2009''.

SEC. 2. SUSTAINABLE ENERGY TRAINING PROGRAM FOR COMMUNITY COLLEGES.

(a) DEFINITION OF COMMUNITY COLLEGE.—In this Act, the term ''community college'' means an institution of higher education, as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), that—

(1) provides a 2-year program of instruction for which the institution awards an associate degree; and

(2) primarily awards associate degrees.

(b) WORKFORCE TRAINING AND EDUCATION IN SUSTAINABLE ENERGY.—From funds made available under subsection (d), the Secretary of Energy, in coordination with the Secretary of Labor, shall carry out a joint sustainable energy workforce training and education program. In carrying out the program, the Secretary of Energy, in coordination with the Secretary of Labor, shall award grants to community colleges to provide workforce training and education in industries and practices such as—

(1) alternative energy, including wind and solar energy;

(2) energy efficient construction, retrofitting, and design;

(3) sustainable energy technologies, including chemical technology, nanotechnology, and electrical technology;

(4) water and energy conservation;

(5) recycling and waste reduction; and

(6) sustainable agriculture and farming.

(c) AWARD CONSIDERATIONS.—Of the funds made available under subsection (d) for a fiscal year, not less than one-half of such funds shall be awarded to community colleges with existing (as of the date of the award) sustainability programs that lead to certificates or degrees in 1 or more of the industries and practices described in paragraphs (1) through (6) of subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of the fiscal years 2010 through 2015.

S. 1098

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 ''EnergySmart Transport Corridors Act of 2009''.

SEC. 2. ENERGYSMART TRANSPORT CORRIDORS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INTERSTATE SYSTEM.—The term ''Interstate System'' has the meaning given the term in section 101(a) of title 23, United States Code.

(3) PROGRAM.—The term ''Program'' means the EnergySmart Transport Corridor program established under subsection (b).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall establish an EnergySmart Transport Corridor program in accordance with this section.

(c) REQUIREMENTS.—In carrying out the Program, the Secretary shall coordinate the planning and deployment of measures that will increase the energy efficiency of the Interstate System and reduce the emission of greenhouse gases and other environmental pollutants, including by—

(1) increasing the availability and standardization of anti-idling equipment;

(2) increasing the availability of alternative, low-carbon transportation fuels;

(3) coordinating and adjusting vehicle weight limits for both existing and future highways on the Interstate System;

(4) coordinating and expanding intermodal shipment capabilities;

(5) coordinating and adjusting time of service restrictions; and

(6) planning and identifying future construction within the Interstate System.

(d) DESIGNATION OF CORRIDORS.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator and with the concurrence of the Governors of the States in which EnergySmart transport corridors are to be located, and in consultation with the appropriate advisory committees established under paragraph (3), shall designate EnergySmart transport corridors in accordance with the requirements described in subsection (c).

(2) INTERMODAL FACILITIES AND OTHER SURFACE TRANSPORTATION MODES.—In designating EnergySmart transport corridors, the Secretary may include—

(A) intermodal passenger and freight transfer facilities, particularly those that use measures to significantly increase the energy efficiency of the Interstate System and reduce greenhouse gas emissions and other environmental pollutants; and

(B) other surface transportation modes.

(3) ADVISORY COMMITTEES.—

(A) IN GENERAL.—The Secretary, in consultation with the Governors of the States in which EnergySmart transport corridors are to be located, may establish advisory committees to assist in the designation of individual EnergySmart transport corridors.

(B) MEMBERSHIP.—The advisory committees established under this paragraph shall include representatives of interests affected by the designation of EnergySmart transport corridors, including—

(i) freight and trucking companies;

(ii) vehicle and vehicle equipment manufacturers and retailers;

(iii) independent owners and operators;

(iv) conventional and alternative fuel providers; and

(v) local transportation, planning, and energy agencies.

(e) PRIORITY.—In allocating funds for Federal highway programs, the Secretary shall give special consideration and priority to projects and programs that enable deployment and operation of EnergySmart transport corridors.

(f) GRANTS.—In carrying out the Program, the Secretary may provide grants to States to assist in the planning, designation, development, and maintenance of EnergySmart transport corridors.

(g) ANNUAL REPORT.—Each fiscal year, the Secretary shall submit to the appropriate committees of Congress a report describing activities carried out under the Program during the preceding fiscal year.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $25,000,000 for each of fiscal years 2010 through 2015.

SEC. 3. REDUCTION OF ENGINE IDLING.

Section 756(b)(4)(B) of the Energy Policy Act of 2005 (42 U.S.C. 16104(b)(4)(B)) is amended by striking ''for fiscal year 2008'' each place it appears in clauses (i) and (ii) and inserting ''for each of fiscal years 2008 through 2015''.

By Mr. COBURN (for himself, Mr. BURR, Mr. BUNNING, Mr. CHAMBLISS, Mr. ALEXANDER, and Mr. INHOFE):

S. 1099. A bill to provide comprehensive solutions for the health care system of the United States, and for other purposes; to the Committee on Finance.

Mr. BURR. Mr. President, I rise today to speak on the pressing issue of health care in America. Millions of Americans go without health insurance each year. Especially during these tough economic times, many families are looking to Washington to fix the health care crisis in this country.

This year, Congress is poised to make significant changes to our health care system. Ultimately, the American people want solutions that work. In that vein I am pleased to join today with my colleague, Senator COBURN, to introduce, S. 1099, the Patients' Choice Act. It will start to build a health care system that is responsive to patients' needs and conscious of their budgets.

As we developed the framework of the Patients' Choice Act, we had to think about what would truly transform the failing health care system in America right now. Typically, the problems with our health care system relate to cost, quality, and our inability to make important lifestyle interventions before treatable symptoms become chronic conditions. With that thought in mind, Senator COBURN and I set out to reform our health care system so it met the following requirements. We believe that any truly transformational health care plan must guarantee that every American can get affordable coverage.

It must demand more value for our health care dollar instead of imposing a new tax or passing on a new obligation to future generations.

It must transform the health care system so that we focus on keeping people healthy and well instead of only treating them when they are sick.

It must make health coverage affordable for those with pre-existing conditions.

It must end the current discrimination in the tax code that benefits the wealthy and corporations but fails the poor and those who can't get coverage through their employer.

It must ensure that health care is accessible when people want it, where people want it.

It must be sustainable so that it will be there for future generations.

We believe the Patient's Choice Act will meet all of these requirements. The bill focuses on 6 key areas: preventing disease and promoting healthier lifestyles; creating affordable and accessible health insurance options; equalizing the tax treatment of health care; establishing transparency in health care price and quality; and ensuring compensation for injured patients.

S. 1099 transforms health care in America by strengthening the relationship between the patient and the doctor and relying on choice and competition rather than rationing and restrictions. In doing so, we can ensure universal, affordable health care for all Americans.

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

S. 1102. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to speak in favour of the Domestic Partner Benefits and Obligations Act, which I am introducing with my colleague and friend on the Homeland Security and Governmental Affairs Committee, Senator SUSAN COLLINS.

Last year, the Homeland Security and Governmental Affairs Committee held a hearing on this legislation, but time ran out before we were able to move the measure to the Senate floor.

I also want to thank my former cosponsor, Senator Gordon Smith of Oregon, with whom I and more than 20 other Senators introduced identical legislation in the 110th Congress. We expect about 20 cosponsors again this year, and I want to express my appreciation to them for helping us get an early enough start in the 111th Congress so that we can pass the bill, hopefully, this year.

This legislation makes eminent sense for two reasons: It will help the Federal Government attract the best and the brightest and it is the fair and right thing to do from a human rights perspective.

Let me explain. The Domestic Partners Benefits and Obligations Act would provide the same employee benefit programs to same-sex domestic partners of Federal employees that are now provided to the opposite-sex spouses of Federal employees. In other words, same-sex domestic partners—living in a committed relationship and unrelated by blood would be eligible to participate in health benefits, long-term care, Family and Medical Leave, federal retirement benefits, and all other benefits for which married employees and their spouses are eligible. Federal employees and their domestic partners would also be subject to the same responsibilities that apply to married employees and their spouses, such as anti-nepotism rules and financial disclosure requirements.

When the domestic partners of Federal employees are granted the same benefits and obligations as the spouses of federal employees, the Federal Government will be able to attract from a larger pool of applicants the best possible employees to carry out the Government's responsibilities to the American people. In the coming years, as a large percentage of federal employees become eligible for retirement, a new generation of employees will be hired, and the Federal Government will be competing with the private sector for the most qualified among them. This legislation will help put the Federal Government on equal footing to compete for those new recruits and then retain them.

From a human rights perspective, this legislation is one more step on the long road to bring the gay and lesbian community equality under the law.

We are not talking about an insignificant number of people. According to UCLA's Williams Institute, over 30,000 federal workers live in committed relationships with same-sex partners who are not Federal employees.

We often hear—and I have often said—that Government should be run more like a business. While the purpose of Government and business are different, I believe Government has a lot to learn from private sector business models including in the matter before us today. The fact is that a majority of U.S. corporations—including more than half of all Fortune 500 companies—already offer benefits to domestic partners.

General Electric, IBM, Eastman Kodak, Dow Chemical, the Chubb Corporation, Lockheed Martin, and Duke Energy are among the major employers that have recognized the economic reward of providing benefits to domestic partners. Overall, almost 10,000 private-sector companies of all sizes provide benefits to domestic partners. The governments of 13 States, including my home State of Connecticut, about 145 local jurisdictions across our country, and some 300 colleges and universities also provide these benefits.

Surveys show that many private sector employers offer these benefits because it is the right thing to do. You can bet each one knows that the policy makes good business sense; it is good management policy, it is good employee policy, and it is good recruitment and retention policy.

In fact, employers have told analysts that they extend benefits to domestic partners to boost recruitment and retain quality employees—as well as to be fair. If we want the Government to be able to compete for the most qualified employees, we are going to have to provide the same benefits that job seekers can find elsewhere.

The experts tell us that 19 percent of an employee's compensation comes in the form of benefits, including benefits for family members. Employees who do not get benefits for their families are,

therefore, not being paid equally. Of course, the supporters of this legislation understand that covering domestic partners will add some increment to the total cost of providing federal employee benefits. And we understand that we have to be particularly careful about government spending right now and perform rigorous cost benefit analyses of all, not just new, federal expenditures.

Based on the experience of private companies and state and local governments, the Congressional Budget Office has estimated that benefits to same-sex domestic partners of federal employees would increase the cost of those programs by less than one-half of one percent. The Office of Personnel Management says the cost of health benefits for domestic partners over 10 years would be $670 million. In the name of fairness and raising the appeal of federal employment, this is affordable legislation.

Among the many stories I have heard about the impact of this inequality on real people, I particularly remember the words of Michael Guest, who was ambassador to Romania in the Bush Administration and Dean of the Foreign Service Institute before he left public service. In his resignation letter, Mr. Guest made a moving and eloquent case for extending benefits to same sex partners. I believe Ambassador Guest was the first publicly gay man to be confirmed for an U.S. ambassadorship from the U.S. When he resigned the Foreign Service in 2007, he said, and I quote here from his farewell address to his colleagues ''. . . I have felt compelled to choose between obligations to my partner—who is my family—and service to my country. That anyone should have to make that choice is a stain on the Secretary's leadership and a shame for this institution and our country.''

Those are convincing words from a talented and loyal former public servant—who once described the Foreign Service as the career he was ''born for . . . what I was always meant to do.'' It is a great loss to the nation that he felt compelled to leave the Foreign Service—particularly at a time when our nation so desperately needs talented diplomats to help meet the challenges we face abroad. He may have left public service for many reasons—but one of them should not have been that his federal employee benefits did not allow him to care for the needs of his family in an adequate manner.

The Domestic Partners Benefits and Obligations Act makes good economic sense. It is sound policy. And it is the right thing to do. I urge my colleagues to support this bill.

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

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

S. 1102

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 ''Domestic Partnership Benefits and Obligations Act of 2009''.

SEC. 2. BENEFITS TO DOMESTIC PARTNERS OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—An employee who has a domestic partner and the domestic partner of the employee shall be entitled to benefits available to, and shall be subject to obligations imposed upon, a married employee and the spouse of the employee.

(b) CERTIFICATION OF ELIGIBILITY.—In order to obtain benefits and assume obligations under this Act, an employee shall file an affidavit of eligibility for benefits and obligations with the Office of Personnel Management identifying the domestic partner of the employee and certifying that the employee and the domestic partner of the employee—

(1) are each other's sole domestic partner and intend to remain so indefinitely;

(2) have a common residence, and intend to continue the arrangement;

(3) are at least 18 years of age and mentally competent to consent to contract;

(4) share responsibility for a significant measure of each other's common welfare and financial obligations;

(5) are not married to or domestic partners with anyone else;

(6) are same sex domestic partners, and not related in a way that, if the 2 were of opposite sex, would prohibit legal marriage in the State in which they reside; and

(7) understand that willful falsification of information within the affidavit may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification and may constitute a criminal violation.

(c) DISSOLUTION OF PARTNERSHIP.—

(1) IN GENERAL.—An employee or domestic partner of an employee who obtains benefits under this Act shall file a statement of dissolution of the domestic partnership with the Office of Personnel Management not later than 30 days after the death of the employee or the domestic partner or the date of dissolution of the domestic partnership.

(2) DEATH OF EMPLOYEE.—In a case in which an employee dies, the domestic partner of the employee at the time of death shall receive under this Act such benefits as would be received by the widow or widower of an employee.

(3) OTHER DISSOLUTION OF PARTNERSHIP.—

(A) IN GENERAL.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, any benefits received by the domestic partner as a result of this Act shall terminate.

(B) EXCEPTION.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, the former domestic partner of the employee shall be entitled to benefits available to, and shall be subject to obligations imposed upon, a former spouse.

(d) STEPCHILDREN.—For purposes of affording benefits under this Act, any natural or adopted child of a domestic partner of an employee shall be deemed a stepchild of the employee.

(e) CONFIDENTIALITY.—Any information submitted to the Office of Personnel Management under subsection (b) shall be used solely for the purpose of certifying an individual's eligibility for benefits under subsection (a).

(f) REGULATIONS AND ORDERS.—

(1) OFFICE OF PERSONNEL MANAGEMENT.—Not later than 6 months after the date of enactment of this Act, the Office of Personnel Management shall promulgate regulations to implement section 2 (b) and (c).

(2) OTHER EXECUTIVE BRANCH REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the President or designees of the President shall promulgate regulations to implement this Act with respect to benefits and obligations administered by agencies or other entities of the executive branch.

(3) OTHER REGULATIONS AND ORDERS.—Not later than 6 months after the date of enactment of this Act, each agency or other entity or official not within the executive branch that administers a program providing benefits or imposing obligations shall promulgate regulations or orders to implement this Act with respect to the program.

(4) PROCEDURE.—Regulations and orders required under this subsection shall be promulgated after notice to interested persons and an opportunity for comment.

(g) DEFINITIONS.—In this Act:

(1) BENEFITS.—The term ''benefits'' means—

(A) health insurance and enhanced dental and vision benefits, as provided under chapters 89, 89A, and 89B of title 5, United States Code;

(B) retirement and disability benefits and plans, as provided under—

(i) chapters 83 and 84 of title 5, United States Code;

(ii) chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 et seq.); and

(iii) the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. chapter 38);

(C) family, medical, and emergency leave, as provided under—

(i) subchapters III, IV, and V of chapter 63 of title 5, United States Code;

(ii) the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), insofar as that Act applies to the Government Accountability Office and the Library of Congress;

(iii) section 202 of the Congressional Accountability Act of 1995 (2 U.S.C. 1312); and

(iv) section 412 of title 3, United States Code;

(D) Federal group life insurance, as provided under chapter 87 of title 5, United States Code;

(E) long-term care insurance, as provided under chapter 90 of title 5, United States Code;

(F) compensation for work injuries, as provided under chapter 81 of title 5, United States Code;

(G) benefits for disability, death, or captivity, as provided under—

(i) sections 5569 and 5570 of title 5, United States Code;

(ii) section 413 of the Foreign Service Act of 1980 (22 U.S.C. 3973); and

(iii) part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.), insofar as that part applies to any employee;

(H) travel, transportation, and related payments and benefits, as provided under—

(i) chapter 57 of title 5, United States Code;

(ii) chapter 9 of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.); and

(iii) section 1599b of title 10, United States Code; and

(I) any other benefit similar to a benefit described under subparagraphs (A) through (H) provided by or on behalf of the United States to any employee.

(2) DOMESTIC PARTNER.—The term ''domestic partner'' means an adult unmarried person living with another adult unmarried person of the same sex in a committed, intimate relationship.

(3) EMPLOYEE.—The term ''employee''—

(A) means an officer or employee of the United States or of any department, agency, or other entity of the United States, including the President of the United States, the Vice President of the United States, a Member of Congress, or a Federal judge; and

(B) shall not include a member of the uniformed services.

(4) OBLIGATIONS.—The term ''obligations'' means any duties or responsibilities with respect to Federal employment that would be incurred by a married employee or by the spouse of an employee.

(5) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given under section 2101(3) of title 5, United States Code.

SEC. 3. EFFECTIVE DATE.

This Act shall—

(1) with respect to the provision of benefits and obligations, take effect 6 months after the date of enactment of this Act; and

(2) apply to any individual who is employed as an employee on or after the date of enactment of this Act.

DOMESTIC PARTNERSHIP BENEFITS AND OBLIGATIONS ACT OF 2009

SUMMARY

Under the Domestic Partnership Benefits and Obligations Act of 2009, federal employees who have same-sex domestic partners will be entitled to the same employment benefits that are available to married federal employees and their spouses. Federal employees and their domestic partners will also be subject to the same employment-related obligations that are imposed on married employees and their spouses.

In order to obtain benefits and assume obligations, an employee must file an affidavit of eligibility with the Office of Personnel Management (OPM). The employee must certify that the employee and the employee's same-sex domestic partner have a common residence, share responsibility for each other's welfare and financial responsibilities, are not related by blood, and are living together in a committed intimate relationship. They must also certify that, as each other's sole domestic partner, they intend to remain so indefinitely. If a domestic partnership dissolves, whether by death of the domestic partner or otherwise, the employee must file a statement of dissolution with OPM within 30 days.

Employees and their domestic partners will have the same benefits as married employees and their spouses under—

Employee health benefits.
Retirement and disability plans.
Family, medical, and emergency leave.
Group life insurance.
Long-term care insurance.
Compensation for work injuries.
Death, disability, and similar benefits.
Relocation, travel, and related expenses.

For purposes of these benefits, any natural or adopted child of the domestic partner will be treated as a stepchild of the employee.

The employee and the employee's domestic partner will also become subject to the same duties and responsibilities with respect to federal employment that apply to a married employee and the employee's spouse. These will include, for example, anti-nepotism rules and financial disclosure requirements.

The Act will apply with respect to those federal employees who are employed on the date of enactment or who become employed on or after that date.

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

S. 1105. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, today Senator UDALL and I are introducing a bill that will help end a contentious dispute over water rights claims in the Rio Pojoaque general stream adjudication in New Mexico. This is accomplished by authorizing an Indian water rights settlement of the claims being pursued by the Nambe, Pojoaque, San Ildefonso, and Tesuque Pueblos in the Rio Pojoaque basin north of Santa Fe.

This general stream adjudication is known as the Aamodt case, and I believe it is the longest active case in the Federal court system nationwide. The case began in 1966, and since that time has been actively litigated before the New Mexico District Court and the Tenth Circuit Court of Appeals. Forty years of litigation has resolved very little in the basin. Fortunately, the parties to the case took matters into their own hands. By engaging directly with each other they have resolved their differences, something the litigation could not accomplish. The Aamodt Litigation Settlement Act represents an agreement by the parties that will secure water to meet the present and future needs of the four Pueblos involved in the litigation; protect the interests and rights of longstanding water users, including century-old irrigation practices; and ensure that water is available for municipal and domestic needs for all residents in the Pojoaque basin. Negotiation of this agreement was a lengthy process. In the end, however, the parties' commitment to solving water supply issues in the basin prevailed.

Legislation to implement this settlement was introduced in the 110th Congress. Hearings were held in both the House and Senate and based on the submitted testimony a number of changes were made to address concerns with the legislation. These changes help standardize the Pueblos' waivers of claims as part of the settlement; limit the settlement's impact on the Federal budget; and allows for flexibility in developing the size and scope of the regional water system in response to local concerns.

This settlement is widely supported in the region and it is time to move swiftly to enact this legislation. The State of New Mexico deserves recognition for actively pursuing a settlement of this matter and committing significant resources so that the Federal government does not bear the entire cost of the settlement. The bill is critical to New Mexico's future since it provides certainty in allocating water in a perennially water-short area of the state. It also helps address a long-neglected responsibility of the Federal Government to protect the rights and interests of these Pueblos. I look forward to working with my colleagues in the Senate as well as the House of Representatives to enact this legislation as soon as possible.

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

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

S. 1105

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 ''Aamodt Litigation Settlement Act''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) AAMODT CASE.—The term ''Aamodt Case'' means the civil action entitled State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al., No. 66 CV 6639 MV/LCS (D.N.M.).

(2) ACRE-FEET.—The term ''acre-feet'' means acre-feet of water per year.

(3) AUTHORITY.—The term ''Authority'' means the Pojoaque Basin Regional Water Authority described in section 9.5 of the Settlement Agreement or an alternate entity acceptable to the Pueblos and the County to operate and maintain the diversion and treatment facilities, certain transmission pipelines, and other facilities of the Regional Water System.

(4) CITY.—The term ''City'' means the city of Santa Fe, New Mexico.

(5) COST-SHARING AND SYSTEM INTEGRATION AGREEMENT.—The term ''Cost-Sharing and System Integration Agreement'' means the agreement to be executed by the United States, the State, the Pueblos, the County, and the City that—

(A) describes the location, capacity, and management (including the distribution of water to customers) of the Regional Water System; and

(B) allocates the costs of the Regional Water System with respect to—

(i) the construction, operation, maintenance, and repair of the Regional Water System;

(ii) rights-of-way for the Regional Water System; and

(iii) the acquisition of water rights.

(6) COUNTY.—The term ''County'' means Santa Fe County, New Mexico.

(7) COUNTY DISTRIBUTION SYSTEM.—The term ''County Distribution System'' means the portion of the Regional Water System that serves water customers on non-Pueblo land in the Pojoaque Basin.

(8) COUNTY WATER UTILITY.—The term ''County Water Utility'' means the water utility organized by the County to—

(A) receive water distributed by the Authority; and

(B) provide the water received under subparagraph (A) to customers on non-Pueblo land in the Pojoaque Basin.

(9) ENGINEERING REPORT.—The term ''Engineering Report'' means the report entitled ''Pojoaque Regional Water System Engineering Report'' dated September 2008 and any amendments thereto, including any modifications which may be required by section 101(d)(2).

(10) FUND.—The term ''Fund'' means the Aamodt Settlement Pueblos' Fund established by section 105(a).

(11) OPERATING AGREEMENT.—The term ''Operating Agreement'' means the agreement between the Pueblos and the County executed under section 102(a).

(12) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—The term ''operations, maintenance, and replacement costs'' means all costs for the operation of the Regional Water System that are necessary for the safe, efficient, and continued functioning of the Regional Water System to produce the benefits described in the Settlement Agreement.

(B) EXCLUSION.—The term ''operations, maintenance, and replacement costs'' does not include construction costs or costs related to construction design and planning.

(13) POJOAQUE BASIN.—

(A) IN GENERAL.—The term ''Pojoaque Basin'' means the geographic area limited by a surface water divide (which can be drawn on a topographic map), within which area rainfall and runoff flow into arroyos, drainages, and named tributaries that eventually drain to—

(i) the Rio Pojoaque; or

(ii) the 2 unnamed arroyos immediately south; and

(iii) 2 arroyos (including the Arroyo Alamo) that are north of the confluence of the Rio Pojoaque and the Rio Grande.

(B) INCLUSION.—The term ''Pojoaque Basin'' includes the San Ildefonso Eastern Reservation recognized by section 8 of Public Law 87–231 (75 Stat. 505).

(14) PUEBLO.—The term ''Pueblo'' means each of the pueblos of Nambe, Pojoaque, San Ildefonso, or Tesuque.

(15) PUEBLOS.—The term ''Pueblos'' means collectively the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

(16) PUEBLO LAND.—The term ''Pueblo land'' means any real property that is—

(A) held by the United States in trust for a Pueblo within the Pojoaque Basin;

(B)(i) owned by a Pueblo within the Pojoaque Basin before the date on which a court approves the Settlement Agreement; or

(ii) acquired by a Pueblo on or after the date on which a court approves the Settlement Agreement, if the real property is located—

(I) within the exterior boundaries of the Pueblo, as recognized and conformed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(II) within the exterior boundaries of any territory set aside for the Pueblo by law, executive order, or court decree;

(C) owned by a Pueblo or held by the United States in trust for the benefit of a Pueblo outside the Pojoaque Basin that is located within the exterior boundaries of the Pueblo as recognized and confirmed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(D) within the exterior boundaries of any real property located outside the Pojoaque Basin set aside for a Pueblo by law, executive order, or court decree, if the land is within or contiguous to land held by the United States in trust for the Pueblo as of January 1, 2005.

(17) PUEBLO WATER FACILITY.—

(A) IN GENERAL.—The term ''Pueblo Water Facility'' means—

(i) a portion of the Regional Water System that serves only water customers on Pueblo land; and

(ii) portions of a Pueblo water system in existence on the date of enactment of this Act that serve water customers on non-Pueblo land, also in existence on the date of enactment of this Act, or their successors, that are—

(I) depicted in the final project design, as modified by the drawings reflecting the completed Regional Water System; and

(II) described in the Operating Agreement.

(B) INCLUSIONS.—The term ''Pueblo Water Facility'' includes—

(i) the barrier dam and infiltration project on the Rio Pojoaque described in the Engineering Report; and

(ii) the Tesuque Pueblo infiltration pond described in the Engineering Report.

(18) REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The term ''Regional Water System'' means the Regional Water System described in section 101(a).

(B) EXCLUSIONS.—The term ''Regional Water System'' does not include the County or Pueblo water supply delivered through the Regional Water System.

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

(20) SAN JUAN-CHAMA PROJECT ACT.—The term ''San Juan-Chama Project Act'' means sections 8 through 18 of the Act of June 13, 1962 (76 Stat. 96, 97).

(21) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(22) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the stipulated and binding agreement among the State, the Pueblos, the United States, the County, and the City dated January 19, 2006, and signed by all of the government parties to the Settlement Agreement (other than the United States) on May 3, 2006, and as amended in conformity with this Act.

(23) STATE.—The term ''State'' means the State of New Mexico.

TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

SEC. 101. AUTHORIZATION OF REGIONAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct a regional water system in accordance with the Settlement Agreement, to be known as the ''Regional Water System''—

(1) to divert and distribute water to the Pueblos and to the County Water Utility, in accordance with the Engineering Report; and

(2) that consists of—

(A) surface water diversion facilities at San Ildefonso Pueblo on the Rio Grande; and

(B) any treatment, transmission, storage and distribution facilities and wellfields for the County Distribution System and Pueblo Water Facilities that are necessary to supply 4,000 acre-feet of water within the Pojoaque Basin, unless modified in accordance with subsection (d)(2).

(b) FINAL PROJECT DESIGN.—The Secretary shall issue a final project design within 90 days of completion of the environmental compliance described in section 106 for the Regional Water System that—

(1) is consistent with the Engineering Report; and

(2) includes a description of any Pueblo Water Facilities.

(c) ACQUISITION OF LAND; WATER RIGHTS.—

(1) ACQUISITION OF LAND.—Upon request, and in exchange for the funding which shall be provided in section 107(c), the Pueblos shall consent to the grant of such easements and rights-of-way as may be necessary for the construction of the Regional Water System at no cost to the Secretary. To the extent that the State or County own easements or rights-of-way that may be used for construction of the Regional Water System, the State or County shall provide that land or interest in land as necessary for construction at no cost to the Secretary. The Secretary shall acquire any other land or interest in land that is necessary for the construction of the Regional Water System.

(2) WATER RIGHTS.—The Secretary shall not condemn water rights for purposes of the Regional Water System.

(d) CONDITIONS FOR CONSTRUCTION.—

(1) IN GENERAL.—The Secretary shall not begin construction of the Regional Water System facilities until the date on which—

(A) the Secretary executes—

(i) the Settlement Agreement; and

(ii) the Cost-Sharing and System Integration Agreement; and

(B) the State and the County have entered into an agreement with the Secretary to contribute the non-Federal share of the costs of the construction in accordance with the Cost-Sharing and System Integration Agreement.

(2) MODIFICATIONS TO REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The State and the County, in agreement with the Pueblos, the City, and other signatories to the Cost-Sharing and System Integration Agreement, may modify the extent, size, and capacity of the County Distribution System as set forth in the Cost-Sharing and System Integration Agreement.

(B) EFFECT.—A modification under subparagraph (A)—

(i) shall not affect implementation of the Settlement Agreement so long as the provisions in section 203 are satisfied; and

(ii) may result in an adjustment of the State and County cost-share allocation as set forth in the Cost-Sharing and System Integration Agreement.

(e) APPLICABLE LAW.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) shall not apply to the design and construction of the Regional Water System.

(f) CONSTRUCTION COSTS.—

(1) PUEBLO WATER FACILITIES.—The costs of constructing the Pueblo Water Facilities, as determined by the final project design and the Engineering Report—

(A) shall be at full Federal expense subject to the amount authorized in section 107(a)(1); and

(B) shall be nonreimbursable to the United States.

(2) COUNTY DISTRIBUTION SYSTEM.—The costs of constructing the County Distribution System shall be at State and local expense.

(g) STATE AND LOCAL CAPITAL OBLIGATIONS.—The State and local capital obligations for the Regional Water System described in the Cost-Sharing and System Integration Agreement shall be satisfied on the

payment of the State and local capital obligations described in the Cost-Sharing and System Integration Agreement.

(h) CONVEYANCE OF REGIONAL WATER SYSTEM FACILITIES.—

(1) IN GENERAL.—Subject to paragraph (2), on completion of the construction of the Regional Water System, the Secretary, in accordance with the Operating Agreement, shall convey to—

(A) each Pueblo the portion of any Pueblo Water Facility that is located within the boundaries of the Pueblo, including any land or interest in land located within the boundaries of the Pueblo that is acquired by the United States for the construction of the Pueblo Water Facility;

(B) the County the County Distribution System, including any land or interest in land acquired by the United States for the construction of the County Distribution System; and

(C) the Authority any portions of the Regional Water System that remain after making the conveyances under subparagraphs (A) and (B), including any land or interest in land acquired by the United States for the construction of the portions of the Regional Water System.

(2) CONDITIONS FOR CONVEYANCE.—The Secretary shall not convey any portion of the Regional Water System facilities under paragraph (1) until the date on which—

(A) construction of the Regional Water System is complete; and

(B) the Operating Agreement is executed in accordance with section 102.

(3) SUBSEQUENT CONVEYANCE.—On conveyance by the Secretary under paragraph (1), the Pueblos, the County, and the Authority shall not reconvey any portion of the Regional Water System conveyed to the Pueblos, the County, and the Authority, respectively, unless the reconveyance is authorized by an Act of Congress enacted after the date of enactment of this Act.

(4) INTEREST OF THE UNITED STATES.—On conveyance of a portion of the Regional Water System under paragraph (1), the United States shall have no further right, title, or interest in and to the portion of the Regional Water System conveyed.

(5) ADDITIONAL CONSTRUCTION.—On conveyance of a portion of the Regional Water System under paragraph (1), the Pueblos, County, or the Authority, as applicable, may, at the expense of the Pueblos, County, or the Authority, construct any additional infrastructure that is necessary to fully use the water delivered by the Regional Water System.

(6) LIABILITY.—

(A) IN GENERAL.—Effective on the date of conveyance of any land or facility under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the land and facilities conveyed, other than damages caused by acts of negligence by the United States, or by employees or agents of the United States, prior to the date of conveyance.

(B) TORT CLAIMS.—Nothing in this section increases the liability of the United States beyond the liability provided in chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act'').

(7) EFFECT.—Nothing in any transfer of ownership provided or any conveyance thereto as provided in this section shall extinguish the right of any Pueblo, the County, or the Regional Water Authority to the continuous use and benefit of each easement or right of way for the use, operation, maintenance, repair, and replacement of Pueblo Water Facilities, the County Distribution System or the Regional Water System or for wastewater purposes as provided in the Cost-Sharing and System Integration Agreement.

SEC. 102. OPERATING AGREEMENT.

(a) IN GENERAL.—The Pueblos and the County shall submit to the Secretary an executed Operating Agreement for the Regional Water System that is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement not later than 180 days after the later of—

(1) the date of completion of environmental compliance and permitting; or

(2) the date of issuance of a final project design for the Regional Water System under section 101(b).

(b) APPROVAL.—Not later than 180 days after receipt of the operating agreement described in subsection (a), the Secretary shall approve the Operating Agreement upon determination that the Operating Agreement is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(c) CONTENTS.—The Operating Agreement shall include—

(1) provisions consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement and necessary to implement the intended benefits of the Regional Water System described in those documents;

(2) provisions for—

(A) the distribution of water conveyed through the Regional Water System, including a delineation of—

(i) distribution lines for the County Distribution System;

(ii) distribution lines for the Pueblo Water Facilities; and

(iii) distribution lines that serve both—

(I) the County Distribution System; and

(II) the Pueblo Water Facilities;

(B) the allocation of the Regional Water System capacity;

(C) the terms of use of unused water capacity in the Regional Water System;

(D) the construction of additional infrastructure and the acquisition of associated rights-of-way or easements necessary to enable any of the Pueblos or the County to fully use water allocated to the Pueblos or the County from the Regional Water System, including provisions addressing when the construction of such additional infrastructure requires approval by the Authority;

(E) the allocation and payment of annual operation, maintenance, and replacement costs for the Regional Water System, including the portions of the Regional Water System that are used to treat, transmit, and distribute water to both the Pueblo Water Facilities and the County Water Utility;

(F) the operation of wellfields located on Pueblo land;

(G) the transfer of any water rights necessary to provide the Pueblo water supply described in section 103(a);

(H) the operation of the Regional Water System with respect to the water supply, including the allocation of the water supply in accordance with section 3.1.8.4.2 of the Settlement Agreement so that, in the event of a shortage of supply to the Regional Water System, the supply to each of the Pueblos' and to the County's distribution system shall be reduced on a prorata basis, in proportion to each distribution system's most current annual use; and

(I) dispute resolution; and

(3) provisions for operating and maintaining the Regional Water System facilities before and after conveyance under section 101(h), including provisions to—

(A) ensure that—

(i) the operation of, and the diversion and conveyance of water by, the Regional Water System is in accordance with the Settlement Agreement;

(ii) the wells in the Regional Water System are used in conjunction with the surface water supply of the Regional Water System to ensure a reliable firm supply of water to all users of the Regional Water System, consistent with the intent of the Settlement Agreement that surface supplies will be used to the maximum extent feasible;

(iii) the respective obligations regarding delivery, payment, operation, and management are enforceable; and

(iv) the County has the right to serve any new water users located on non-Pueblo land in the Pojoaque Basin; and

(B) allow for any aquifer storage and recovery projects that are approved by the Office of the New Mexico State Engineer.

(d) EFFECT.—Nothing in this Act precludes the Operating Agreement from authorizing phased or interim operations if the Regional Water System is constructed in phases.

SEC. 103. ACQUISITION OF PUEBLO WATER SUPPLY FOR THE REGIONAL WATER SYSTEM.

(a) IN GENERAL.—For the purpose of providing a reliable firm supply of water from the Regional Water System for the Pueblos in accordance with the Settlement Agreement, the Secretary, on behalf of the Pueblos, shall—

(1) acquire water rights to—

(A) 302 acre-feet of Nambe reserved water described in section 2.6.2 of the Settlement Agreement pursuant to section 107(c)(1)(C); and

(B) 1141 acre-feet from water acquired by the County for water rights commonly referred to as ''Top of the World'' rights in the Aamodt Case;

(2) make available 1079 acre-feet to the Pueblos pursuant to a contract entered into among the Pueblos and the Secretary in accordance with section 11 of the San Juan-Chama Project Act, under water rights held by the Secretary; and

(3) by application to the State Engineer, obtain approval to divert the water acquired and made available under paragraphs (1) and (2) at the points of diversion for the Regional Water System, consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement.

(b) FORFEITURE.—The nonuse of the water supply secured by the Secretary for the Pueblos under subsection (a) shall in no event result in forfeiture, abandonment, relinquishment, or other loss thereof.

(c) TRUST.—The Pueblo water supply secured under subsection (a) shall be held by the United States in trust for the Pueblos.

(d) APPLICABLE LAW.—The water supply made available pursuant to subsection (a)(2) shall be subject to the San Juan-Chama Project Act, and no preference shall be provided to the Pueblos as a result of subsection (c) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(e) CONTRACT FOR SAN JUAN-CHAMA PROJECT WATER SUPPLY.—With respect to the contract for the water supply required by subsection (a)(2), such San Juan-Chama Project contract shall be pursuant to the following terms:

(1) WAIVERS.—Notwithstanding the provisions of the San Juan-Chama Project Act, or any other provision of law—

(A) the Secretary shall waive the entirety of the Pueblos' share of the construction costs for the San Juan-Chama Project, and pursuant to that waiver, the Pueblos' share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest, due from 1972 to the execution of the contract required by subsection (a)(2), shall be nonreimbursable;

(B) the Secretary's waiver of each Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San Juan-Chama Project water contractors, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior; and

(C) the costs associated with any water made available from the San Juan-Chama Project which were determined nonreimbursable and nonreturnable pursuant to Public Law No. 88–293, 78 Stat. 171 (March 26, 1964) shall remain nonreimbursable and nonreturnable.

(2) TERMINATION.—The contract shall provide that it shall terminate only upon the following conditions—

(A) failure of the United States District Court for the District of New Mexico to enter a final decree for the Aamodt Case by December 15, 2012, or within the time period of any extension of that deadline granted by the court; or

(B) entry of an order by the United States District Court for the District of New Mexico voiding the final decree and Settlement Agreement for the Aamodt Case pursuant to section 10.3 of the Settlement Agreement.

(f) LIMITATION.—The Secretary shall use the water supply secured under subsection (a) only for the purposes described in the Settlement Agreement.

(g) FULFILLMENT OF WATER SUPPLY ACQUISITION OBLIGATIONS.—Compliance with subsections (a) through (f) shall satisfy any and all obligations of the Secretary to acquire or secure a water supply for the Pueblos pursuant to the Settlement Agreement.

(h) RIGHTS OF PUEBLOS IN SETTLEMENT AGREEMENT UNAFFECTED.—Notwithstanding the provisions of subsections (a) through (g), the Pueblos, the County or the Regional Water Authority may acquire any additional water rights to ensure all parties to the Settlement Agreement receive the full allocation of water provided by the Settlement Agreement and nothing in this Act amends or modifies the quantities of water allocated to the Pueblos thereunder.

SEC. 104. DELIVERY AND ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY AND WATER.

(a) ALLOCATION OF REGIONAL WATER SYSTEM CAPACITY.—

(1) IN GENERAL.—The Regional Water System shall have the capacity to divert from the Rio Grande a quantity of water sufficient to provide—

(A) up to 4,000 acre-feet of consumptive use of water; and

(B) the requisite peaking capacity described in—

(i) the Engineering Report; and

(ii) the final project design.

(2) ALLOCATION TO THE PUEBLOS AND COUNTY WATER UTILITY.—Of the capacity described in paragraph (1)—

(A) there shall be allocated to the Pueblos—

(i) sufficient capacity for the conveyance of 2,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i); and

(B) there shall be allocated to the County Water Utility—

(i) sufficient capacity for the conveyance of up to 1,500 acre-feet consumptive use; and

(ii) the requisite peaking capacity for the quantity of water described in clause (i).

(3) APPLICABLE LAW.—Water shall be allocated to the Pueblos and the County Water Utility under this subsection in accordance with—

(A) this title;

(B) the Settlement Agreement; and

(C) the Operating Agreement.

(b) DELIVERY OF REGIONAL WATER SYSTEM WATER.—The Authority shall deliver water from the Regional Water System—

(1) to the Pueblos water in a quantity sufficient to allow full consumptive use of up to 2,500 acre-feet per year of water rights by the Pueblos in accordance with—

(A) the Settlement Agreement;

(B) the Operating Agreement; and

(C) this title; and

(2) to the County water in a quantity sufficient to allow full consumptive use of up to 1,500 acre-feet per year of water rights by the County Water Utility in accordance with—

(A) the Settlement Agreement;

(B) the Operating Agreement; and

(C) this title.

(c) ADDITIONAL USE OF ALLOCATION QUANTITY AND UNUSED CAPACITY.—The Regional Water System may be used to—

(1) provide for use of return flow credits to allow for full consumptive use of the water allocated in the Settlement Agreement to each of the Pueblos and to the County; and

(2) convey water allocated to one of the Pueblos or the County Water Utility for the benefit of another Pueblo or the County Water Utility or allow use of unused capacity by each other through the Regional Water System in accordance with an intergovernmental agreement between the Pueblos, or between a Pueblo and County Water Utility, as applicable, if—

(A) such intergovernmental agreements are consistent with the Operating Agreement, the Settlement Agreement, and this Act;

(B) capacity is available without reducing water delivery to any Pueblo or the County Water Utility in accordance with the Settlement Agreement, unless the County Water Utility or Pueblo contracts for a reduction in water delivery or Regional Water System capacity;

(C) the Pueblo or County Water Utility contracting for use of the unused capacity or water has the right to use the water under applicable law; and

(D) any agreement for the use of unused capacity or water provides for payment of the operation, maintenance, and replacement costs associated with the use of capacity or water.

SEC. 105. AAMODT SETTLEMENT PUEBLOS' FUND.

(a) ESTABLISHMENT OF THE AAMODT SETTLEMENT PUEBLOS' FUND.—There is established in the Treasury of the United States a fund, to be known as the ''Aamodt Settlement Pueblos' Fund,'' consisting of—

(1) such amounts as are made available to the Fund under section 107(c) or other authorized sources; and

(2) any interest earned from investment of amounts in the Fund under subsection (b).

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

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

(2) this Act.

(c) INVESTMENT OF THE FUND.—On the date set forth in section 203(a)(1), the Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

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

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

(d) TRIBAL MANAGEMENT PLAN.—

(1) IN GENERAL.—A Pueblo may withdraw all or part of the Pueblo's portion of the Fund on approval by the Secretary of a tribal management plan as described in the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(2) REQUIREMENTS.—In addition to the requirements under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.), the tribal management plan shall require that a Pueblo spend any amounts withdrawn from the Fund in accordance with the purposes described in section 107(c).

(3) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any amounts withdrawn from the Fund under an approved tribal management plan are used in accordance with this title.

(4) LIABILITY.—If a Pueblo or the Pueblos exercise the right to withdraw amounts from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the amounts withdrawn.

(5) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Pueblos shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the Fund that the Pueblos do not withdraw under this subsection.

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

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

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

(6) NO PER CAPITA PAYMENTS.—No part of the principal of the Fund, or the interest or income accruing on the principal shall be distributed to any member of a Pueblo on a per capita basis.

(7) AVAILABILITY OF AMOUNTS FROM THE FUND.—

(A) APPROVAL OF SETTLEMENT AGREEMENT.—Amounts made available under subparagraphs (A) and (C) of section 107(c)(1) or from other authorized sources shall be available for expenditure or withdrawal only after the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) COMPLETION OF CERTAIN PORTIONS OF REGIONAL WATER SYSTEM.—Amounts made available under section 107(c)(1)(B) or from other authorized sources shall be available for expenditure or withdrawal only after those portions of the Regional Water System described in section 1.5.24 of the Settlement Agreement have been declared substantially complete by the Secretary.

(C) FAILURE TO FULFILL CONDITIONS PRECEDENT.—If the conditions precedent in section 203 have not been fulfilled by September 15, 2017, the United States shall be entitled to set off any funds expended or withdrawn from the amounts appropriated pursuant to section 107(c), together with any interest accrued, against any claims asserted by the Pueblos against the United States relating to the water rights in the Pojoaque Basin.

SEC. 106. ENVIRONMENTAL COMPLIANCE.

(a) IN GENERAL.—In carrying out this title, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(b) NATIONAL ENVIRONMENTAL POLICY ACT.—Nothing in this Act affects the outcome of any analysis conducted by the Secretary or any other Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) REGIONAL WATER SYSTEM.—

(1) IN GENERAL.—Subject to paragraph (4), there is authorized to be appropriated to the Secretary for the planning, design, and construction of the Regional Water System and the conduct of environmental compliance activities under section 106 a total of $106,400,000 between fiscal years 2010 and 2022.

(2) PRIORITY OF FUNDING.—Of the amounts authorized under paragraph (1), the Secretary shall give priority to funding—

(A) the construction of the San Ildefonso portion of the Regional Water System, consisting of—

(i) the surface water diversion, treatment, and transmission facilities at San Ildefonso Pueblo; and

(ii) the San Ildefonso Pueblo portion of the Pueblo Water Facilities; and

(B) that part of the Regional Water System providing 475 acre-feet to Pojoaque Pueblo pursuant to section 2.2 of the Settlement Agreement.

(3) ADJUSTMENT.—The amount authorized under paragraph (1) shall be adjusted annually to account for increases in construction costs since October 1, 2006, as determined using applicable engineering cost indices.

(4) LIMITATIONS.—

(A) IN GENERAL.—No amounts shall be made available under paragraph (1) for the construction of the Regional Water System until the date on which the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement.

(B) RECORD OF DECISION.—No amounts made available under paragraph (1) shall be expended unless the record of decision issued by the Secretary after completion of an environmental impact statement provides for a preferred alternative that is in substantial compliance with the proposed Regional Water System, as defined in the Engineering Report.

(b) ACQUISITION OF WATER RIGHTS.—There is authorized to be appropriated to the Secretary funds for the acquisition of the water rights under section 103(a)(1)(B)—

(1) in the amount of $5,400,000.00 if such acquisition is completed by December 31, 2010; and

(2) the amount authorized under paragraph (b)(1) shall be adjusted according to the CPI Urban Index commencing January 1, 2011.

(c) AAMODT SETTLEMENT PUEBLOS' FUND.—

(1) IN GENERAL.—There is authorized to be appropriated to the Fund the following amounts for the period of fiscal years 2010 through 2022:

(A) $15,000,000, which shall be allocated to the Pueblos, in accordance with section 2.7.1 of the Settlement Agreement, for the rehabilitation, improvement, operation, maintenance, and replacement of the agricultural delivery facilities, waste water systems, and other water-related infrastructure of the applicable Pueblo. The amount authorized herein shall be adjusted according to the CPI Urban Index commencing October 1, 2006.

(B) $37,500,000, which shall be allocated to an account, to be established not later than January 1, 2016, to assist the Pueblos in paying the Pueblos' share of the cost of operating, maintaining, and replacing the Pueblo Water Facilities and the Regional Water System.

(C) $5,000,000 and any interest thereon, which shall be allocated to the Pueblo of Nambé for the acquisition of the Nambé reserved water rights in accordance with section 103(a)(1)(A). The amount authorized herein shall be adjusted according to the CPI Urban Index commencing January 1, 2011. The funds provided under this section may be used by the Pueblo of Nambé only for the acquisition of land, other real property interests, or economic development.

(2) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—Prior to conveyance of the Regional Water System pursuant to section 101, the Secretary shall pay any operation, maintenance or replacement costs associated with the Pueblo Water Facilities or the Regional Water System up to an amount that does not exceed $5,000,000, which is authorized to be appropriated to the Secretary.

(B) OBLIGATION OF THE FEDERAL GOVERNMENT AFTER COMPLETION.—Except as provided in section 103(a)(4)(B), after construction of the Regional Water System is completed and the amounts required to be deposited in the account have been deposited under this section the Federal Government shall have no obligation to pay for the operation, maintenance, and replacement costs of the Regional Water System.

TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

SEC. 201. SETTLEMENT AGREEMENT AND CONTRACT APPROVAL.

(a) APPROVAL.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments to the Settlement Agreement and the Cost-Sharing and System Integration Agreement that are executed to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this Act) are authorized, ratified, and confirmed.

(b) EXECUTION.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Secretary shall execute the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments that are necessary to make the Settlement Agreement or the Cost-Sharing and System Integration Agreement consistent with this Act).

(c) AUTHORITIES OF THE PUEBLOS.—

(1) IN GENERAL.—Each of the Pueblos may enter into contracts to lease or exchange water rights or to forbear undertaking new or expanded water uses for water rights recognized in section 2.1 of the Settlement Agreement for use within the Pojoaque Basin in accordance with the other limitations of section 2.1.5 of the Settlement Agreement provided that section 2.1.5 is amended accordingly.

(2) EXECUTION.—The Secretary shall not execute the Settlement Agreement until such amendment is accomplished under paragraph (1).

(3) APPROVAL BY SECRETARY.—Consistent with the Settlement Agreement as amended under paragraph (1), the Secretary shall approve or disapprove a lease entered into under paragraph (1).

(4) PROHIBITION ON PERMANENT ALIENATION.—No lease or contract under paragraph (1) shall be for a term exceeding 99 years, nor shall any such lease or contract provide for permanent alienation of any portion of the water rights made available to the Pueblos under the Settlement Agreement.

(5) APPLICABLE LAW.—Section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any lease or contract entered into under paragraph (1).

(6) LEASING OR MARKETING OF WATER SUPPLY.—The water supply provided on behalf of the Pueblos pursuant to section 103(a)(1) may only be leased or marketed by any of the Pueblos pursuant to the intergovernmental agreements described in section 104(c)(2).

(d) AMENDMENTS TO CONTRACTS.—The Secretary shall amend the contracts relating to the Nambe Falls Dam and Reservoir that are necessary to use water supplied from the Nambe Falls Dam and Reservoir in accordance with the Settlement Agreement.

SEC. 202. ENVIRONMENTAL COMPLIANCE.

(a) EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.—The execution of the Settlement Agreement under section 201(b) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this Act, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 203. CONDITIONS PRECEDENT AND ENFORCEMENT DATE.

(a) CONDITIONS PRECEDENT.—

(1) IN GENERAL.—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register by September 15, 2017 a statement of finding that the conditions have been fulfilled.

(2) REQUIREMENTS.—The conditions precedent referred to in paragraph (1) are the conditions that—

(A) to the extent that the Settlement Agreement conflicts with this title, the Settlement Agreement has been revised to conform with this title;

(B) the Settlement Agreement, so revised, including waivers and releases pursuant to section 204, has been executed by the appropriate parties and the Secretary;

(C) Congress has fully appropriated, or the Secretary has provided from other authorized sources, all funds authorized by section 107, with the exception of subsection (a)(1) of that section, by December 15, 2016;

(D) the State has enacted any necessary legislation and provided any funding that may be required under the Settlement Agreement;

(E) a partial final decree that sets forth the water rights and other rights to water to which the Pueblos are entitled under the Settlement Agreement and this title and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico; and

(F) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico by June 15, 2017.

(b) EXPIRATION DATE.—If all the conditions precedent described in subsection (a)(2) have not been fulfilled by September 15, 2017—

(1) the Settlement Agreement and this Act including waivers described in those documents shall no longer be effective; and

(2) any funds that have been appropriated under this Act but not expended shall immediately revert to the general fund of the United States Treasury.

(c) ENFORCEMENT DATE.—The Settlement Agreement shall become enforceable as of the date that the United States District Court for the District of New Mexico enters a partial final decree pursuant to subsection (a)(2)(E) and an Interim Administrative

Order consistent with the Settlement Agreement.

(d) EFFECTIVENESS OF WAIVERS.—The waivers and releases executed pursuant to section 204 shall become effective as of the date that the Secretary publishes the notice required by subsection (a)(1).

(e) REQUIREMENTS FOR DETERMINATION OF SUBSTANTIAL COMPLETION OF THE REGIONAL WATER SYSTEM.—

(1) CRITERIA FOR SUBSTANTIAL COMPLETION OF REGIONAL WATER SYSTEM.—Subject to the provisions in section 101(d) concerning the extent, size, and capacity of the County Distribution System, the Regional Water System shall be determined to be substantially completed if the infrastructure has been constructed capable of—

(A) diverting, treating, transmitting, and distributing a supply of 2,500 acre-feet of water to the Pueblos; and

(B) diverting, treating, and transmitting the quantity of water specified in the Engineering Report to the County Distribution System.

(2) CONSULTATION.—On or after June 30, 2021, at the request of 1 or more of the Pueblos, the Secretary shall consult with the Pueblos and confer with the County and the State on whether the criteria in paragraph (1) for substantial completion of the Regional Water System have been met or will be met by June 30, 2024.

(3) RIGHT TO VOID FINAL DECREE.—If the substantial completion criteria have not been met by June 15, 2021, after the consultation required by paragraph (2), the Pueblos or the United States as trustee for the Pueblos have until midnight June 30, 2024 to ask the Decree Court to void the Final Decree pursuant to section 10.3 of the Settlement Agreement.

(f) VOIDING OF WAIVERS.—If the Court determines the Final Decree is voided pursuant to Section 10.3 of the Settlement Agreement, the Settlement Agreement shall no longer be effective, the waivers and releases executed pursuant to section 204 shall no longer be effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government unless otherwise agreed to by the Pueblos and the United States in writing and approved by Congress.

SEC. 204. WAIVERS AND RELEASES.

(a) CLAIMS BY THE PUEBLOS AND THE UNITED STATES.—In return for recognition of the Pueblos' water rights and other benefits, including waivers and releases by non-Pueblo parties, as set forth in the Settlement Agreement and this Act, the Pueblos, on behalf of themselves and their members, and the United States acting in its capacity as trustee for the Pueblos are authorized to execute a waiver and release of—

(1) all claims for water rights in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, asserted, or could have asserted, in any proceeding, including the Aamodt Case, up to and including the waiver effectiveness date identified in section 203(d), except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for water rights for lands in the Pojoaque Basin and for rights to use water in the Pojoaque Basin that the Pueblos, or the United States acting in its capacity as trustee for the Pueblos, might be able to otherwise assert in any proceeding not initiated on or before the date of enactment of this title, except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(3) all claims for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking) for land within the Pojoaque Basin that accrued at any time up to and including the waiver effectiveness date identified in section 203(d);

(4) their defenses in the Aamodt Case to the claims previously asserted therein by other parties to the Settlement Agreement;

(5) all pending and future inter se challenges to the quantification and priority of water rights of non-Pueblo wells in the Pojoaque Basin, except as provided by section 2.8 of the Settlement Agreement;

(6) all pending and future inter se challenges against other parties to the Settlement Agreement;

(7) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to City of Santa Fe pumping of groundwater that has effects on the ground and surface water supplies of the Pojoaque Basin, provided that this waiver shall not be effective by the Pueblo of Tesuque unless there is a water resources agreement executed between the Pueblo of Tesuque and the City of Santa Fe;

(8) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to County of Santa Fe pumping of groundwater that has effects on the ground and surface water supplies of the Pojoaque Basin; and

(9) all claims for damages, losses, or injuries, or for injunctive or other relief, because of the condition of, or changes in, the concentration of naturally occurring constituents of ground and surface water in the Pojoaque Basin arising out of the diversion of water pursuant to water rights recognized by the final decree.

(b) CLAIMS BY THE PUEBLOS AGAINST THE UNITED STATES.—The Pueblos, on behalf of themselves and their members, are authorized to execute a waiver and release of—

(1) all claims against the United States, its agencies, or employees, relating to claims for water rights in or water of the Pojoaque Basin or for rights to use water in the Pojoaque Basin that the United States acting in its capacity as trustee for the Pueblos asserted, or could have asserted, in any proceeding, including the Aamodt Case;

(2) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of water or water rights (including damages, losses or injuries to hunting, fishing, gathering or cultural rights due to loss of water or water rights; claims relating to interference with, diversion or taking of water or water rights; or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure) within the Pojoaque Basin that first accrued at any time up to and including the waiver effectiveness date identified in section 203(d);

(3) all claims against the United States, its agencies, or employees for an accounting of funds appropriated by Acts, including the Act of December 22, 1927 (45 Stat. 2), the Act of March 4, 1929 (45 Stat. 1562), the Act of March 26, 1930 (46 Stat. 90), the Act of February 14, 1931 (46 Stat. 1115), the Act of March 4, 1931 (46 Stat. 1552), the Act of July 1, 1932 (47 Stat. 525), the Act of June 22, 1936 (49 Stat. 1757), the Act of August 9, 1937 (50 Stat. 564), and the Act of May 9, 1938 (52 Stat. 291), as authorized by the Pueblo Lands Act of June 7, 1924 (43 Stat. 636) and the Pueblo Lands Act of May 31, 1933 (48 Stat. 108) and for breach of Trust relating to funds for water replacement appropriated by said Acts that first accrued before the date of enactment of this Act;

(4) all claims against the United States, its agencies, or employees relating to the pending litigation of claims relating to the Pueblos' water rights in the Aamodt Case; and

(5) all claims against the United States, its agencies, or employees relating to the negotiation, Execution or the adoption of the Settlement Agreement, exhibits thereto, the Partial Final Decree, the Final Decree, or this Act.

(c) RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.—Notwithstanding the waivers and releases authorized in this Act, the Pueblos on behalf of themselves and their members and the United States acting in its capacity as trustee for the Pueblos retain.—

(1) all claims for enforcement of the Settlement Agreement, the Cost-Sharing and System Integration Agreement, the Final Decree, including the Partial Final Decree, the San Juan-Chama Project contract between the Pueblos and the United States or this Act;

(2) all rights to use and protect water rights acquired after the date of enactment of this Act;

(3) all rights to use and protect water rights acquired pursuant to state law to the extent not inconsistent with the Partial Final Decree, Final Decree, and the Settlement Agreement;

(4) all claims against persons other than Parties to the Settlement Agreement for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking of water) within the Pojoaque Basin arising out of activities occurring outside the Pojoaque Basin;

(5) all claims relating to activities affecting the quality of water including any claims the Pueblos may have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (including claims for damages to natural resources), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those laws;

(6) all claims against the United States relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights (including hunting, fishing, gathering or cultural rights);

(7) all claims for water rights from water sources outside the Pojoaque Basin for land outside the Pojoaque Basin owned by a Pueblo or held by the United States for the benefit of any of the Pueblos; and

(8) all rights, remedies, privileges, immunities, powers and claims not specifically waived and released pursuant to this Act or the Settlement Agreement.

(d) EFFECT OF SECTION.—Nothing in the Settlement Agreement or this Act—

(1) affects the ability of the United States acting in its sovereign capacity to take actions authorized by law, including any laws relating to health, safety, or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and the regulations implementing those laws;

(2) affects the ability of the United States to take actions acting in its capacity as trustee for any other Indian tribe or allottee; or

(3) confers jurisdiction on any State court to—

(A) interpret Federal law regarding health, safety, or the environment or determine the duties of the United States or other parties pursuant to such Federal law; or

(B) conduct judicial review of Federal agency action;

(e) TOLLING OF CLAIMS.—

(1) IN GENERAL.—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on June 30, 2021.

(2) EFFECT OF SUBPARAGRAPH.—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) LIMITATION.—Nothing in this section precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

SEC. 205. EFFECT.

Nothing in this Act or the Settlement Agreement affects the land and water rights, claims, or entitlements to water of any Indian tribe, pueblo, or community other than the Pueblos.

Mr. UDALL of New Mexico. Mr. President, today I join Senator BINGAMAN in introducing a bill to complete the Aamodt water settlement in northern New Mexico. Introduction of this bill represents a major milestone in the resolution of water rights claims for four tribes along the Rio Grande in northern New Mexico. Decades of work and negotiation have gone into the settlement, and I am pleased that the tribes, city, county, and community groups involved were able to come to an agreement that is mutually beneficial to all water users in the Pojoaque valley.

The Aamodt settlement resolves the water claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque, and addresses the needs of the surrounding communities in Santa Fe County for water and sanitation systems. The settlement is a result of long negotiations between the county and pueblos, and will result in the development of a mutually beneficial water infrastructure system. This system will ensure that the pueblos have access to clean running water into the future, and will allow the surrounding communities to work with the county and state to connect in to the water system. I applaud the efforts and success of these groups in coming to an agreement that both settles disputes and benefits each community.

New Mexico is a State rich with tradition and culture, where water resources are scarce and precious. Diverse communities have depended on the on ground and surface water along the Rio Grande for centuries. As our population grows and communities expand to welcome newcomers, the impact on water resources in New Mexico is vivid. With such stress on this vital but limited commodity, conflict easily develops between communities and individuals, and in a State where the history is long and complex, disputes over water are uniquely complicated. But, ay. despite the potential for disagreement over water tenure, New Mexicans are united in a common respect for this resource. From the pueblos and tribes of New Mexico, to the historic acequias and growing communities, water is fundamental to both survival and cultural traditions, and is respected as such. The Aamodt settlement is an example of communities and tribes coming together to foster compromise rather than conflict. The parties involved have worked tirelessly to ensure that everyone has access to this precious and respected resource.

It has been said that the wars of the future will be fought over access to water. In New Mexico, we are setting a different precedent—a precedent of respect and compromise, one that will help us move into the future with well-established partnerships and a commitment to conserve and manage this vital resource to the benefit of all. I am honored to join Senator BINGAMAN today in introducing this legislation that will bring the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque and the surrounding communities one step closer to establishing a secure water future.

By Mr. DURBIN (for himself, Mr. GRAHAM, and Mr. HATCH):

S. 1107. A bill to amend title 28, United States Code, to provide for a limited 6-month period for Federal judges to opt into the Judicial Survivor' Annuities System and begin contributing toward an annuity for their spouse and dependent children upon their death, and for other purposes; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, today I am introducing a bill, together with my Republican colleague Senator ORRIN HATCH, that will help the financial security of Federal judges and their families. It will do so without costing the Federal Government a penny.

Our bill, the Judicial Survivors Protection Act of 2009, will create an open season for active and senior federal judges to enroll in the Judicial Survivors' Annuities System, JSAS, if they are not currently enrolled. JSAS provides an annuity for the surviving spouses and dependent children of a deceased federal judge. Depending on the judge's length of service, the annuity for a surviving spouse can be as high as 50 percent of the judge's average annual salary, and the annuity for surviving dependent children can be as high as 20 percent.

In addition, our bill would provide an important health insurance benefit for the surviving family members of decease Federal judges. For a surviving spouse or dependent child to continue to receive health insurance coverage under the Federal Employees Health Benefit, FEHB, program after the judge's death, the judge must have been enrolled in JSAS. Otherwise, they can no longer participate in FEHB.

Federal judges have only 6 months from the date of their appointment to sign up for JSAS and, for a variety of reasons, many do not do so. For example, many individuals take substantial pay cuts when they leave a law firm to become a Federal judge, and they are unable to afford JSAS contributions, which amount to a 2.2 percent of a judge's annual salary. Nearly 900 federal judges, representing about 40 percent of the federal judiciary, currently do not participate in JSAS. However, if given the opportunity, the Administrative Office of the U.S. Courts estimates between 200 and 300 judges would sign up.

Take, for example, the case of Judge Michael Mihm, who is a federal judge in the Central District of Illinois, my home State. Judge Mihm wrote a letter and said:

> In 1982, when I came on the bench, the survivor's pension (JSAS) was so bad that almost no incoming judge signed up for it. Plus, the percentage of salary involved was very high. So I didn't sign up for it then. In the early 90s I was a member of the Judicial Branch Committee, and at that time the Committee and the judiciary succeeded in getting a bill passed that improved the benefits (established a 25% floor) and the percentage of salary paid. There was an open season. That would have been the time to join. However, at that time I had four children attending private universities . . . I simply couldn't afford to bring home a smaller paycheck. I have for some time now been very interested in 'buying in' to the survivor's pension, that is, pay in everything I would have paid in if I had joined during the open season, plus a penalty amount for waiting until now to join.

I also received a letter from U.S. District Court Judge Robert Gettleman in the Northern District of Illinois, who said: ''Especially given the circumstances of our current economic crisis, providing for my family in the event of a death is of urgent importance to me. I think I speak for many of those in my circumstance that I am happy to make a make-up payment and contribute a greater share of my income to participate in this program.''

The bill that Senator HATCH and I are introducing would allow Judge Mihm, Judge Gettleman, and the hundreds of other nonparticipating federal judges around the country to pay a penalty and buy into the JSAS program. Such judges would be required to pay an enhanced contribution rate of 2.75 percent of their salary each year rather than the 2.2 percent rate they would pay if they had enrolled within 6 months of taking office.

As a result, the cost of our bill would be borne by these new enrollees and not by the Federal Government or by previously enrolled judges. The Congressional Budget Office has conducted an informal review of this bill and determined that the cost of this bill is insignificant. Therefore, the bill would require no Federal funds and have no

PAYGO implications. The higher ongoing contribution rates for new enrollees will offset the value of any potential future liabilities that would be incurred by the JSAS fund, which currently has assets of over $500 million.

One of the highest priorities of the federal judiciary in recent years has been the pursuit of a pay raise. Federal judges have not received a pay raise from Congress since 1991, other than occasional cost-of living adjustments, and there is a concern that some of this Nation's best and brightest attorneys no longer seek Federal judgeships because of the financial sacrifice they and their families would have to make. The bill that Senator HATCH and I are introducing today would not raise the judicial pay of our federal judges, but it would at least provide a modest benefit that might make judicial service more tenable and more attractive. I hope Congress will take up and pass the Judicial Survivors Protection Act of 2009 as soon as possible.

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

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

S. 1107

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 ''Judicial Survivors Protection Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

(1) The term ''judicial official'' refers to incumbent officials defined under section 376(a) of title 28, United States Code.

(2) The term ''Judicial Survivors' Annuities Fund'' means the fund established under section 3 of the Judicial Survivors' Annuities Reform Act (28 U.S.C. 376 note; Public Law 94–554; 90 Stat. 2611).

(3) The term ''Judicial Survivors' Annuities System'' means the program established under section 376 of title 28, United States Code.

SEC. 3. PERSONS NOT CURRENTLY PARTICIPATING IN THE JUDICIAL SURVIVORS' ANNUITIES SYSTEM.

(a) ELECTION OF JUDICIAL SURVIVORS' ANNUITIES SYSTEM COVERAGE.—An eligible judicial official may elect to participate in the Judicial Survivors' Annuities System during the open enrollment period specified in subsection (d).

(b) MANNER OF MAKING ELECTIONS.—An election under this section shall be made in writing, signed by the person making the election, and received by the Director of the Administrative Office of the United States Courts before the end of the open enrollment period.

(c) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Director.

(d) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period under this section is the 6-month period beginning 30 days after the date of enactment of this Act.

SEC. 4. JUDICIAL OFFICERS' CONTRIBUTIONS FOR OPEN ENROLLMENT ELECTION.

(a) CONTRIBUTION RATE.—Every active judicial official who files a written notification of his or her intention to participate in the Judicial Survivors' Annuities System during the open enrollment period shall be deemed thereby to consent and agree to having deducted from his or her salary a sum equal to 2.75 percent of that salary or a sum equal to 3.5 percent of his or her retirement salary, except that the deduction from any retirement salary—

(1) of a justice or judge of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

(2) of a judge of the United States Court of Federal Claims retired under section 178 of title 28, United States Code; or

(3) of a judicial official on recall under section 155(b), 373(c)(4), 375, or 636(h) of title 28, United States Code,

shall be an amount equal to 2.75 percent of retirement salary.

(b) CONTRIBUTIONS TO BE CREDITED TO JUDICIAL SURVIVORS' ANNUITIES FUND.—Contributions made under subsection (a) shall be credited to the Judicial Survivors' Annuities Fund.

SEC. 5. DEPOSIT FOR PRIOR CREDITABLE SERVICE.

(a) LUMP SUM DEPOSIT.—Any judicial official who files a written notification of his or her intention to participate in the Judicial Survivors' Annuities System during the open enrollment period may make a deposit equaling 2.75 percent of salary, plus 3 percent annual, compounded interest, for the last 18 months of prior service, to receive the credit for prior judicial service required for immediate coverage and protection of the official's survivors. Any such deposit shall be made on or before the closure of the open enrollment period.

(b) DEPOSITS TO BE CREDITED TO JUDICIAL SURVIVORS' ANNUITIES FUND.—Deposits made under subsection (a) shall be credited to the Judicial Survivors' Annuities Fund.

SEC. 6. VOLUNTARY CONTRIBUTIONS TO ENLARGE SURVIVORS' ANNUITY.

Section 376 of title 28, United States Code, is amended by adding at the end the following:

''(y) For each year of Federal judicial service completed, judicial officials who are enrolled in the Judicial Survivors' Annuities System on the date of enactment of the Judicial Survivors Protection Act of 2009 may purchase, in 3-month increments, up to an additional year of service credit, under the terms set forth in this section. In the case of judicial officials who elect to enroll in the Judicial Survivors' Annuities System during the statutory open enrollment period authorized under the Judicial Survivors Protection Act of 2009, for each year of Federal judicial service completed, such an official may purchase, in 3-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in section 4(a) of that Act.''.

SEC. 7. EFFECTIVE DATE.

This Act, including the amendment made by section 6, shall take effect on the date of enactment of this Act.

Mr. HATCH. Mr. President, I am pleased to join my colleague from Illinois and fellow Judiciary Committee member, Senator DURBIN, in introducing the Judicial Survivors' Protection Act of 2009. This legislation will provide more Federal judges with an opportunity financially to provide for their own families after their death. Under this legislation, the cost of this opportunity will be borne by the judges themselves, not by the taxpayers, and I hope all my colleagues will support it.

Congress created the Judicial Survivors' Annuity System in 1956. It allow Federal judges to devote a portion of their salary toward an annuity for their spouses and dependent children upon the judges' death. Enrollment in JSAS is also necessary for a judge's family members to continue receiving health insurance coverage under the Federal Employees Health Benefits Program.

The catch is that judges must enroll within 6 months of taking judicial office or 6 months of marriage while in office. Approximately 40 percent of current Federal judges did not do so, some for financial reasons. Many judges who had been in private practice, for example, took a substantial pay cut to enter public service. The enrollment period for JSAS was the very time when they and their families were making that financial adjustment, when maximizing current income was the priority. This is just one of the scenarios which have led judges to decline enrollment in JSAS, and it will become more likely, more pronounced, as Congress refuses to give Federal judges a much needed pay raise.

Congress may authorize an open-season period for sitting judges to enroll but has not done so since 1992, the year after Congress last gave Federal judges a real salary increase. The legislation we introduce today would provide for such a one-time, 6 month period for sitting Federal judges to enroll in JSAS. Doing so would not cost the taxpayers anything because these judges would commit a higher percentage of their salary than those who enroll during the ordinary period.

Congress' refusal to provide appropriate judicial compensation limits judges' ability to provide for their families financial future. Providing this one-time opportunity for judges to enroll in JSAS, therefore, is almost the least we can do. It will also allow more judges to ensure that their family members will continue receiving health insurance coverage. And since it will not cost the taxpayers anything, I think it is a win-win which I trust will receive wide bipartisan support.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1110. A bill to amend title XVIII of the Social Security Act to create a sensible infrastructure for delivery system reform by renaming the Medicare Payment Advisory Commission, making the Commission an executive branch agency, and providing the Commission new resources and authority to implement Medicare payment policy; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Medicare Payment Advisory Commission MedPAC Reform Act, legislation to elevate MedPAC to an executive branch entity and give it the resources and authority to implement Medicare payment policies. It is a fact that the quality of U.S. health care is mediocre

and its costs are unsustainable. Nonetheless, a modern health care delivery system is within our reach and something that we can start to achieve this year. Payment reforms, particularly in Medicare, are the cornerstone for driving quality improvement and improving the efficiency of our health care system. However, Congress must adopt a mechanism to implement and maintain Medicare reimbursement policies that are based on the best evidence and driven by the right incentives. This is simply not the case today.

Currently, Congress has the sole authority to change the cost curve for Medicare. Unfortunately, this process is riddled with political influence and is slowed by an inadequate structure to research, analyze, test, and implement successful delivery system reforms. Given the role of Medicare in determining market norms among all health care payers, both public and private, the federal government has an opportunity to realign our nation's health care system to drive quality improvement and greater efficiency.

The federal government already has a well-respected, independent entity—the Medicare Payment Advisory Commission, MedPAC—that currently advises Congress on Medicare payment policies. MedPAC, established by the Balanced Budget Act of 1997 (P.L. 105–33), employs a number of mechanisms to inform Congress on issues affecting the Medicare program. Specifically, MedPAC analyzes provider reimbursement, beneficiary access to care, and quality of care; delivers this information to Congress through regular reports and recommendations; engages in public meetings to discuss policy issues and formulate its recommendations to the Congress; and seeks input on Medicare issues in non-public forums through frequent meetings with a wide variety of parties.

Despite MedPAC's reputation for providing thoughtful, evidence-based recommendations to improve Medicare's payment policies, MedPAC has no power to implement its recommendations. That power rests solely with Congress. Unfortunately, Members of Congress face unyielding pressure from the health care industry to pick and choose which MedPAC recommendations they consider, despite the evidence. This routinely leads to the passage of laws that put the special interests of industry over the needs of patients.

MedPAC has proven, through its objectivity and its open and deliberative process, that they have the appropriate expertise to change the cost curve for Medicare and strengthen it for the future. The Medicare Payment Advisory Commission Reform Act of 2009 helps to achieve this goal. Specifically, this legislation would restructure MedPAC as an independent executive branch entity, like the Federal Reserve Board. This would provide MedPAC the appropriate authority to implement its recommendations for Medicare provider reimbursement policies.

In addition to extending the terms and requirements of the Commissioners to be full-time employees of the Commission, this legislation also establishes three new advisory councils to assist them in their decision-making—a Council of Health and Economic Advisors, a Consumer Advisory Council, and a Federal Health Advisory Council with representatives from the health care industry.

Lastly, MedPAC's authority to analyze health services research is also enhanced in this legislation by providing them with additional resources and staff to bolster their current analytical role. Given the limitations of the current Medicare demonstration process, this legislation provides new authority and resources to MedPAC to design and evaluate new payment models through Medicare demonstrations.

I strongly feel that establishing MedPAC as an independent executive branch agency—which can only happen through an act of Congress—is the type of bold step forward that can truly transform our delivery system. Congress has proven itself to be inefficient and inconsistent in making decisions about provider reimbursement under Medicare. If we want serious improvements in our health care delivery system, then Congress should leave the reimbursement rules to the independent health care experts. I urge my colleagues to join me in support of a policy that truly improves Medicare today and in the future.

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. 1110

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 ''Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009''.

SEC. 2. RENAMING AND REFORMING THE MEDICARE PAYMENT ADVISORY COMMISSION.

(a) AMENDMENT TO TITLE.—

(1) IN GENERAL.—Section 1805 of the Social Security Act (42 U.S.C. 1395b–6) is amended—

(A) in the heading, by striking ''medicare payment advisory commission'' and inserting ''medicare payment and access commission''; and

(B) in subsection (a), by striking ''Medicare Payment Advisory Commission'' and inserting ''Medicare Payment and Access Commission (or 'MedPAC')''.

(2) REFERENCES.—Any reference to the Medicare Payment Advisory Commission shall be deemed a reference to the Medicare Payment and Access Commission.

(b) ESTABLISHMENT AS EXECUTIVE AGENCY.—Section 1805 of the Social Security Act (42 U.S.C. 1395b–6) is amended—

(1) in the heading, by striking ''ADVISORY'';

(2) in subsection (a)—

(A) by striking ''Advisory''; and

(B) by striking ''agency of Congress'' and inserting ''independent establishment (as defined in section 104 of title 5, United States Code)'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''APPOINTMENT.—The Commission'' and inserting ''APPOINTMENT.—

''(A) IN GENERAL.—The Commission'';

(ii) in subparagraph (A), as inserted by clause (i)—

(I) by striking ''17'' and inserting ''11'';

(II) by inserting ''the Secretary and the Administrator of the Centers for Medicare & Medicaid Services, who shall each serve as non-voting members of the Commission, and'' after ''composed of''; and

(III) by striking ''Comptroller General'' and inserting ''President, by and with the advice and consent of the Senate''; and

(iii) by adding at the end the following new subparagraphs:

''(B) LIMITATION ON NUMBER OF TERMS SERVED.—An individual may not be appointed as a member of the Commission for more than 2 consecutive terms.

''(C) MEMBERS CURRENTLY APPOINTED.—

''(i) IN GENERAL.—Any individual serving as a member of the Commission as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009 may continue to serve as a member until the earlier of—

''(I) the remainder of the term for which the member was appointed; or

''(II) April 30, 2010.

''(ii) CLARIFICATION REGARDING VACANCIES.—Any vacancy in the Commission on or after such date of enactment shall be filled as provided in accordance with subparagraph (A).''; and

(B) in paragraph (2), by striking subparagraph (D) and inserting the following new subparagraph:

''(D) ADDITIONAL QUALIFICATIONS.—In addition to the qualifications described in the succeeding provisions of this paragraph, the President shall consider the political balance of the membership of the Commission and the needs of individuals entitled to (or enrolled for) benefits under part A or enrolled under part B who are entitled to medical assistance under a State plan under title XIX.''.

(C) in paragraph (3)—

(i) by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—The terms of members of the Commission shall be for 6 years except that, of the members first appointed—

''(i) four shall be appointed for terms of 5 years;

''(ii) four shall be appointed for terms of 3 years; and

''(iii) three shall be appointed for terms of 1 year.''; and

(ii) in subparagraph (B), in the third sentence, by striking ''A vacancy'' and inserting ''Except as provided in paragraph (1)(C), a vacancy'';

(D) by amending paragraph (4) to read as follows:

''(4) COMPENSATION.—Membership in the Commission shall be a full-time position. A member of the Commission shall be entitled to compensation at the rate payable for level IV of the Executive Schedule under section 5316 of title 5, United States Code.''.

(E) by amending paragraph (5) to read as follows:

''(5) CHAIRMAN; VICE CHAIRMAN.—The President shall designate a member of the Commission, at the time of appointment of the member by and with the advice and consent of the Senate, as Chairman and a member of the Commission, at the time of appointment of the member by and with the advice and consent of the Senate, as Vice Chairman, except that in the case where the Chairman or the Vice Chairman is not able to be present

(including in the case of vacancy), a majority of the Commission may designate another member for the period of such absence.'';

(4) in subsection (d), in the matter preceding paragraph (1), by striking ''Subject to such review as the Comptroller General deems necessary to assure the efficient administration of the Commission, the Commission'' and inserting ''The Commission'';

(5) by amending subsection (f) to read as follows:

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sixty percent of such appropriations shall be payable from the Federal Hospital Insurance Trust Fund, and 40 percent of such appropriation shall be payable from the Federal Supplementary Medical Insurance Trust Fund.''; and

(6) by adding at the end the following new subsection:

''(g) REFERENCES.—Any reference to the Medicare Payment Advisory Commission or MedPAC shall be deemed a reference to the Medicare Payment and Access Commission.''.

(c) AUTHORITY TO DETERMINE PAYMENT RATES AND ROUTINE EVALUATION OF PAYMENT RATES UNDER THE MEDICARE PROGRAM.—

(1) IN GENERAL.—Section 1805(b) of the Social Security Act (42 U.S.C. 1395b–6(b)) is amended—

(A) in paragraph (1)(B), by inserting ''and determine payment rates for items and services furnished under this title in accordance with paragraph (9)'' before the semicolon at the end; and

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

''(9) AUTHORITY TO DETERMINE PAYMENT RATES UNDER THIS TITLE.—

''(A) DETERMINATION OF PAYMENT RATES.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, the Commission shall determine payment rates for items and services furnished under this title. In determining such payment rates, the Commission shall do so in a manner that is consistent with the provisions of sections 1801 and 1802.

''(ii) TIMELINE FOR DETERMINATIONS WITH RESPECT TO PAYMENT POLICIES FOR PHYSICIANS AND HOSPITALS.—The Commission shall make a determination under this subparagraph with respect to payment policies—

''(I) for physicians (as defined in section 1861(r)(1)), not later than December 1 of each year (beginning with 2012); and

''(II) for hospitals, not later than March 1 of each year (beginning with 2013).

''(B) IMPLEMENTATION OF PAYMENT RATES.—

''(i) AUTHORITY OF SECRETARY.—Notwithstanding any other provision of law, the Secretary shall promulgate regulations to implement any payment rates determined by the Commission under subparagraph (A).

''(ii) PAYMENT RATES AND REGULATIONS CURRENTLY IN EFFECT.—Any payment rate for items and services furnished under this title as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009 or regulation promulgated by the Secretary relating to such payments prior to such date of enactment shall remain in effect until the Secretary promulgates regulations under clause (ii) to implement a payment rate determined by the Commission with respect to the item or service.

''(C) LIMITATION ON JUDICIAL REVIEW.—Any determination of the Commission relating to payment rates for items and services furnished under this title shall be a final agency action of the Commission and shall not be subject to judicial review.

''(D) ANNUAL REPORT.—Not later than March 15 of each year (beginning with 2012), the Commission shall submit to Congress a report on any payment rates determined under subparagraph (A) during the preceding year, including the performance of the Secretary in implementing such payment rates by promulgating regulations under subparagraph (B).

''(10) ROUTINE EVALUATION OF PAYMENT RATES.—The Commission shall review the payment rate for each item and service furnished under this title not less frequently than every 5 years in order to determine whether the Commission should make a determination under paragraph (9) to update such payment rate.''.

(2) GAO STUDY AND ANNUAL REPORT ON DETERMINATION AND IMPLEMENTATION OF PAYMENT RATES.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on changes to payment policies under the Medicare program under title XVIII of the Social Security Act as a result of the amendments made by this subsection, including an analysis of—

(i) any determinations made by the Medicare Payment and Access Commission under subparagraph (A) of section 1805(b)(9) of such Act, as added by paragraph (1), during the preceding year;

(ii) any regulations promulgated by the Secretary of Health and Human Services under subparagraph (B) of such section during the preceding year;

(iii) the process for—

(I) making such determinations (including the evidence to support any such determination);

(II) promulgating such regulations (including the capacity of the Secretary of Health and Human Services to promulgate such regulations); and

(iv) the ability of the Centers for Medicare & Medicaid Services to fulfill its responsibilities in carrying out such regulations.

(B) REPORT.—Not later than December 31 of each year (beginning with 2012), the Comptroller General shall submit to Congress a report containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(d) CONGRESSIONAL ACTION.—Section 1805 of the Social Security Act (42 U.S.C. 1395b–6), as amended by subsection (b), is amended—

(1) by redesignating subsections (f) and (g), respectively, as subsections (g) and (h); and

(2) by inserting after subsection (e) the following new subsection:

''(f) CONGRESSIONAL ACTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, it shall only be in order in the Senate or the House of Representatives to consider any measure that would overrule a determination of the Commission with respect to payments for items and services furnished under this title if ⅗ of the Members, duly chosen and sworn, of the Senate or the House of Representatives agree to such consideration.

''(2) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

''(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a measure described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.''.

(e) RESEARCH, INFORMATION ACCESS, AND DEMONSTRATION PROJECTS.—Section 1805(e) of the Social Security Act (42 U.S.C. 1395b–6(e)) is amended by adding at the end the following new paragraphs:

''(5) AUTHORITY TO INFORM RESEARCH PRIORITIES FOR DATA COLLECTION.—The Commission may advise the Secretary (through the Director of the Agency for Healthcare Research and Quality and the Director of the National Institutes of Health) on priorities for health services research, particularly as such priorities pertain to necessary changes and issues regarding payment reforms under this title.

''(6) EXPANDED AUTHORITY TO ACCESS FEDERAL DATA AND REPORTS.—In addition to data obtained under paragraph (1), the Commission shall have priority access to all raw data and research conducted or funded by the Federal government, including data and research produced by the Centers for Medicare & Medicaid Services, the National Institutes of Health, and the Agency for Healthcare Research and Quality.

''(7) ELECTRONIC ACCESS.—The National Director for Health Information Technology, in coordination with the Secretary, the Administrator of the Centers for Medicare & Medicaid Services, and the Commission, shall establish a direct electronic link for raw data, including claims data under this title, to be accessed by the Commission for the purposes of evaluating and determining recommendations under this title, in accordance with applicable privacy laws and data use agreements.

''(8) ACCESS TO BIANNUAL REPORTS.—Not less frequently than on a biannual basis, the National Institutes of Health and the Agency for Healthcare Research and Quality shall submit to the Commission a report containing information on any research conducted by the National Institutes of Health and the Agency for Healthcare Research and Quality, respectively, which has relevance for the determinations and recommendations being considered by the Commission. Such information shall be provided to the Commission in electronic form.

''(9) REVISIONS TO PROCESS FOR CONDUCT OF DEMONSTRATION PROJECTS RELATING TO PAYMENTS UNDER THIS TITLE.—Effective beginning January 1, 2011, the Commission shall have sole authority to design and evaluate demonstration projects relating to payments under this title which are authorized by section 402 of the Social Security Amendments of 1967 or under a waiver under section 1115. The Secretary shall maintain all responsibility for implementing such demonstration projects, including for implementing the process through which providers are reimbursed for items and services furnished under the demonstration projects. Nothing in this paragraph shall affect the authority of the Secretary with respect to demonstration projects under this title not relating to such payments.''.

(f) ADDITIONAL RESOURCES TO CARRY OUT DUTIES.—

(1) IN GENERAL.—Section 1805(d) of the Social Security Act (42 U.S.C. 1395b–6(d)) is amended—

(A) in paragraph (1), by inserting ''(including an attorney)'' after ''such other personnel''; and

(B) in paragraph (5), by striking ''and'' at the end;

(C) in paragraph (6), by striking the period at the end and inserting ''; and''; and

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

''(7) establish a public affairs office.''.

(2) OFFICE OF THE OMBUDSMAN.—Section 1805(e) of the Social Security Act (42 U.S.C.

1395b–6(e)), as amended by subsection (e), is amended by adding at the end the following new paragraph:

''(10) OFFICE OF THE OMBUDSMAN.—

''(A) IN GENERAL.—The Commission shall establish an office of the ombudsman to handle complaints regarding the implementation of regulations under subsection (a)(9)(B).

''(B) DUTIES.—The office of the ombudsman shall—

''(i) act as a liaison between the Commission and any entity or individual affected by the implementation of such a regulation; and

''(ii) ensure that the Commission has established safeguards—

''(I) to encourage such entities and individuals to submit complaints to the office of the ombudsman; and

''(II) to protect the confidentiality of any entity or individual who submits such a complaint.''.

(g) USE OF FUNDING.—Section 1805(g) of the Social Security Act (42 U.S.C. 1395b–6(g)), as amended by subsection (b) and redesignated by subsection (d), is amended by adding at the end the following new sentence: ''Out of amounts appropriated under the preceding sentence, the Commission may use not more than $500,000,000 each fiscal year to test new methods of reimbursement under this title.''.

(h) MACPAC TECHNICAL AMENDMENTS.—Section 1900(b) of the Social Security Act (42 U.S.C. 1396) is amended—

(1) in paragraph (1)(D), by striking ''June 1'' and inserting ''June 15''; and

(2) by adding at the end the following:

''(10) CONSULTATION WITH MEDPAC.—MACPAC shall regularly consult with the Medicare Payment and Access Commission (in this paragraph referred to as 'MedPAC') established under section 1805 in carrying out its duties under this section.''.

(i) LOBBYING COOLING-OFF PERIOD FOR MEMBERS OF THE MEDICARE PAYMENT ADVISORY COMMISSION.—Section 207(c) of title 18, United States Code, is amended by inserting at the end the following:

''(3) MEMBERS OF THE MEDICARE PAYMENT ADVISORY COMMISSION.—

''(A) IN GENERAL.—Paragraph (1) shall apply to a member of the Medicare Payment Advisory Commission who was appointed to such Commission as of the day before the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

''(B) AGENCIES AND CONGRESS.—For purposes of paragraph (1), the agency in which the individual described in subparagraph (A) served shall be considered to be the Medicare Payment and Access Commission established under section 1805 of the Social Security Act, the Department of Health and Human Services, and the relevant committees of jurisdiction of Congress.''.

SEC. 3. ESTABLISHMENT OF COUNCIL OF HEALTH AND ECONOMIC ADVISERS, CONSUMER ADVISORY COUNCIL, AND FEDERAL HEALTH ADVISORY COUNCIL.

Section 1805(b) of the Social Security Act (42 U.S.C. 1395b–6(b)), as amended by section 2(c), is amended by adding at the end the following new paragraph:

''(11) COUNCIL OF HEALTH AND ECONOMIC ADVISERS, CONSUMER ADVISORY COUNCIL, AND FEDERAL HEALTH ADVISORY COUNCIL.—

''(A) COUNCIL OF HEALTH AND ECONOMIC ADVISERS.—

''(i) IN GENERAL.—The Commission shall establish a council of health and economic advisers to advise the Commission on its development, analyses, and implementation of payment policies under this title.

''(ii) MEMBERSHIP.—

''(I) IN GENERAL.—The council of health and economic advisers shall be composed of acknowledged experts in health care and economics selected by the Commission.

''(II) INITIAL INCLUSION OF FORMER MEMBERS OF MEDICARE PAYMENT ADVISORY COMMISSION.—The members initially selected for the council of health and economic advisers under subclause (I) shall include those individuals who were members of the Medicare Payment Advisory Commission as of the day before the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

''(B) CONSUMER ADVISORY COUNCIL.—

''(i) IN GENERAL.—There is established a consumer advisory council to advise the Commission on the impact of payment policies under this title on consumers.

''(ii) MEMBERSHIP.—

''(I) NUMBER AND APPOINTMENT.—The consumer advisory council shall be composed of 10 consumer representatives appointed by the Comptroller General of the United States, 1 from among each of the 10 regions established by the Secretary as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

''(II) QUALIFICATIONS.—The membership of the council shall represent the interests of consumers and particular communities.

''(iii) DUTIES.—The consumer advisory council shall, subject to the call of the Commission, meet not less frequently than 2 times each year in the District of Columbia.

''(iv) OPEN MEETINGS.—Meetings of the consumer advisory council shall be open to the public.

''(v) ELECTION OF OFFICERS.—Members of the consumer advisory council shall elect their own officers.

''(C) FEDERAL HEALTH ADVISORY COUNCIL.—

''(i) IN GENERAL.—There is established a Federal health advisory council to consult with and provide advice to the Commission on all matters within the jurisdiction of the Commission.

''(ii) MEMBERSHIP.—The Federal health advisory council shall be composed of 10 representatives from the health care industry appointed by the Comptroller General of the United States, 1 from among each of the 10 regions established by the Secretary as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009.

''(iii) TERMS.—

''(I) IN GENERAL.—The terms of members of the Federal health advisory council shall be for 1 year.

''(II) LIMITATION ON NUMBER OF TERMS SERVED.—An individual may not be appointed as a member of the Federal health advisory council for more than 3 terms.

''(iv) DUTIES.—The Federal health advisory council shall, subject to the call of the Commission, meet not less frequently than 2 times each year in the District of Columbia.

''(v) OPEN MEETINGS.—Meetings of the Federal health advisory council shall be open to the public.

''(vi) ELECTION OF OFFICERS.—Members of the Federal health advisory council shall elect their own officers.

''(D) LIMITATION ON FUNDING.—Out of amounts appropriated under subsection (g), the Commission may use not more than $300,000 each fiscal year to carry out this paragraph.''.

By Mr. REID (for Mr. ROCKEFELLER):

S. 1111. A bill to require the Secretary of Health and Human Services to enter into agreements with States to resolve outstanding claims for reimbursement under the Medicare program relating to the Special Disability Workload project; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Special Disability Workload Liability Resolution Act, legislation that will resolve Medicare's longstanding liability to state Medicaid programs for individuals who were covered by Medicaid when they should have been covered by Medicare.

For the past several decades, hundreds of thousands of disabled people have had their health care paid for by Medicaid; however, their health care was actually the responsibility of Medicare. Therefore, states have been left financially responsible for individuals whose care should have been paid for entirely by the Federal Government. Both the Centers for Medicare and Medicaid Services, CMS, and the Social Security Administration, SSA, acknowledge Medicare's responsibility for these beneficiaries. The Social Security Administration is in the process of correcting the cash insurance payments that were due to disabled individuals. However, CMS has not acted to establish a means of satisfying Medicare's liability.

This is unacceptable. Nearly every state is struggling to balance its budget in the midst of this terrible economic crisis, and it is estimated that the Medicare program owes the states an estimated $4 billion. This figure continues to grow as the SSA corrects additional cases. When it is determined that a state owes the Federal Government money for Medicaid expenses, states have only 60 days to pay this debt. Yet, now that the situation is reversed, the Federal Government has not even established a timeline with which to pay its debt to the States.

The legislation I am introducing today, the Special Disability Workload Liability Resolution Act, would provide $4 billion in Federal funding to settle this debt to the States. It requires the Social Security Administration and CMS to develop an accurate payment methodology to reimburse states within 6 months of the bill's enactment. Resolving this Federal debt would inject critical funds into State and local economies and help maintain state jobs.

This bill is based on language successfully included in the Senate-passed American Recovery and Reinvestment Act, but it was dropped in conference. It is my hope that my colleagues will once again 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. 1111

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 ''Special Disability Workload Liability Resolution Act of 2009''.

SEC. 2. PAYMENT OF MEDICARE LIABILITY TO STATES AS A RESULT OF THE SPECIAL DISABILITY WORKLOAD PROJECT.

(a) IN GENERAL.—The Secretary, in consultation with the Commissioner, shall work with each State to reach an agreement, not later than 6 months after the date of enactment of this Act, on the amount of a payment for the State related to the Medicare program liability as a result of the Special Disability Workload project, subject to the requirements of subsection (c).

(b) PAYMENTS.—

(1) DEADLINE FOR MAKING PAYMENTS.—Not later than 30 days after reaching an agreement with a State under subsection (a), the Secretary shall pay the State, from the amounts appropriated under paragraph (2), the payment agreed to for the State.

(2) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there is appropriated $4,000,000,000 for fiscal year 2010 for making payments to States under paragraph (1).

(3) LIMITATIONS.—In no case may the aggregate amount of payments made by the Secretary to States under paragraph (1) exceed $4,000,000,000.

(c) REQUIREMENTS.—The requirements of this subsection are the following:

(1) FEDERAL DATA USED TO DETERMINE AMOUNT OF PAYMENTS.—The amount of the payment under subsection (a) for each State is determined on the basis of the most recent Federal data available, including the use of proxies and reasonable estimates as necessary, for determining expeditiously the amount of the payment that shall be made to each State that enters into an agreement under this section. The payment methodology shall consider the following factors:

(A) The number of SDW cases found to have been eligible for benefits under the Medicare program and the month of the initial Medicare program eligibility for such cases.

(B) The applicable non-Federal share of expenditures made by a State under the Medicaid program during the time period for SDW cases.

(C) Such other factors as the Secretary and the Commissioner, in consultation with the States, determine appropriate.

(2) CONDITIONS FOR PAYMENTS.—A State shall not receive a payment under this section unless the State—

(A) waives the right to file a civil action (or to be a party to any action) in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project; and

(B) releases the United States from any further claims for reimbursement of State expenditures as a result of the Special Disability Workload project (other than reimbursements being made under agreements in effect on the date of enactment of this Act as a result of such project, including payments made pursuant to agreements entered into under section 1616 of the Social Security Act or section 211(1)(1)(A) of Public Law 93–66).

(3) NO INDIVIDUAL STATE CLAIMS DATA REQUIRED.—No State shall be required to submit individual claims evidencing payment under the Medicaid program as a condition for receiving a payment under this section.

(4) INELIGIBLE STATES.—No State that is a party to a civil action in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project shall be eligible to receive a payment under this section while such an action is pending or if such an action is resolved in favor of the State.

(d) DEFINITIONS.—In this section:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Social Security.

(2) MEDICAID PROGRAM.—The term ''Medicaid program'' means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.) and includes medical assistance provided under any waiver of that program approved under section 1115 or 1915 of such Act (42 U.S.C. 1315, 1396n) or otherwise.

(3) MEDICARE PROGRAM.—The term ''Medicare program'' means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(5) SDW CASE.—The term ''SDW case'' means a case in the Special Disability Workload project involving an individual determined by the Commissioner to have been eligible for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) for a period during which such benefits were not provided to the individual and who was, during all or part of such period, enrolled in a State Medicaid program.

(6) SPECIAL DISABILITY WORKLOAD PROJECT.—The term ''Special Disability Workload project'' means the project described in the 2008 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, H.R. Doc. No. 110-104, 110th Cong. (2008).

(7) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

By Mr. PRYOR (for himself, Ms. SNOWE, Mr. NELSON, of Nebraska, and Mr. WICKER):

S. 1113. A bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. PRYOR. Mr. President, I rise today to introduce legislation with Senators SNOWE, NELSON of Nebraska, and WICKER. The legislation that we are introducing today is aptly named The Safe Roads Act of 2009, as it will go a long way toward improving the safety of our Nation's roads by closing loopholes that have allowed commercial truck and bus drivers to use and abuse drugs and continue to drive without receiving required treatment necessary to return to duty. The bill is designed to save lives by preventing unnecessary deaths on our Nation's roads.

Nearly every day Americans can open their newspapers to learn about a death caused by drivers under the influence of drugs and alcohol. Sometimes, these drivers are behind the wheel of an 18-wheeler or a commercial bus, which due to their size and weight bring a destructive force on any road. On May 8th of this year, the Arkansas Democrat Gazette reported about a commercial bus driver involved in an accident on Interstate 40 near Forrest City, AR, in 2007 that resulted in four fatalities. The driver was reportedly under the influence of amphetamines, one of the substances tested for under Federal Motor Carrier Safety Administration, FMCSA, testing regulations. The driver of this commercial vehicle has been sentenced to jail and four lives were lost as a result of the accident.

Some other similar accidents involving truck drivers that have occurred in recent years include: in October 2008, Kane County, IL, a truck driver rear-ended a passenger vehicle killing a woman. The truck driver was indicted for reckless homicide and driving under the influence of narcotics.

In January 2008, in Franklin County, AL, a truck driver was arrested for being under the influence of drugs or alcohol after crossing the center line and killing a woman in a head-on accident.

In July 2007, in Little Rock, AR, a truck driver killed a family of five in a crash. The driver admitted smoking crack cocaine a few hours before the crash.

In May 2007, Centre County, PA, a truck driver ran over a car killing a woman. The driver faces charges including homicide by vehicle while driving under the influence of suspected methamphetamines.

While drug abuse among the at least 3.4 million truck drivers in the industry is estimated by FMCSA to only represent 2 to 5 percent of the entire truck driving workforce, that still represents roughly 68,000 truck drivers that have a drug or alcohol abuse problem. That is a high and unacceptable risk that needs to be addressed in a serious fashion. Our goal is to prevent accidents of this nature, and I would like to briefly explain how we intend to do so.

Our bill will establish within the FMCSA a national drug and alcohol database and clearinghouse listing positive alcohol and drug test results or test refusals by commercial truck and bus drivers. The bill will expand current drug and alcohol testing regulations to require Medical Review Officers, MROs, and other FMCSA-approved agents conducting already-required testing to report positive test results and test refusals to the FMCSA drug and alcohol clearinghouse. Employers seeking new employees would then be required to not only follow the laws already in place for testing prospective employees, but they would also be required to examine the prospective employees' record in the FMCSA clearinghouse to determine if the prospective employee has recently failed or refused to take a drug and alcohol test. If the prospective employee has a positive test result or test refusal in the clearinghouse, an employer would not be allowed to hire the prospective employee unless it can be proven that he or she has not violated

the requirements of the testing program, or that he or she has fully completed a return-to-duty program as required by the testing program.

There are major loopholes that exist today in the current drug and alcohol testing regime. Drivers have a tendency to ''job-hop'' after failing drug and alcohol tests, moving from one company to another without reporting past drug and alcohol test failures. Some States have since closed this loophole by establishing clearinghouses similar to our proposal, but not all States have these laws, and they do not do anything to prevent drivers with past drug and alcohol test failures from moving State-to-State to seek and gain employment. Our legislation would go to considerable lengths in closing both of these well-known and well-reported loopholes. Our bill would also provide extensive privacy protection for individuals whose data is collected at the clearinghouse or accessed from the clearinghouse. The bill would provide individuals with the means to challenge records in the clearinghouse and rights of actions against those who misuse information contained in the clearinghouse or accessed from the clearinghouse.

The Government Accountability Office, GAO, and the FMCSA have acknowledged these loopholes. Both have published reports describing a national clearinghouse as a feasible, cost-effective measure to address this problem and improve highway safety. In addition, a clearinghouse is something that Congress has examined since implementing drug and alcohol testing requirements in 1995. In 1999, Congress required the FMCSA to evaluate the viability of a national clearinghouse database for positive test results and test refusals, and in 2004 the results of their study supported a need for such a system and revealed the safety benefits that would come from it. As recently as last year, the GAO released a report to Congress titled 'Motor Carrier Safety: Improvements to Drug Testing Programs Could Better Identify Illegal Drug Users and Keep Them off the Road' that recommended the establishment of a national database and clearinghouse of drivers who have tested positive or refused to test. There is a clear need to close these well-known loopholes, and I believe our bill goes a long way in that direction.

It is my hope that Congress will support this legislation and move forward quickly to enact this legislation. I believe it is an imperative step to enhance drug and alcohol testing requirements and improve pre-employment background reviews to reduce the number of accidents and needless deaths resulting from drivers that are under the influence of these types of substances.

I want to thank Senators SNOWE, NELSON of Nebraska, and WICKER for their hard work, leadership and support on this very important safety issue, and I urge the rest of my colleagues to support its swift passage.

By Mr. DURBIN (for himself and Mr. BURR):

S. 1114. A bill to establish a demonstration project to provide for patient-centered medical homes to improve the effectiveness and efficiency in providing medical assistance under the Medicaid program and child health assistance under the State Children's Health Insurance Program; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise to introduce legislation with Senator BURR to help States improve quality and reduce the costs of health care for Medicaid and CHIP enrollees. The Medical Homes Act would create a pilot project in Medicaid and the State Children's Health Insurance Program to encourage hospitals and health clinics to create a medical home for the low-income people they serve.

Those of us who have a medical home take it for granted. We see the same doctor, in the same setting, for extended periods of time. Our medical history is in one place, and even if we are seeing specialists or different doctors in the same practice, there is continuity in decisions about our health care.

But many people do not have this luxury. Think about people who move from place to place whose home lives are less than stable, who do not have health insurance, whose medical care is sporadic. For these members of our community, each visit to a clinic or an emergency room means starting over again.

Everyone should have access to a medical home, but it requires some changes in behavior and expectations and, perhaps most importantly, it requires a commitment by local providers to work together. The medical home model makes sense for improving health care for everyone. And it is a model of care that makes sense for stretching our limited Federal health care dollars.

States like Illinois and North Carolina are already seeing progress with implementing the medical home model. Illinois Health Connect is a new program at the Illinois Department of Healthcare and Family Services that uses the medical home model to deliver primary and preventive care for children and adults covered through the All Kids program. This emphasis on coordinated and ongoing care is leading to better health outcomes, and it is saving money.

Community Care of North Carolina launched a medical home model in 1998, through nine physician-led networks. North Carolina started by creating medical homes for 250,000 Medicaid enrollees. Today, it is a state-wide program that has saved the State at least $60 million in Medicaid costs in 2003 and $120 million in 2004.

Cost savings is not the only benefit. Several studies show that the medical home approach improves quality of care. Early analyses are finding that having regular access to a particular physician through the medical home is associated with earlier and more accurate diagnoses, fewer emergency room visits, fewer hospitalizations, lower costs, better care, and increased patient satisfaction. Many studies conclude that having both health insurance and a medical home leads to improved overall health for the entire population, which brings down the cost of care and reduces health care disparities.

The bill that Senator BURR and I introduce today would make it easier for other States to implement a medical home model, much like Illinois and North Carolina have. Congress passed a medical home demonstration project for Medicare last year. The Medical Homes Act of 2009 would do this for Medicaid and SCHIP beneficiaries by making Federal funding available for a demonstration project in 8 States to provide care through patient-centered medical homes.

The approach we propose requires a per-member, per-month care management fee to help pay for participating doctors and provides initial start-up funding for participating states. The start-up funds are used for the purchase of health information technology, primary care case managers, and other uses appropriate for the delivery of patient-centered care.

This is a critical time in our country We have a President who wants health care reform. We have a Congress ready to act. We have an historic level of cooperation among stakeholders. Unlike the last time, there is substantial agreement this time among insurers, employers, consumers and lawmakers on the need for change and the broad outlines of reform. Change will only happen if everyone—doctors, patients, insurance companies, everyone—work with each other, not against each other. The specifics of the reform package still have to be worked out—and that will be difficult. But there is broad agreement that we must do a better job of delivering health care, not just treatment for illness.

If patients, provider, payers, and the government continue to work together to create a system that values the patient more than payments and the health outcome of the patient more than the number of patients seen, we can really change the way primary care is provided. I urge my colleagues to support the Medical Homes Act of 2009 and help stabilize health care delivery for low-income Americans.

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. 1114

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 ''Medical Homes Act of 2009''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Medical homes provide patient-centered care, leading to better health outcomes and greater patient satisfaction. A growing body of research supports the need to involve patients and their families in their own health care decisions, to better inform them of their treatment options, and to improve their access to information.

(2) Medical homes help patients better manage chronic diseases and maintain basic preventive care, resulting in better health outcomes than those who lack medical homes. An investigation of the Chronic Care Model discovered that the medical home reduced the risk of cardiovascular disease in diabetes patients, helped congestive heart failure patients become more knowledgeable and stay on recommended therapy, and increased the likelihood that asthma and diabetes patients would receive appropriate therapy.

(3) Medical homes also reduce disparities in access to care. A survey conducted by the Commonwealth Fund found that 74 percent of adults with a medical home have reliable access to the care they need, compared with only 52 percent of adults with a regular provider that is not a medical home and 38 percent of adults without any regular source of care or provider.

(4) Medical homes reduce racial and ethnic differences in access to medical care. Three-fourths of Caucasians, African Americans, and Hispanics with medical homes report getting care when they need it.

(5) Medical homes reduce duplicative health services and inappropriate emergency room use. In 1998, North Carolina launched the Community Care of North Carolina (CCNC) program, which employs the medical home concept. Presently, CCNC has developed 14 regional networks that include all of the Federally qualified health centers in the State and cover 740,000 recipients. An analysis conducted by Mercer Human Resources Consulting Group found that CCNC resulted in $244,000,000 in savings to the Medicaid program in 2004, with similar results in 2005 and 2006.

(6) Health information technology is a crucial foundation for medical homes. While many doctors' offices use electronic health records for billing or other administrative functions, few practices utilize health information technology systematically to measure and improve the quality of care they provide. For example, electronic health records can generate reports to ensure that all patients with chronic conditions receive recommended tests and are on target to meet their treatment goals. Computerized ordering systems, particularly with decision-support tools, can prevent medical and medication errors, while e-mail and interactive Internet websites can facilitate communication between patients and providers and improve patient education.

SEC. 3. MEDICAID AND CHIP DEMONSTRATION PROJECT TO SUPPORT PATIENT-CENTERED PRIMARY CARE.

(a) DEFINITIONS.—In this section:

(1) CARE MANAGEMENT MODEL.—The term ''care management model'' means a model that—

(A) uses health information technology and other innovations such as the chronic care model, to improve the management and coordination of care provided to patients;

(B) is centered on the relationship between a patient and their personal primary care provider;

(C) seeks guidance from—

(i) a steering committee; and

(ii) a medical management committee; and

(D) has established, where practicable, effective referral relationships between the primary care provider and the major medical specialties and ancillary services in the region.

(2) HEALTH CENTER.—The term ''health center'' has the meaning given that term in section 330(a) of the Public Health Service Act (42 U.S.C. 254b(a)).

(3) MEDICAID.—The term ''Medicaid'' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(4) MEDICAL MANAGEMENT COMMITTEE.—The term ''medical management committee'' means a group of practitioners that—

(A) provides services in the community in which the practice or health center is located;

(B) reviews evidence-based practice guidelines;

(C) selects targeted disease and care processes that address health conditions in the community (as identified in the National or State health assessment or as outlined in ''Healthy People 2010'', or any subsequent similar report (as determined by the Secretary));

(D) defines programs to target disease and care processes;

(E) establishes standards and measures for patient-centered medical homes, taking into account nationally-developed standards and measures; and

(F) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account the considerations under subparagraph (B) of such paragraph.

(5) PATIENT-CENTERED MEDICAL HOME.—

(A) IN GENERAL.—The term ''patient-centered medical home'' means a physician-directed practice or a health center that—

(i) incorporates the attributes of the care management model described in paragraph (1);

(ii) voluntarily participates in an independent evaluation process whereby primary care providers submit information to the medical management committee of the relevant network;

(iii) the medical management committee determines has the capability to achieve improvements in the management and coordination of care for targeted beneficiaries (as defined by statewide quality improvement standards and outcomes); and

(iv) meets the requirements imposed on a covered entity for purposes of applying part C of title XI of the Social Security Act (42 U.S.C. 1320d et seq.) and all regulatory provisions promulgated thereunder, including regulations (relating to privacy) adopted pursuant to the authority of the Secretary under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note).

(B) CONSIDERATIONS.—In making the determination under subparagraph (A)(iii), the medical management committee shall consider the following:

(i) ACCESS AND COMMUNICATION WITH PATIENTS.—Whether the practice or health center applies both standards for access to care for, and standards for communication with, targeted beneficiaries who receive care through the practice or health center.

(ii) MANAGING PATIENT INFORMATION AND USING INFORMATION MANAGEMENT TO SUPPORT PATIENT CARE.—Whether the practice or health center has readily accessible, clinically useful information on such beneficiaries that enables the practice or health center to provide comprehensive and systematic treatment.

(iii) MANAGING AND COORDINATING CARE ACCORDING TO INDIVIDUAL NEEDS.—Whether the practice or health center—

(I) maintains continuous relationships with such beneficiaries by implementing evidence-based guidelines and applying such guidelines to the identified needs of individual beneficiaries over time and with the intensity needed by such beneficiaries;

(II) assists in the early identification of health care needs;

(III) provides ongoing primary care;

(IV) coordinates with a broad range of other specialty, ancillary, and related services; and

(V) provides health care services and consultations in a culturally and linguistically appropriate manner, as well as at a time and location that is convenient to the patient.

(iv) PROVIDING ONGOING ASSISTANCE AND ENCOURAGEMENT IN PATIENT SELF-MANAGEMENT.—Whether the practice or health center—

(I) collaborates with targeted beneficiaries who receive care through the practice or health center to pursue their goals for optimal achievable health;

(II) assesses patient-specific barriers; and

(III) conducts activities to support patient self-management.

(v) RESOURCES TO MANAGE CARE.—Whether the practice or health center has in place the resources and processes necessary to achieve improvements in the management and coordination of care for targeted beneficiaries who receive care through the practice or health center.

(vi) MONITORING PERFORMANCE.—Whether the practice or health center—

(I) monitors its clinical process and performance (including process and outcome measures) in meeting the applicable standards under paragraph (4)(E); and

(II) provides information in a form and manner specified by the steering committee and medical management committee with respect to such process and performance.

(6) PERSONAL PRIMARY CARE PROVIDER.—The term ''personal primary care provider'' means—

(A) a physician, nurse practitioner, or other qualified health care provider (as determined by the Secretary), who—

(i) practices in a patient-centered medical home; and

(ii) has been trained to provide first contact, continuous, and comprehensive care for the whole person, not limited to a specific disease condition or organ system, including care for all types of health conditions (such as acute care, chronic care, and preventive services); or

(B) a health center that—

(i) is a patient-centered medical home; and

(ii) has providers on staff that have received the training described in subparagraph (A)(ii).

(7) PRIMARY CARE CASE MANAGEMENT SERVICES; PRIMARY CARE CASE MANAGER.—The terms ''primary care case management services'' and ''primary care case manager'' have the meaning given those terms in section 1905(t) of the Social Security Act (42 U.S.C. 1396d(t)).

(8) PROJECT.—The term ''project'' means the demonstration project established under this section.

(9) CHIP.—The term ''CHIP'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1396aa et seq.).

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(11) STEERING COMMITTEE.—The term ''steering committee'' means a local management group comprised of collaborating local health care practitioners or a local not-for-profit network of health care practitioners—

(A) that implements State-level initiatives;

(B) that develops local improvement initiatives;

(C) whose mission is to—

(i) investigate questions related to community-based practice; and

(ii) improve the quality of primary care; and

(D) whose membership—

(i) represents the health care delivery system of the community it serves; and

(ii) includes physicians (with an emphasis on primary care physicians) and at least 1 representative from each part of the collaborative or network (such as a representative from a health center, a representative from the health department, a representative from social services, and a representative from each public and private hospital in the collaborative or the network).

(12) TARGETED BENEFICIARY.—

(A) IN GENERAL.—The term ''targeted beneficiary'' means an individual who is eligible for benefits under a State plan under Medicaid or a State child health plan under CHIP.

(B) PARTICIPATION IN PATIENT-CENTERED MEDICAL HOME.—Individuals who are eligible for benefits under Medicaid or CHIP in a State that has been selected to participate in the project shall receive care through a patient-centered medical home when available.

(C) ENSURING CHOICE.—In the case of such an individual who receives care through a patient-centered medical home, the individual shall receive guidance from their personal primary care provider on appropriate referrals to other health care professionals in the context of shared decision-making.

(b) ESTABLISHMENT.—The Secretary shall establish a demonstration project under Medicaid and CHIP for the implementation of a patient-centered medical home program that meets the requirements of subsection (d) to improve the effectiveness and efficiency in providing medical assistance under Medicaid and CHIP to an estimated 500,000 to 1,000,000 targeted beneficiaries.

(c) PROJECT DESIGN.—

(1) DURATION.—The project shall be conducted for a 3-year period, beginning not later than [October 1, 2011].

(2) SITES.—

(A) IN GENERAL.—The project shall be conducted in 8 States—

(i) four of which already provide medical assistance under Medicaid for primary care case management services as of the date of enactment of this Act; and

(ii) four of which do not provide such medical assistance.

(B) APPLICATION.—A State seeking to participate in the project shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(C) SELECTION.—In selecting States to participate in the project, the Secretary shall ensure that urban, rural, and underserved areas are served by the project.

(3) GRANTS AND PAYMENTS.—

(A) DEVELOPMENT GRANTS.—

(i) FIRST YEAR DEVELOPMENT GRANTS.—The Secretary shall award development grants to States participating in the project during the first year the project is conducted. Grants awarded under this clause shall be used by a participating State to—

(I) assist with the development of steering committees, medical management committees, and local networks of health care providers; and

(II) facilitate coordination with local communities to be better prepared and positioned to understand and meet the needs of the communities served by patient-centered medical homes.

(ii) SECOND YEAR FUNDING.—The Secretary shall award additional grant funds to States that received a development grant under clause (i) during the second year the project is conducted if the Secretary determines such funds are necessary to ensure continued participation in the project by the State. Grant funds awarded under this clause shall be used by a participating State to assist in making the payments described in paragraph (B). To the extent a State uses such grant funds for such purpose, no matching payment may be made to the State for the payments made with such funds under section 1903(a) or 2105(a) of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

(B) ADDITIONAL PAYMENTS TO PERSONAL PRIMARY CARE PROVIDERS AND STEERING COMMITTEES.—

(i) PAYMENTS TO PERSONAL PRIMARY CARE PROVIDERS.—

(I) IN GENERAL.—Subject to subsection (d)(6)(B), a State participating in the project shall pay a personal primary care provider not less than $2.50 per month per targeted beneficiary assigned to the personal primary care provider, regardless of whether the provider saw the targeted beneficiary that month.

(II) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a personal primary care provider under subclause (I) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

(III) PATIENT POPULATION.—In determining the amount of payment to a personal primary care provider per month with respect to targeted beneficiaries under this clause, a State participating in the project shall take into account the care needs of such targeted beneficiaries.

(ii) PAYMENTS TO STEERING COMMITTEES.—

(I) IN GENERAL.—Subject to subsection (d)(6)(B), a State participating in the project shall pay a steering committee not less than $2.50 per targeted beneficiary per month.

(II) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a steering committee under subclause (I) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1397ee(a)).

(III) USE OF FUNDS.—Amounts paid to a steering committee under subclause (I) shall be used (in accordance with any applicable Medicaid requirements) to purchase health information technology, pay primary care case managers, support network initiatives, and for such other uses as the steering committee determines appropriate.

(4) TECHNICAL ASSISTANCE.—The Secretary shall make available technical assistance to States, physician practices, and health centers participating in the project during the duration of the project.

(5) BEST PRACTICES INFORMATION.—The Secretary shall collect and make available to States participating in the project information on best practices for patient-centered medical homes.

(d) PATIENT-CENTERED MEDICAL HOME PROGRAM.—

(1) IN GENERAL.—For purposes of this section, a patient-centered medical home program meets the requirements of this subsection if, under such program, targeted beneficiaries have access to a personal primary care provider in a patient-centered medical home as their source of first contact, comprehensive, and coordinated care for the whole person.

(2) ELEMENTS.—

(A) MANDATORY ELEMENTS.—

(i) IN GENERAL.—Such program shall include the following elements:

(I) A steering committee.

(II) A medical management committee.

(III) A network of physician practices and health centers that have volunteered to participate as patient-centered medical homes to provide high-quality care, focusing on preventive care, at the appropriate time and place and in a cost-effective manner.

(IV) Hospitals and local public health departments that will work in cooperation with the network of patient-centered medical homes to coordinate and provide health care.

(V) Primary care case managers to assist with care coordination.

(VI) Health information technology to facilitate the provision and coordination of health care by network participants.

(ii) MULTIPLE LOCATIONS IN THE STATE.—In the case where a State operates a patient-centered medical home program in 2 or more areas in the State, the program in each of those areas shall include the elements described in clause (i).

(B) OPTIONAL ELEMENTS.—Such program may include a non-profit organization that—

(i) includes a steering committee and a medical management committee; and

(ii) manages the payments to steering committees described in subsection (c)(3)(B)(ii).

(3) GOALS.—Such program shall be designed—

(A) to increase—

(i) cost efficiencies of health care delivery;

(ii) access to appropriate health care services, especially wellness and prevention care, at times convenient for patients;

(iii) patient satisfaction;

(iv) communication among primary care providers, hospitals, and other health care providers;

(v) school attendance; and

(vi) the quality of health care services (as determined by the relevant steering committee and medical management committee, taking into account nationally developed standards and measures); and

(B) to decrease—

(i) inappropriate emergency room utilization, which can be accomplished through initiatives, such as expanded hours of care throughout the program network;

(ii) avoidable hospitalizations; and

(iii) duplication of health care services provided.

(4) PAYMENT.—Under the program, payment shall be provided to personal primary care providers and steering committees (in accordance with subsection (c)(3)(B)).

(5) NOTIFICATION.—The State shall notify individuals enrolled in Medicaid or CHIP about—

(A) the patient-centered medical home program;

(B) the providers participating in such program; and

(C) the benefits of such program.

(6) TREATMENT OF STATES WITH A MANAGED CARE CONTRACT.—

(A) IN GENERAL.—In the case where a State contracts with a private entity to manage parts of the State Medicaid program, the State shall—

(i) ensure that the private entity follows the care management model; and

(ii) establish a medical management committee and a steering committee in the community.

(B) ADJUSTMENT OF PAYMENT AMOUNTS.—The State may adjust the amount of payments made under (c)(3)(B), taking into consideration the management role carried out by the private entity described in subparagraph (A) and the cost effectiveness provided by such entity in certain areas, such as health information technology.

(e) EVALUATION AND PROJECT REPORT.—

(1) IN GENERAL.—

(A) EVALUATION.—The Secretary, in consultation with appropriate health care professional associations, shall evaluate the project in order to determine the effectiveness of patient-centered medical homes in terms of quality improvement, patient and provider satisfaction, and the improvement of health outcomes.

(B) PROJECT REPORT.—Not later than 12 months after completion of the project, the Secretary shall submit to Congress a report on the project containing the results of the evaluation conducted under subparagraph (A). Such report shall include—

(i) an assessment of the differences, if any, between the quality of the care provided through the patient-centered medical home program conducted under the project in the States that provided medical assistance for primary care case management services and those that did not;

(ii) an assessment of quality improvements and clinical outcomes as a result of such program;

(iii) estimates of cost savings resulting from such program; and

(iv) recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq.; 1397aa et seq.) should be amended, based on the results of the evaluation and report under paragraph (1), to establish a patient-centered medical home program under such titles on a permanent basis.

(f) WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall waive compliance with such requirements of titles XI, XIX, and XXI of the Social Security Act (42 U.S.C. 1301 et seq.; 1396 et seq.; 1397aa et seq.) to the extent and for the period the Secretary finds necessary to conduct the project.

(2) LIMITATION.—In no case shall the Secretary waive compliance with the requirements of subsections (a)(10)(A), (a)(15), and (bb) of section 1902 of the Social Security Act (42 U.S.C. 1396a) under paragraph (1), to the extent that such requirements require the provision of and reimbursement for services described in section 1905(a)(2)(C) of such Act (42 U.S.C. 1396d(a)(2)(C)).

AMENDMENTS SUBMITTED AND PROPOSED

SA 1145. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table.

SA 1146. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table .

SA 1147. Mr. KYL (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1148. Mr. KYL (for himself, Mr. VITTER, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1149. Mr. GRAHAM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1150. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1151. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1152. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1153. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1154. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1155. Mr. NELSON, of Florida (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1156. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1157. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1158. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1159. Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1160. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1161. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1162. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1163. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1164. Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1165. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1166. Mr. LAUTENBERG (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1167. Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1168. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1169. Mr. LEAHY (for himself, Mr. BROWN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1170. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1171. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1172. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1173. Mr. CORKER (for himself, Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1174. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1175. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1176. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1177. Ms. LANDRIEU (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1178. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1179. Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1180. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1181. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra.

SA 1182. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1183. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1184. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1185. Mr. MERKLEY (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1186. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1187. Mr. WYDEN (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, Mr. ROBERTS, and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1188. Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1189. Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra.

SA 1190. Mr. REID (for Mr. KENNEDY (for himself and Mr. CARDIN)) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1191. Mr. LEAHY (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra.

SA 1192. Mr. COBURN (for himself and Mr. DEMINT) submitted an amendment intended

to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1193. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1194. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1195. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1196. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1197. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1198. Mr. LUGAR (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1199. Mr. DURBIN proposed an amendment to amendment SA 1136 proposed by Mr. MCCONNELL to the bill H.R. 2346, supra.

SA 1200. Mr. REID (for Mrs. HUTCHISON) proposed an amendment to the bill S. 614, to award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

SA 1201. Mr. REID proposed an amendment to amendment SA 1167 submitted by Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNS) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

TEXT OF AMENDMENTS

SA 1145. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, between lines 11 and 12, insert the following:

REPORT ON DAMAGE TO PROJECTS AND PROGRAMS IN GAZA CAUSED BY HAMAS

SEC. 1121. (a) Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Committee detailing assessed damages to United States Government-funded projects and programs in Gaza caused when Hamas broke the ceasefire with Israel from December 2008 to January 2009.

(b) The report required under subsection (a) shall include—

(1) an estimate of the amounts expended on such programs and projects and the estimated costs for repair or rehabilitation;

(2) a description of the assessed damages to United Nations facilities in Gaza caused during such period and, to the extent known, the party responsible for such damage; and

(3) a determination whether such projects or programs were being used by Hamas for any activity by the organization, including launching rockets, sheltering Hamas terrorists, and storing ammunition and other materiel.

SA 1146. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) REPORT ON INTERNATIONAL FINANCIAL INSTITUTION LOANS TO THE ISLAMIC REPUBLIC OF IRAN.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of the Treasury shall submit to the Committee on Foreign Relations of the Senate and the Committee on Financial Services of the House of Representatives, and post on the website of the Department of the Treasury, a report—

(1) assessing the compliance of each United States Executive Director of an international financial institution with the requirement under section 1621(a) of the International Financial Institutions Act (22 U.S.C. 262p–4q(a)) that the Director oppose any loan or other use of funds by the institution for the Islamic Republic of Iran;

(2) assessing the progress made by each such Director in opposing such loans and other uses of funds;

(3) assessing the compliance of the United States Executive Directors of the International Development Association and the International Bank for Reconstruction and Development with the requirement under such section 1621(a) with respect to the development of a new World Bank country assistance strategy for the Islamic Republic of Iran; and

(4) describing the efforts of the Secretary to halt the disbursement of any such loan or other use of funds from such an institution for the Islamic Republic of Iran that has already been approved by the institution.

(b) SUNSET.—Subsection (a) shall terminate on the day on which the President certifies to Congress that the Islamic Republic of Iran has halted all uranium enrichment activities.

SA 1147. Mr. KYL (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title IV, add the following:

PROHIBITION ON USE OF FUNDS FOR THE STRATEGIC PETROLEUM RESERVE FOR PERSONS THAT HAVE ENGAGED IN CERTAIN ACTIVITIES WITH RESPECT TO THE ISLAMIC REPUBLIC OF IRAN

SEC. 410. None of the funds made available by this title or any other appropriations Act for the Strategic Petroleum Reserve may be made available to any person that has, during the 3-year period ending on the date of the enactment of this Act—

(1) sold refined petroleum products valued at $1,000,000 or more to the Islamic Republic of Iran;

(2) engaged in an activity valued at $1,000,000 or more that could contribute to enhancing the ability of Iran to import refined petroleum products, including—

(A) providing ships or shipping services to deliver refined petroleum products to the Islamic Republic of Iran;

(B) underwriting or otherwise providing insurance or reinsurance for such an activity; or

(C) financing or brokering such an activity; or

(3) sold, leased, or otherwise provided to the Islamic Republic of Iran any goods, services, or technology valued at $1,000,000 or more that could contribute to the maintenance or expansion of the capacity of the Islamic Republic of Iran to produce refined petroleum products.

SA 1148. Mr. KYL (for himself, Mr. VITTER, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 3 and 4, insert the following:

SEC. 315. Congress makes the following findings:

(1) Congress is grateful for the service and leadership of the members of the bipartisan Congressional Commission on the Strategic Posture of the United States, who, pursuant to section 1062 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 319), spent more than a year examining the Nation's strategic posture in all of its aspects: deterrence strategy, arms control initiatives, and nonproliferation strategies.

(2) The Commission, comprised of some of this country's most preeminent scholars and technical experts in the subject matter, found a bipartisan consensus on these issues in its Final Report made public on May 6, 2009.

(3) Congress appreciates the service of former Secretary of Defense William Perry, former Secretary of Defense and Secretary of Energy James Schlesinger, former Senator John Glenn, former Congressman Lee Hamilton, Ambassador James Woolsey, Doctors John Foster, Fred Ikle, Keith Payne, Morton Halperin, Ellen Williams, Bruce Tarter, and Harry Cartland, and the United States Institute of Peace.

(4) Congress values the work of the Commission and pledges to work with President Barack Obama to address the findings and implement the recommendations of the Commission.

SA 1149. Mr. GRAHAM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. __. RELEASE OR TRANSFER OF COVERED INDIVIDUALS.

(a) COVERED INDIVIDUAL DEFINED.—In this section, the term ''covered individual'' means any individual who—

(1) has ever been determined by a Combatant Status Review Tribunal to be an enemy combatant (pursuant to the definition employed by that tribunal) or is awaiting the determination of such a tribunal;

(2) is in the custody of the United States at Guantanamo Bay, Cuba on or after the date of enactment of this Act; and

(3) is not a citizen of the United States or an alien admitted for permanent residence in the United States.

(b) COVERED INDIVIDUALS ORDERED RELEASED.—

(1) IN GENERAL.—No court shall order the release of a covered individual into the United States.

(2) VISAS AND IMMIGRATION.—The Secretary of State may not issue any visa, and the Secretary of Homeland Security may not admit or provide any type of status, to a covered individual that permits the covered individual to enter into, or be admitted to, the United States.

(c) TRANSFER.—

(1) IN GENERAL.—If a covered individual is no longer held by the United States as an

enemy combatant, the covered individual shall be released into the custody of the Secretary of Homeland Security, who shall transfer the individual to the covered individual's country of nationality or to another country.

(2) HOUSING.—An individual in the custody of the Secretary of Homeland Security pursuant to paragraph (1) shall be housed separately from aliens detained as enemy combatants by the Department of Defense in a manner consistent with the safety and security of United States personnel.

(3) TRANSFER.—Transfers made pursuant to paragraph (1) shall be carried out as expeditiously as possible and in a manner that is consistent with—

(A) the policy set out in section 2242 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (8 U.S.C. 1231 note); and

(B) the national security interests of the United States.

SA 1150. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. 315. (a)(1) The amount appropriated or otherwise made available by this title under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' is hereby increased by $32,000,000.

(2) Of the amount appropriated or otherwise made available by this title under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', as increased by paragraph (1), $32,000,000 shall be available for an MQ–9 with an integrated DB–110 podded reconnaissance system.

(b) The amount appropriated or otherwise made available by this title under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'' is hereby reduced by $32,000,000.

SA 1151. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 31, between lines 3 and 4, insert the following:

SEC. 315. (a) Of the amounts appropriated or otherwise made available by title III of the Department of Defense Appropriations Act, 2009 (division C of Public Law 110–329) under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' for the Landmine Warfare and Barrier (PE 0603619A) that remain available for obligation as of the date of the enactment of this Act, $10,000,000 shall be transferred to ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' and made available for Combating Terrorism Technical Support (PE 0603122D8Z).

(b) Amounts transferred to ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'' under subsection (a) shall be merged with amounts under such heading, and shall be made available for the purposes set forth in such subsection, and subject to the same conditions and limitations, as amounts appropriated or otherwise made available under such heading for such purposes.

SA 1152. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, after line 23, add the following:

AMENDMENT TO ENERGY POLICY ACT OF 1992

SEC. 410. Section 106(a)(2)(C) of the Energy Policy Act of 1992 (12 U.S.C. 1701z-16(a)(2)(C)) is amended—

(1) in clause (i), by striking ''section 203(b)(2)(A)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)'' and inserting ''section 203(b)(2)(A)(i)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)(i))''; and

(2) in clause (ii), by striking ''section 203(b)(2)(B)'' and inserting ''section 203(b)(2)(A)(ii)''.

SA 1153. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. VESSEL SIZE LIMITS FOR FISHERY ENDORSEMENTS.

(a) LENGTH, TONNAGE, AND HORSEPOWER.—Section 12113(d)(2) of title 46, United States Code, is amended—

(1) in subparagraph (A)—

(A) in clause (i), by adding ''and'' at the end;

(B) in clause (ii) by striking ''and'' at the end; and

(C) by striking clause (iii);

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

(3) by adding at the end the following:

''(C) the vessel is either a rebuilt vessel or a replacement vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–627) and is eligible for a fishery endorsement under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) VESSEL REBUILDING AND REPLACEMENT.—Subsection (g) of section 208 of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–627) is amended to read as follows:

''(g) VESSEL REBUILDING AND REPLACEMENT.—

''(1) IN GENERAL.—

''(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of this subsection and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

''(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

''(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel.

''(2) RECOMMENDATIONS OF NORTH PACIFIC COUNCIL.—The North Pacific Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

''(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

''(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)) and that qualifies to be documented with a fishery endorsement pursuant to section 203(g) or 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 203(g) or 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

''(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 203(g) or 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

''(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

''(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any regional fishery management council (other than the North Pacific Council) established under section 302(a) of the Magnuson-Stevens Act.

''(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

''(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

''(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

''(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

''(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of this subsection.

''(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.''.

(2) EXEMPTION OF CERTAIN VESSELS.—Section 203(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–620) is amended—

(A) by inserting ''and'' after ''(United States official number 651041)'';

(B) by striking '', NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act)''; and

(C) by striking '', in the case of the NORTHERN'' and all that follows through ''PHOENIX,''.

(3) FISHERY COOPERATIVE EXIT PROVISIONS.—Section 210(b) of the American Fisheries Act (title II of division C of Public Law 105–277; 112 Stat. 2681–629) is amended—

(A) by moving the matter beginning with ''the Secretary shall'' in paragraph (1) 2 ems to the right; and

(B) by adding at the end the following:

''(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

''(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

''(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of this paragraph; and

''(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

''(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

''(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

''(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.''.

SA 1154. Mr. WEBB submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, insert the following:

LIMITATIONS ON PAKISTAN ASSISTANCE

SEC. 1121. (a) None of the funds appropriated or otherwise made available by this Act may be obligated or expended to provide assistance to Pakistan unless the President first certifies to the appropriate congressional committees that all measures have been and will be taken to ensure that none of such obligated or expended funds are used—

(1) to support, expand, or in any way assist in the development or deployment of the nuclear weapons program of the Government of Pakistan; or

(2) to support programs or purposes for which such funds have not been specifically appropriated by this Act.

(b)(1) Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the President shall submit to the appropriate congressional committees a report—

(A) certifying whether or not any funds appropriated or otherwise made available by this Act and obligated or expended during the reporting period to provide assistance to Pakistan were used for the purposes described in paragraphs (1) and (2) of subsection (a); and

(B) describing the measures taken during such reporting period to ensure that no obligated or expended funds were used for such purposes.

(2) Each report submitted under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) In this section, the term ''appropriate congressional committees'' means—

(1) the Committees on Armed Services, Foreign Relations, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Foreign Affairs, and Appropriations of the House of Representatives.

SA 1155. Mr. NELSON of Florida (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 44, between lines 14 and 15, insert the following:

CONSUMER PRODUCT SAFETY COMMISSION

For an additional amount for the Consumer Product Safety Commission, $2,000,000, to remain available until expended, to investigate the public health and environmental impacts of drywall products imported from the People's Republic of China: *Provided*, That of the funds provided under this heading, not less than $1,500,000 shall be expended to analyze such drywall products: *Provided further*, That of the funds provided under this heading, not less than $105,000 shall be expended to carry out a campaign to educate the general public about the public health and environmental impacts of defective drywall products: *Provided further*, That the Commission shall, not later than 60 days after the date of the enactment of this Act, submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the findings of the investigation required under this heading and outlining the progress made in that investigation: *Provided further*, That for purposes of Senate enforcement, the amount under this heading is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 1156. Mr. LIEBERMAN (for himself, Mr. GRAHAM, Mr. BEGICH, Mr. THUNE, Mr. BURRIS, Mr. BENNETT, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title III, add the following:

SEC. 315. (a) INCREASE IN FISCAL YEAR 2009 AUTHORIZED END STRENGTH FOR ARMY ACTIVE DUTY PERSONNEL.—Paragraph (1) of section 401 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4428) is amended to read as follows:

''(1) The Army, 547,400.''.

(b) INCREASE IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVEL FOR ARMY PERSONNEL.—Paragraph (1) of section 691 of title 10, United States Code, is amended to read as follows:

''(1) For the Army, 547,400.''.

(c) FUNDING.—

(1) MILITARY PERSONNEL, ARMY.—The amount appropriated by this title under the heading ''MILITARY PERSONNEL, ARMY'' is hereby increased by $200,000,000, with the amount of such increase to be available for purposes of costs of personnel in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(2) OPERATION AND MAINTENANCE, ARMY.—The amount appropriated by this title under the heading ''OPERATION AND MAINTENANCE, ARMY'' is hereby increased by $200,000,000, with the amount of such increase to be available for purposes of costs of operation and maintenance in connection with personnel of the Army on active duty in excess of 547,400 personnel of the Army.

(3) LIMITATION ON AVAILABILITY.—Amounts appropriated by paragraphs (1) and (2) shall be available only for the purposes specified in such paragraph.

(4) EMERGENCY REQUIREMENT.—For purposes of Senate enforcement, the amounts appropriated by paragraphs (1) and (2) are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 1157. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. _____. DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Detainee Photographic Records Protection Act of 2009''.

(b) DEFINITIONS.—In this section:

(1) COVERED RECORD.—The term ''covered record'' means any record—

(A) that is a photograph relating to the treatment of individuals engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(B) for which a certification by the Secretary of Defense under subsection (c) is in effect.

(2) PHOTOGRAPH.—The term ''photograph'' encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(c) CERTIFICATION.—

(1) IN GENERAL.—For any photograph described under subsection (b)(1)(A), the Secretary of Defense shall submit a certification, in classified form to the extent appropriate, to the President, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(A) citizens of the United States; or

(B) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(2) CERTIFICATION EXPIRATION.—A certification submitted under paragraph (1) and a renewal of a certification submitted under paragraph (2) shall expire 5 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(3) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(A) a renewal of a certification in accordance with paragraph (1) at any time; and

(B) more than 1 renewal of a certification.

(d) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(1) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(2) disclosure under any proceeding under that section.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

SA 1158. Mrs. HUTCHISON (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) IN GENERAL.—Section 1011(a)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd note) is amended by striking ''2008'' and inserting ''2009''.

(b) EMERGENCY DESIGNATION.—For purposes of Senate enforcement, the amount made available for fiscal year 2009 under section 1011(a)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd note), as amended by this section, is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 1159. Mr. MCCAIN (for himself, Mr. LUGAR, and Mr. LIEBERMAN)) submitted an amendment intended to be proposed by him to the bill S. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

SEC. 1121. (a) ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA.—The amount appropriated by this title under the heading ''Europe, Eurasia and Central Asia'' is hereby increased by $42,500,000, with the amount of the increase to be available for assistance for Georgia.

(b) SOURCE OF FUNDS.—The amount of the increase in subsection (a) shall be derived from amounts appropriated or otherwise made available by this title, other than amounts under the heading ''Europe, Eurasia and Central Asia'' and available for assistance for Georgia.

SA 1160. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 106, between lines 14 and 15, insert the following:

SEC. 1303. (a) EFFORTS TO REDUCE THE WORST FORMS OF CHILD LABOR.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to promote policies and practices to reduce the worst forms of child labor (as defined in section 507(6) of the Trade Act of 1974 (19 U.S.C. 2467(6))) through education and other means, such as promoting the need for members of the Fund to develop and implement national action plans to combat the worst forms of child labor.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives a report describing the efforts of the International Monetary Fund to reduce the worst forms of child labor.

SA 1161. Mr. BROWN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 106, between lines 14 and 15, insert the following:

SEC. 1303. (a) EXEMPTION OF CERTAIN GOVERNMENT SPENDING FROM INTERNATIONAL MONETARY FUND RESTRICTIONS.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to oppose any loan, project, agreement, memorandum, instrument, plan, or other program of the Fund that does not exempt spending on health care, education, food aid, and other critical safety net programs by the governments of heavily indebted poor countries from national budget caps or restraints, hiring or wage bill ceilings, or other limits on government spending sought by the Fund.

(b) CONFORMING REPEAL.—Section 7030 of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 874) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

SA 1162. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 107, line 1, strike ''section'' and insert ''title''

On page 107, line 5, strike ''Ways and Means'' and insert ''Financial Services''

SA 1163. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, line 11, insert after the period:

CONTINGENCIES

SEC. ____. During fiscal years 2009 and 2010, the President may use up to $100,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling in section 451(a): Provided, That when relying on the authority of section 451 of the Foreign Assistance Act during such fiscal years, the Millennium Challenge Act of 2003 (22 U.S.C. 7701 et seq) shall be deemed a provision of the Foreign Assistance Act of 1961 for the purpose of providing for unanticipated contingenies.

SA 1164. Mr. ISAKSON (for himself, Mr. CHAMBLISS, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title V, insert the following:

SEC. 504. CREDIT FOR CERTAIN HOME PURCHASES.

(a) ELIMINATION OF FIRST-TIME HOMEBUYER REQUIREMENT.—

(1) IN GENERAL.—Subsection (a) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''who is a first-time homebuyer of a principal residence'' and inserting ''who purchases a principal residence''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 36 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Section 36 of such Code is amended by striking ''**FIRST-TIME HOMEBUYER CREDIT**'' in the heading and inserting ''**HOME PURCHASE CREDIT**''.

(C) The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 36 and inserting the following new item:

''Sec. 36. Home purchase credit.''.

(D) Subparagraph (W) of section 26(b)(2) of such Code is amended by striking ''homebuyer credit'' and inserting ''home purchase credit''.

(b) ELIMINATION OF RECAPTURE EXCEPT FOR HOMES SOLD WITHIN 3 YEARS.—Subsection (f) of section 36 of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) RECAPTURE OF CREDIT IN THE CASE OF CERTAIN DISPOSITIONS.—

''(1) IN GENERAL.—In the event that a taxpayer—

''(A) disposes of the principal residence with respect to which a credit was allowed under subsection (a), or

''(B) fails to occupy such residence as the taxpayer's principal residence,

at any time within 36 months after the date on which the taxpayer purchased such residence, then the tax imposed by this chapter for the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence shall be increased by the amount of such credit.

''(2) EXCEPTIONS.—

''(A) DEATH OF TAXPAYER.—Paragraph (1) shall not apply to any taxable year ending after the date of the taxpayer's death.

''(B) INVOLUNTARY CONVERSION.—Paragraph (1) shall not apply in the case of a residence

which is compulsorily or involuntarily converted (within the meaning of section 1033(a)) if the taxpayer acquires a new principal residence within the 2-year period beginning on the date of the disposition or cessation referred to in such paragraph. Paragraph (1) shall apply to such new principal residence during the remainder of the 36-month period described in such paragraph as if such new principal residence were the converted residence.

''(C) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of a transfer of a residence to which section 1041(a) applies—

''(i) paragraph (1) shall not apply to such transfer, and

''(ii) in the case of taxable years ending after such transfer, paragraph (1) shall apply to the transferee in the same manner as if such transferee were the transferor (and shall not apply to the transferor).

''(D) RELOCATION OF MEMBERS OF THE ARMED FORCES.—Paragraph (1) shall not apply in the case of a member of the Armed Forces of the United States on active duty who moves pursuant to a military order and incident to a permanent change of station.

''(3) JOINT RETURNS.—In the case of a credit allowed under subsection (a) with respect to a joint return, half of such credit shall be treated as having been allowed to each individual filing such return for purposes of this subsection.

''(4) RETURN REQUIREMENT.—If the tax imposed by this chapter for the taxable year is increased under this subsection, the taxpayer shall, notwithstanding section 6012, be required to file a return with respect to the taxes imposed under this subtitle.''.

(c) EXPANSION OF APPLICATION PERIOD.—Subsection (h) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''December 1, 2009'' and inserting ''June 1, 2010''.

(d) ELECTION TO TREAT PURCHASE IN PRIOR YEAR.—Subsection (g) of section 36 of the Internal Revenue Code of 1986 is amended by striking ''December 1, 2009'' and inserting ''June 1, 2010''.

(e) ELIMINATION OF INCOME LIMITATION.—Subsection (b) of section 36 of the Internal Revenue Code of 1986 is amended to read as follows:

''(b) DOLLAR LIMITATION.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the credit allowed under subsection (a) shall not exceed $8,000.

''(2) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a married individual filing a separate return, paragraph (1) shall be applied by substituting '$4,000' for '$8,000'.

''(3) OTHER INDIVIDUALS.—If two or more individuals who are not married purchase a principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed $8,000.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased on or after the date of the enactment of this Act.

SA 1165. Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, insert the following:

CIVILIAN ASSISTANCE IN AFGHANISTAN

SEC. 1121. The Secretary of State and the Administrator of the United States Agency for International Development should enhance United States reconstruction efforts in Afghanistan by—

(1) identifying lessons learned from previous United States reconstruction efforts, including in democracy and governance, public administration, agriculture and rural development, energy, justice and law enforcement, health care, and basic, vocational and higher education, and developing new approaches in these areas which emphasize capacity building and support of Afghan entities and institutions at the provincial and sub-provincial levels;

(2) requiring civilian Provincial Reconstruction Team (PRT) leaders to have regular consultations with appropriate local counterparts in their respective provinces and ensuring that PRT reconstruction and development activities support local needs in a sustainable manner; and

(3) directing the PRTs, as appropriate and with due regard to the safety of United States personnel, to provide a mechanism for local people to lodge complaints regarding corruption or other misconduct by Afghan or foreign officials when such complaints cannot be safely and adequately lodged with local law enforcement officials.

SA 1166. Mr. LAUTENBERG (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TECHNICAL CORRECTION TO STATE MARITIME ACADEMIES STUDENT INCENTIVE PROGRAM.

Section 51509(b) of title 46, United States Code, is amended—

(1) by striking ''and be paid before the start of each academic year, as prescribed by the Secretary,''; and

(2) by striking ''academy.'' and inserting ''academy, as prescribed by the Secretary.''.

SA 1167. Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 4, between lines 2 and 3, insert the following:

SEC. 103. MILITARY FAMILY NUTRITION PROTECTION.

(a) CHILD NUTRITION PROGRAMS.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

''(14) COMBAT PAY.—

''(A) DEFINITION OF COMBAT PAY.—In this paragraph, the term 'combat pay' means any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

''(i) is the result of deployment to or service in a combat zone; and

''(ii) was not received immediately prior to serving in a combat zone.

''(B) EXCLUSION.—Combat pay shall not be considered to be income for the purpose of determining the eligibility for free or reduced price meals of a child who is a member of the household of a member of the United States Armed Forces.''.

(b) SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—Section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) COMBAT PAY.—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this subparagraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

''(i) is the result of deployment to or service in a combat zone; and

''(ii) was not received immediately prior to serving in a combat zone.''.

SA 1168. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

In section 1108(a), strike ''and prosecute'' and insert '', prosecute, and punish''.

SA 1169. Mr. LEAHY (for himself, Mr. BROWN, and Mr. CASEY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title XI, add the following:

SRI LANKA

SEC. 1121. (a) The Secretary of the Treasury shall instruct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2))) to vote against any loan, agreement, or other financial support for Sri Lanka, except for basic human needs, unless the Secretary of State certifies to the Committees on Appropriations that the Government of Sri Lanka is respecting the rights of internally displaced persons, accounting for persons detained in the conflict, providing access to affected areas and populations by humanitarian organizations and the media, and implementing policies to promote reconciliation and justice, including devolution of power to local bodies as provided for in the Constitution of Sri Lanka.

(b) The requirement under subsection (a) shall not apply to balance of payments support to the Central Bank of Sri Lanka if the Secretary of the Treasury certifies to the Committees on Appropriations that such payments are necessary to prevent significant and imminent hardship among the general population of Sri Lanka.

(c) Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing incidents during the conflict in Sri Lanka that may constitute violations of international humanitarian law or crimes against humanity, and, to the extent practicable, identifying the parties responsible.

SA 1170. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for

other purposes; which was ordered to lie on the table; as follows:

On page 102, line 9, strike ''In'' and everything thereafter through the end of line 14 on page 106, and insert in lieu thereof the following:

In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G–20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: Provided, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this act: Provided further, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.'' and

(2) in subsection (b)

(A) by inserting ''(1)'' before ''For the purpose of'';

(B) by inserting ''subsection (a)(1) of'' after ''pursuant to''; and

(C) by adding at the end the following:

''(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund.''.

SEC. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

''SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63–2 and 63–3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.''

''SEC. 65. QUOTA INCREASE.

''(a) IN GENERAL.—The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.''

''SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.

''(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: Provided, That at least 30 days prior to any such vote, the Secretary shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the use of proceeds from the sale of such gold: Provided further, That the Secretary of the Treasury shall seek to ensure that:

(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than $4 billion;

(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and or grants, as appropriate to a country's circumstances;

(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this act, to also use such proceeds for the purpose of assisting low-income countries.''

''SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54–4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: Provided, That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights.''

SA 1171. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 101, line 5, strike ''section 17(a)(ii) and (b)(ii)'' and insert ''section 17(a)(2) and (b)(2)''.

On page 105, beginning on line 25, strike ''the chairman'' and all that follows through ''thereof,'' on page 106, line 5, and insert ''the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives''.

SA 1172. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4___. LAKE PONTCHARTRAIN, LOUISIANA.

(a) AUTHORITY OF SECRETARY OF THE ARMY.—The project authorized by section 204 of Flood Control Act of 1965 (Public Law 89–298; 79 Stat. 1077) and modified by section 7012(a)(2) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1279), is further modified to authorize the Secretary of the Army to construct a pumping station that shall be specifically designed to evacuate storm water from the area known as Hoey's Basin, as—

(1) generally described in the report entitled ''U.S. Army Corps of Engineers Individual Environmental Report #5; Permanent Protection System for the Outfall Canals Project on 17th Street, Orleans Avenue, and London Avenue Canals''; and

(2) more specifically described under the ''Pump to the Mississippi River'' option contained in the report described in paragraph (1).

(b) AUTHORIZED COST.—The total cost of the project authorized under subsection (a) shall be $205,000,000.

(c) FEDERAL SHARE.—The Federal share of the cost of the project authorized under subsection (a) shall be 100 percent of the total cost of the project.

SA 1173. Mr. CORKER (for himself and Mr. GRAHAM, Mr. LIEBERMAN, Mr. LUGAR, Mr. ISAKSON, Ms. COLLINS, and Mr. BENNETT) submitted an amendment intended to be proposed by him

to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 97, between lines 11 and 12, insert the following:

AFGHANISTAN AND PAKISTAN POLICY

SEC. 1121. (a) OBJECTIVES FOR AFGHANISTAN AND PAKISTAN.—Not later than 30 days after the date of the enactment of this Act, the President, based on information gathered and coordinated by the National Security Council, shall develop and submit to the appropriate committees of Congress the following:

(1) A clear statement of the objectives of United States policy with respect to Afghanistan and Pakistan.

(2) Metrics to be utilized to assess progress toward achieving the objectives developed under paragraph (1).

(b) REPORTS.—

(1) IN GENERAL.—Not later than March 30, 2010 and every 90 days thereafter, the President, on the basis of information gathered and coordinated by the National Security Council and in consultation with Coalition partners as appropriate, shall submit to the appropriate committees of Congress a report setting forth the following:

(A) A description and assessment of the progress of United States Government efforts, including those of the Department of Defense, the Department of State, the United States Agency for International Development, and the Department of Justice, in achieving the objectives for Afghanistan and Pakistan developed under subsection (a)(1).

(B) Any modification of the metrics developed under subsection (a)(2) in light of circumstances in Afghanistan or Pakistan, together with a justification for such modification.

(C) Recommendations for the additional resources or authorities, if any, required to achieve such objectives for Afghanistan and Pakistan.

(2) FORM.—Each report under this subsection may be submitted in classified or unclassified form. Any report submitted in classified form shall include an unclassified annex or summary of the matters contained in the report.

(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ''appropriate committees of Congress'' means—

(A) the Committees on Armed Services, Appropriations, Foreign Relations, Homeland Security and Governmental Affairs, and the Judiciary and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Appropriations, Foreign Affairs, Homeland Security, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

SA 1174. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 49, between lines 12 and 13, insert the following:

SEC. 607. REIMBURSEMENT FOR MAJOR DISASTER.

For purposes of reimbursement relating to disaster declaration DR-1791 (issued September 13, 2008), the Statewide per capita qualifying threshold for calendar year 2008 of $122.00 is deemed to have been met.

SA 1175. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 6 through 23 and insert the following:

(Public Law 111–8; 123 Stat. 619) is amended—

(1) in the ninth proviso—

(A) by striking ''or (d)'' and inserting ''(d)''; and

(B) by striking ''the guarantee'' and inserting ''the guarantee; (e) contracts, leases or other agreements entered into prior to May 1, 2009 for front-end nuclear fuel cycle projects, where such project licenses technology from the Department of Energy, and pays royalties to the federal government for such license and the amount of such royalties will exceed the amount of federal spending, if any, under such contracts, leases or agreements; or (f) grants or cooperative agreements, to the extent that obligations of such grants or cooperative agreements have been recorded in accordance with section 1501(a)(5) of title 31, United States Code, on or before May 1, 2009''; and

(2) in the tenth proviso, by striking ''*Provided further*,'' and inserting ''*Provided further*, That the Secretary of Energy may use unobligated funds from undersubscribed technologies supported under the Title 17 Innovative Technology Loan Guarantee Program for oversubscribed technologies, as determined by the Secretary, in a manner that, to the maximum extent practicable, is technology-neutral: Provided further,''.

SA 1176. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 49, between lines 12 and 13, insert the following:

SEC. 607. DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT.

Title VI of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 164) is amended under the heading ''DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT'' under the heading ''FEDERAL EMERGENCY MANAGEMENT AGENCY''—

(1) by inserting ''or can otherwise demonstrate'' after ''suffered''; and

(2) by inserting ''in fiscal year 2008, 2009, or 2010'' after ''revenues''.

SA 1177. Ms. LANDRIEU (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, insert the following:

SEC. ____. INTENT OF CONGRESS.

Title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 218) is amended under the heading ''COMMUNITY DEVELOPMENT FUND'' under the heading ''COMMUNITY PLANNING AND DEVELOPMENT'' under the heading ''DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'' by inserting ''*Provided further*, That, in addition to the eligible uses of funds under section 2301(c)(3)(E) of the Act, grants awarded using amounts made available under this paragraph may be used to redevelop housing properties damaged or destroyed during the period beginning on January 1, 2004, and ending on December 31, 2008, by a major disaster (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)):'' after ''demolished or vacant properties as housing:''.

SA 1178. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

PRESCRIPTION OF ANTIDEPRESSANTS FOR TROOPS SERVING IN IRAQ AND AFGHANISTAN

SEC. ____. (a) Not later than December 31, 2009, the Secretary of Defense shall submit to Congress a report on the numbers and percentages of troops that have served or are serving in Iraq and Afghanistan who have been prescribed antidepressants, including psychotropic drugs such as Selective Serotonin Reuptake Inhibitors (SSRIs).

(b)(1) The Institute of Medicine shall conduct a study on the potential relationship between the increased number of suicides and attempted suicides by members of the Armed Forces and the increased number of antidepressants, other psychotropics, and other behavior modifying prescription medications being prescribed, including any combination or interactions of such prescriptions. The Department of Defense shall immediately make available to the Institute of Medicine all data necessary to complete the study.

(2) Not later than one year after the date of the enactment of this Act, the Institute of Medicine shall submit to Congress a report on the findings of the study conducted pursuant to paragraph (1).

SA 1179. Mr. KAUFMAN (for himself, Mr. LUGAR, and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 71, between lines 13 and 14, insert the following:

(g) TRAINING IN CIVILIAN-MILITARY COORDINATION.—The Secretary of State, in consultation with the Secretary of Defense, shall seek to ensure that civilian personnel assigned to serve in Afghanistan receive civilian-military coordination training that focuses on counterinsurgency and stability operations, and shall submit a report to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives not later than 90 days after the date of the enactment of this Act detailing how such training addresses current and future civilian-military coordination requirements.

SA 1180. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 49, between lines 12 and 13, insert the following:

SEC. 607. COASTAL HIGH HAZARD AREAS.

(a) DEFINITIONS.—In this section—

(1) the term ''coastal high hazard area'' has the meaning given that term in section 9.4 of title 44, Code of Federal Regulations, or any successor thereto; and

(2) the term ''major disaster'' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(b) AUTHORIZATION.—For an activity in a coastal high hazard area that is otherwise an eligible use of assistance under section 404, section 406, or section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c, 5172, and 5174) as a result of damage caused by Hurricane Katrina, Rita, Gustav, or Ike, notwithstanding 9.11(d)(1) of title 44, Code of Federal Regulations, and subject to all other requirements under part 9 of title 44, Code of Federal Regulations—

(1) the activity shall be an eligible use of assistance under such section; and

(2) any new construction or substantial improvements to structures under such an activity involving critical actions shall not be required to elevate to the 500-year floodplain, if it would be impracticable.

(c) ADMINISTRATIVE PROCEDURES.—Notwithstanding chapter 5 of title 5, United States Code (commonly known as the ''Administrative Procedure Act''), the Administrator of the Federal Emergency Management Agency shall not be required to promulgate, modify, or amend any regulation to carry out subsection (b).

(d) APPLICABILITY.—This section shall apply to any assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) relating to a major disaster—

(1) declared on or after August 28, 2005; and

(2) relating to Hurricane Katrina, Rita, Gustav, or Ike.

SA 1181. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSION OF LIMITATIONS.

(a) IN GENERAL.—Section 44(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and moving the margins 2 ems to the right;

(2) by striking ''evidence of debt by any insured'' and inserting the following: ''evidence of debt by—

''(A) any insured''; and

(3) by striking the period at the end and inserting the following: ''; and

''(B) any nondepository institution operating in such State, shall be equal to not more than the greater of the State's maximum lawful annual percentage rate or 17 percent—

''(i) to facilitate the uniform implementation of federally mandated or federally established programs and financings related thereto, including—

''(I) uniform accessibility of student loans, including the issuance of qualified student loan bonds as set forth in section 144(b) of the Internal Revenue Code of 1986;

''(II) the uniform accessibility of mortgage loans, including the issuance of qualified mortgage bonds and qualified veterans' mortgage bonds as set forth in section 143 of such Code;

''(III) the uniform accessibility of safe and affordable housing programs administered or subject to review by the Department of Housing and Urban Development, including—

''(aa) the issuance of exempt facility bonds for qualified residential rental property as set forth in section 142(d) of such Code;

''(bb) the issuance of low income housing tax credits as set forth in section 42 of such Code, to facilitate the uniform accessibility of provisions of the American Recovery and Reinvestment Act of 2009; and

''(cc) the issuance of bonds and obligations issued under that Act, to facilitate economic development, higher education, and improvements to infrastructure, and the issuance of bonds and obligations issued under any provision of law to further the same; and

''(ii) to facilitate interstate commerce generally, including consumer loans, in the case of any person or governmental entity (other than a depository institution subject to subparagraph (A) and paragraph (2)).''.

(b) EFFECTIVE PERIOD.—The amendments made by subsection (a) shall apply with respect to contracts consummated during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

SA 1182. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, insert the following:

ORGANIZATION OF AMERICAN STATES

SEC. 1121. It is the sense of Congress that—

(1) the United States supports the Charter of the Organization of American States and the principles enshrined in the Inter-American Democratic Charter of the Organization of American States; and

(2) Congress continues to support the Organization of American States as it operates in a manner consistent with the Charter of the Organization of American States, and, in particular, consistent with Articles 1, 3, and 7 of the Inter-American Democratic Charter, as adopted by all the participating member countries of the Organization of American States, which state—

(A) in Article 1, that the peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it, and that democracy is essential for the social, political, and economic development of the peoples of the Americas;

(B) in Article 3, that essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government; and

(C) in Article 7, that democracy is indispensable for the effective exercise of fundamental freedoms and human rights in their universality, indivisibility, and interdependence, embodied in the respective constitutions of states and in inter-American and international human rights instruments.

SA 1183. Ms. LANDRIEU (for herself and Mr. VITTER) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. 4___. LAKE PONTCHARTRAIN, LOUISIANA.

(a) DEFINITIONS.—In this section:

(1) PROJECT.—The term ''project'' means the project for permanent pumps and canal modifications authorized by section 204 of Flood Control Act of 1965 (Public Law 89–298; 79 Stat. 1077) and modified by section 7012(a)(2) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1279).

(2) PROJECT REPORT.—The term ''project report'' means the report—

(A) submitted by the Secretary to Congress;

(B) dated August 30, 2007; and

(C) provided in response to the requirements described in section 4303 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 154) as the basis for complying with the requirements of—

(i) the project; and

(ii) modifications to the 17th Street, Orleans Avenue and London Avenue canals in and near the city of New Orleans carried out under the project.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(b) DUTIES OF SECRETARY.—

(1) SUSPENSION OF ACTIVITY.—Effective on the date of enactment of this Act, the Secretary shall cease the implementation of option 1, as described in the project report.

(2) STUDY; REPORT.—

(A) STUDY.—As soon as practicable after the date of enactment of this Act, the Secretary shall conduct a study under which the Secretary shall carry out—

(i) an analysis of the residual risks associated with options 1, 2, and 2a, as described in the project report; and

(ii) an independent peer review of the effectiveness of concept designs and preliminary cost estimates associated with each option.

(B) REPORTS.—Not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report that—

(i) contains the results of the study conducted under subparagraph (A); and

(ii) identifies the option contained in the project report that—

(I) is more technically advantageous;

(II) is more effective from an operational prospective in providing greater reliability and reducing the risk of flooding to the New Orleans area over the long-term; and

(III) if implemented, would—

(aa) increase the overall drainage capacity of the region;

(bb) reduce local flooding to the greatest extent practicable; and

(cc) provide the greatest system flexibility.

(3) IMPLEMENTATION.—Effective on the date on which the Secretary submits the report under paragraph (2)(B), the Secretary shall resume the implementation of the project in accordance with the option selected by the Secretary under the report.

SA 1184. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 106, between lines 14 and 15, insert the following:

SEC. 1303. (a) INTERPRETATION OF AUTHORITY OF THE INTERNATIONAL MONETARY FUND

TO PROVIDE CERTAIN ASSISTANCE TO LOW-INCOME COUNTRIES.—The Secretary of the Treasury shall instruct the United States Governor of the International Monetary Fund and the United States Executive Director of the Fund to obtain promptly an official interpretation by the Fund with respect to the authority of the Fund to provide support to low-income countries (as defined by the Fund) in the form of grants or other financial assistance that does not create debt for those countries.

(b) AMENDMENT TO ARTICLES OF AGREEMENT TO AUTHORIZE CERTAIN ASSISTANCE TO LOW-INCOME COUNTRIES.—If the International Monetary Fund concludes in the interpretation obtained pursuant to subsection (a) that the Fund does not have the authority to provide grants or other financial assistance described in that subsection, the United States Governor of the International Monetary Fund and the United States Executive Director of the Fund shall promptly propose and support an amendment to the Articles of Agreement of the Fund to explicitly authorize the Fund to provide such grants or other financial assistance.

(c) AUTHORIZATION TO ACCEPT AMENDMENT.—Notwithstanding any other provision of law, the President may agree to and accept on behalf of the United States an amendment proposed under subsection (b) to the Articles of Agreement of the International Monetary Fund to explicitly authorize the Fund to provide grants or other financial assistance to low-income countries that does not create debt for those countries.

SA 1185. Mr. MERKLEY (for himself and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place in title III, insert the following:

SENSE OF SENATE ON USE OF FUNDS FOR OPERATIONS IN IRAQ

SEC. 315. It is the sense of the Senate that funds appropriated or otherwise made available to the Department of Defense by this title for operations in Iraq should be utilized for those operations in a manner consistent with the United States–Iraq Status of Forces Agreement, including specifically that—

(1) the United States combat mission in Iraq will end by August 31, 2010;

(2) any transitional force of the United States remaining in Iraq after August 31, 2010, will have a mission consisting of—

(A) training, equipping, and advising Iraqi Security Forces as long as they remain nonsectarian;

(B) conducting targeted counter-terrorism missions; and

(C) protecting the ongoing civilian and military efforts of the United States within Iraq; and

(3) through continuing redeployments of the transitional force of the United States remaining in Iraq after August 31, 2010, all United States troops present in Iraq under the United States–Iraq Status of Forces Agreement will be redeployed from Iraq by December 31, 2011.

SA 1186. Mr. BURR submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. (a) SPECIFICATION OF THE FIRST TEE PROGRAM AS SUPPORTABLE YOUTH ORGANIZATION.—Section 1058(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3442; 5 U.S.C. 301 note) is amended—

(1) in paragraph (16), by striking ''and'' at the end;

(2) by redesignating paragraph (17) as paragraph (18); and

(3) by inserting after paragraph (16) the following new paragraph (17):

''(17) The First Tee program.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2009, and shall apply with respect to fiscal years beginning on or after that date.

SA 1187. Mr. WYDEN (for himself, Ms. KLOBUCHAR, Mr. GRASSLEY, Mr. ROBERTS, and Mr. SHELBY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 315. (a) BENEFITS UNDER POST-DEPLOYMENT/MOBILIZATION RESPITE ABSENCE PROGRAM FOR CERTAIN PERIODS BEFORE IMPLEMENTATION OF PROGRAM.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall provide any member or former member of the Armed Forces with the benefits specified in subsection (b) if the member or former member would, on any day during the period beginning on January 19, 2007, and ending on the date of the implementation of the Post-Deployment/Mobilization Respite Absence (PDMRA) program by the Secretary concerned, have qualified for a day of administrative absence under the Post-Deployment/Mobilization Respite Absence program had the program been in effect during such period.

(b) BENEFITS.—The benefits specified in this subsection are the following:

(1) In the case of an individual who is a former member of the Armed Forces at the time of the provision of benefits under this section, payment of an amount not to exceed $200 for each day the individual would have qualified for a day of administrative absence as described in subsection (a) during the period specified in that subsection.

(2) In the case of an individual who is a member of the Armed Forces at the time of the provision of benefits under this section, either one day of administrative absence or payment of an amount not to exceed $200, as selected by the Secretary concerned, for each day the individual would have qualified for a day of administrative absence as described in subsection (a) during the period specified in that subsection.

(c) EXCLUSION OF CERTAIN FORMER MEMBERS.—A former member of the Armed Forces is not eligible under this section for the benefits specified in subsection (b)(1) if the former member was discharged or released from the Armed Forces under other than honorable conditions.

(d) MAXIMUM NUMBER OF DAYS OF BENEFITS PROVIDABLE.—The number of days of benefits providable to a member or former member of the Armed Forces under this section may not exceed 40 days of benefits.

(e) FORM OF PAYMENT.—The paid benefits providable under subsection (b) may be paid in a lump sum or installments, at the election of the Secretary concerned.

(f) CONSTRUCTION WITH OTHER PAY AND LEAVE.—The benefits provided a member or former member of the Armed Forces under this section are in addition to any other pay, absence, or leave provided by law.

(g) DEFINITIONS.—In this section:

(1) The term ''Post-Deployment/Mobilization Respite Absence program'' means the program of a military department to provide days of administrative absence not chargeable against available leave to certain deployed or mobilized members of the Armed Forces in order to assist such members in reintegrating into civilian life after deployment or mobilization.

(2) The term ''Secretary concerned'' has the meaning given that term in section 101(5) of title 37, United States Code.

(h) TERMINATION.—

(1) IN GENERAL.—The authority to provide benefits under this section shall expire on the date that is one year after the date of the enactment of this Act.

(2) CONSTRUCTION.—Expiration under this subsection of the authority to provide benefits under this section shall not affect the utilization of any day of administrative absence provided a member of the Armed Forces under subsection (b)(2), or the payment of any payment authorized a member or former member of the Armed Forces under subsection (b), before the expiration of the authority in this section.

SA 1188. Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LUGAR, and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of title XI, add the following:

SEC. 1121. (a) ADDITIONAL AMOUNT FOR ASSISTANCE FOR GEORGIA.—The amount appropriated by this title under the heading ''Europe, Eurasia and Central Asia'' is hereby increased by $42,500,000, with the amount of the increase to be available for assistance for Georgia.

(b) SOURCE OF FUNDS.—

(1) IN GENERAL.—The amount of the increase in subsection (a) shall be derived from amounts appropriated or otherwise made available by this title, other than amounts under the heading ''Europe, Eurasia and Central Asia'' and available for assistance for Georgia.

(2) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(A) administer the reduction required pursuant to paragraph (1); and

(B) submit to the Committee on Appropriations of the Senate and the Committee of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to the reduction required pursuant to paragraph (1).

SA 1189. Mrs. HUTCHISON (for herself, Mr. BROWN, Mrs. MCCASKILL, Mr. MENENDEZ, Ms. MIKULSKI, Mr. COCHRAN, Mr. BOND, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the appropriate place, insert the following new section

No funds shall be expended from the Treasury to an auto manufacturer which has notified a dealership that it will be terminated without providing at least 60 days for that dealership to wind down its operations and sell its inventory.

SA 1190. Mr. REID (for Mr. KENNEDY (for himself and Mr. CARDIN)) submitted an amendment intended to be proposed by Mr. Reid to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, line 11, insert ''and for urgent and unmet resettlement needs of a refugee or individual provided status pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 8 U.S.C. 1101 note), section 1244 of the Refugee Crisis in Iraq Act of 2007 (subtitle C of title XII of division A of Public Law 110–181; 122 Stat. 396), or section 602 of the Afghan Allies Protection Act of 2009 (title VI of division F of Public Law 111–8; 123 Stat. 807),'' after ''of 2008,''.

SA 1191. Mr. LEAHY (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 102, line 9, strike ''In'' and everything thereafter through the end of line 14 on page 106, and insert in lieu thereof the following:

In order to carry out the purposes of a one-time decision of the Executive Directors of the International Monetary Fund (the Fund) to expand the resources of the New Arrangements to Borrow, established pursuant to the decision of January 27, 1997 referred to in paragraph (1) above, and to make other amendments to the New Arrangements to Borrow to achieve an expanded and more flexible New Arrangements to Borrow as contemplated by paragraph 17 of the G–20 Leaders' Statement of April 2, 2009 in London, the Secretary of the Treasury is authorized to instruct the United States Executive Director to consent to such amendments notwithstanding subsection (d) of this section, and to make loans, in an amount not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section and limited to such amounts as are provided in advance in appropriations Acts, except that prior to activation, the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to the Fund under article VII, section 1(i), of the Articles of Agreement of the Fund: Provided, That prior to instructing the United States Executive Director to provide consent to such amendments, the Secretary of the Treasury shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the amendments to be made to the New Arrangements to Borrow, including guidelines and criteria governing the use of its resources; the countries that have made commitments to contribute to the New Arrangements to Borrow and the amount of such commitments; and the steps taken by the United States to expand the number of countries so the United States share of the expanded New Arrangements to Borrow is representative of its share as of the date of enactment of this act: *Provided further*, That any loan under the authority granted in this subsection shall be made with due regard to the present and prospective balance of payments and reserve position of the United States.''

and

(2) in subsection (b)

(A) by inserting ''(1)'' before ''For the purpose of';

(B) by inserting ''subsection (a)(1) of'' after ''pursuant to''; and

(C) by adding at the end the following:

''(2) For the purpose of making loans to the International Monetary Fund pursuant to subsection (a)(2) of this section, there is hereby authorized to be appropriated not to exceed the dollar equivalent of 75,000,000,000 Special Drawing Rights, in addition to any amounts previously authorized under this section, except that prior to activation the Secretary of the Treasury shall report to Congress on whether supplementary resources are needed to forestall or cope with an impairment of the international monetary system and whether the Fund has fully explored other means of funding, to remain available until expended to meet calls by the Fund. Any payments made to the United States by the Fund as a repayment on account of the principal of a loan made under this section shall continue to be available for loans to the Fund.''.

SEC.. 1302. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end the following:

''SEC. 64. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolutions numbered 63–2 and 63–3 of the Board of Governors of the Fund which were approved by such Board on April 28, 2008 and May 5, 2008, respectively.

''SEC. 65. QUOTA INCREASE.

''(a) IN GENERAL—The United States Governor of I the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 4,973,100,000 Special Drawing Rights.

''(b) SUBJECT TO APPROPRIATIONS.—The authority provided by subsection (a) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.''

''SEC. 66. APPROVAL TO SELL A LIMITED AMOUNT OF THE FUND'S GOLD.

''(a) The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the sale of up to 12,965,649 ounces of the Fund's gold acquired since the second Amendment to the Fund's Articles of Agreement, only if such sales are consistent with the guidelines agreed to by the Executive Board of the Fund described in the Report of the Managing Director to the International Monetary and Financial Committee on a New Income and Expenditure Framework for the International Monetary Fund (April 9, 2008) to prevent disruption to the world gold market: *Provided*, That at least 30 days prior to any such vote, the Secretary shall consult with the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the use of proceeds from the sale of such gold: *Provided further*, That the Secretary of the Treasury shall seek to ensure that:

(1) the Fund will provide support to low-income countries that are eligible for the Poverty Reduction and Growth Facility or other low-income lending from the Fund by making available Fund resources of not less than $4 billion;

(2) such Fund resources referenced above will be used to leverage additional support by a significant multiple to provide loans with substantial concessionality and debt service payment relief and/or grants, as appropriate to a country's circumstances;

(3) support provided through forgiveness of interest on concessional loans will be provided for not less than two years; and

(4) the support provided to low-income countries occurs within six years, a substantial amount of which shall occur within the initial two years.

(b) In addition to agreeing to and accepting the amendments referred to in section 64 of this act relating to the use of proceeds from the sale of such gold, the United States Governor is authorized, consistent with subsection (a), to take such actions as may be necessary, including those referred to in section 5(e) of this act, to also use such proceeds for the purpose of assisting low-income countries.''

''SEC. 67. ACCEPTANCE OF AMENDMENT TO THE ARTICLES OF AGREEMENT OF THE FUND.

''The United States Governor of the Fund may agree to and accept the amendment to the Articles of Agreement of the Fund as proposed in the resolution numbered 54–4 of the Board of Governors of the Fund which was approved by such Board on October 22, 1997: *Provided,* That not more than one year after the acceptance of such amendments to the Fund's Articles of Agreement, the Secretary of the Treasury shall submit a report to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives analyzing Special Drawing Rights, to include a discussion of how those countries that significantly use or acquire Special Drawing Rights in accordance with Article XIX, Section 2(c), use or acquire them; the extent to which countries experiencing balance of payment difficulties exchange or use their Special Drawing Rights to acquire reserve currencies; and the manner in which those reserve currencies are acquired when utilizing Special Drawing Rights.''

SA 1192. Mr. COBURN (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1113.

SA 1193. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

On page 32, strike lines 6 through 16 and insert the following:

as authorized by law, $315,290,000, to remain available until expended: *Provided*, That the Secretary of the Army is directed to use the funds appropriated under this heading to support emergency operations, to repair eligible projects nationwide, and for other activities in response to natural disasters: *Provided further*, That this work shall be car-

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SA 1194. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

In the matter under the heading ''FLOOD CONTROL AND COASTAL EMERGENCIES'' under the heading ''CORPS OF ENGINEERS–CIVIL'' under the heading ''DEPARTMENT OF THE ARMY'' under the heading ''DEPARTMENT OF DEFENSE–CIVIL'' of title IV, strike ''*Provided further*, That this work shall be carried out at full Federal expense'' and insert ''*Provided further*, That the Federal share of the cost of the projects under this heading shall be not more than 65 percent''.

SA 1195. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.__. None of the funds provided in this act may be used by the Department of Justice to prosecute or otherwise sanction any individual who provided input into the legal opinions by the Office of Legal Counsel of the Department of Justice analyzing the legality of the enhanced interrogation program, nor any person who relied on good faith on those opinions, nor any member of Congress who was briefed on the enhanced interrogation program and did not object to the program going forward.

SA 1196. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for ''Training and Employment Services'' for grants to States for dislocated worker employment and training activities under the Workforce Investment Act of 1998, $210,833,000, which shall be available for the period of July 1, 2009 through June 30, 2010: *Provided*, That such funds shall be allotted only to those States that have received a total allotment amount, not including any allotment amount provided under the American Recovery and Reinvestment Act of 2009, for dislocated worker employment and training activities under the Workforce Investment Act of 1998 (referred to under this heading as the ''total allotment amount'') for program year 2009 that is less than the total allotment amount received by such States for program year 2008: *Provided further*, That the amount of the allotment of such funds to a State shall be equal to the amount of the difference between the total allotment amount for program year 2008 and the total allotment amount for program year 2009 for such State: *Provided further*, That for purposes of Senate enforcement, such funds are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 1197. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. 315. (a) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act and every 90 days thereafter, the President shall submit to the members and committees of Congress specified in subsection (b) a report on the prisoner population at the detention facility at Naval Station Guantanamo Bay, Cuba.

(b) SPECIFIED MEMBERS AND COMMITTEES OF CONGRESS.—The members and committees of Congress specified in this subsection are the following:

(1) The majority leader and minority leader of the Senate.

(2) The Chairman and Ranking Member on the Committee on Armed Services of the Senate.

(3) The Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate.

(4) The Speaker of the House of Representatives.

(5) The minority leader of the House of Representatives.

(6) The Chairman and Ranking Member on the Committee on Armed Services of the House of Representatives.

(7) The Chairman and Vice Chairman of the Permanent Select Committee on Intelligence of the House of Representatives

(c) MATTERS TO BE INCLUDED.—Each report submitted under subsection (a) shall include the following:

(1) The name and country of origin of each detainee at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of such report.

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Naval Station Guantanamo Bay.

(3) A current accounting of all the measures taken to transfer each detainee listed under paragraph (1) to the individual's country of citizenship or another country.

(4) A current description of the number of individuals released or transferred from detention at Naval Station Guantanamo Bay who are confirmed or suspected of returning to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(5) An assessment of any efforts by al Qaeda to recruit detainees released from detention at Naval Station Guantanamo Bay.

(6) For each detainee listed under paragraph (1), a threat assessment that includes—

(A) an assessment of the likelihood that such detainee may return to terrorist activity after release or transfer from Naval Station Guantanamo Bay;

(B) an evaluation of the status of any rehabilitation program in such detainee's country of origin, or in the country such detainee is anticipated to be transferred to; and

(C) an assessment of the risk posed to the American people by the release or transfer of such detainee from Naval Station Guantanamo Bay.

(d) ADDITIONAL MATTERS TO BE INCLUDED IN INITIAL REPORT.—The first report submitted under subsection (a) shall also include the following:

(1) A description of the process that was previously used for screening the detainees described by subsection (c)(4) prior to their release or transfer from detention at Naval Station Guantanamo Bay, Cuba.

(2) An assessment of the adequacy of that screening process for reducing the risk that detainees previously released or transferred from Naval Station Guantanamo Bay would return to terrorist activities after release or transfer from Naval Station Guantanamo Bay.

(3) An assessment of lessons learned from previous releases and transfers of individuals who returned to terrorist activities for reducing the risk that detainees released or transferred from Naval Station Guantanamo Bay will return to terrorist activities after their release or transfer.

(e) FORM.—Each report submitted under subsection (a), or parts thereof, may be submitted in classified form.

(f) LIMITATION ON RELEASE OR TRANSFER.—No detainee detained at the detention facility at Naval Station Guantanamo Bay, Cuba, as of the date of the enactment of this Act may be released or transferred to another country until the President—

(1) submits to Congress the first report required by subsection (a); or

(2) certifies to the members and committees of Congress specified in subsection (b) that such action poses no threat to the members of the United States Armed Forces.

SA 1198. Mr. LUGAR (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) DISCLOSURE OF INTERNATIONAL MONETARY FUND DOCUMENTS.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to promote standard public disclosure of documents of the Fund presented to the Executive Board of the Fund and summaries of the minutes of meetings of the Board, as recommended by the Independent Evaluation Office of the Fund, not later than 2 years after the date of the meeting at which the document was presented or the minutes were taken (as the case may be), unless the Executive Board—

(1) determines that it is appropriate to delay disclosure; and

(2) posts the reason for the delay on the website of the Fund.

(b) TRANSPARENCY AND ACCOUNTABILITY OF LOANS, AGREEMENTS, AND OTHER PROGRAMS OF THE INTERNATIONAL MONETARY FUND.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to promote—

(1) transparency and accountability in the policymaking and budgetary procedures of governments of members of the Fund;

(2) the participation of citizens and nongovernmental organizations in the economic policy choices of those governments; and

(3) the adoption by those governments of loans, agreements, or other programs of the Fund through a parliamentary process or another participatory and transparent process, as appropriate.

SA 1199. Mr. DURBIN proposed an amendment to amendment SA 1136 proposed by Mr. MCCONNELL to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

On page 3, strike lines 1–4, and insert the following:

(2) A current summary of the evidence, intelligence, and information used to justify the detention of each detainee listed under paragraph (1) at Guantanamo Bay.

SA 1200. Mr. REID (for Mrs. HUTCHISON) proposed an amendment to

the bill S. 614, to award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP''); as follows:

On page 3, line 11, strike ''Army Air Force'' and insert ''Army Air Forces'' On page 3, line 13, strike ''Air Force'' and insert ''Air Forces'' On page 3, line 17, strike ''Army Air Force'' and insert ''Army Air Forces'' On page 4, line 2, strike ''Force'' and insert ''Forces''

SA 1201. Mr. REID proposed an amendment to amendment SA 1167 submitted by Mr. BENNET (for himself, Mr. CASEY, and Mr. JOHANNS) to the bill H.R. 2346, making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes; as follows:

At the end of the amendment, add the following: This section shall become effective 3 days after enactment

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, May 21, 2009 at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing to examine Executive Branch authority to acquire trust lands for Indian Tribes.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 20, 2009, at 9:30 a.m., to conduct a hearing entitled ''Oversight of the Troubled Asset Relief Program.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INOUYE. 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, May 20, 2009, in Russell 253, at 2 p.m.

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

COMMITTEE ON FINANCE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 10 a.m., in room 215 of the Dirksen Senate office building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 9 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 11 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 1:30 p.m., to hold a hearing entitled ''Foreign Policy Priorities in the President's FY10 International Affairs Budget.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 2:30 p.m. in room 430 of the Dirksen Senate office building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 9:30 a.m.

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

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. INOUYE. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, May 20 2009, at 2:30 p.m. to conduct a hearing entitled, ''The Role of the Community Development Block Grant Program in Disaster Recovery.''

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

PERSONNEL SUBCOMMITTEE

Mr. INOUYE. Mr. President, I ask unanimous consent that the Personnel Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 2:30 p.m.

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

SUBCOMMITTEE ON CRIME AND DRUGS

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Crime and Drugs, be authorized to meet during the session of the Senate to conduct a hearing entitled ''Criminal Prosecution as a Deterrent to Health Care Fraud'' on Wednesday, May 20, 2009, at 2:30 p.m., in room SD–226 of the Dirksen Senate office building.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. INOUYE. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, at 2 p.m.

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

SPECIAL COMMITTEE ON AGING

Mr. INOUYE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Wednesday, May 20, 2009, from 2 p.m.–4 p.m. in Russell 432 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND BORDER SECURITY

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Immigration, Refugees and Border Security, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Securing the Borders and America's Points of Entry, What Remains to Be Done'' on Wednesday, May 20, 2009, at 10 a.m., in room SD–226 of the Dirksen Senate office building.

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

PRIVILEGES OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that Mr. Robert Berschinski, a detailee with the Defense Appropriations Subcommittee, be granted floor privileges during the consideration of this measure.

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

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that MAJ Brian Forrest, who is with me from the Army for a year, be given floor privileges during the proceedings on the supplemental appropriations bill.

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

HELPING FAMILIES SAVE THEIR HOMES ACT

On Tuesday, May 19, 2009, the Senate passed S. 896, as amended, as follows:

S. 896

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

DIVISION A—PREVENTING MORTGAGE FORECLOSURES

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Helping Families Save Their Homes Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this division is the following:

TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

SEC. 101. GUARANTEED RURAL HOUSING LOANS.

(a) GUARANTEED RURAL HOUSING LOANS.—Section 502(h) of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (16) and (17), respectively; and

(2) by inserting after paragraph (12) the following new paragraphs:

''(13) LOSS MITIGATION.—Upon default or imminent default of any mortgage guaranteed under this subsection, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including actions such as special forbearance, loan modification, pre-foreclosure sale, deed in lieu of foreclosure, as required, support for borrower housing counseling, subordinate lien resolution, and borrower relocation), as provided for by the Secretary.

''(14) PAYMENT OF PARTIAL CLAIMS AND MORTGAGE MODIFICATIONS.—The Secretary may authorize the modification of mortgages, and establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence, for mortgages that are in default or face imminent default, as defined by the Secretary. Any payment under such program directed to the mortgagee shall be made at the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

''(A) the amount of the partial claim payment shall be in an amount determined by the Secretary, and shall not exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

''(B) the amount of the partial claim payment shall be applied first to any outstanding indebtedness on the mortgage, including any arrearage, but may also include principal reduction;

''(C) the mortgagor shall agree to repay the amount of the partial claim to the Secretary upon terms and conditions acceptable to the Secretary;

''(D) expenses related to a partial claim or modification are not to be charged to the borrower;

''(E) the Secretary may authorize compensation to the mortgagee for lost income on monthly mortgage payments due to interest rate reduction;

''(F) the Secretary may reimburse the mortgagee from the appropriate guaranty fund in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary;

''(G) the Secretary may authorize payments to the mortgagee on behalf of the borrower, under such terms and conditions as are defined by the Secretary, based on successful performance under the terms of the mortgage modification, which shall be used to reduce the principal obligation under the modified mortgage; and

''(H) the Secretary may authorize the modification of mortgages with terms extended up to 40 years from the date of modification.

''(15) ASSIGNMENT.—

''(A) PROGRAM AUTHORITY.—The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence guaranteed under this chapter.

''(B) PROGRAM REQUIREMENTS.—

''(i) IN GENERAL.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of the guaranty and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved under this section.

''(ii) ACCEPTANCE OF ASSIGNMENT.—The Secretary may accept assignment of a mortgage under a program under this subsection only if—

''(I) the mortgage is in default or facing imminent default;

''(II) the mortgagee has modified the mortgage or qualified the mortgage for modification sufficient to cure the default and provide for mortgage payments the mortgagor is reasonably able to pay, at interest rates not exceeding current market interest rates; and

''(III) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate guaranty fund.

''(C) PAYMENT OF GUARANTY.—Under the program under this paragraph, the Secretary may pay the guaranty for a mortgage, in the amount determined in accordance with paragraph (2), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage, as defined by the Secretary.

''(D) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, and assignment of the mortgage, the Secretary may provide guarantees under this subsection for the mortgage. The Secretary may subsequently—

''(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

''(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

''(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

''(E) LOAN SERVICING.—In carrying out the program under this subsection, the Secretary may require the existing servicer of a mortgage assigned to the Secretary under the program to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage. If the mortgage is resold pursuant to subparagraph (D)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.''.

(b) TECHNICAL AMENDMENTS.—Subsection (h) of section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h)) is amended—

(1) in paragraph (5)(A), by striking ''(as defined in paragraph (13)'' and inserting ''(as defined in paragraph (17)''; and

(2) in paragraph (18)(E)(as so redesignated by subsection (a)(2)), by—

(A) striking ''paragraphs (3), (6), (7)(A), (8), and (10)'' and inserting ''paragraphs (3), (6), (7)(A), (8), (10), (13), and (14)''; and

(B) striking ''paragraphs (2) through (13)'' and inserting ''paragraphs (2) through (15)''.

(c) PROCEDURE.—

(1) IN GENERAL.—The promulgation of regulations necessitated and the administration actions required by the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(2) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, and the amendments made by this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 102. MODIFICATION OF HOUSING LOANS GUARANTEED BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MATURITY OF HOUSING LOANS.—Section 3703(d)(1) of title 38, United States Code, is amended by inserting ''at the time of origination'' after ''loan''.

(b) IMPLEMENTATION.—The Secretary of Veterans Affairs may implement the amendments made by this section through notice, procedure notice, or administrative notice.

SEC. 103. ADDITIONAL FUNDING FOR HUD PROGRAMS TO ASSIST INDIVIDUALS TO BETTER WITHSTAND THE CURRENT MORTGAGE CRISIS.

(a) ADDITIONAL APPROPRIATIONS FOR ADVERTISING TO INCREASE PUBLIC AWARENESS OF MORTGAGE SCAMS AND COUNSELING ASSISTANCE.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, $10,000,000 for each of the fiscal years 2010 and 2011 for purposes of providing additional resources to be used for advertising to raise awareness of mortgage fraud and to support HUD programs and approved counseling agencies, provided that such amounts are used to advertise in the 100 metropolitan statistical areas with the highest rate of home foreclosures, and provided, further that up to $5,000,000 of such amounts are used for advertisements designed to reach and inform broad segments of the community.

(b) ADDITIONAL APPROPRIATIONS FOR THE HOUSING COUNSELING ASSISTANCE PROGRAM.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, $50,000,000 for each of the fiscal years 2010 and 2011 to carry out the Housing Counseling Assistance Program established within the Department of Housing and Urban Development, provided that such amounts are used to fund HUD-certified housing-counseling agencies located in the 100 metropolitan statistical areas with the highest rate of home foreclosures for the purpose of assisting homeowners with inquiries regarding mortgage-modification assistance and mortgage scams.

(c) ADDITIONAL APPROPRIATIONS FOR PERSONNEL AT THE OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY.—In addition to any amounts that may be appropriated for each of the fiscal years 2010 and 2011 for such purpose, there is authorized to be appropriated to the Secretary of Housing and Urban Development, to remain available until expended, $5,000,000 for each of the fiscal years 2010 and 2011 for purposes of hiring additional personnel at the Office of Fair Housing and Equal Opportunity within the Department of Housing and Urban Development, provided that such amounts are used to hire personnel at the local branches of such Office located in the 100 metropolitan statistical areas with the highest rate of home foreclosures.

SEC. 104. MORTGAGE MODIFICATION DATA COLLECTING AND REPORTING.

(a) REPORTING REQUIREMENTS.—Not later than 120 days after the date of the enactment of this Act, and quarterly thereafter, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall jointly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) A copy of the data collection instrument currently used by the Office of the Comptroller of the Currency and the Office of Thrift Supervision to collect data on loan modifications.

(2) The total number of mortgage modifications resulting in each of the following:

(A) Additions of delinquent payments and fees to loan balances.

(B) Interest rate reductions and freezes.

(C) Term extensions.

(D) Reductions of principal.

(E) Deferrals of principal.

(F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(3) The total number of mortgage modifications in which the total monthly principal and interest payment resulted in the following:

(A) An increase.

(B) Remained the same.

(C) Decreased less than 10 percent.

(D) Decreased between 10 percent and 20 percent.

(E) Decreased 20 percent or more.

(4) The total number of loans that have been modified and then entered into default, where the loan modification resulted in—

(A) higher monthly payments by the homeowner;

(B) equivalent monthly payments by the homeowner;

(C) lower monthly payments by the homeowner of up to 10 percent;

(D) lower monthly payments by the homeowner of between 10 percent to 20 percent; or

(E) lower monthly payments by the homeowner of more than 20 percent.

(b) DATA COLLECTION.—

(1) REQUIRED.—

(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision, shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director.

(B) INCLUSIVENESS OF COLLECTIONS.—The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

(2) REPORT.—The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.

(a) IN GENERAL.—Section 2301(c) of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

''(3) EXCEPTION FOR CERTAIN STATES.—Each State that has received the minimum allocation of amounts pursuant to the requirement under section 2302 may, to the extent such State has fulfilled the requirements of paragraph (2), distribute any remaining amounts

to areas with homeowners at risk of foreclosure or in foreclosure without regard to the percentage of home foreclosures in such areas.''.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the Foreclosure Prevention Act of 2008 (Public Law 110–289).

TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

SEC. 201. SERVICER SAFE HARBOR FOR MORTGAGE LOAN MODIFICATIONS.

(a) CONGRESSIONAL FINDINGS.—Congress finds the following:

(1) Increasing numbers of mortgage foreclosures are not only depriving many Americans of their homes, but are also destabilizing property values and negatively affecting State and local economies as well as the national economy.

(2) In order to reduce the number of foreclosures and to stabilize property values, local economies, and the national economy, servicers must be given—

(A) authorization to—

(i) modify mortgage loans and engage in other loss mitigation activities consistent with applicable guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

(ii) refinance mortgage loans under the Hope for Homeowners program; and

(B) a safe harbor to enable such servicers to exercise these authorities.

(b) SAFE HARBOR.—Section 129A of the Truth in Lending Act (15 U.S.C. 1639a) is amended to read as follows:

''SEC. 129. DUTY OF SERVICERS OF RESIDENTIAL MORTGAGES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, whenever a servicer of residential mortgages agrees to enter into a qualified loss mitigation plan with respect to 1 or more residential mortgages originated before the date of enactment of the Helping Families Save Their Homes Act of 2009, including mortgages held in a securitization or other investment vehicle—

''(1) to the extent that the servicer owes a duty to investors or other parties to maximize the net present value of such mortgages, the duty shall be construed to apply to all such investors and parties, and not to any individual party or group of parties; and

''(2) the servicer shall be deemed to have satisfied the duty set forth in paragraph (1) if, before December 31, 2012, the servicer implements a qualified loss mitigation plan that meets the following criteria:

''(A) Default on the payment of such mortgage has occurred, is imminent, or is reasonably foreseeable, as such terms are defined by guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008.

''(B) The mortgagor occupies the property securing the mortgage as his or her principal residence.

''(C) The servicer reasonably determined, consistent with the guidelines issued by the Secretary of the Treasury or his designee, that the application of such qualified loss mitigation plan to a mortgage or class of mortgages will likely provide an anticipated recovery on the outstanding principal mortgage debt that will exceed the anticipated recovery through foreclosures.

''(b) NO LIABILITY.—A servicer that is deemed to be acting in the best interests of all investors or other parties under this section shall not be liable to any party who is owed a duty under subsection (a)(1), and shall not be subject to any injunction, stay, or other equitable relief to such party, based solely upon the implementation by the servicer of a qualified loss mitigation plan.

''(c) STANDARD INDUSTRY PRACTICE.—The qualified loss mitigation plan guidelines issued by the Secretary of the Treasury under the Emergency Economic Stabilization Act of 2008 shall constitute standard industry practice for purposes of all Federal and State laws.

''(d) SCOPE OF SAFE HARBOR.—Any person, including a trustee, issuer, and loan originator, shall not be liable for monetary damages or be subject to an injunction, stay, or other equitable relief, based solely upon the cooperation of such person with a servicer when such cooperation is necessary for the servicer to implement a qualified loss mitigation plan that meets the requirements of subsection (a).

''(e) REPORTING.—Each servicer that engages in qualified loss mitigation plans under this section shall regularly report to the Secretary of the Treasury the extent, scope, and results of the servicer's modification activities. The Secretary of the Treasury shall prescribe regulations or guidance specifying the form, content, and timing of such reports.

''(f) DEFINITIONS.—As used in this section—

''(1) the term 'qualified loss mitigation plan' means—

''(A) a residential loan modification, workout, or other loss mitigation plan, including to the extent that the Secretary of the Treasury determines appropriate, a loan sale, real property disposition, trial modification, pre-foreclosure sale, and deed in lieu of foreclosure, that is described or authorized in guidelines issued by the Secretary of the Treasury or his designee under the Emergency Economic Stabilization Act of 2008; and

''(B) a refinancing of a mortgage under the Hope for Homeowners program;

''(2) the term 'servicer' means the person responsible for the servicing for others of residential mortgage loans (including of a pool of residential mortgage loans); and

''(3) the term 'securitization vehicle' means a trust, special purpose entity, or other legal structure that is used to facilitate the issuing of securities, participation certificates, or similar instruments backed by or referring to a pool of assets that includes residential mortgages (or instruments that are related to residential mortgages such as credit-linked notes).

''(g) RULE OF CONSTRUCTION.—No provision of subsection (b) or (d) shall be construed as affecting the liability of any servicer or person as described in subsection (d) for actual fraud in the origination or servicing of a loan or in the implementation of a qualified loss mitigation plan, or for the violation of a State or Federal law, including laws regulating the origination of mortgage loans, commonly referred to as predatory lending laws.''.

SEC. 202. CHANGES TO HOPE FOR HOMEOWNERS PROGRAM.

(a) PROGRAM CHANGES.—Section 257 of the National Housing Act (12 U.S.C. 1715z–23) is amended—

(1) in subsection (c)—

(A) in the heading for paragraph (1), by striking ''THE BOARD'' and inserting ''SECRETARY'';

(B) in paragraph (1), by striking ''Board'' inserting ''Secretary, after consultation with the Board,'';

(C) in paragraph (1)(A), by inserting ''consistent with section 203(b) to the maximum extent possible'' before the semicolon; and

(D) by adding after paragraph (2) the following:

''(3) DUTIES OF BOARD.—The Board shall advise the Secretary regarding the establishment and implementation of the HOPE for Homeowners Program.'';

(2) by striking ''Board'' each place such term appears in subsections (e), (h)(1), (h)(3), (j), (l), (n), (s)(3), and (v) and inserting ''Secretary'';

(3) in subsection (e)—

(A) by striking paragraph (1) and inserting the following:

''(1) BORROWER CERTIFICATION.—

''(A) NO INTENTIONAL DEFAULT OR FALSE INFORMATION.—The mortgagor shall provide a certification to the Secretary that the mortgagor has not intentionally defaulted on the existing mortgage or mortgages or any other substantial debt within the last 5 years and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining the eligible mortgage to be insured and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

''(B) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Secretary.

''(C) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of the date of application for a commitment to insure or insurance under this section, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Secretary determines appropriate).'';

(B) in paragraph (4)—

(i) in subparagraph (A), by striking '', subject to standards established by the Board under subparagraph (B),''; and

(ii) in subparagraph (B)(i), by striking ''shall'' and inserting ''may''; and

(C) in paragraph (7), by striking ''; and provided that'' and all that follows through ''new second lien'';

(D) in paragraph (9)—

(i) by striking ''by procuring (A) an income tax return transcript of the income tax return of the mortgagor, or (B)'' and inserting ''in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 203(b) to the maximum extent possible) which may include requiring the mortgagee to procure''; and

(ii) by striking ''and by any other method, in accordance with procedures and standards that the Board shall establish'';

(E) in paragraph (10)—

(i) by striking ''The mortgagor shall not'' and inserting the following:

''(A) PROHIBITION.—The mortgagor shall not''; and

(ii) by adding at the end the following:

''(B) DUTY OF MORTGAGEE.—The duty of the mortgagee to ensure that the mortgagor is in compliance with the prohibition under subparagraph (A) shall be satisfied if the mortgagee makes a good faith effort to determine that the mortgagor has not been convicted under Federal or State law for fraud during the period described in subparagraph (A).'';

(F) in paragraph (11), by inserting before the period at the end the following: '', except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property''; and

(G) by adding at the end:

''(12) BAN ON MILLIONAIRES.—The mortgagor shall not have a net worth, as of the

date the mortgagor first applies for a mortgage to be insured under the Program under this section, that exceeds $1,000,000.'';

(4) in subsection (h)(2), by striking ''The Board shall prohibit the Secretary from paying'' and inserting ''The Secretary shall not pay''; and

(5) in subsection (i)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins accordingly;

(B) in the matter preceding subparagraph (A), as redesignated by this paragraph, by striking ''For each'' and inserting the following:

''(1) PREMIUMS.—For each'';

(C) in subparagraph (A), as redesignated by this paragraph, by striking ''equal to 3 percent'' and inserting ''not more than 3 percent''; and

(D) in subparagraph (B), as redesignated by this paragraph, by striking ''equal to 1.5 percent'' and inserting ''not more than 1.5 percent'';

(E) by adding at the end the following:

''(2) CONSIDERATIONS.—In setting the premium under this subsection, the Secretary shall consider—

''(A) the financial integrity of the HOPE for Homeowners Program; and

''(B) the purposes of the HOPE for Homeowners Program described in subsection (b).'';

(6) in subsection (k)—

(A) by striking the subsection heading and inserting ''EXIT FEE'';

(B) in paragraph (1), in the matter preceding subparagraph (A), by striking ''such sale or refinancing'' and inserting ''the mortgage being insured under this section''; and

(C) in paragraph (2), by striking ''and the mortgagor'' and all that follows through the end and inserting ''may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with or assign the rights of any amounts due to the Secretary to the holder of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mortgage, or both.'';

(7) in the heading for subsection (n), by striking ''THE BOARD'' and inserting ''SECRETARY'';

(8) in subsection (p), by striking ''Under the direction of the Board, the'' and inserting ''The'';

(9) in subsection (s)—

(A) in the first sentence of paragraph (2), by striking ''Board of Directors of'' and inserting ''Advisory Board for''; and

(B) in paragraph (3)(A)(ii), by striking ''subsection (e)(1)(B) and such other'' and inserting ''such'';

(10) in subsection (v), by inserting after the period at the end the following: ''The Secretary shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 203(b) to the maximum extent possible consistent with the requirements of this section.''; and

(11) by adding at the end the following new subsections:

''(x) PAYMENTS TO SERVICERS AND ORIGINATORS.—The Secretary may establish a payment to the—

''(1) servicer of the existing senior mortgage or existing subordinate mortgage for every loan insured under the HOPE for Homeowners Program; and

''(2) originator of each new loan insured under the HOPE for Homeowners Program.

''(y) AUCTIONS.—The Secretary, with the concurrence of the Board, shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.''.

(b) REDUCING TARP FUNDS TO OFFSET COSTS OF PROGRAM CHANGES.—Paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting '', as such amount is reduced by $1,244,000,000,'' after ''$700,000,000,000''.

(c) TECHNICAL CORRECTION.—The second section 257 of the National Housing Act (Public Law 110–289; 122 Stat. 2839; 12 U.S.C. 1715z–24) is amended by striking the section heading and inserting the following:

''SEC. 258. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.''.

SEC. 203. REQUIREMENTS FOR FHA-APPROVED MORTGAGEES.

(a) MORTGAGEE REVIEW BOARD.—

(1) IN GENERAL.—Section 202(c)(2) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(A) in subparagraph (E), by inserting ''and'' after the semicolon;

(B) in subparagraph (F), by striking ''; and'' and inserting ''or their designees.''; and

(C) by striking subparagraph (G).

(2) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD'S POWER TO TAKE ACTION AGAINST MORTGAGEES.—Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended by adding at the end the following new paragraph:

''(9) PROHIBITION AGAINST LIMITATIONS ON MORTGAGEE REVIEW BOARD'S POWER TO TAKE ACTION AGAINST MORTGAGEES.—No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.''.

(b) LIMITATIONS ON PARTICIPATION AND MORTGAGEE APPROVAL AND USE OF NAME.—Section 202 of the National Housing Act (12 U.S.C. 1708) is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (c) the following new subsection:

''(d) LIMITATIONS ON PARTICIPATION IN ORIGINATION AND MORTGAGEE APPROVAL.—

''(1) REQUIREMENT.—Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

''(2) ELIGIBILITY FOR APPROVAL.—In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

''(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

''(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

''(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

''(D) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

''(E) convicted of, or who has pled guilty or nolo contendre to, a felony related to participation in the real estate or mortgage loan industry—

''(i) during the 7-year period preceding the date of the application for licensing and registration; or

''(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

''(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

''(G) in violation of any other requirement as established by the Secretary.

''(3) RULEMAKING AND IMPLEMENTATION.—The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon the date of the enactment of this subsection by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.''; and

(3) by adding at the end the following new subsection:

''(h) USE OF NAME.—The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

''(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

''(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.''.

(c) PAYMENT FOR LOSS MITIGATION.—Section 204(a)(2) of the National Housing Act (12 U.S.C. 1710(a)(2)) is amended—

(1) by inserting ''or faces imminent default, as defined by the Secretary'' after ''default'';

(2) by inserting ''support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale,'' after ''loan modification,''; and

(3) by striking ''204(a)(1)(A)'' and inserting ''subsection (a)(1)(A) or section 230(c)''.

(d) PAYMENT OF FHA MORTGAGE INSURANCE BENEFITS.—

(1) ADDITIONAL LOSS MITIGATION ACTIONS.—Section 230(a) of the National Housing Act (12 U.S.C. 1715u(a)) is amended—

(A) by inserting ''or imminent default, as defined by the Secretary'' after ''default'';

(B) by striking ''loss'' and inserting ''loan'';

(C) by inserting ''preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives,'' after ''loan modification,'';

(D) by inserting ''as required,'' after ''deeds in lieu of foreclosure,''; and

(E) by inserting ''or section 230(c),'' before ''as provided''.

(2) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—Section 230(b) of the National Housing Act (12 U.S.C. 1715u(b)) is amended to read as follows:

''(b) PAYMENT OF PARTIAL CLAIM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish a program for payment of a partial claim to a mortgagee that

agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

''(2) PAYMENTS AND EXCEPTIONS.—Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

''(A) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

''(B) the amount of the partial claim payment shall first be applied to any arrearage on the mortgage, and may also be applied to achieve principal reduction;

''(C) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary;

''(D) the Secretary may permit compensation to the mortgagee for lost income on monthly payments, due to a reduction in the interest rate charged on the mortgage;

''(E) expenses related to the partial claim or modification may not be charged to the borrower;

''(F) loans may be modified to extend the term of the mortgage to a maximum of 40 years from the date of the modification; and

''(G) the Secretary may permit incentive payments to the mortgagee, on the borrower's behalf, based on successful performance of a modified mortgage, which shall be used to reduce the amount of principal indebtedness.

''(3) PAYMENTS IN CONNECTION WITH CERTAIN ACTIVITIES.—The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.''.

(3) ASSIGNMENT.—Section 230(c) of the National Housing Act (12 U.S.C. 1715u(c)) is amended—

(A) by inserting ''(1)'' after ''(c)'';

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(C) in paragraph (1)(B) (as so redesignated)—

(i) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(ii) in the matter preceding clause (i) (as so redesignated), by striking ''under a program under this subsection'' and inserting ''under this paragraph''; and

(iii) in clause (i) (as so redesignated), by inserting ''or facing imminent default, as defined by the Secretary'' after ''default'';

(D) in paragraph (1)(C) (as so redesignated), by striking ''under a program under this subsection'' and inserting ''under this paragraph''; and

(E) by adding at the end the following:

''(2) ASSIGNMENT AND LOAN MODIFICATION.—

''(A) AUTHORITY.—The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

''(B) PAYMENT OF BENEFITS AND ASSIGNMENT.—In carrying out this paragraph, the Secretary may pay insurance benefits for a mortgage, in the amount determined in accordance with section 204(a)(5), without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of section 204(a)(1)(A).

''(C) DISPOSITION.—After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this title for the mortgage. The Secretary may subsequently—

''(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

''(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

''(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this title, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

''(D) LOAN SERVICING.—In carrying out this paragraph, the Secretary may require the existing servicer of a mortgage assigned to the Secretary to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage, provided that the Secretary compensates the existing servicer appropriately, as such compensation is determined by the Secretary consistent, to the maximum extent possible, with section 203(b). If the mortgage is resold pursuant to subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.''.

(4) IMPLEMENTATION.—The Secretary of Housing and Urban Development may implement the amendments made by this subsection through notice or mortgagee letter.

(e) CHANGE OF STATUS.—The National Housing Act is amended by striking section 532 (12 U.S.C. 1735f–10) and inserting the following new section:

''SEC. 532. CHANGE OF MORTGAGEE STATUS.

''(a) NOTIFICATION.—Upon the occurrence of any action described in subsection (b), an approved mortgagee shall immediately submit to the Secretary, in writing, notification of such occurrence.

''(b) ACTIONS.—The actions described in this subsection are as follows:

''(1) The debarment, suspension or a Limited Denial of Participation (LDP), or application of other sanctions, other exclusions, fines, or penalties applied to the mortgagee or to any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the mortgagee pursuant to applicable provisions of State or Federal law.

''(2) The revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any other similar declaration of ineligibility pursuant to State law.''.

(f) CIVIL MONEY PENALTIES.—Section 536 of the National Housing Act (12 U.S.C. 1735f–14) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting ''or any of its owners, officers, or directors'' after ''mortgagee or lender'';

(ii) in subparagraph (H), by striking ''title I'' and all that follows through ''under this Act.'' and inserting ''title I or II of this Act, or any implementing regulation, handbook, or mortgagee letter that is issued under this Act.''; and

(iii) by inserting after subparagraph (J) the following:

''(K) Violation of section 202(d) of this Act (12 U.S.C. 1708(d)).

''(L) Use of 'Federal Housing Administration', 'Department of Housing and Urban Development', 'Government National Mortgage Association', 'Ginnie Mae', the acronyms 'HUD', 'FHA', or 'GNMA', or any official seal or logo of the Department of Housing and Urban Development, except as authorized by the Secretary.'';

(B) in paragraph (2)—

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

(ii) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following new subparagraph:

''(D) causing or participating in any of the violations set forth in paragraph (1) of this subsection.''; and

(C) by amending paragraph (3) to read as follows:

''(3) PROHIBITION AGAINST MISLEADING USE OF FEDERAL ENTITY DESIGNATION.—The Secretary may impose a civil money penalty, as adjusted from time to time, under subsection (a) for any use of 'Federal Housing Administration', 'Department of Housing and Urban Development', 'Government National Mortgage Association', 'Ginnie Mae', the acronyms 'HUD', 'FHA', or 'GNMA', or any official seal or logo of the Department of Housing and Urban Development, by any person, party, company, firm, partnership, or business, including sellers of real estate, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents, and dealers, except as authorized by the Secretary.''; and

(2) in subsection (g), by striking ''The term'' and all that follows through the end of the sentence and inserting ''For purposes of this section, a person acts knowingly when a person has actual knowledge of acts or should have known of the acts.''.

(g) EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES.—Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act, the Secretary of Housing and Urban Development shall—

(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

(2) implement procedures that, for mortgagees approved during the 12-month period ending upon such date of enactment—

(A) expand the number of mortgages originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees.

SEC. 204. ENHANCEMENT OF LIQUIDITY AND STABILITY OF INSURED DEPOSITORY INSTITUTIONS TO ENSURE AVAILABILITY OF CREDIT AND REDUCTION OF FORECLOSURES.

(a) TEMPORARY INCREASE IN DEPOSIT INSURANCE EXTENDED.—Section 136 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5241) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''December 31, 2009'' and inserting ''December 31, 2013'';

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking ''December 31, 2009'' and inserting ''December 31, 2013''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''December 31, 2009'' and inserting ''December 31, 2013'';

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) in paragraph (2), as so redesignated, by striking ''December 31, 2009'' and inserting ''December 31, 2013''; and

(b) EXTENSION OF RESTORATION PLAN PERIOD.—Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking ''5-year period'' and inserting ''8-year period''.

(c) FDIC AND NCUA BORROWING AUTHORITY.—

(1) FDIC.—Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(A) by striking ''$30,000,000,000'' and inserting ''$100,000,000,000'';

(B) by striking ''The Corporation is authorized'' and inserting the following:

''(1) IN GENERAL.—The Corporation is authorized'';

(C) by striking ''There are hereby'' and inserting the following:

''(2) FUNDING.—There are hereby''; and

(D) by adding at the end the following:

''(3) TEMPORARY INCREASES AUTHORIZED.—

''(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the $100,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed $500,000,000,000.

''(B) REPORT REQUIRED.—If the borrowing authority of the Corporation is increased above $100,000,000,000 pursuant to subparagraph (A), the Corporation shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.

''(C) RESTRICTION ON USAGE.—The Corporation may not borrow pursuant to subparagraph (A) to fund obligations of the Corporation incurred as a part of a program established by the Secretary of the Treasury pursuant to the Emergency Economic Stabilization Act of 2008 to purchase or guarantee assets.''.

(2) NCUA.—Section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)) is amended to read as follows:

''(1) If, in the judgment of the Board, a loan to the insurance fund, or to the stabilization fund described in section 217 of this title, is required at any time for purposes of this subchapter, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate $6,000,000,000 outstanding at any one time. Except as otherwise provided in this subsection, section 217, and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Board and the Secretary of the Treasury.''.

(3) TEMPORARY INCREASES OF BORROWING AUTHORITY FOR NCUA.—Section 203(d) of the Federal Credit Union Act (12 U.S.C. 1783(d)) is amended by adding at the end the following:

''(4) TEMPORARY INCREASES AUTHORIZED.—

''(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board (upon a vote of not less than two-thirds of the members of the Board) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the $6,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed $30,000,000,000.

''(B) REPORT REQUIRED.—If the borrowing authority of the Board is increased above $6,000,000,000 pursuant to subparagraph (A), the Board shall promptly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives describing the reasons and need for the additional borrowing authority and its intended uses.''.

(d) EXPANDING SYSTEMIC RISK SPECIAL ASSESSMENTS.—Section 13(c)(4)(G)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended to read as follows:

''(ii) REPAYMENT OF LOSS.—

''(I) IN GENERAL.—The Corporation shall recover the loss to the Deposit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

''(II) TREATMENT OF DEPOSITORY INSTITUTION HOLDING COMPANIES.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

''(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall establish rates sufficient to cover the losses incurred as a result of the actions of the Corporation under clause (i) and shall consider: the types of entities that benefit from any action taken or assistance provided under this subparagraph; economic conditions, the effects on the industry, and such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided. Any funds so collected that exceed actual losses shall be placed in the Deposit Insurance Fund.''.

(e) ESTABLISHMENT OF A NATIONAL CREDIT UNION SHARE INSURANCE FUND RESTORATION PLAN PERIOD.—Section 202(c)(2) of the Federal Credit Union Act (12 U.S.C. 1782(c)(2)) is amended by adding at the end the following new subparagraph:

''(D) FUND RESTORATION PLANS.—

''(i) IN GENERAL.—Whenever—

''(I) the Board projects that the equity ratio of the Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (C); or

''(II) the equity ratio of the Fund actually falls below the minimum amount specified in subparagraph (C) without any determination under sub-clause (I) having been made,

the Board shall establish and implement a restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Board determines to be appropriate.

''(ii) REQUIREMENTS OF RESTORATION PLAN.—A restoration plan meets the requirements of this clause if the plan provides that the equity ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (C) before the end of the 8-year period beginning upon the implementation of the plan (or such longer period as the Board may determine to be necessary due to extraordinary circumstances).

''(iii) TRANSPARENCY.—Not more than 30 days after the Board establishes and implements a restoration plan under clause (i), the Board shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.''.

(f) TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.—

(1) ESTABLISHMENT OF STABILIZATION FUND.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

''SEC. 217. TEMPORARY CORPORATE CREDIT UNION STABILIZATION FUND.

''(a) ESTABLISHMENT OF STABILIZATION FUND.—There is hereby created in the Treasury of the United States a fund to be known as the 'Temporary Corporate Credit Union Stabilization Fund.' The Board will administer the Stabilization Fund as prescribed by section 209.

''(b) EXPENDITURES FROM STABILIZATION FUND.—Money in the Stabilization Fund shall be available upon requisition by the Board, without fiscal year limitation, for making payments for the purposes described in section 203(a), subject to the following additional limitations:

''(1) All payments other than administrative payments shall be connected to the conservatorship, liquidation, or threatened conservatorship or liquidation, of a corporate credit union.

''(2) Prior to authorizing each payment the Board shall—

''(A) certify that, absent the existence of the Stabilization Fund, the Board would have made the identical payment out of the National Credit Union Share Insurance Fund (Insurance Fund); and

''(B) report each such certification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

''(c) AUTHORITY TO BORROW.—

''(1) IN GENERAL.—The Stabilization Fund is authorized to borrow from the Secretary of the Treasury from time-to-time as deemed necessary by the Board. The maximum outstanding amount of all borrowings from the Treasury by the Stabilization Fund and the National Credit Union Share Insurance Fund, combined, is limited to the amount provided for in section 203(d)(1), including any authorized increases in that amount.

''(2) REPAYMENT OF ADVANCES.—

''(A) IN GENERAL.—The advances made under this section shall be repaid by the Stabilization Fund, and interest on such advance shall be paid, to the General fund of the Treasury.

''(B) VARIABLE RATE OF INTEREST.—The Secretary of the Treasury shall make the first rate determination at the time of the first advance under this section and shall reset the rate again for all advances on each anniversary of the first advance. The interest rate shall be equal to the average market yield on outstanding marketable obligations

of the United States with remaining periods to maturity equal to 12 months.

''(3) REPAYMENT SCHEDULE.—The Stabilization Fund shall repay the advances on a first-in, first-out basis, with interest on the amount repaid, at times and dates determined by the Board at its discretion. All advances shall be repaid not later than the date of the seventh anniversary of the first advance to the Stabilization Fund, unless the Board extends this final repayment date. The Board shall obtain the concurrence of the Secretary of the Treasury on any proposed extension, including the terms and conditions of the extended repayment.

''(d) ASSESSMENT TO REPAY ADVANCES.—At least 90 days prior to each repayment described in subsection (c)(3), the Board shall set the amount of the upcoming repayment and determine if the Stabilization Fund will have sufficient funds to make the repayment. If the Stabilization Fund might not have sufficient funds to make the repayment, the Board shall assess each federally insured credit union a special premium due and payable within 60 days in an aggregate amount calculated to ensure the Stabilization Fund is able to make the repayment. The premium charge for each credit union shall be stated as a percentage of its insured shares as represented on the credit union's previous call report. The percentage shall be identical for each credit union. Any credit union that fails to make timely payment of the special premium is subject to the procedures and penalties described under subsections (d), (e), and (f) of section 202.

''(e) DISTRIBUTIONS FROM INSURANCE FUND.—At the end of any calendar year in which the Stabilization Fund has an outstanding advance from the Treasury, the Insurance Fund is prohibited from making the distribution to insured credit unions described in section 202(c)(3). In lieu of the distribution described in that section, the Insurance Fund shall make a distribution to the Stabilization Fund of the maximum amount possible that does not reduce the Insurance Fund's equity ratio below the normal operating level and does not reduce the Insurance Fund's available assets ratio below 1.0 percent.

''(f) INVESTMENT OF STABILIZATION FUND ASSETS.—The Board may request the Secretary of the Treasury to invest such portion of the Stabilization Fund as is not, in the Board's judgment, required to meet the current needs of the Stabilization Fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the Stabilization Fund, as determined by the Board, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

''(g) REPORTS.—The Board shall submit an annual report to Congress on the financial condition and the results of the operation of the Stabilization Fund. The report is due to Congress within 30 days after each anniversary of the first advance made under subsection (c)(1). Because the Fund will use advances from the Treasury to meet corporate stabilization costs with full repayment of borrowings to Treasury at the Board's discretion not due until 7 years from the initial advance, to the extent operating expenses of the Fund exceed income, the financial condition of the Fund may reflect a deficit. With planned and required future repayments, the Board shall resolve all deficits prior to termination of the Fund.

''(h) CLOSING OF STABILIZATION FUND.—Within 90 days following the seventh anniversary of the initial Stabilization Fund advance, or earlier at the Board's discretion, the Board shall distribute any funds, property, or other assets remaining in the Stabilization Fund to the Insurance Fund and shall close the Stabilization Fund. If the Board extends the final repayment date as permitted under subsection (c)(3), the mandatory date for closing the Stabilization Fund shall be extended by the same number of days.''.

(2) CONFORMING AMENDMENT.—Section 202(c)(3)(A) of the Federal Credit Union Act (12 U.S.C. 1782(c)(3)(A)) is amended by inserting '', subject to the requirements of section 217(e),'' after ''The Board shall''.

SEC. 205. APPLICATION OF GSE CONFORMING LOAN LIMIT TO MORTGAGES ASSISTED WITH TARP FUNDS.

In making any assistance available to prevent and mitigate foreclosures on residential properties, including any assistance for mortgage modifications, using any amounts made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008, the Secretary shall provide that the limitation on the maximum original principal obligation of a mortgage that may be modified, refinanced, made, guaranteed, insured, or otherwise assisted, using such amounts shall not be less than the dollar amount limitation on the maximum original principal obligation of a mortgage that may be purchased by the Federal Home Loan Mortgage Corporation that is in effect, at the time that the mortgage is modified, refinanced, made, guaranteed, insured, or otherwise assisted using such amounts, for the area in which the property involved in the transaction is located.

SEC. 206. MORTGAGES ON CERTAIN HOMES ON LEASED LAND.

Section 255(b)(4) of the National Housing Act (12 U.S.C. 1715z–20(b)(4)) is amended by striking subparagraph (B) and inserting:

''(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.''.

SEC. 207. SENSE OF CONGRESS REGARDING MORTGAGE REVENUE BOND PURCHASES.

It is the sense of the Congress that the Secretary of the Treasury should use amounts made available in this Act to purchase mortgage revenue bonds for single-family housing issued through State housing finance agencies and through units of local government and agencies thereof.

TITLE III—MORTGAGE FRAUD TASK FORCE

SEC. 301. SENSE OF CONGRESS ON ESTABLISHMENT OF A NATIONWIDE MORTGAGE FRAUD TASK FORCE.

(a) IN GENERAL.—It is the sense of the Congress that the Department of Justice establish a Nationwide Mortgage Fraud Task Force (hereinafter referred to in this section as the ''Task Force'') to address mortgage fraud in the United States.

(b) SUPPORT.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should provide the Task Force with the appropriate staff, administrative support, and other resources necessary to carry out the duties of the Task Force.

(c) MANDATORY FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Attorney General should—

(1) establish coordinating entities, and solicit the voluntary participation of Federal, State, and local law enforcement and prosecutorial agencies in such entities, to organize initiatives to address mortgage fraud, including initiatives to enforce State mortgage fraud laws and other related Federal and State laws;

(2) provide training to Federal, State, and local law enforcement and prosecutorial agencies with respect to mortgage fraud, including related Federal and State laws;

(3) collect and disseminate data with respect to mortgage fraud, including Federal, State, and local data relating to mortgage fraud investigations and prosecutions; and

(4) perform other functions determined by the Attorney General to enhance the detection of, prevention of, and response to mortgage fraud in the United States.

(d) OPTIONAL FUNCTIONS.—If the Department of Justice establishes the Task Force referred to in subsection (a), it is the sense of the Congress that the Task Force should—

(1) initiate and coordinate Federal mortgage fraud investigations and, through the coordinating entities described under subsection (c), State and local mortgage fraud investigations;

(2) establish a toll-free hotline for—

(A) reporting mortgage fraud;

(B) providing the public with access to information and resources with respect to mortgage fraud; and

(C) directing reports of mortgage fraud to the appropriate Federal, State, and local law enforcement and prosecutorial agency, including to the appropriate branch of the Task Force established under subsection (d);

(3) create a database with respect to suspensions and revocations of mortgage industry licenses and certifications to facilitate the sharing of such information by States;

(4) make recommendations with respect to the need for and resources available to provide the equipment and training necessary for the Task Force to combat mortgage fraud; and

(5) propose legislation to Federal, State, and local legislative bodies with respect to the elimination and prevention of mortgage fraud, including measures to address mortgage loan procedures and property appraiser practices that provide opportunities for mortgage fraud.

TITLE IV—FORECLOSURE MORATORIUM PROVISIONS

SEC. 401. SENSE OF THE CONGRESS ON FORECLOSURES.

(a) IN GENERAL.—It is the sense of the Congress that mortgage holders, institutions, and mortgage servicers should not initiate a foreclosure proceeding or a foreclosure sale on any homeowner until the foreclosure mitigation provisions, like the Hope for Homeowners program, as required under title II, and the President's ''Homeowner Affordability and Stability Plan'' have been implemented and determined to be operational by the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(b) SCOPE OF MORATORIUM.—The foreclosure moratorium referred to in subsection (a) should apply only for first mortgages secured by the owner's principal dwelling.

(c) FHA-REGULATED LOAN MODIFICATION AGREEMENTS.—If a mortgage holder, institution, or mortgage servicer to which subsection (a) applies reaches a loan modification agreement with a homeowner under the auspices of the Federal Housing Administration before any plan referred to in such subsection takes effect, subsection (a) shall cease to apply to such institution as of the effective date of the loan modification agreement.

(d) DUTY OF CONSUMER TO MAINTAIN PROPERTY.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred

under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should not, with respect to any property securing such mortgage, destroy, damage, or impair such property, allow the property to deteriorate, or commit waste on the property.

(e) DUTY OF CONSUMER TO RESPOND TO REASONABLE INQUIRIES.—Any homeowner for whose benefit any foreclosure proceeding or sale is barred under subsection (a) from being instituted, continued, or consummated with respect to any homeowner mortgage should respond to reasonable inquiries from a creditor or servicer during the period during which such foreclosure proceeding or sale is barred.

SEC. 402. PUBLIC-PRIVATE INVESTMENT PROGRAM; ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''Public-Private Investment Program Improvement and Oversight Act of 2009''.

(b) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Trouble Asset Relief Program (in this section referred to as the ''Special Inspector General''), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section referred to as the ''Secretary'') that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private fund to identify for the Secretary, on a periodic basis, each investor that, individually or together with affiliates, directly or indirectly, holds equity interests equal to at least 10 percent of the equity interest of the fund including if such interests are held in a vehicle formed for the purpose of directly or indirectly investing in the fund.

(2) INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) REPORT.—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(c) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), $15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under any program that is funded in whole or in part by funds appropriated under the Emergency Economic Stabilization Act of 2008, to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) DEFINITION.—In this section, the term ''public-private investment fund'' means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or funds appropriated under the Emergency Economic Stabilization Act of 2008.

(f) OFFSET OF COSTS OF PROGRAM CHANGES.—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting '', as such amount is reduced by $1,259,000,000,'' after ''$700,000,000,000''.

(g) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations or other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this section.

SEC. 403. REMOVAL OF REQUIREMENT TO LIQUIDATE WARRANTS UNDER THE TARP.

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended by striking ''shall liquidate warrants associated with such assistance at the current market price'' and inserting '', at the market price, may liquidate warrants associated with such assistance''.

SEC. 404. NOTIFICATION OF SALE OR TRANSFER OF MORTGAGE LOANS.

(a) IN GENERAL.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following:

''(g) NOTICE OF NEW CREDITOR.—

''(1) IN GENERAL.—In addition to other disclosures required by this title, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

''(A) the identity, address, telephone number of the new creditor;

''(B) the date of transfer;

''(C) how to reach an agent or party having authority to act on behalf of the new creditor;

''(D) the location of the place where transfer of ownership of the debt is recorded; and

''(E) any other relevant information regarding the new creditor.

''(2) DEFINITION.—As used in this subsection, the term 'mortgage loan' means any consumer credit transaction that is secured by the principal dwelling of a consumer.''.

(b) PRIVATE RIGHT OF ACTION.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended by inserting ''subsection (f) or (g) of section 131,'' after ''section 125,''.

TITLE V—FARM LOAN RESTRUCTURING

SEC. 501. CONGRESSIONAL OVERSIGHT PANEL SPECIAL REPORT.

Section 125(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5233(b)) is amended by adding at the end the following:

''(3) SPECIAL REPORT ON FARM LOAN RESTRUCTURING.—Not later than 60 days after the date of enactment of this paragraph, the Oversight Panel shall submit a special report on farm loan restructuring that—

''(A) analyzes the state of the commercial farm credit markets and the use of loan restructuring as an alternative to foreclosure by recipients of financial assistance under the Troubled Asset Relief Program; and

''(B) includes an examination of and recommendation on the different methods for farm loan restructuring that could be used as part of a foreclosure mitigation program for farm loans made by recipients of financial assistance under the Troubled Asset Relief Program, including any programs for direct loan restructuring or modification carried out by the Farm Service Agency of the Department of Agriculture, the farm credit system, and the Making Home Affordable Program of the Department of the Treasury.''.

TITLE VI—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM

SEC. 601. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.

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

(1) in subsection (a)(1)(A)—

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

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

(C) by adding at the end the following:

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

(2) in subsection (a)(2)—

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

(B) by striking subparagraphs (A) and (B) and inserting the following:

''(A) DEFINITION.—In this paragraph, the term 'governmental unit' has the meaning given under section 101(27) of title 11, United

States Code, and does not include any insured depository institution as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 8113).

''(B) GAO PRESENCE.—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 5230 of this title.

''(C) ACCESS TO RECORDS.—

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

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

''(iii) COPIES.—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.

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

''(E) RESTRICTION ON PUBLIC DISCLOSURE.—

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

''(ii) EXCEPTION FOR CONGRESSIONAL COMMITTEES.—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

''(iii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, section 714(c) of title 31, United States Code, or other applicable provisions of law.''.

TITLE VII—PROTECTING TENANTS AT FORECLOSURE ACT

SEC. 701. SHORT TITLE.

This title may be cited as the ''Protecting Tenants at Foreclosure Act of 2009''.

SEC. 702. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.

(a) IN GENERAL.—In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; and

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.

(c) DEFINITION.—For purposes of this section, the term ''federally-related mortgage loan'' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semicolon in subparagraph (C) the following: ''and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

''(i) will occupy the unit as a primary residence; and

''(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.''; and

(2) by inserting at the end of subparagraph (F) the following: ''In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.''.

SEC. 704. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

TITLE VIII—COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES

SEC. 801. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.

(a) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking ''Federal Reserve Board,'' and inserting ''Board of Governors of the Federal Reserve System (in this section referred to as the 'Board'),''; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''Federal Reserve Board,'' and inserting ''Board''; and

(B) in paragraph (4), by striking ''of Governors''.

(b) CONFIDENTIAL INFORMATION.—Section 714(c) of title 31, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

''(4) This subsection shall not—

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

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

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

(1) in paragraph (1), by inserting ''The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.'' after the first sentence;

(2) in paragraph (2), by inserting '', copies of any record,'' after ''records''; and

(3) by adding at the end the following:

''(3)(A) For purposes of conducting audits and examinations under subsection (e), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

''(i) any entity established by any action taken by the Board described under subsection (e);

''(ii) any entity receiving assistance from any action taken by the Board described under subsection (e), to the extent that the access and request relates to that assistance; and

''(iii) the officers, directors, employees, independent public accountants, financial advisors and any and all representatives of any entity described under clause (i) or (ii); to the extent that the access and request relates to that assistance;

''(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request.

''(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and

an entity receiving assistance from any action taken by the Board described under subsection (e) shall provide for access by the Comptroller General in accordance with this paragraph.''.

(d) AUDITS OF CERTAIN ACTIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—Section 714 of title 31, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343); with respect to a single and specific partnership or corporation.''.

DIVISION B—HOMELESSNESS REFORM

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009''.

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

4SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) a lack of affordable housing and limited scale of housing assistance programs are the primary causes of homelessness; and

(2) homelessness affects all types of communities in the United States, including rural, urban, and suburban areas.

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

(1) to consolidate the separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, and the shelter plus care program) into a single program with specific eligible activities;

(2) to codify in Federal law the continuum of care planning process as a required and integral local function necessary to generate the local strategies for ending homelessness; and

(3) to establish a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.

SEC. 1003. DEFINITION OF HOMELESSNESS.

(a) IN GENERAL.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(2) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—For purposes of this Act, the terms 'homeless', 'homeless individual', and 'homeless person' means—

''(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

''(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

''(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

''(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

''(5) an individual or family who—

''(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

''(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

''(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

''(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

''(B) has no subsequent residence identified; and

''(C) lacks the resources or support networks needed to obtain other permanent housing; and

''(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who—

''(A) have experienced a long term period without living independently in permanent housing,

''(B) have experienced persistent instability as measured by frequent moves over such period, and

''(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

''(b) DOMESTIC VIOLENCE AND OTHER DANGEROUS OR LIFE-THREATENING CONDITIONS.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.''.

(b) REGULATIONS.—Not later than the expiration of the 6-month period beginning upon the date of the enactment of this division, the Secretary of Housing and Urban Development shall issue regulations that provide sufficient guidance to recipients of funds under title IV of the McKinney-Vento Homeless Assistance Act to allow uniform and consistent implementation of the requirements of section 103 of such Act, as amended by subsection (a) of this section. This subsection shall take effect on the date of the enactment of this division.

(c) CLARIFICATION OF EFFECT ON OTHER LAWS.—This section and the amendments made by this section to section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) may not be construed to affect, alter, limit, annul, or supersede any other provision of Federal law providing a definition of ''homeless'', ''homeless individual'', or ''homeless person'' for purposes other than such Act, except to the extent that such provision refers to such section 103 or the definition provided in such section 103.

SEC. 1004. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

(a) IN GENERAL.—Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by inserting before the period at the end the following ''whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness'';

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by redesignating paragraph (16) as paragraph (22); and

(ii) by inserting after paragraph (15) the following:

''(16) The Commissioner of Social Security, or the designee of the Commissioner.

''(17) The Attorney General of the United States, or the designee of the Attorney General.

''(18) The Director of the Office of Management and Budget, or the designee of the Director.

''(19) The Director of the Office of Faith-Based and Community Initiatives, or the designee of the Director.

''(20) The Director of USA FreedomCorps, or the designee of the Director.'';

(B) in subsection (c), by striking ''annually'' and inserting ''four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under

subsection (b) shall occur at the first meeting of each year''; and

(C) by adding at the end the following:

''(e) ADMINISTRATION.—The Executive Director of the Council shall report to the Chairman of the Council.'';

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (9), (10), and (11), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A), the following:

''(1) not later than 12 months after the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, develop, make available for public comment, and submit to the President and to Congress a National Strategic Plan to End Homelessness, and shall update such plan annually;'';

(C) in paragraph (5), as redesignated by subparagraph (A), by striking ''at least 2, but in no case more than 5'' and inserting ''not less than 5, but in no case more than 10'';

(D) by inserting after paragraph (5), as so redesignated by subparagraph (A), the following:

''(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of jurisdictional 10-year plans to end homelessness at State, city, and county levels;

''(7) annually obtain from Federal agencies their identification of consumer-oriented entitlement and other resources for which persons experiencing homelessness may be eligible and the agencies' identification of improvements to ensure access; develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the reports entitled 'Homelessness: Coordination and Evaluation of Programs Are Essential', issued February 26, 1999, and 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000;

''(8) conduct research and evaluation related to its functions as defined in this section;

''(9) develop joint Federal agency and other initiatives to fulfill the goals of the agency;'';

(E) in paragraph (10), as so redesignated by subparagraph (A), by striking ''and'' at the end;

(F) in paragraph (11), as so redesignated by subparagraph (A), by striking the period at the end and inserting a semicolon;

(G) by adding at the end the following new paragraphs:

''(12) develop constructive alternatives to criminalizing homelessness and laws and policies that prohibit sleeping, feeding, sitting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person's property without due process, or are selectively enforced against homeless persons; and

''(13) not later than the expiration of the 6-month period beginning upon completion of the study requested in a letter to the Acting Comptroller General from the Chair and Ranking Member of the House Financial Services Committee and several other members regarding various definitions of homelessness in Federal statutes, convene a meeting of representatives of all Federal agencies and committees of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive funding under any Federal program to assist homeless individuals or families, organizations advocating on behalf of such nonprofit providers and homeless persons receiving housing or services under any such Federal program, and homeless persons receiving housing or services under any such Federal program, at which meeting such representatives shall discuss all issues relevant to whether the definitions of 'homeless' under paragraphs (1) through (4) of section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended by section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, should be modified by the Congress, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs identified by the Government Accountability Office in the two reports identified in paragraph (7) of this subsection; and shall submit transcripts of such meeting, and any majority and dissenting recommendations from such meetings, to each committee of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families not later than the expiration of the 60-day period beginning upon conclusion of such meeting.''.

(4) in section 203(b)(1) (42 U.S.C. 11313(b))—

(A) by striking ''Federal'' and inserting ''national'';

(B) by striking ''; and'' and inserting ''and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made;'';

(5) in section 205(d) (42 U.S.C. 11315(d)), by striking ''property.'' and inserting ''property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.''; and

(6) by striking section 208 (42 U.S.C. 11318) and inserting the following:

''SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $3,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal years 2011. Any amounts appropriated to carry out this title shall remain available until expended.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on, and shall apply beginning on, the date of the enactment of this division.

TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS

SEC. 1101. DEFINITIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle A—General Provisions'';

(2) by redesignating sections 401 and 402 (42 U.S.C. 11361, 11362) as sections 403 and 406, respectively; and

(3) by inserting before section 403 (as so redesignated by paragraph (2) of this section) the following new section:

''SEC. 401. DEFINITIONS.

''For purposes of this title:

''(1) AT RISK OF HOMELESSNESS.—The term 'at risk of homelessness' means, with respect to an individual or family, that the individual or family—

''(A) has income below 30 percent of median income for the geographic area;

''(B) has insufficient resources immediately available to attain housing stability; and

''(C)(i) has moved frequently because of economic reasons;

''(ii) is living in the home of another because of economic hardship;

''(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

''(iv) lives in a hotel or motel;

''(v) lives in severely overcrowded housing;

''(vi) is exiting an institution; or

''(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

''(2) CHRONICALLY HOMELESS.—

''(A) IN GENERAL.—The term 'chronically homeless' means, with respect to an individual or family, that the individual or family—

''(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

''(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

''(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

''(B) RULE OF CONSTRUCTION.—A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

''(3) COLLABORATIVE APPLICANT.—The term 'collaborative applicant' means an entity that—

''(A) carries out the duties specified in section 402;

''(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

''(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

''(4) COLLABORATIVE APPLICATION.—The term 'collaborative application' means an application for a grant under subtitle C that—

''(A) satisfies section 422; and

''(B) is submitted to the Secretary by a collaborative applicant.

''(5) CONSOLIDATED PLAN.—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

''(6) ELIGIBLE ENTITY.—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private

entities, that is eligible to directly receive grant amounts under such subtitle.

''(7) FAMILIES WITH CHILDREN AND YOUTH DEFINED AS HOMELESS UNDER OTHER FEDERAL STATUTES.—The term 'families with children and youth defined as homeless under other Federal statutes' means any children or youth that are defined as 'homeless' under any Federal statute other than this subtitle, but are not defined as homeless under section 103, and shall also include the parent, parents, or guardian of such children or youth under subtitle B of title VII this Act (42 U.S.C. 11431 et seq.).

''(8) GEOGRAPHIC AREA.—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

''(9) HOMELESS INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

''(i)(I) is expected to be long-continuing or of indefinite duration;

''(II) substantially impedes the individual's ability to live independently;

''(III) could be improved by the provision of more suitable housing conditions; and

''(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

''(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

''(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

''(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

''(10) LEGAL ENTITY.—The term 'legal entity' means—

''(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code;

''(B) an instrumentality of State or local government; or

''(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

''(11) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

''(12) NEW.—The term 'new' means, with respect to housing, that no assistance has been provided under this title for the housing.

''(13) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

''(A) the administration, maintenance, repair, and security of such housing;

''(B) utilities, fuel, furnishings, and equipment for such housing; or

''(C) coordination of services as needed to ensure long-term housing stability.

''(14) OUTPATIENT HEALTH SERVICES.—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse services.

''(15) PERMANENT HOUSING.—The term 'permanent housing' means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

''(16) PERSONALLY IDENTIFYING INFORMATION.—The term 'personally identifying information' means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

''(A) a first and last name;

''(B) a home or other physical address;

''(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

''(D) a social security number; and

''(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

''(17) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

''(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

''(B) that has a voluntary board;

''(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

''(D) that practices nondiscrimination in the provision of assistance.

''(18) PROJECT.—The term 'project' means, with respect to activities carried out under subtitle C, eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

''(19) PROJECT-BASED.—The term 'project-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

''(A) is between—

''(i) the recipient or a project sponsor; and

''(ii) an owner of a structure that exists as of the date the contract is entered into; and

''(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

''(20) PROJECT SPONSOR.—The term 'project sponsor' means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

''(21) RECIPIENT.—Except as used in subtitle B, the term 'recipient' means an eligible entity who—

''(A) submits an application for a grant under section 422 that is approved by the Secretary;

''(B) receives the grant directly from the Secretary to support approved projects described in the application; and

''(C)(i) serves as a project sponsor for the projects; or

''(ii) awards the funds to project sponsors to carry out the projects.

''(22) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(23) SERIOUS MENTAL ILLNESS.—The term 'serious mental illness' means a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

''(24) SOLO APPLICANT.—The term 'solo applicant' means an entity that is an eligible entity, directly submits an application for a grant under subtitle C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

''(25) SPONSOR-BASED.—The term 'sponsor-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

''(A) is between—

''(i) the recipient or a project sponsor; and

''(ii) an independent entity that—

''(I) is a private organization; and

''(II) owns or leases dwelling units; and

''(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

''(26) STATE.—Except as used in subtitle B, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

''(27) SUPPORTIVE SERVICES.—The term 'supportive services' means services that address the special needs of people served by a project, including—

''(A) the establishment and operation of a child care services program for families experiencing homelessness;

''(B) the establishment and operation of an employment assistance program, including providing job training;

''(C) the provision of outpatient health services, food, and case management;

''(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

''(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

''(F) the provision of mental health services, trauma counseling, and victim services;

''(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

''(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

''(I) the provision of—

''(i) transportation services that facilitate an individual's ability to obtain and maintain employment; and

''(ii) health care; and

''(J) other supportive services necessary to obtain and maintain housing.

''(28) TENANT-BASED.—The term 'tenant-based' means, with respect to rental assistance, assistance that—

''(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

''(i) in a particular structure or unit for not more than the first year of the participation;

''(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

''(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the

health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

''(29) TRANSITIONAL HOUSING.—The term 'transitional housing' means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

''(30) UNIFIED FUNDING AGENCY.—The term 'unified funding agency' means a collaborative applicant that performs the duties described in section 402(g).

''(31) UNDERSERVED POPULATIONS.—The term 'underserved populations' includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

''(32) VICTIM SERVICE PROVIDER.—The term 'victim service provider' means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

''(33) VICTIM SERVICES.—The term 'victim services' means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.''.

SEC. 1102. COMMUNITY HOMELESS ASSISTANCE PLANNING BOARDS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 401 (as added by section 1101(3) of this division) the following new section:

''SEC. 402. COLLABORATIVE APPLICANTS.

''(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

''(1) submit an application for amounts under this subtitle; and

''(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

''(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

''(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

''(e) APPOINTMENT OF AGENT.—

''(1) IN GENERAL.—Subject to paragraph (2), a collaborative applicant may designate an agent to—

''(A) apply for a grant under section 422(c);

''(B) receive and distribute grant funds awarded under subtitle C; and

''(C) perform other administrative duties.

''(2) RETENTION OF DUTIES.—Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this title.

''(f) DUTIES.—A collaborative applicant shall—

''(1) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

''(A) to determine compliance with—

''(i) the program requirements under section 426; and

''(ii) the selection criteria described under section 427; and

''(B) to establish priorities for funding projects in the geographic area involved;

''(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

''(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as 'HMIS') that—

''(A) collects unduplicated counts of individuals and families experiencing homelessness;

''(B) analyzes patterns of use of assistance provided under subtitles B and C for the geographic area involved;

''(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

''(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

''(i) encryption of data collected for purposes of HMIS;

''(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

''(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

''(iv) rights of persons receiving services under this title;

''(v) criminal and civil penalties for unlawful disclosure of data; and

''(vi) such other standards as may be determined necessary by the Secretary.

''(g) UNIFIED FUNDING.—

''(1) IN GENERAL.—In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

''(A) the collaborative applicant—

''(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

''(ii) is selected to perform such responsibilities by the Secretary; or

''(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

''(i) a finding by the Secretary that the applicant—

''(I) has the capacity to perform such responsibilities; and

''(II) would serve the purposes of this Act as they apply to the geographic area; and

''(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

''(2) REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

''(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

''(h) CONFLICT OF INTEREST.—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.''.

SEC. 1103. GENERAL PROVISIONS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 403 (as so redesignated by section 1101(2) of this division) the following new sections:

''SEC. 404. PREVENTING INVOLUNTARY FAMILY SEPARATION.

''(a) IN GENERAL.—After the expiration of the 2-year period that begins upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, and except as provided in subsection (b), any project sponsor receiving funds under this title to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

''(b) EXCEPTION.—Notwithstanding the requirement under subsection (a), project sponsors of transitional housing receiving funds under this title may target transitional housing resources to families with children of a specific age only if the project sponsor—

''(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

''(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

''SEC. 405. TECHNICAL ASSISTANCE.

''(a) IN GENERAL.—The Secretary shall make available technical assistance to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to adopt and provide best practices in housing and services for persons experiencing homeless.

''(b) RESERVATION.—The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to provide technical assistance under subsection (a).''.

SEC. 1104. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of

this title, is further amended by adding at the end the following new section:

"SEC. 407. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.

''In the course of awarding grants or implementing programs under this title, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.''.

SEC. 1105. AUTHORIZATION OF APPROPRIATIONS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.''.

TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM

SEC. 1201. GRANT ASSISTANCE.

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle B—Emergency Solutions Grants Program";

(2) by striking section 417 (42 U.S.C. 11377);

(3) by redesignating sections 413 through 416 (42 U.S.C. 11373–6) as sections 414 through 417, respectively; and

(4) by striking section 412 (42 U.S.C. 11372) and inserting the following:

"SEC. 412. GRANT ASSISTANCE.

''The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 415.

"SEC. 413. AMOUNT AND ALLOCATION OF ASSISTANCE.

''(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 415. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this subtitle and subtitle C for those individuals or families who are homeless.

''(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 415, in consultation with the collaborative applicants.''; and

(5) in section 414(b) (42 U.S.C. 11373(b)), as so redesignated by paragraph (3) of this section, by striking ''amounts appropriated'' and all that follows through ''for any'' and inserting ''amounts appropriated under section 408 and made available to carry out this subtitle for any''.

SEC. 1202. ELIGIBLE ACTIVITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 415 (42 U.S.C. 11374), as so redesignated by section 1201(3) of this division, and inserting the following new section:

"SEC. 415. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

''(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

''(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—

''(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or

''(B) the use of assistance under this subtitle would complement the provision of those essential services.

''(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.

''(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individuals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.

''(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—

''(A) stabilizing individuals and families in their current housing; or

''(B) quickly moving such individuals and families to other permanent housing.

''(b) MAXIMUM ALLOCATION FOR EMERGENCY SHELTER ACTIVITIES.—A grantee of assistance provided under section 412 for any fiscal year may not use an amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—

''(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or

''(2) the amount expended by such grantee for such activities during fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.''.

SEC. 1203. PARTICIPATION IN HOMELESS MANAGEMENT INFORMATION SYSTEM.

Section 416 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11375), as so redesignated by section 1201(3) of this division, is amended by adding at the end the following new subsection:

''(f) PARTICIPATION IN HMIS.—The Secretary shall ensure that recipients of funds under this subtitle ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.''.

SEC. 1204. ADMINISTRATIVE PROVISION.

Section 418 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11378) is amended by striking ''5 percent'' and inserting ''7.5 percent''.

SEC. 1205. GAO STUDY OF ADMINISTRATIVE FEES.

Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall—

(1) conduct a study to examine the appropriate administrative costs for administering the program authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.); and

(2) submit to Congress a report on the findings of the study required under paragraph (1).

TITLE III—CONTINUUM OF CARE PROGRAM

SEC. 1301. CONTINUUM OF CARE.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by striking the subtitle heading for subtitle C of title IV (42 U.S.C. 11381 et seq.) and inserting the following:

"Subtitle C—Continuum of Care Program";

and

(2) by striking sections 421 and 422 (42 U.S.C. 11381 and 11382) and inserting the following new sections:

"SEC. 421. PURPOSES.

''The purposes of this subtitle are—

''(1) to promote community-wide commitment to the goal of ending homelessness;

''(2) to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

''(3) to promote access to, and effective utilization of, mainstream programs described in section 203(a)(7) and programs funded with State or local resources; and

''(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

"SEC. 422. CONTINUUM OF CARE APPLICATIONS AND GRANTS.

''(a) PROJECTS.—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

''(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a notification of funding availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.

''(c) APPLICATIONS.—

''(1) SUBMISSION TO THE SECRETARY.—To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—

''(A) to determine compliance with the program requirements and selection criteria under this subtitle; and

''(B) to establish priorities for funding projects in the geographic area.

''(2) ANNOUNCEMENT OF AWARDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the

grants conditionally awarded under subsection (a) for that fiscal year.

''(B) TRANSITION.—For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(d) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

''(1) REQUIREMENTS FOR OBLIGATION.—

''(A) IN GENERAL.—Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).

''(B) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

''(C) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.

''(2) OBLIGATION.—Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

''(3) DISTRIBUTION.—A recipient that receives funds through such a grant—

''(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

''(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

''(4) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs (1) or (2) of section 423(a). The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

''(e) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

''(f) CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.—When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

''(g) MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

''(h) APPEALS.—

''(1) IN GENERAL.—The Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to a collaborative application or solo application for funding.

''(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this subtitle.

''(i) SOLO APPLICANTS.—A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

''(j) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—

''(1) IN GENERAL.—A collaborative applicant may use not more than 10 percent of funds awarded under this subtitle (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 423(a) to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 103(a)(6), but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B), especially with respect to children and unaccompanied youth.

''(2) LIMITATIONS.—The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

''(3) TREATMENT OF CERTAIN POPULATIONS.—

''(A) IN GENERAL.—Notwithstanding section 103(a) and subject to subparagraph (B), funds awarded under this subtitle may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this subtitle.

''(B) AT RISK OF HOMELESSNESS.—Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) from qualifying for, and being treated for purposes of this subtitle as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this subtitle for which individuals or families that are at risk of homelessness are eligible.''.

SEC. 1302. ELIGIBLE ACTIVITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 423 (42 U.S.C. 11383) and inserting the following new section:

''SEC. 423. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Grants awarded under section 422 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

''(1) Construction of new housing units to provide transitional or permanent housing.

''(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.

''(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

''(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this Act, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 429. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

''(5) Payment of operating costs for housing units assisted under this subtitle or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

''(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

''(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

''(A) are effective at moving homeless individuals and families immediately into housing; or

''(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

''(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(f)(3).

''(9) Operation of, participation in, and ensuring consistent participation by project

sponsors in, a community-wide homeless management information system.

''(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(f), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs.

''(11) In the case of a collaborative applicant that is a unified funding agency under section 402(g), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

''(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this subtitle for such costs.

''(b) MINIMUM GRANT TERMS.—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

''(c) USE RESTRICTIONS.—

''(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

''(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

''(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

''(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

''(1) REPAYMENT.—If a recipient or project sponsor receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

''(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

''(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

''(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

''(3) EXCEPTION.—A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

''(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

''(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle;

''(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

''(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

''(e) STAFF TRAINING.—The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

''(f) ELIGIBILITY FOR PERMANENT HOUSING.—Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 428 may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

''(g) ADMINISTRATION OF RENTAL ASSISTANCE.—Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, or public housing agency.''.

SEC. 1303. HIGH PERFORMING COMMUNITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 424 (42 U.S.C. 11384) and inserting the following:

''SEC. 424. INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

''(a) DESIGNATION AS A HIGH-PERFORMING COMMUNITY.—

''(1) IN GENERAL.—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

''(2) CONSIDERATION.—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

''(3) 2-YEAR PHASE IN.—In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

''(4) EXCESS OF QUALIFIED APPLICANTS.—If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

''(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

''(b) APPLICATION.—

''(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

''(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

''(A) a report showing how any money received under this subtitle in the preceding year was expended; and

''(B) information that such applicant can meet the requirements described under subsection (d).

''(3) PUBLICATION OF APPLICATION.—The Secretary shall—

''(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

''(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

''(c) USE OF FUNDS.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

''(1) for any of the eligible activities described in section 423; or

''(2) for any of the eligible activities described in paragraphs (4) and (5) of section 415(a).

''(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term 'high-performing community' means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

''(1) TERM OF HOMELESSNESS.—The mean length of episodes of homelessness for that geographic area—

''(A) is less than 20 days; or

''(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

''(2) FAMILIES LEAVING HOMELESSNESS.—Of individuals and families—

''(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

''(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

''(3) COMMUNITY ACTION.—The communities that compose the geographic area have—

''(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

''(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

''(4) EFFECTIVENESS OF PREVIOUS ACTIVITIES.—If recipients in the geographic area have used funding awarded under section

422(a) for eligible activities described under section 415(a) in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

''(5) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—With respect to collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 427(b)(1)(F) according to such standards as the Secretary shall promulgate.

''(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.''.

SEC. 1304. PROGRAM REQUIREMENTS.

Section 426 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11386) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

''(b) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

''(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

''(2) to monitor and report to the Secretary the progress of the project;

''(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

''(4) to require certification from all project sponsors that—

''(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

''(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

''(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

''(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.); and

''(E) they will provide data and reports as required by the Secretary pursuant to the Act;

''(5) if a collaborative applicant is a unified funding agency under section 402(g) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(11), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

''(6) to monitor and report to the Secretary the provision of matching funds as required by section 430;

''(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

''(8) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.'';

(2) by redesignating subsection (d) as subsection (c);

(3) in the first sentence of subsection (c) (as so redesignated by paragraph (2) of this subsection), by striking ''recipient'' and inserting ''recipient or project sponsor'';

(4) by striking subsection (e);

(5) by redesignating subsections (f), (g), and (h), as subsections (d), (e), and (f), respectively;

(6) in the first sentence of subsection (e) (as so redesignated by paragraph (5) of this section), by striking ''recipient'' each place it appears and inserting ''recipient or project sponsor'';

(7) by striking subsection (i); and

(8) by redesignating subsection (j) as subsection (g).

SEC. 1305. SELECTION CRITERIA, ALLOCATION AMOUNTS, AND FUNDING.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by repealing section 429 (42 U.S.C. 11389); and

(2) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 432 and 433, respectively; and

(3) by inserting after section 426 the following new sections:

''SEC. 427. SELECTION CRITERIA.

''(a) IN GENERAL.—The Secretary shall award funds to recipients through a national competition between geographic areas based on criteria established by the Secretary.

''(b) REQUIRED CRITERIA.—

''(1) IN GENERAL.—The criteria established under subsection (a) shall include—

''(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 412 (except that recipients applying from geographic areas where no funds have been awarded under this subtitle, or under subtitles C, D, E, or F of title IV of this Act, as in effect prior to the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

''(i) the length of time individuals and families remain homeless;

''(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

''(iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;

''(iv) overall reduction in the number of homeless individuals and families;

''(v) jobs and income growth for homeless individuals and families;

''(vi) success at reducing the number of individuals and families who become homeless;

''(vii) other accomplishments by the recipient related to reducing homelessness; and

''(viii) for collaborative applicants that have exercised the authority under section 422(j) to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in section 427(b)(1)(F);

''(B) the plan of the recipient, which shall describe—

''(i) how the number of individuals and families who become homeless will be reduced in the community;

''(ii) how the length of time that individuals and families remain homeless will be reduced;

''(iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.);

''(iv) the extent to which the recipient will—

''(I) address the needs of all relevant subpopulations;

''(II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 428(d);

''(III) set quantifiable performance measures;

''(IV) set timelines for completion of specific tasks;

''(V) identify specific funding sources for planned activities; and

''(VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

''(v) whether the recipient proposes to exercise authority to use funds under section 422(j), and if so, how the recipient will achieve the goals and outcomes identified in section 427(b)(1)(F);

''(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

''(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

''(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

''(iii) is based on objective criteria that have been publicly announced by the recipient; and

''(iv) is open to proposals from entities that have not previously received funds under this subtitle;

''(D) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 203(a)(7);

''(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

''(F) for collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

''(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this title; or

''(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

''(G) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

''(2) ADDITIONAL CRITERIA.—In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

''(A) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this subtitle for the geographic area represented by the collaborative applicant.

''(B) AMOUNT.—

''(i) FORMULA.—Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this subtitle.

''(ii) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

''(iii) AUTHORITY OF SECRETARY.—Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

''(3) HOMELESSNESS COUNTS.—The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act (42 U.S.C. 11302(a)).

''(c) ADJUSTMENTS.—The Secretary may adjust the formula described in subsection (b)(2) as necessary—

''(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

''(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this Act.

''SEC. 428. ALLOCATION OF AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

''(a) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS INDIVIDUALS AND FAMILIES WITH DISABILITIES.—

''(1) IN GENERAL.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

''(2) CALCULATION.—In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

''(3) ADJUSTMENT.—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

''(4) SUSPENSION.—The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this subtitle after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this subtitle.

''(5) TERMINATION.—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

''(b) SET-ASIDE FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH CHILDREN.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

''(c) TREATMENT OF AMOUNTS FOR PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act may be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

''(d) INCENTIVES FOR PROVEN STRATEGIES.—

''(1) IN GENERAL.—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this subtitle for activities that have been proven to be effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

''(A) permanent supportive housing for chronically homeless individuals and families;

''(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

''(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

''(3) BALANCE OF INCENTIVES FOR PROVEN STRATEGIES.—To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not implement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

''(e) INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or paragraphs (4) and (5) of section 415(a) for homeless people generally or for the relevant subpopulation.

''SEC. 429. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

''(a) IN GENERAL.—Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

''(1) under the appropriations account for this title; or

''(2) the section 8 project-based rental assistance account.

''(b) RENEWALS.—The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

''(1) there is a demonstrated need for the project; and

''(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

"SEC. 430. MATCHING FUNDING.

''(a) IN GENERAL.—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions from any source other than a grant awarded under this subtitle, including renewal funding of projects assisted under subtitles C, D, and F of this title as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

''(b) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

''(c) COUNTABLE ACTIVITIES.—The contributions required under subsection (a) may consist of—

''(1) funding for any eligible activity described under section 423; and

''(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.

"SEC. 431. APPEAL PROCEDURE.

''(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the consolidated plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

''(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

''(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.''.

SEC. 1306. RESEARCH.

There is authorized to be appropriated $8,000,000, for each of fiscal years 2010 and 2011, for research into the efficacy of interventions for homeless families, to be expended by the Secretary of Housing and Urban Development over the 2 years at 3 different sites to provide services for homeless families and evaluate the effectiveness of such services.

TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM

SEC. 1401. RURAL HOUSING STABILITY ASSISTANCE.

Subtitle G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle G—Rural Housing Stability Assistance Program"; and

(2) in section 491—

(A) by striking the section heading and inserting ''**rural housing stability grant program**.'';

(B) in subsection (a)—

(i) by striking ''rural homelessness grant program'' and inserting ''rural housing stability grant program'';

(ii) by inserting ''in lieu of grants under subtitle C'' after ''eligible organizations''; and

(iii) by striking paragraphs (1), (2), and (3), and inserting the following:

''(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

''(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

''(3) improving the ability of the lowest-income residents of the community to afford stable housing.'';

(C) in subsection (b)(1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (I), (J), and (K), respectively; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness;

''(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

''(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

''(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

''(H) payment of operating costs for housing units assisted under this title;'';

(D) in subsection (b)(2), by striking ''appropriated'' and inserting ''transferred'';

(E) in subsection (c)—

(i) in paragraph (1)(A), by striking ''appropriated'' and inserting ''transferred''; and

(ii) in paragraph (3), by striking ''appropriated'' and inserting ''transferred'';

(F) in subsection (d)—

(i) in paragraph (5), by striking ''; and'' and inserting a semicolon;

(ii) in paragraph (6)—

(I) by striking ''an agreement'' and all that follows through ''families'' and inserting the following: ''a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization''; and

(II) by striking the period at the end, and inserting a semicolon; and

(iii) by adding at the end the following:

''(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and

''(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.'';

(G) by striking subsections (f) and (g) and inserting the following:

''(f) MATCHING FUNDING.—

''(1) IN GENERAL.—An organization eligible to receive a grant under subsection (a) shall specify matching contributions from any source other than a grant awarded under this subtitle, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

''(2) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

''(3) COUNTABLE ACTIVITIES.—The contributions required under paragraph (1) may consist of—

''(A) funding for any eligible activity described under subsection (b); and

''(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

''(g) SELECTION CRITERIA.—The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

''(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

''(2) the degree to which the project addresses the most harmful housing situations present in the community;

''(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

''(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

''(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

''(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

''(7) any other relevant criteria as determined by the Secretary.'';

(H) in subsection (h)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking ''The'' and inserting ''Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the''; and

(ii) in paragraph (1)(A), by striking ''providing housing and other assistance to homeless persons'' and inserting ''meeting the goals described in subsection (a)'';

(iii) in paragraph (1)(B), by striking ''address homelessness in rural areas'' and inserting ''meet the goals described in subsection (a) in rural areas''; and

(iv) in paragraph (2)—

(I) by striking ''The'' and inserting ''Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the'';

(II) by striking '', not later than 18 months after the date on which the Secretary first makes grants under the program,''; and

(III) by striking ''prevent and respond to homelessness'' and inserting ''meet the goals described in subsection (a)'';

(I) in subsection (k)—

(i) in paragraph (1), by striking ''rural homelessness grant program'' and inserting ''rural housing stability grant program''; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''; or'' and inserting a semicolon;

(II) in subparagraph (B)(ii), by striking ''rural census tract.'' and inserting ''county where at least 75 percent of the population is rural; or''; and

(III) by adding at the end the following:

''(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile

(as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 102 of the Housing and Community Development Act of 1974) in such State is the sole beneficiary of the grant amounts awarded under this section.'';

(J) in subsection (l)—

(i) by striking the subsection heading and inserting ''PROGRAM FUNDING.—''; and

(ii) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under section 427(b)(2) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under subtitle C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under subtitle C.''; and

(K) by adding at the end the following:

''(m) DETERMINATION OF FUNDING SOURCE.—For any fiscal year, in addition to funds awarded under subtitle B, funds under this title to be used in a city or county shall only be awarded under either subtitle C or subtitle D.''.

SEC. 1402. GAO STUDY OF HOMELESSNESS AND HOMELESS ASSISTANCE IN RURAL AREAS.

(a) STUDY AND REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall conduct a study to examine homelessness and homeless assistance in rural areas and rural communities and submit a report to the Congress on the findings and conclusion of the study. The report shall contain the following matters:

(1) A general description of homelessness, including the range of living situations among homeless individuals and homeless families, in rural areas and rural communities of the United States, including tribal lands and colonias.

(2) An estimate of the incidence and prevalence of homelessness among individuals and families in rural areas and rural communities of the United States.

(3) An estimate of the number of individuals and families from rural areas and rural communities who migrate annually to non-rural areas and non-rural communities for homeless assistance.

(4) A description of barriers that individuals and families in and from rural areas and rural communities encounter when seeking to access homeless assistance programs, and recommendations for removing such barriers.

(5) A comparison of the rate of homelessness among individuals and families in and from rural areas and rural communities compared to the rate of homelessness among individuals and families in and from non-rural areas and non-rural communities.

(6) A general description of homeless assistance for individuals and families in rural areas and rural communities of the United States.

(7) A description of barriers that homeless assistance providers serving rural areas and rural communities encounter when seeking to access Federal homeless assistance programs, and recommendations for removing such barriers.

(8) An assessment of the type and amount of Federal homeless assistance funds awarded to organizations serving rural areas and rural communities and a determination as to whether such amount is proportional to the distribution of homeless individuals and families in and from rural areas and rural communities compared to homeless individuals and families in non-rural areas and non-rural communities.

(9) An assessment of the current roles of the Department of Housing and Urban Development, the Department of Agriculture, and other Federal departments and agencies in administering homeless assistance programs in rural areas and rural communities and recommendations for distributing Federal responsibilities, including homeless assistance program administration and grantmaking, among the departments and agencies so that service organizations in rural areas and rural communities are most effectively reached and supported.

(b) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Agriculture.

(2) The Secretary of Housing and Urban Development.

(3) The Secretary of Health and Human Services.

(4) The Secretary of Education.

(5) The Secretary of Labor.

(6) The Secretary of Veterans Affairs.

(7) The Executive Director of the United States Interagency Council on Homelessness.

(8) Project sponsors and recipients of homeless assistance grants serving rural areas and rural communities.

(9) Individuals and families in or from rural areas and rural communities who have sought or are seeking Federal homeless assistance services.

(10) National advocacy organizations concerned with homelessness, rural housing, and rural community development.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

TITLE V—REPEALS AND CONFORMING AMENDMENTS

SEC. 1501. REPEALS.

Subtitles D, E, and F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., and 11403 et seq.) are hereby repealed.

SEC. 1502. CONFORMING AMENDMENTS.

(a) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act (as so redesignated by section 1101(2) of this division), is amended—

(1) by striking ''current housing affordability strategy'' and inserting ''consolidated plan''; and

(2) by inserting before the comma the following: ''(referred to in such section as a 'comprehensive housing affordability strategy')''.

(b) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), as amended by the preceding provisions of this division, is further amended by adding at the end the following new subsection:

''(e) PERSONS EXPERIENCING HOMELESSNESS.—Any references in this Act to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.''.

(c) RURAL HOUSING STABILITY ASSISTANCE.—Title IV of the McKinney-Vento Homeless Assistance Act is amended by redesignating subtitle G (42 U.S.C. 11408 et seq.), as amended by the preceding provisions of this division, as subtitle D.

SEC. 1503. EFFECTIVE DATE.

Except as specifically provided otherwise in this division, this division and the amendments made by this division shall take effect on, and shall apply beginning on—

(1) the expiration of the 18-month period beginning on the date of the enactment of this division, or

(2) the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504,

whichever occurs first.

SEC. 1504. REGULATIONS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this division, the Secretary of Housing and Urban Development shall promulgate regulations governing the operation of the programs that are created or modified by this division.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

SEC. 1505. AMENDMENT TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the item relating to the heading for title IV and all that follows through the item relating to section 492 and inserting the following new items:

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 31 and 108; that the nominations be confirmed, en bloc; the motions to reconsider be laid upon the table, en bloc; that any statements relating to the nominations be printed in the RECORD; that no further motions be in order; that upon confirmation, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

The nominations were considered and confirmed en bloc as follows:

DEPARTMENT OF THE INTERIOR

David J. Hayes, of Virginia, to be Deputy Secretary of the Interior.

DEPARTMENT OF ENERGY

Ines R. Triay, of New Mexico, to be an Assistant Secretary of Energy (Environmental Management).

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislation session.

TO AWARD A CONGRESSIONAL GOLD MEDAL TO THE WOMEN AIRFORCE SERVICE PILOTS (''WASP'')

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of S. 614.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 614) to award a Congressional Gold Medal to The Women Airforce Service Pilots (''WASP'').

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the Hutchison technical amendment at the desk be agreed to; the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and any statements relating to this measure be printed in the RECORD.

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

The amendment (No. 1200) was agreed to, as follows:

On page 3, line 11, strike ''Army Air Force'' and insert ''Army Air Forces''

On page 3, line 13, strike ''Air Force'' and insert ''Air Forces''

On page 3, line 17, strike ''Army Air Force'' and insert ''Army Air Forces''

On page 4, line 2, strike ''Force'' and insert ''Forces''

The bill (S. 614) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 614

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

SECTION 1. FINDINGS.

Congress finds that—

(1) the Women Airforce Service Pilots of WWII, known as the ''WASP'', were the first women in history to fly American military aircraft;

(2) more than 60 years ago, they flew fighter, bomber, transport, and training aircraft in defense of America's freedom;

(3) they faced overwhelming cultural and gender bias against women in nontraditional roles and overcame multiple injustices and inequities in order to serve their country;

(4) through their actions, the WASP eventually were the catalyst for revolutionary reform in the integration of women pilots into the Armed Services;

(5) during the early months of World War II, there was a severe shortage of combat pilots;

(6) Jacqueline Cochran, America's leading woman pilot of the time, convinced General Hap Arnold, Chief of the Army Air Forces, that women, if given the same training as men, would be equally capable of flying military aircraft and could then take over some of the stateside military flying jobs, thereby releasing hundreds of male pilots for combat duty;

(7) the severe loss of male combat pilots made the necessity of utilizing women pilots to help in the war effort clear to General Arnold, and a women's pilot training program was soon approved;

(8) it was not until August 1943, that the women aviators would receive their official name;

(9) General Arnold ordered that all women pilots flying military aircraft, including 28 civilian women ferry pilots, would be named ''WASP'', Women Airforce Service Pilots;

(10) more than 25,000 American women applied for training, but only 1,830 were accepted and took the oath;

(11) exactly 1,074 of those trainees successfully completed the 21 to 27 weeks of Army Air Forces flight training, graduated, and received their Army Air Forces orders to report to their assigned air base;

(12) on November 16, 1942, the first class of 29 women pilots reported to the Houston, Texas Municipal Airport and began the same military flight training as the male Army Air Forces cadets were taking;

(13) due to a lack of adequate facilities at the airport, 3 months later the training program was moved to Avenger Field in Sweetwater, Texas;

(14) WASP were eventually stationed at 120 Army air bases all across America;

(15) they flew more than 60,000,000 miles for their country in every type of aircraft and on every type of assignment flown by the male Army Air Forces pilots, except combat;

(16) WASP assignments included test piloting, instructor piloting, towing targets for air-to-air gunnery practice, ground-to-air anti-aircraft practice, ferrying, transporting personnel and cargo (including parts for the atomic bomb), simulated strafing, smoke laying, night tracking, and flying drones;

(17) in October 1943, male pilots were refusing to fly the B–26 Martin Marauder (known as the ''Widowmaker'') because of its fatality records, and General Arnold ordered WASP Director, Jacqueline Cochran, to select 25 WASP to be trained to fly the B–26 to prove to the male pilots that it was safe to fly;

(18) during the existence of the WASP—

(A) 38 women lost their lives while serving their country;

(B) their bodies were sent home in poorly crafted pine boxes;

(C) their burial was at the expense of their families or classmates;

(D) there were no gold stars allowed in their parents' windows; and

(E) because they were not considered military, no American flags were allowed on their coffins;

(19) in 1944, General Arnold made a personal request to Congress to militarize the WASP, and it was denied;

(20) on December 7, 1944, in a speech to the last graduating class of WASP, General Arnold said, ''You and more than 900 of your sisters have shown you can fly wingtip to wingtip with your brothers. I salute you . . . We of the Army Air Force are proud of you. We will never forget our debt to you.'';

(21) with victory in WWII almost certain, on December 20, 1944, the WASP were quietly and unceremoniously disbanded;

(22) there were no honors, no benefits, and very few ''thank you's'';

(23) just as they had paid their own way to enter training, they had to pay their own way back home after their honorable service to the military;

(24) the WASP military records were immediately sealed, stamped ''classified'' or ''secret'', and filed away in Government archives, unavailable to the historians who wrote the history of WWII or the scholars who compiled the history text books used today, with many of the records not declassified until the 1980s;

(25) consequently, the WASP story is a missing chapter in the history of the Air Force, the history of aviation, and the history of the United States of America;

(26) in 1977, 33 years after the WASP were disbanded, the Congress finally voted to give the WASP the veteran status they had earned, but these heroic pilots were not invited to the signing ceremony at the White House, and it was not until 7 years later that their medals were delivered in the mail in plain brown envelopes;

(27) in the late 1970s, more than 30 years after the WASP flew in World War II, women were finally permitted to attend military pilot training in the United States Armed Forces;

(28) thousands of women aviators flying support aircraft have benefitted from the service of the WASP and followed in their footsteps;

(29) in 1993, the WASP were once again referenced during congressional hearings regarding the contributions that women could make to the military, which eventually led to women being able to fly military fighter, bomber, and attack aircraft in combat;

(30) hundreds of United States servicewomen combat pilots have seized the opportunity to fly fighter aircraft in recent conflicts, all thanks to the pioneering steps taken by the WASP;

(31) the WASP have maintained a tightknit community, forged by the common experiences of serving their country during war;

(32) as part of their desire to educate America on the WASP history, WASP have assisted ''Wings Across America'', an organization dedicated to educating the American public, with much effort aimed at children, about the remarkable accomplishments of these WWII veterans; and

(33) the WASP have been honored with exhibits at numerous museums, to include—

(A) the Smithsonian Institution, Washington, DC;

(B) the Women in Military Service to America Memorial at Arlington National Cemetery, Arlington, Virginia;

(C) the National Museum of the United States Air Force, Wright Patterson Air Force Base, Ohio;

(D) the National WASP WWII Museum, Sweetwater, Texas;

(E) the 8th Air Force Museum, Savannah, Georgia;

(F) the Lone Star Flight Museum, Galveston, Texas;

(G) the American Airpower Museum, Farmingdale, New York;

(H) the Pima Air Museum, Tucson, Arizona;

(I) the Seattle Museum of Flight, Seattle, Washington;

(J) the March Air Museum, March Reserve Air Base, California; and

(K) the Texas State History Museum, Austin, Texas.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) AWARD AUTHORIZED.—The President pro tempore of the Senate and the Speaker of the House of Representatives shall make appropriate arrangements for the award, on behalf of the Congress, of a single gold medal of appropriate design in honor of the Women Airforce Service Pilots (WASP) collectively, in recognition of their pioneering military service and exemplary record, which forged revolutionary reform in the Armed Forces of the United States of America.

(b) DESIGN AND STRIKING.—For the purposes of the award referred to in subsection (a), the Secretary of the Treasury shall strike the gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) SMITHSONIAN INSTITUTION.—

(1) IN GENERAL.—Following the award of the gold medal in honor of the Women Airforce Service Pilots, the gold medal shall be given to the Smithsonian Institution, where it will be displayed as appropriate and made available for research.

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Smithsonian Institution shall make the gold medal received under this Act available for display elsewhere, particularly at other locations associated with the WASP.

SEC. 3. DUPLICATE MEDALS.

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck under this Act, at a price sufficient to cover the costs of the medals, including labor, materials, dyes, use of machinery, and overhead expenses.

SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, an amount not to exceed $30,000 to pay for the cost of the medal authorized under section 2.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

DESIGNATING A NATIONAL DAY OF REMEMBRANCE ON OCTOBER 30, 2009, FOR NUCLEAR WEAPONS PROGRAM WORKERS

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 151.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 151) designating a National Day of Remembrance on October 30, 2009 for Nuclear Weapons Program Workers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider laid on the table.

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

The resolution (S. Res. 151) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 151

Whereas hundreds of thousands of men and women have served this Nation in building its nuclear defense since World War II;

Whereas these dedicated American workers paid a high price for their service and have developed disabling or fatal illnesses as a result of exposure to beryllium, ionizing radiation, toxic substances, and other hazards that are unique to the production and testing of nuclear weapons;

Whereas these workers were put at individual risk without their knowledge and consent in order to develop a nuclear weapons program for the benefit of all American citizens; and

Whereas these patriotic men and women deserve to be recognized for their contribution, service, and sacrifice towards the defense of our great Nation: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 30, 2009, as a national day of remembrance for American nuclear weapons program workers and uranium miners, millers, and haulers; and

(2) encourages the people of the United States to support and participate in appropriate ceremonies, programs, and other activities to commemorate October 30, 2009, as a national day of remembrance for past and present workers in America's nuclear weapons program.

ORDERS FOR THURSDAY, MAY 21, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow morning at 9 a.m., May 21; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2346, the emergency supplemental appropriations bill, with the time until 10 a.m. equally divided and controlled between the two leaders or their designees, and that be for debate only; that at 10 a.m., the Senate proceed to vote on the motion to invoke cloture on H.R. 2346.

Finally, I ask that the filing deadline for second-degree amendments be at 9:30 a.m. tomorrow.

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

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:21 p.m., adjourned until Thursday, May 21, 2009, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate:

COMMODITY FUTURES TRADING COMMISSION

BARTHOLOMEW CHILTON, OF MARYLAND, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2013. (REAPPOINTMENT)

ENVIRONMENTAL PROTECTION AGENCY

COLIN SCOTT COLE FULTON, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE ROGER ROMULUS MARTELLA, JR.

DEPARTMENT OF HOMELAND SECURITY

ALEJANDRO N. MAYORKAS, OF CALIFORNIA, TO BE DIRECTOR OF THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY, VICE EMILIO T. GONZALEZ.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 152 AND 601:

To be admiral

ADM. MICHAEL G. MULLEN

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GILMARY M. HOSTAGE III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. GLENN F. SPEARS

CONFIRMATIONS

Executive nominations confirmed by the Senate, May 20, 2009:

DEPARTMENT OF THE INTERIOR

DAVID J. HAYES, OF VIRGINIA, TO BE DEPUTY SECRETARY OF THE INTERIOR.

DEPARTMENT OF ENERGY

INES R. TRIAY, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT).

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.