United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, WEDNESDAY, MAY 6, 2009 *No. 69*

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 God, known to us in countless ways and times without number, we turn to You that in Your light we might see light. As our lawmakers work, help them to see You in the common rounds and ordinary labors of their day. As they become aware of Your presence, may their lives experience the splendor and strength that You alone can give. Save them from pride and contention and lead them in Your way. Help them, Lord, to remember that You are still their refuge and strength and a very present help in the time of trouble. Send them forth to face this day armed with a faith that will not shrink though pressed by many a foe.

We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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 6, 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.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business for up to an hour. The Republicans will control the first 30 minutes. Following morning business, the Senate will resume consideration of the Helping Families Save Their Homes Act. We will immediately proceed to a series of votes in relation to the remaining amendments. Currently we have nine amendments pending. We hope not all of the amendments will require a rollcall vote.

In addition, there may be a break in the voting sequence because Chairman BAUCUS, Senator GRASSLEY, and others have been invited to the White House. We may begin opening statements on the procurement bill during that time, while the White House meeting is taking place.

All votes following the first vote will be 10 minutes in duration. Senators are encouraged to remain near the Chamber during the series of votes.

Upon disposition of this legislation, the Senate will begin the consideration of S. 454, a bill to improve the organization and procedures of the Department of Defense for the acquisition of major weapons systems.

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

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

RECOGNITION OF THE MINORITY LEADER

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

GUANTANAMO PLAN

Mr. MCCONNELL. Mr. President, it should be clear to everyone at this point that the administration got ahead of itself by announcing an arbitrary closing date for Guantanamo before it even drew up a list of safe alternatives. So I rise this morning to express my continuing concerns about the administration's apparent lack of a plan for detainees at this facility and to press the administration for answers on a number of important questions.

Over the past 2 weeks, I and others have asked the Attorney General to provide the American people with the assurance that closing Guantanamo will keep the American people as safe as Guantanamo has. We have asked a series of questions. So far these questions have gone unanswered. But the questions remain.

Which detainees will be released or transferred overseas?

How do we know these men will not return to the battlefield?

Will they be tried in American courts or will we use military commissions?

Will any be sent to U.S. soil, even though the Senate voted against it 94 to 3?

Finally, what legal basis does the administration have to release trained terrorists into the U.S.?

Americans want answers. Unfortunately, the administration seems more comfortable discussing its plans for the inmates at Guantanamo with a European audience than it is discussing these details with Americans.

Senator SESSIONS wrote a letter to the Attorney General weeks before his trip to Europe asking about the legality of releasing trained terrorists into the U.S. He sent another one to the same effect on Monday. He still has not heard back.

During the same trip, Attorney General Holder talked specifics about Guantanamo with European leaders. He said that the administration has identified 30 detainees at Guantanamo who are ready for release and that he would ''be reaching out to specific countries with specific detainees.'' And according to reports, the administration has presented at least one country with a list of detainees it would like that country to accept.

Americans want to know that on the issue of Guantanamo the administration is as concerned about safety as it is about symbolism. They are concerned about the administration's plans for releasing or transferring some of the most dangerous terrorists alive. They want to know that these terrorists will not end up back on the battlefield or in their backyards.

At the very least, they should know as much about the administration's plans for these men as our European critics do.

So this morning I would like to ask the Attorney General to provide Congress with any information he has provided to foreign governments about his plans for detainees at Guantanamo. If the administration will not relate its plans to the American people or their representatives in Congress, it should at least relate the details of its conversations on this issue with foreign leaders. This is not too much to ask.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the second half.

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

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

DOMESTIC ENERGY PRODUCTION

Mr. JOHANNS. Mr. President, I rise today to discuss some of the energy issues currently facing the American economy. First among them is our dependence on foreign sources of energy.

Last summer, we all experienced the consequences of serving the foreign masters who control most of the oil we consume. In July, oil prices climbed to just under $150 per barrel. Policymakers wrung their hands and scrambled while Americans tried to control their frustration. What did Americans see? They saw prices rising uncontrollably on the global petroleum market. That was especially painful for families. At the same time some at least started to realize that we have abundant reserves right here at home. But these reserves have been actively blocked by Federal policy for over 20 years.

Just how import dependent are we as a nation? Last year we imported about 4.7 billion barrels of oil. Based on an average price of $100 per barrel, Americans shipped about $470 billion overseas, nearly half a trillion dollars. That was just for calendar year 2008 alone.

We need to address this problem by expanding every domestic energy source in an environmentally responsible way. This strategy should include clean and renewable sources. I believe in that.

But one might ask: Why raise this issue now? That was last summer, and this year prices are down some. I raise this issue now to note to Nebraskans and to my Senate colleagues that even though prices have relented, our exposure to foreign oil markets has not changed. That alarms me, and it should alarm my colleagues.

I fear the American people are getting set up again. Unfortunately, United States policy on domestic sources of energy hasn't changed much. For too long our Federal policy on domestic energy sources has consisted of three words: No, no, and no. Unfortunately, since this administration has taken office, we have seen evidence of more of the same tired no, no, no policies. First the administration in February canceled 77 leases for natural gas development in the State of Utah. Can we turn our backs on a domestic resource as critical as this one? We know that natural gas is clean relative to other fossil fuels. We know demand for natural gas is only going to increase. We need look no further than the Capitol's own power plant. The Speaker of the House and her own majority leader announced on Friday that we will no longer burn coal to heat the Capitol complex buildings and water.

What is the alternative? It is natural gas. Most troubling, perhaps, we know that natural gas is not easily transported. So increasing demand translates very quickly into increased price where additional supply is not available. This is not only true for heating; it is especially true for fertilizer and other industrial uses of natural gas. Fertilizer affects my State immensely. For the good of our farmers, for the good of manufacturers, for the good of the Nation, we need to find more domestic sources of natural gas.

If the administration says no to Utah, what about energy exploration in the Outer Continental Shelf, known as the OCS? Since the early 1980s, there has been in place a Federal moratorium of one sort or another on exploration in the OCS. Essentially, most of the Federal waters of the Atlantic and California coasts were off limits to energy development. This is worth repeating. For more than 20 years, Federal policy blocked energy exploration in many of the OCS areas.

Finally, last year, in the face of $4 gasoline and very angry constituents, the moratorium on OCS exploration was lifted. Unfortunately, it appears to have been a short-lived victory.

In February, the administration announced a delay in the rules for exploration and utilization of the natural gas and crude oil off our shores. The administration assures us that the delay is only to pave the way for ''wise decisions.'' But to a savvy American public, it sounds like more of the same. It sounds like a policy of no, no, and no or at least delay, delay, delay some more, especially when they hear that the same script was used for oil shale leases. That is right. The administration in February also withdrew leases for research and development of oil shale on Federal lands in Colorado and Utah where our oil shale resources are equivalent to 800 billion barrels of oil.

The reason: According to the administration, the leases had ''several flaws.''

So what is the promise? The administration would offer a new round of oil shale leases for research and development. I will take the administration at its word but, again, it does sound like a broken record: Delay, delay, delay. So Americans, Nebraskans, and this Senator cannot be faulted for being a bit skeptical, for thinking that the most recent delays are simply more of the same. The day will return—unfortunately, perhaps in the not too distant future—when fuel prices will shoot up. Promises that the administration is doing everything it can may very well ring hollow. Americans will know that 77 leases for natural gas exploration were canceled. Americans will know that OCS and oil shale development and exploration was delayed again. Meanwhile their commutes are not getting any shorter. Their electricity bills are not going down. Fertilizer and food prices are continuing to increase.

There has been a lot of talk from the administration about ending our dependence on foreign oil. I welcome that. I want to be a partner in that.

But so far the actions don't match the promises. The administration's only comprehensive policy document, which would be the budget outline to date, contains no effort to increase domestic production of critical oil and natural gas resources. Instead, the proposal raises taxes on the consumption of energy, spends a small fraction of the revenue on energy research, and claims that it is a strategy to end our dependence on foreign oil. Again, we see a policy of saying no to domestic energy sources.

Research and development in this field—don't get me wrong—is a good thing. It is a great thing, as a matter of fact. But we need to be candid with the American people. This should not be about bait and switch. We cannot promise a plan to end our dependence on foreign oil but give them the President's proposal to reach in the back pocket to take control of more of their money. With an abundant, largely untapped supply here at home, surely the administration can do better than to say their best idea is to restrict demand through an energy tax. That is essentially telling the Americans, your best bet is to buy a sweater because it is going to be costly to heat your home.

I am going to end my comments where I started. I am worried. Nebraskans are frustrated by a policy of saying no to American energy. I am in favor of the expansion of domestic sources of energy of all sorts—wind and solar, wave and tidal and geothermal, alternative biofuels and nuclear—a policy of doing all we can to end our dependence on foreign oil. But I am also for expanding domestic sources of natural gas and crude oil. We need them. It simply makes no sense to buy from abroad, indeed to beg for more oil at times, when we have made it a matter of Federal policy to place our resources off limits. I, as one Senator, will be watchful. The President will send up his budget this week. We will see if the President demonstrates a commitment to bringing on line American natural gas and oil resources. I hope he does. I will be anxious to support that. We will watch and see if the administration continues, though, the policy of no when it comes to energy that is right here at home.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. CASEY. 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.

WITNESS TO HUNGER

Mr. CASEY. Mr. President, I rise this morning to talk about a very important and very moving exhibit I am proud to host in the Capitol complex; in particular, specifically in the Russell Building. The name of the exhibit is called ''Witness to Hunger.'' It is a project created by Dr. Mariana Chilton at Drexel University in Philadelphia, PA, and it is currently on display not far from here in the Russell Building.

To create this exhibit, Dr. Chilton gave cameras—cameras—to 40 women living in Philadelphia so they could document their lives, their struggles with hunger and poverty and so many other challenges. The result is a powerful exhibit of photographs giving us an insight—not the whole picture but an insight—into the lives of these women and the lives they lead and their children's lives and their struggles living today in Philadelphia.

Women who are living in this city—part of this exhibit—try every day to provide a safe and nurturing home for their children, while finding a job that pays a living wage. They labor every day to provide food and medicine for their children. These are women fighting to make sure their children, their families, can have the health care they need. I will have the opportunity today to meet with several of the women who participated in the ''Witness to Hunger'' exhibit and this project. I wish to thank them for their bravery and rare courage to be able to open themselves, open part of their lives to all of us, and for making the trip to Washington so we can hear about their experiences firsthand.

I have always believed that at its best, when it is doing the right thing, Government is about people. It is not, in the end, about budgets and data and information and numbers. That is important, but that is the means to the end. It should be about not every day do we meet this objective, but it should be about and must be about people. Today, we have a real example of that, a real living example of real people's lives. ''Witness to Hunger'' reminds us that the programs we advocate for and work on and new initiatives in Washington that affect people's lives are what we must be about. There is no better investment, in my judgment, than in the future of our children.

I also believe every child in America—every single child—is born with a light inside them. For some, that light will be boundless or scintillating or incandescent. Pick your word. There are no limits to the potential some children have; because of intellect or circumstance or otherwise, their future is indeed boundless. For other children, that light is a little more limited because of those same circumstances. But I also believe, at the same time, no matter whether that light inside a child is boundless or much more limited, it is our obligation to do everything we can to make sure that child's potential—that bright light—is given the opportunity to shine as brightly as possible.

Kids in school right now will be the workforce that will help us build new industries and jobs and transform our economy into the future. The good news is we have already passed some important pieces of legislation that are improving children's lives. Last year, the farm bill included a very strong nutrition section to increase access and benefits for people who use food stamps, now called by the acronym SNAP, but food stamps and other nutrition programs. The Children's Health Insurance Program is another example which will bring the number of children in America who have the benefit of this good program—this time-tested, effective program—to almost 11 million American children. We will have an opportunity to do more because, despite the advancements we have made in children's health insurance, there are still 5 million more children, even when we get to the 10.5 million, 11 million children, 5 million more with no health insurance.

I have a bill on prekindergarten education, and I will be working on that to make sure children have an opportunity for early learning; nutrition programs which also include not just food stamps, as I mentioned before, but the school lunch program, the Women, Infants, and Children Program, and on and on. One of the most important endeavors we will be working on in the near term is the Child Nutrition Act, critically important to make sure children get a healthy start in life.

When we talk about that light inside a child, I do believe we have—all of us in both parties, in both Houses of Congress, and in the administration—all of us have an obligation to make sure that light shines as brightly as possible for each and every child. We do that by doing a number of things. One is to make sure the children have access to early learning, that they have nutrition in the early years of their life, and that they also have health care. If we at least provide that opportunity for every child—nutrition, health care, and early learning—not only will that child be better off, we are all going to be better off in terms of the kind of economy and, therefore, the kind of workforce that is the foundation of that economy we build into the future.

I hope my colleagues and their staffs have a chance to view this exhibit ''Witness to Hunger.'' I also believe it is in keeping with and is consistent with that commitment to make sure the light in every child burns as brightly as possible for each and every child in his or her family. I know that is my obligation as a Senator from Pennsylvania, and I believe it is all our obligations as Senators.

Mr. President, thank you very much. I yield the floor.

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

Mr. GREGG. Mr. President, is the vote at 10:30?

The ACTING PRESIDENT pro tempore. I believe it is 10:40.

Mr. GREGG. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

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

AUTOMOBILE INDUSTRY

Mr. GREGG. Mr. President, I rise to speak about the continuing effort to address the issue of our automobile manufacturers—specifically, Chrysler and General Motors, and especially where the taxpayer ends up in this effort, whether the taxpayer ends up as a winner or a loser.

On the Chrysler bailout proposal, it is pretty clear that if the administration's initiative is followed through, some very significant events will occur that will adversely affect the taxpayer. In fact, instead of getting a brandnew car, the taxpayer is going to let a lemon.

What is being proposed by the administration—or what was proposed prior to the bankruptcy being filed and which is now being pushed by the administration into bankruptcy, as I understand it—is that the three different classes of basic players, relative to the reorganization of Chrysler, would get significantly different treatment. For example, the taxpayer, who has already put $4 billion into Chrysler—the American taxpayer—would have to forgive all of that; all $4 billion would be lost, 100 percent lost under the administration's proposal, and then they would be asked to put another $8 billion into the pot as Chrysler comes out of bankruptcy. In exchange for forgiving the first $4 billion, the taxpayer would get 8 percent of the new Chrysler, the Chrysler that came out of bankruptcy. This was the proposal. I don't think that sounds like a great deal for the taxpayer, to have put $4 billion in and get none of it back—and remember, we just put the $4 billion in—and then to be asked to put another $8 billion in and get an 8-percent stake. It especially doesn't make a lot of sense when you look at what is proposed—well, let's go to the bondholders next, though.

The bondholders would be asked to essentially take an even more significant reduction in their position, which may be legitimate. They would be asked to forgive, I believe—well, I am not absolutely sure of the number they would be asked to forgive, but I think it would be in the multiple-billion-dollar range, and they would be asked to forgive it, even though they may be secured bondholders. So they would be basically wiped out in this process or their interests would be reduced dramatically.

The practical implications of that are that the bondholders had invested poorly, obviously, and specifically, they would have to forgive, I believe, $4 billion of their $6.8 billion of debt, and they would get $2 billion back. But that would be a big haircut, and that is probably reasonable. They made a bad investment. But interestingly enough, even though they are secured creditors, in many instances, or have a higher priority of bond debt than, for example, the UAW debt or maybe even the taxpayer debt, their position would be treated more detrimentally than the taxpayer or the UAW. That doesn't bother me all that much, from the standpoint of the taxpayer. Obviously, we should be treated better than anybody else in this process.

It does bother me a little bit from the standpoint of how you prioritize debt. If we look at what is happening with the UAW in the deal, as proposed by the administration, they would have to forgive, I believe, approximately $6 billion of their outstanding responsibility—outstanding debt—which is about 57 percent of the obligation of Chrysler to the UAW. But in exchange for forgiving that $6 billion, they would get a 55-percent stake in the new company.

So to review this situation, the UAW would forgive 57 percent of their debt owed them by the company—or $6 billion—and they would get 55 percent of the new company. The taxpayer would have to forgive 100 percent of what was just put into Chrysler and would get 8 percent of the new company. The senior bondholders would have to forgive all of their debt, and in exchange they would get $2 billion back. That doesn't make a lot of sense.

Basically, what is happening is, the UAW, the union, is being put in a far superior position than the bondholders, who are secure, or the American taxpayer, who basically was asked to put up $4 billion, and then has that wiped out in exchange for 8 percent of the new company, and then is being asked to put in another $8 billion.

This has two fairly significant implications. First, the taxpayer is buying a lemon, getting a bad deal. We, the taxpayers, are getting a bad deal. Second, the unions are getting a great deal. They are getting a higher status as secured debtors. They are getting a significantly higher return—which is 55 percent versus 8 percent of the new company—than the taxpayer. The process is basically turning on its head the traditional legal order under which people are repaid out of a bankruptcy estate. The taxpayer usually comes first out of a bankruptcy estate. Usually, it is the IRS in that case, then comes senior debt, then comes the issue of debt owed to pension funds, obligations which the unions have, and then comes the common equity. In this structure, it is just the opposite. Well, that change sends a very serious signal to the marketplace that is not good because if people don't know the prioritization of debt, then they don't know how to lend money and what the cost of the money they lend should be.

That is going to affect interest rates and create uncertainty and basically undermine what is an established rule of law that we have in this Nation relative to the prioritization of how people get paid off when somebody goes into bankruptcy. It is a very important issue, one of the things that makes our commercial system different than, say, a place like Russia, where you have no idea what is going to happen when you go into a court system because it is totally arbitrary. In ours, we have a structured proposal, an orderly way of approaching things. Everybody knows what is going to happen if an investment should go south. Everybody knows what their order of priority is in being paid out. In a bankruptcy situation, it is pretty clear.

Yet now comes the administration, and for what appears to be purely political reasons, not economic reasons, because the economic issue is how you basically take a company such as Chrysler and make it competitive again so it can produce cars that people want to buy at a price people can afford—that is the economic issue—and keep it viable to the extent that it is viable. No, this is a political decision to reorder who the winners and losers are in a structure—what amounts to an attempt to structure a bankruptcy before it occurs. That was the administration's initiative.

This is a serious issue. When we start putting politics in place of the law in any area in our Nation, but obviously in the area of commercial activity—when we start picking winners and losers based on the political party's implied interest or interest in seeing a certain segment of the society be the winner versus another segment they see as being less deserving, then we undermine the essence of our commercial activity in this Nation, which is to have knowable, identifiable, ascertainable results, as a result of having a legal system that defines people's property rights.

Yet this administration, in a very cavalier way, has suggested that the UAW should be a huge winner compared to the taxpayers and the bondholders in a manner which has no relationship to what has been the historical priority of status relative to distributing and reorganizing a company—distributing a bankruptcy estate and reorganizing a company.

Why would it occur that this administration would, in a very arbitrary way, try to set aside the rules of priority of ownership and property rights to benefit one group over another group outside of what has been the historical and legal way things have been structured? It is obvious. It doesn't take much to recognize that. The UAW has a huge political influence in this administration and in this Congress. They used that political influence to make sure this deal was structured in a way that most significantly benefitted them. But who is the loser? The loser is the real stakeholders and people to whom we are supposed to have primary responsibility as a government, and that is the taxpayers. The taxpayers are the losers on the face of it, when we

only get 8 percent and the unions get 55 percent of the new company, and we are paying $4 billion and they are paying $6 billion, and then we are putting in another $8 billion on top of our $4 billion. So it ends up being $12 billion, and we only get 8 percent. The unions will put in $6 billion to get 55 percent.

That is not right. It is not appropriate, and it is not fair to the taxpayers of America. But that was the proposal and what is trying to be strong-armed through this system. It is not fair to the taxpayers. It also sets a dangerous precedent of trying to reorganize the stated priority of status relative to the right to recover under a bankruptcy situation or pursuant to secure property issues in a way that could be translated into, significantly, other parts of the economy.

People will now question the status of their debt and inevitably have to charge more in order to try to ensure over the unpredictable consequences of the Government coming in and reordering the priority of the debt. That is dangerous in a commercial society that depends on law in order to set an established order of property rights.

This is a big issue. It hasn't been discussed much. Obviously, the bankruptcy courts have now stepped in because some of the secured parties have said they wouldn't accept the deal. But still the administration pushes this concept of having the taxpayer take a vastly significant, reduced position compared to the UAW, while putting in much more money than the UAW and, at the same time, reordering the priority of property rights.

I hope people will begin to focus on this issue, and I hope our bankruptcy courts will stick with what is the order of the law and not the order of politics.

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

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

The assistant bill clerk (Adam Gottlieb) proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 896, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

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

Dodd (for Grassley/Baucus) modified amendment No. 1020 (to amendment No. 1018), to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program.

Dodd (for Grassley/Baucus) modified amendment No. 1021 (to amendment No. 1018), to amend chapter 7 of title 31, United States Code, to provide the Comptroller General additional audit authorities relating to the Board of Governors of the Federal Reserve System.

Dodd (for Kerry) modified amendment No. 1036 (to amendment No. 1018), to protect the interests of bona fide tenants in the case of any foreclosure on any dwelling or residential real property.

Reed/Bond amendment No.1040 (to amendment No. 1018), to amend the McKinney-Vento Homeless Assistance Act to reauthorize the act.

Casey amendment No. 1033 (to amendment No. 1018), to enhance State and local neighborhood stabilization efforts by providing foreclosure prevention assistance to families threatened with foreclosure and permitting statewide funding competition in minimum allocation States.

Coburn amendment No. 1042 (to amendment No. 1040), to establish a pilot program for the expedited disposal of Federal real property.

Dodd (for Reed) modified amendment No. 1039 (to amendment No. 1018), to address impediments to liquidating warrants.

Dodd (for Boxer) amendment No. 1035 (to amendment No. 1018), to require notice to consumers when a mortgage loan has been sold, transferred, or assigned to a third party.

Dodd (for Schumer) modified amendment No. 1031 (to amendment No. 1018), to establish a multifamily mortgage resolution program.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am going to read a unanimous consent request which will list a lot of numbers, but these numbers relate to Members and the various amendments being offered and the sequencing of them. I say to my colleagues, Senator REED from Rhode Island, Senator BOXER, Senator CASEY, and Senator GRASSLEY, that if they would like a minute to be heard, this consent request includes giving them a minute to address their amendment. That order is: Senator REED, Senator BOXER, Senator CASEY, and Senator GRASSLEY.

Mr. President, I ask unanimous consent that the order for votes be changed as follows and that votes occur in relation to the amendments covered under the previous agreement; that it be in order to consider and agree to the following amendments, en bloc, and that the motions to reconsider be laid upon the table, en bloc: amendment No. 1039, as modified, amendment No. 1035, amendment No. 1033, and amendment No. 1020; that a Member with an amendment being accepted be accorded a minute; further, that the vote sequence now be amendment No. 1036, as modified, amendment No. 1031, as modified, amendment No. 1042, amendment No. 1040, and amendment No. 1021, as modified; further, that the remaining provisions of the previous order remain in effect.

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

The four amendments are agreed to en bloc.

The amendments (Nos. 1039, as modified, 1035, 1033, and 1020) were agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island is entitled to 1 minute.

AMENDMENT NO. 1039, AS MODIFIED

Mr. REED. Mr. President, I thank the chairman.

My amendment makes it very clear that when financial institutions repay their TARP funds, the Secretary of the Treasury is not required to liquidate or surrender the warrants. Warrants were issued to the Department of Treasury in conjunction with the capital injections under TARP. They are valuable financial instruments. They are separate from the TARP funds. I think it is the responsibility of the Secretary of the Treasury to balance many factors, but one factor they must consider is obtaining a substantial return for the taxpayers because of their investment of funds. This will allow him the discretion to do that. It will be an important way in which the Treasury Department can recoup some of the investments of the taxpayers in this program.

I thank the chairman.

Mr. DODD. Mr. President, I strongly endorse the Reed amendment. It is a very strong contribution to the bill. I commend him for it.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1035

Mrs. BOXER. Mr. President, I say thank you, particularly to Chairman DODD but also to Senator SHELBY, with whom I have discussed this amendment. It is very simple. It just says that if you have a mortgage on your home, you ought to know who holds that mortgage note. We say that if your mortgage is sold to someone else, the new party has to let you know who they are and how they can be contacted. This is very important. We have read stories where people cannot find out who holds their mortgage. Frankly, if you are in trouble and you want to renegotiate your mortgage, you need to sit down with the company that holds your note. That is all we do in this amendment.

I am very pleased. It seems like a no-brainer to me. Clearly, the law needs to be made explicit because, frankly, the people who hold the mortgages seem to go into hiding and you cannot find them when you want to find them.

Again, my deepest thanks. I appreciate it.

Mr. DODD. Mr. President, I thank Senator BOXER of California for this amendment. It is so reasonable, and yet so many people have had difficulty. Today, with the securitization of mortgages, that mortgage no longer stays at your bank for the length of that mortgage. Today, it is sold off very quickly. When homeowners want to

find out who actually has that mortgage, it is almost impossible to discover that. Senator BOXER's amendment makes that possible once again, and it is a very valuable contribution to the bill.

Mrs. BOXER. Will the Senator yield?

Mr. DODD. Yes.

Mrs. BOXER. Mr. President, I ask unanimous consent to have printed in the RECORD a letter signed by several consumer organizations supporting this amendment.

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

MAY 4, 2009.

Chairman CHRISTOPHER DODD,
Senate Banking Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD: The undersigned representatives of homeowners strongly urge you to support the amendment offered by Senator Boxer which would only require that homeowners be informed of who owns their mortgage loans. This simple disclosure bill mandates that when a mortgage loan is transferred, the homeowner be informed of how to reach an agent of the new owner with the authority to act on its behalf.

There are many examples of homeowners who were unable to exercise their federal rights, unable to work out a reasonable solution to all parties, unable to avoid a foreclosure, even when the foreclosure will cost the investor money, just because the homeowner did not know, and could not find out the identity of the owner of their home mortgage.

A recent reported case in Pennsylvania illustrates the need for this straightforward amendment (Meyer v. Argent Mortgage Co. (In re Meyer), 379 B.R. 529 (Bankr. E.D. Pa. 2007).) James and Mary Meyer took out a high-rate home loan with Argent Mortgage in 2004. However, when they later attempted to exercise their rights under TILA to rescind that loan, their servicer, Countrywide, refused to identify the current holder. By the time the Meyers discovered that the current holder was Deutsche Bank, the deadline for rescinding the loan had passed. As a result, the court dismissed their claim, even though it found that there were grounds to rescind the loan. Had the Meyers known who their note holder was, they could have exercised their rights under TILA to rescind the loan and cancel the lien against their home.

Current law does require that homeowners be informed when the servicer is changed. Yet, servicers too often refuse to modify loans, because their remuneration will be greater if there is a foreclosure. And, federal law requires that servicers tell the homeowner the identity of the note holder. Yet this provision—15 U.S.C. 1641(f)(2)—has completely failed to protect homeowners because there is no private right of action, and no specific requirement to name a particular party with authority to act on behalf of the owner.

Senator Boxer's simple amendment provides borrowers with the basic right to know who owns their loan by requiring that within 30 days after a mortgage loan is transferred, the new owner would be required to provide the following information: the identity, address, and telephone number of the new creditor; the date of transfer; how to reach an agent or party having authority to act on behalf of the new creditor; the location of the place where the transfer is recorded; and any other relevant information regarding the new creditor.

This is merely a disclosure requirement—to bring a bit of clarity and transparency to the opaque mortgage market. The cost to the industry is small. The benefit to homeowners and communities would be tremendous.

Thank you for your consideration. Please contact Margot Saunders at the National Consumer Law Center with any questions—(202) 452 6252, ext. 104.

Sincerely,

CONSUMER ACTION.
CONSUMER FEDERATION OF AMERICA.
CONSUMERS UNION.
NATIONAL ASSOCIATION OF CONSUMER ADVOCATES.
NATIONAL ASSOCIATION OF NEIGHBORHOODS.
NATIONAL CONSUMER LAW CENTER.
NATIONAL COUNCIL OF LA RAZA.
NATIONAL FAIR HOUSING ALLIANCE.

Mrs. BOXER. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 minute.

AMENDMENT NO. 1033

Mr. CASEY. Mr. President, I thank Chairman DODD and Senator SHELBY, as well, and so many others who made it possible for a lot of these amendments to come together.

Our amendment is very simple. It sets aside up to 10 percent of the dollars allocated for the Neighborhood Stabilization Program, a very good program. We wanted to have some of those dollars used for counseling or for foreclosure prevention and mitigation. This allows that to happen. It is a very good result for people struggling with the terrible problem of foreclosure.

I thank the chairman for his work.

Mr. DODD. I thank the Senator. Having authored the neighborhood stabilization bill, those dollars going back to the communities have been a great asset in order to deal with foreclosed properties and to mitigate. Bridgeport, CT, in my State, is one example. I think all of our colleagues can cite examples. Allowing for the allocation of some of these resources along the lines the Senator from Pennsylvania suggests is a terrific contribution as well. I thank him for it.

AMENDMENT NO. 1020

Senator GRASSLEY was the other admendment. I commend Senator GRASSLEY for his amendment. It is a good amendment, in my view, and one worthy of our support. I am not sure he is going to be able to be here to make a comment. It is a good amendment. I urge my colleagues to support it. We worked on it yesterday, and Senator GRASSLEY is to be commended for his efforts.

AMENDMENT NO. 1036, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1036, as modified, offered by the Senator from Massachusetts, Mr. KERRY.

Mr. KERRY. Mr. President, we have taken a lot of effort to try to help troubled borrowers in communities that have foreclosed properties. Here is the problem that exists. If you are a renter and living in a property that has been foreclosed on, you have nothing to do with the foreclosure, you are paying rent, you have a lease, but a lot of these people are getting kicked out of their apartments, out of their homes.

What we want to do is provide them with a provision where they will have 90 days—if the people who foreclosed are going to use that residence as a primary residence. If the residence is going to continue to be a multiple-party residence where they have a number of people renting and they will continue to use it as such, we want to leave those leases in effect until the end of the lease. We are protecting legitimate, low- to moderate-income folks in America who do not get protections otherwise from being just booted out on the street, which is literally what has happened in the absence of this protection.

This provision will sunset in the year 2012 and only applies to properties with legitimate leases.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. I know colleagues will support it.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I believe this is not a good proposal. This changes the law, as we understand it. It has been working a long time. It will cause all kinds of problems. Once a property is foreclosed, what do you do with it next? It delays it.

I ask my colleagues to oppose the Kerry amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

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 South Dakota (Mr. JOHNSON), 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 57, nays 39, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—57

Akaka	Feingold	Merkley
Baucus	Feinstein	Mikulski
Bayh	Gillibrand	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Inouye	Pryor
Boxer	Kaufman	Reed
Brown	Kerry	Reid
Burris	Klobuchar	Sanders
Byrd	Kohl	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Lautenberg	Snowe
Carper	Leahy	Specter
Casey	Levin	Stabenow
Conrad	Lieberman	Tester
Dodd	Lincoln	
Dorgan	McCaskill	
Durbin	Menendez	

Udall (CO)	Warner	Whitehouse
Udall (NM)	Webb	Wyden

NAYS—39

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

NOT VOTING—3

Johnson	Kennedy	Rockefeller

The amendment (No. 1036), as modified, was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 1039, AS MODIFIED

Mr. DODD. Mr. President, not withstanding its adoption, I ask unanimous consent the Reed amendment, No. 1039, be modified with the change at the desk.

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

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. 126. REMOVAL OF REQUIREMENT TO LIQUIDATE WARRANTS UNDER THE TARP.

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended by striking ''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''.

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

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

Mr. DODD. Mr. President, let me notify my colleagues here, there will be no more votes at this moment. There will be some votes around 1:30. The pending matter is the Schumer amendment. There is some effort being made to see if some agreement can be reached on that. There is an outstanding issue. After that would be Senator COBURN, Senator JACK REED, and Senator GRASSLEY. I know we intended to have two or three votes but, because of these problems, we cannot at this moment, so I leave it to the leadership—1:45, I am now being told, is when the next vote will occur.

With that, 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.

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

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

MORNING BUSINESS

Ms. STABENOW. I ask unanimous consent that the Senate proceed to a period of morning business with Senators allowed to speak for up to 10 minutes each.

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

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that after Senator STABENOW is finished, I then be recognized and then Senator MCCAIN be recognized to offer our statements introducing the bill which will be called up after the final passage of the pending legislation.

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

Mr. REID. I did not hear the Senator's request.

Mr. LEVIN. The suggestion was that we make our opening statements during this lull time. That is fine with Senator MCCAIN and me.

Mr. REID. Mr. President, that would be wonderful. I have spoken to the Republican leader. We can come back and start voting at 1:45. I would ask that be the order.

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

Mr. REID. The problem now is, the Republican leader and I did not know about a problem. So we will come back about 2.

I yield to my distinguished colleague.

SOJOURNER TRUTH

Ms. STABENOW. Mr. President, I rise to salute an outstanding woman who spent the final days of her life in Michigan and will be buried in Battle Creek, MI. It is appropriate that my partner and colleague and friend, Senator LEVIN, is on the floor as well.

I rise to salute a woman who was a pioneer, a patriot, a champion for equal rights, and a proud citizen of Michigan for the last 26 years of her life, Sojourner Truth. Last week she was honored with a bronze bust, a beautiful sculpture by Artis Lane, in Emancipation Hall in the Capitol Visitor Center.

Sojourner Truth was an activist, someone we might call today a community organizer. She was active for civil rights and for women's rights. She was also a mother and a proud American.

Born into slavery, as a young girl she learned only Dutch because that was the language that was spoken by her plantation owner. When she was only 9 years old, she was sold with a flock of sheep for $100 at an auction. Her new owner did not speak Dutch and beat her severely until she learned English. She did learn English, and quickly, but carried a subtle Dutch accent for the rest of her life.

Eventually, she was married, not the man of her choice but the man of her master's choice, and had several children. Sojourner had secured a commitment from the plantation owner that if she worked hard and faithfully, she would be freed. When the State of New York, where she was at the time, began the process of emancipation, she approached the owner and asked him to honor her agreement. He refused.

Infuriated, she went to work. She worked hard until she felt she had upheld her end of the bargain and then she walked away. She said: ''I did not run off, for I thought that wicked, but I walked off, believing that to be all right.''

She began working to free the rest of her family from slavery. When New York finally emancipated all of the slaves, Sojourner found, to her horror, that her 5-year-old son Peter had been illegally sold to a plantation in Alabama. She turned to her faith in God, as she had done when she endured the lash and as she would do as she continued her fight for equal rights.

She turned to her friends in the religious community, especially the Quakers, who offered her comfort and counsel. She turned to the law, to that great promise of America, that liberty and justice are accessible to everyone.

When her son, this little 5-year-old boy, her precious child, walked into the courtroom, Sojourner was stunned. Her tiny son had been abused with such cruelty; he had scars from head to toe. She cried out:

See my poor child. Oh, Lord, render unto them double for all of this!

She won her case, a Black woman against a wealthy White man, a rare occurrence. Less than a year later, that same slaveholder, apparently without little Peter to beat up on, beat and killed his wife. On hearing the news, Sojourner was devastated. She realized her prayer had been answered, but she did not rejoice. She said: ''I did not mean quite so much, God.''

Such character in this woman. Sojourner Truth stands out as someone who has been devoted to values we hold dear today: liberty, equality, justice, and also a deep compassion and sympathy for the suffering of others.

She truly embodied the Christian principles of hope, love, and charity. She eventually came to live in a small religious community called Harmonia, located just outside Battle Creek, MI. There she preached the gospel and traveled around the country, giving speeches and fighting for the abolition of slavery and the rights of women.

Sojourner helped recruit Black troops for the Union Army to end the scourge of slavery. She was a leader in her community, an elder, and a source of inspiration. She was a humanitarian, traveling to Kansas in her eighties to help the refugees who were fleeing discrimination in the South.

She never lost her faith in God or in the inherent goodness of all people, no matter how awful they acted, no matter what terrible things they had done to her. In these trying times, she is truly an example of the kind of person we should all wish to be.

I am proud she chose to make Michigan her home for the last 26 years of her life and her final resting place. We are a State full of fighters, with a spirit that gets us through tough times, which we certainly are facing today.

I am pleased that as visitors come to the Capitol, as they enter Emancipation Hall, they can see Sojourner Truth as she was: A fighter, a spirited woman, a passionate civil rights leader, and a mother filled with compassion, a patriot, and the embodiment of the American ideal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that the pending unanimous consent agreement be modified so Senator DURBIN can be recognized in morning business.

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

MORTGAGE FORECLOSURES

Mr. DURBIN. Madam President, there was a debate last week on the floor of the Senate about the mortgage foreclosure crisis facing America. It was estimated a year ago we were going to lose 2 million homes to mortgage foreclosure.

The new estimate from Moody's is 8 million homes. What does that mean? It means one out of every six home mortgages will face foreclosure. That is a national crisis. It is at the heart of this recession.

The problem, of course, is that those people who have loaned money on these mortgages are content to see them go all the way through foreclosure and become vacant eyesores in neighborhoods across America.

That is not good for the family who lost the home, it is certainly not good for the neighbors next door who watch their real estate values plummet. It turns out, it is not good for the bank. A bank in foreclosure will lose some $50,000 in the process, with all the fees that are associated with it, and then end up with an empty house.

Some 99 percent of homes in foreclosure go back to the bank, and they sit there as eyesores because banks are not landlords; they do not cut the grass, they do not worry about whether the flowers are going to be planted in the spring. They are waiting for something to change economically. While they are waiting, that neighborhood is changing because of that foreclosed home.

A foreclosed home in your neighborhood is going to bring down your property values. We offered the banks this option: We said to the banks and those who hold the mortgages: If you will invite in the borrowers at least 45 days before they would file for bankruptcy, have them bring the legal documents in and calculate what it would take to offer them a mortgage to stay in the home, if you make them the offer of a renegotiated mortgage and they turn it down, then they go to bankruptcy court and, frankly, have no recourse there to turn to, because, you see, bankruptcy courts will not change the mortgage on your home, even if you are in bankruptcy facing foreclosure.

They will change the mortgage on your vacation home, your farm or your ranch but not your primary residence. I literally negotiated with banks for months to try to find out some way we could protect these homeowners to give them a second chance, if, in fact, they had an income and they could, in fact, pay a mortgage, and say to the banks: You have the last word if someone ends up in bankruptcy.

Well, we went through months of negotiations. In the end, virtually all the banks, all the banks except Citigroup, picked up and walked out of the negotiation. They said: We are not interested in negotiating. So the amendment was defeated last week.

I did not receive a single vote on the other side of the aisle and lost several votes on the Democratic side. Some of the people who watched this debate said: Well, why did you call up this measure? It was not going to pass. I called it up for the same reason this year as I did last year. This crisis is getting worse. I have met these people who have lost their homes in foreclosure. I feel a responsibility to them to make an effort so they have a chance to save their homes.

Three of them came to a press conference in Chicago on Monday, each one of them telling a heartbreaking story of a home they worked hard for, and because of some deception in their mortgage or being misled by a mortgage broker or being given a stack of papers they could not possibly absorb and understand, these people were going to lose their homes, many of them in tears after being in these homes for years. Their neighbors came and talked about the same problem. What is it going to mean with this empty house in foreclosure?

So now we find that many of the same people who opposed the idea of dealing directly with mortgage foreclosure are now coming forward when it comes to the bankruptcy of the Chrysler Automobile Corporation.

This morning in the Washington Post, Harold Meyerson had an article entitled: ''What's Good for Chrysler.'' He tells the story of a court hearing. The court hearing is over the potential bankruptcy of Chrysler. The attorneys representing the hedge funds have come out in opposition to the Chrysler bankruptcy workout.

Judge Arthur Gonzalez noted, and I quote from the story, in denying the request of the attorneys for the hedge funds:

> Blocking the loan—
>
> Which is being asked for—
>
> would force Chrysler (and, he could have added, many of its suppliers and dealers) to liquidate—throwing tens (perhaps hundreds) of thousands of Americans out of work during the most serious recession since the 1930s and terminating medical benefits to tens of thousands of Chrysler retirees.
>
> Liquidation—
>
> Which is what the hedge fund attorneys are asking for in Court—
>
> would also compel the American public [the taxpayers] to write off the loans the government has made to the company, rather than become shareholders in the slimmed-down Chrysler, as the Treasury's plan suggests.

What the Department of the Treasury and the workers are trying to do is to save the car company. They understand they have to make massive concessions. They have to change the way they do business. But their ultimate goal is to see Chrysler survive so that jobs will be protected and so that retirees' health benefits will not disappear. So, ultimately, the taxpayers of America who loaned money to Chrysler will be paid back. The hedge funds, many of them also involved in the mortgage crisis, have turned the same deaf ear to Chrysler's situation as they did to mortgage foreclosures. They are in it for one reason—to make a buck, take the profit and go home. They don't care about the ultimate consequence.

The ultimate consequence of Chrysler liquidating is, of course, misfortune for the workers and retirees, but more burdens on taxpayers. What happens to workers who lose their jobs at Chrysler? They draw unemployment benefits, benefits paid for, some by the company and others by taxpayers. What happens to retirees who lose health care benefits? They become more dependent on government programs to help them survive.

Once again, this part of our economy, the financial industry, has shown an insensitivity to the reality of the recession. Whether it is mortgages in Albany Park in the city of Chicago foreclosed upon, changing that neighborhood, or whether it is the Chrysler employees and retirees fighting for their economic lives, the hedge funds on Wall Street have said: We are going to turn a blind eye. We are not going to get involved. We will not make a commitment.

There will come a time, and I hope soon, when there will be a reckoning—it didn't happen last week; it may happen soon—when the Senate stands up for a lot of people who need a voice in this Chamber, many of whom can't afford a lobbyist in the hallway, many of whom are just struggling, hardworking families. Whether they are in Michigan, where Senator LEVIN represents the State, as does Senator STABENOW, or in the State of Illinois which I represent, these people need folks who will stand up and fight for them. It won't be easy.

For those who are prepared to stand up and fight, also be prepared to lose. I

lost on my amendment last week. But I am not going to give up. The defeat of the amendment on mortgage foreclosure is postponing the inevitable. The inevitable is that we are going to have to reckon with the financial institutions in this country and the fact that they do not have the national interest in their hearts when it comes to some of these basic decisions that need to be made.

It is time for us to work with the will of the people of this country and to establish some order that gives working families and homeowners across America a fighting chance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, before the Senator from Illinois leaves the floor, I thank him. He has been a voice, indeed, for people who don't have a voice. He has done that throughout his career both here and in the House. It is a pleasure listening to him.

I believe I asked unanimous consent to have my statement on S. 454 printed in the RECORD immediately after our legislation is called up this afternoon, and with the permission of Senator MCCAIN, I ask unanimous consent to have his statement also printed in the RECORD at that time.

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

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from New York is recognized.

HELPING MOTHERS AND CHILDREN

Mrs. GILLIBRAND. Madam President, I rise today to talk about a bill that I will be introducing called the Elimination of the Single Parent Tax Act.

When I came to the Senate, I reflected often on some of the work I did in the House. As a Congresswoman, I spent a lot of time in my community doing ''Congress on York corner.'' I would go to a local book shop or a senior center or a grocery store and meet with folks and listen to their concerns. I would try very hard to turn those concerns into legislative ideas.

One of the last ones I did as a House Member was in Warren County. A woman said to me:

> Congresswoman, I received a bill from the Federal Government and I need you to do something about it.

She was very visibly upset. She also said to me:

> This is a bill for $25. I am a single mom and I earn about $20,000 a year. I have 3 boys. The Federal Government is billing me because I receive child support. I cannot handle another bill, and while $25 may not seem like a lot to you, it is to me, because $25 is what I spend for my boys for lunch for a week. Please do something about this.

I looked into the issue, and I found out it was part of the Bush administration's Deficit Reduction Act of 2005. It occurred to me, why in the world are we trying to balance the Federal budget on the backs of single parents, particularly those who need that money to provide for their kids? On average, 30 percent of the income that single parents receive is from their child support. So it goes a long way to providing basic needs for their kids, whether it is for diapers, baby formula, food, education, or health care. So I wrote this bill to address this problem. I think it should not be paid by the single parents, or the States, and that, in fact, the overhead should be covered.

This penalty raises only $65 million per year. That is a cost I think we should include as we begin to look at the Deficit Reduction Act this year.

Interestingly enough, in the Deficit Reduction Act, under the Bush administration, they also cut more than $4 billion of incentive payments the Federal Government had made to States to help encourage them to improve child support programs. This funding is crucial to how our single parents provide for their kids.

As we begin to look at Mother's Day, which is right around the corner and it is a time when we all reflect on how much our mothers have done for us and how much we love them, I think we as Federal legislators should do what we can do to protect our mothers and to stand up for them and help them take care of their kids.

If we can pass this bill, it will make a difference for many families in New York State. There are more than 200,000 families who are affected by this tax. For example, over 13,000 single parents in western New York; over 14,000 single parents in Rochester and the Finger Lakes region; over 11,000 single parents in central New York; over 8,000 single parents in the southern tier; over 18,000 single parents in the capital region; over 7,000 single parents in the north country; and over 25,000 single parents in the Hudson Valley.

Right now there are 27 States across the country that are charging this single parent penalty tax. This could make a difference all across our great Nation.

I am going to work very hard with the Finance Committee chairman to strike this fee from the Deficit Reduction Act when it is reviewed by the committee in the coming months.

As we reflect on Mother's Day, we have to do our part to make a difference for our mothers. One other issue that is near and dear to my heart that will make a difference for our moms is the Paycheck Fairness Act. If we look at the statistics, it is pretty unbelievable. For every dollar a man earns, a woman earns only 78 cents. If you are a woman of color, it is even worse. If you are an African-American woman, you will earn 62 cents. If you are Latino, you will earn 53 cents. That is unacceptable and unfair because when women earn more money, they can bring more money home to their families and better provide for their kids. All the statistics show when women earn their fair share, children have better access to education, health care, and opportunities.

As we celebrate Mother's Day, let's do something for our mothers and fight for them so they can protect and provide for their children.

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

The PRESIDING OFFICER. The Senator has that right.

CELEBRATING THE ACHIEVEMENTS OF WEST PREP

Mr. ENSIGN. Madam President, I rise to honor the leaders, visionaries, students, faculty, and the parents at West Prep in North Las Vegas, NV. At a time when disappointing and depressing news seems to fill our days, there is a light of promise beaming from a very unlikely place in my State.

Just a few short years ago, the writing was on the chalkboard for West Middle School. The school was persistently dangerous and consistently the lowest performing middle school in southern Nevada. Madam President, 100 percent of the students are from low-income households, and 92 percent of them are Hispanic or Black. These children had not just been left behind, their futures were sort of swept under the rug for someone else to deal with at another time.

Fortunately, there are educators who will never settle for that. Associate superintendent Dr. Ed Goldman asked if he could take the school over. He hired a young, brash, hungry principal named Dr. Mike Barton and made sure the school had empowerment-level funding. He also gave Dr. Barton tremendous reign over the school. That was in April 2006.

Today, West Prep is a study in education innovation. They extended the school day and provided a third semester as summer school. Forty percent of the children have voluntarily signed up for this summer school. Now they have begun a transition to a full K–12 campus. There is afterschool tutoring. The students wear uniforms. There is a newcomer track for students new to the United States. Science and math classes are divided by gender. There is a law enforcement class that collaborates with the FBI and a Men Mentoring Men program, both of which are keeping kids out of the dean's office. Students feel safe now when they go to this school. Most importantly, they are finally learning.

I had the opportunity to visit this school and observe the students throughout the school. When an adult walks into the classrooms, all of the children stand, say good morning, sit back down, and continue their lesson. They are taught to respect elders.

When I visited that school, I had the opportunity to observe a chemistry class. They were performing a chemistry experiment. I asked one of the students—she was an African-American young lady who had attended the school before Dr. Barton took over: What is the biggest difference between then and now? What was happening now, as opposed to before educators shook things up? She had a very simple reply. She said: Now I get to learn.

It seems like such a simple thing, to be able to learn, almost shocking that those kinds of words would come out of her mouth. But these students had been robbed of that opportunity. We are the greatest Nation on earth, and we have not figured out how to make it so all our kids can learn. Give a child an education—an education that teaches and inspires—and there is no limit to their potential. The test results at West Prep are proof.

This school has seen phenomenal test score growth. Recently, we learned how phenomenal that growth is. Three years ago, only 17 percent at what was then West Middle School could read or perform math at grade level. Only 17 percent. Today, 97 percent of juniors are proficient in reading, 73 percent are proficient in math, and 64 percent are proficient in science. About 80 percent of the juniors were enrolled at the school 3 years ago when Dr. Barton took over. Isn't that amazing?

I am so proud of what Dr. Goldman and Dr. Barton have done, but I am especially proud of the students, the teachers, and the parents at West Prep. Together they have turned the tide. Every day we see at West Prep what quality education can accomplish.

There is still work to do, but there is a can-do feeling that has spread throughout the community, and you feel it when you walk onto the campus. See, Dr. Barton was given freedom to lead that school. He isn't tied down by bureaucracy. He spends most of his time in the school, when a lot of the other principals today go to school district meetings, spend time on bureaucracy. The other thing is, he can fire teachers who are not performing. In fact, when he came onboard, he replaced a majority of the teachers. Remember, he is recruiting teachers into one of, what most people would describe in southern Nevada, the least desirable places to live or teach in southern Nevada. But now he has a team in place that he knows will motivate his students and help them reach their potential. This formula is working.

In 2006, nobody imagined this school could ever reach the level of success it has in such a short period of time. Instead, the school will graduate its first senior class next year. It is raising the bar every day as it shakes up traditional education. Most importantly, the students of West Prep are learning and reaching their full potential.

Congratulations, West Prep. We are all so proud of you and what you have accomplished.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXPRESSIONS OF APPRECIATION

Mr. DODD. Madam President, I am going to read a unanimous consent request in a moment, but before then, because I don't have any time at the conclusion of the last vote before the vote on final passage, I wish to take a minute to thank the majority leader, Senator REID, for making it possible for this bill to be before the Senate this week. I am grateful to him and his staff.

I thank my staff, who have done a terrific job: Jonathan Miller, principally, from my Banking Committee staff, as well as many others from the Banking Committee staff who worked very hard to bring this bill together and to create the opportunity for our colleagues to offer as many as 20 different amendments, most of them in direct relation to the bill but others to add items which will strengthen the bill. I want to specifically thank Colin McGinnis, Beth Cooper, Dean Shahinian, Julie Chon, Brian Filipowich, Misha Mintz-Roth, Deborah Katz, Matt Green, Amy Widestrom, Ella Humphry, and James Bair.

I thank Senator SHELBY and his staff as well—Bill Duhnke, Mark Oesterle, Andrew Olmem, Peggy Kuhn, Hester Pierce, and Jim Johnson. We worked very cooperatively. While there were some differences of opinion on a couple matters involved with this legislation, overall we had great cooperation, as we have had over the past 2 years I have been chairman of the committee. I am grateful to him and his staff for the cooperation they have with my office.

We have a strong committee of some 23 members. Almost a quarter of this body serves on the Banking Committee. They add great value to the process. I am grateful to them.

This is an important matter, not just for financial institutions but, more importantly—I say that with some caution—to open up lines of credit. We need to have an increase in deposit insurance. We need to have an increase in the borrowing authority. Sheila Bair, for whom most of us have great respect, is Chairperson of the Federal Department Insurance Corporation and is doing a wonderful job. This bill includes that.

We have provisions in here to provide a safe harbor for servicers—a key component of the legislation designed to get servicers to pursue loan modifications more aggressively. I thank Senator MARTINEZ of Florida for his contribution to this provision.

I see Senator ENSIGN in the Chamber, who, working with Senator BOXER, added value to this bill as well, making it possible for homeowners to determine who actually holds their mortgages.

Senator GRASSLEY added contributions, as well, to accountability and transparency. Senator REED of Rhode Island has done a great deal in providing greater flexibility in terms of warrants, which I think is going to strengthen the bill as well. Senator REED also contributed groundbreaking legislation to fight homelessness along with Senator BOND.

Invariably, when I start doing this without a note in front of me, I am going to forget some Member and their contribution to the bill. So I will reserve the ability to amend these remarks to make sure I include others who have contributed to this legislation.

But this bill includes the kinds of steps we need to be taking in order to get our economy moving, to increase that confidence and optimism so critical to economic recovery.

Madam President, 10,000 foreclosures a day is unacceptable. This bill will now provide the opportunity for us to be able to reduce that number. Some estimates are that as many as 1.7 million to 2 million homeowners could be positively affected by what we are doing today with this legislation. That is no small number when you consider the total numbers that could be adversely affected. Our hope is that will do just that, to make that kind of a difference, in addition to the other matters I have already mentioned that were added by amendment or included in the underlying bill. So while this is not going to change everything, it is not going to solve every problem, it is a major step in the right direction in terms of this economic recovery we are all interested in.

There is not a Member in this Chamber—regardless of the differences we may have on how to get there—who does not want to do everything in their power to see to it that our country once again has that sense of confidence that has been the hallmark of America for more than two centuries. Certainly, we are going through a difficult time. Individually, people understand it; they know it. We have an administration under President Obama that is working hard to do everything possible to see to it that we move in the right direction.

So I am grateful to my colleagues who have shown a lot of patience over the last several days to get to this point. I thank them for that. Senator KERRY, Senator CASEY, Senator FEINGOLD—I mentioned Senator ENSIGN—

Senator SNOWE, Senator BOND, and Senator PRYOR have all either been sponsors or cosponsors of major amendments on this bill, and I express my gratitude to all of them.

CONCLUSION OF MORNING BUSINESS

Mr. DODD. Madam President, I ask that morning business be closed.

The PRESIDING OFFICER. Morning business is closed.

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009—Continued

Mr. DODD. Madam President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending bill is S. 896.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1031, as modified, offered by the Senator from New York, Mr. SCHUMER.

Mr. DODD. Madam President, before we get to that, I would like to report to Members that we are inching closer to completing action on this legislation. Four amendments remain in order, and votes with respect to these amendments will occur shortly. Those that remain are Schumer amendment No. 1031, as modified; Coburn second-degree amendment No. 1042; Reed of Rhode Island amendment No. 1040, as amended, if amended; and Grassley amendment No. 1021, as modified. Once we have disposed of these four amendments, then the only matter remaining is adoption of the substitute, as amended, and, finally, passage of S. 896. Since there is no time in between, I have given my closing remarks on the value of the legislation.

With that, I guess we turn to Senator SCHUMER.

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

AMENDMENT NO. 1031, AS MODIFIED

Mr. SCHUMER. Mr. President, first, I wish to salute, praise the chairman of our Banking Committee, Chairman DODD, for doing a great job on this bill. I thank him for the good work he has done, and so many others who have worked long and hard on this legislation; Senator SHELBY as well.

Mr. President, I ask unanimous consent that my amendment be modified with the changes at the desk.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. CHAMBLISS. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. SCHUMER. Mr. President, we are asking for a simple change that in no way affects the amendment, in no way affects whether it is going to cost anything. The purpose of the underlying amendment is to ensure that tenants of multifamily housing across the country benefit from the same attention and support of this Government as single-family homeowners will.

We have literally millions of tenants—millions—who, because the homes which they rent are foreclosed, are in very bad shape. They can be removed from their homes. Their homes can deteriorate. Once a home is in foreclosure, often it is not kept up. This is not just in big cities such as New York but around the country. In fact, States such as Tennessee and so many others are on the list which I listed of 15 States that are most affected because it affects not only big multiple dwellings but garden apartments and other residential units. It is unfortunate that the objection is going to stand in the way of helping these tenants.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

AMENDMENT NO. 1031, AS MODIFIED, WITHDRAWN

Mr. SCHUMER. Mr. President, I ask unanimous consent to withdraw the amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, and I will not object, I wish to commend my colleague from New York. I say this through the Chair. We will come back to this issue. I understand an objection has been voiced, but I want to thank our colleague from New York. He raises a very important issue and one that needs to be addressed. I commend him for it. There will be other opportunities, I hope, shortly to come back to this issue.

Mr. SCHUMER. Mr. President, I appreciate that.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, the amendment is withdrawn.

AMENDMENT NO. 1042

Mr. DODD. Mr. President, I believe the next item is the amendment offered by our colleague, Senator COBURN, from Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I have a second-degree amendment to the Reed amendment. What it says is we create a pilot study. We have 69,000 pieces of property we cannot get rid of. It represents $83 billion in assets to us as a government and to the American people. It is $83 billion we would not have.

What we set up is a pilot program that manages 150 pieces of property a year to dispose of them. It gives 20 percent to the agency, 80 percent back to the Government. It creates a way, in a pilot project, for us to do real property reform.

We have gone through and we have created 250 homeless shelters out of 30,000 properties at a cost of $300 million. We are spending over $8 billion a year just maintaining properties we do not want, do not need, yet we cannot get rid of.

This is a simple, straightforward amendment that is common sense. There is no reason why we should not accept this amendment.

With that, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, on behalf of Senator JACK REED of Rhode Island, in a moment I will make a point of order. But Senator COBURN and I, last night, had a short colloquy. He raises a very legitimate point on a larger issue, and he talked about it last evening at some length. I expressed to him then—and I am very sincere about it—that I would like to work with him. We have a lot of properties out there for which it takes too much money to care for them each year. A lot of them probably ought to be destroyed, as the Senator has pointed out. So I want him to know that the point of order being raised here should not reflect the underlying issue he has raised, and I am committed to work with him on that. I think it is a very good idea and one we ought to be aggressive about.

But having said that, Mr. President, on behalf of Senator JACK REED, I raise a point of order that the pending amendment violates section 201 of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

Mr. COBURN. Mr. President, I move to waive the budget point of order, and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

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

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

The yeas and nays resulted—yeas 50, nays 46, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—50

Alexander	Dorgan	McCaskill
Barrasso	Ensign	McConnell
Bayh	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Brownback	Grassley	Pryor
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Carper	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Coburn	Isakson	Snowe
Cochran	Johanns	Thune
Collins	Klobuchar	Vitter
Conrad	Kyl	Voinovich
Corker	Lincoln	Warner
Cornyn	Lugar	Webb
Crapo	Martinez	Wicker
DeMint	McCain	

NAYS—46

Akaka	Bond	Cantwell
Baucus	Boxer	Cardin
Begich	Brown	Casey
Bennet	Burris	Dodd
Bingaman	Byrd	Durbin

Feingold	Leahy	Schumer
Feinstein	Levin	Shaheen
Gillibrand	Lieberman	Specter
Hagan	Menendez	Stabenow
Harkin	Merkley	Tester
Inouye	Mikulski	Udall (CO)
Kaufman	Murray	Udall (NM)
Kerry	Nelson (FL)	Whitehouse
Kohl	Reed	Wyden
Landrieu	Reid	
Lautenberg	Sanders	

NOT VOTING—3

Johnson	Kennedy	Rockefeller

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 50, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

The Senator from Connecticut is recognized.

AMENDMENT NO. 1040

Mr. DODD. Mr. President, what is the pending business before the Senate?

The ACTING PRESIDENT pro tempore. The amendment of the Senator from Rhode Island.

Mr. DODD. Have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. No.

The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, this is a bipartisan effort to reform our homeless programs. This amendment would simplify the application process, give greater flexibility and accountability at the local level. It would also provide additional resources to prevent homelessness. We are in the midst of a huge crisis in terms of people who literally cannot find housing. We have pictures in newspapers of tent cities sprouting up all across the country. We need to act.

This amendment is bipartisan and is supported by Senator BOND and, before him, Senator ALLARD, and Senators BOXER, COLLINS, DURBIN, KERRY, LAUTENBERG, LIEBERMAN, SCHUMER, and WHITEHOUSE. It is good, sensible reform legislation that will make our programs more effective and, hopefully, prevent people from losing their homes and keep them away from these tent cities that are sprouting up. I urge its passage.

Mr. DODD. Mr. President, I strongly endorse this amendment. The Senator deserves a lot of credit, along with Senator BOND.

AMENDMENT NO. 1040

Mr. BOND. Mr. President, I rise to speak in strong support of the Reed-Bond amendment No. 1040. This amendment provides critical and cost-effective tools to reform federal programs that address homelessness. It is identical to S. 808, the Homeless Emergency Assistance and Rapid Transition to Housing Act or HEARTH Act, which I was very proud to cosponsor. The HEARTH Act is a bipartisan bill that builds on and expands programs that have been demonstrated to end and prevent the tragedy of homelessness that afflicts many American individuals and families.

Before I offer some comments on the amendment, I praise Senator JACK REED for his long-term commitment and hard work on addressing homelessness. Senator REED has been a longtime leader in housing issues and I value the strong partnership we have had over the past several years. I also recognize the work of our former colleague, Senator Wayne Allard, who also was heavily involved in this legislation before he retired from this Chamber.

Over 20 years ago, the Federal Government took its first major step in addressing the plight of homelessness through the enactment of the Stewart B. McKinney Homeless Assistance Act. But despite billions of private and public dollars spent on the homeless, millions of veterans, families, disabled, and children have and continue to experience the sad tragedy of homelessness.

Fortunately, through innovative efforts that focused on permanent supportive housing, we have learned that being homeless is no longer a hopeless situation. As the former chair and current ranking member of the Senate Appropriations subcommittee that funds most of the Federal homeless programs through the Department of Housing and Urban Development, I have worked with my colleagues on both sides of the aisle—especially Senators BARBARA MIKULSKI and PATTY MURRAY—to ensure resources were being provided to the appropriate programs. Through this bipartisan partnership, we have protected affordable housing units, boosted resources to help homeless veterans through the HUD-VASH program, and revitalized distressed public housing through the HOPE VI program.

In terms of HUD's homeless assistance grant programs, I can confidently say that these funds have been well-spent as demonstrated by the dramatic drop in homelessness. HUD's national data found that between 2005 and 2007 the number of homeless people experiencing chronic homelessness—our most vulnerable and disabled neighbors—dropped from nearly 176,000 to fewer than 124,000, a decrease of 52,000 or 30 percent. This is clear evidence that through this tried-and-true approach of permanent supportive housing, we can stop the cycle of homelessness.

Under the ''housing first'' approach, we learned that providing permanent supportive housing was the key component in solving homelessness, especially those considered to be chronically homeless. Before we implemented the housing first approach, many homeless people were served through the revolving door of local emergency systems, which interfered with their treatment regimen and resulted in costly hospital and jail stays.

Local emergency systems became clogged with permanent users, reducing their ability to address the more temporary problems of families and individuals. Putting a greater emphasis and resources on permanent supportive housing has become the most critical change over the past several years. Based on recent studies and results I have seen in my home State of Missouri, it has worked.

To implement this approach, I worked with Senator MIKULSKI to include a provision, beginning in the fiscal year 1999 VA–HUD Appropriations Act and carried every year thereafter, to require that at least 30 percent of the Department of Housing and Urban Development's—HUD—homeless assistance grants be used for permanent housing. Focusing a significant amount of funds towards permanent housing helped reverse the revolving door for the homeless using local emergency systems.

We also learned the importance of gathering data and analyzing the characteristics of our homeless population to design and target funds to programs needed to serve the homeless. That is why we established the homeless management information systems or HMIS through appropriations. This not only ensures that local providers have the information to address their particular homeless populations; it ensures that taxpayer funds are being spent effectively and efficiently.

Finally, we learned that despite the involvement of several Federal agencies in serving the homeless, there were gaps in services and coordination was lacking. To address this issue, the U.S. Interagency Council on Homelessness was reactivated to improve Federal, State, and local coordination of homeless programs.

The HEARTH Act codifies these important provisions that have been carried in appropriations and builds on our work over the past several years. It also includes a number of other important provisions that assist rural communities help the homeless, increase local flexibility by combining HUD's competitive grant programs, and provide incentives to house rapidly homeless families.

Homelessness is a national walking around Washington, DC, St. Louis, and other towns and cities across the Nation. But by working together with advocates, the private sector, and government, we can solve homelessness. The HEARTH Act is a prime example of that partnership and greatly advances our ability to end homelessness.

Updating and improving our homeless programs is even more critical as more Americans face the prospects of homelessness due to the economic downturn. The housing crisis has already displaced many families and individuals creating more strain on our social safety net and homeless programs.

Before closing, I offer some concerns about the Federal Housing Administration, FHA. As I have repeatedly stated, the FHA is a powder keg that may explode, leaving taxpayers on the hook if Congress and the administration continue to overburden the government agency.

That is why I have strong reservations about provisions in the Helping Families Save Their Homes Act that loosen the eligibility requirements for the FHA Hope for Homeowners program.

FHA is already showing signs of stress as defaults and foreclosures have been increasing endangering homeowners and communities across the Nation. I also am alarmed by the increasing signs of fraud, which is reportedly rising and at levels comparable or higher than during the subprime boom.

With an agency that is understaffed and challenged by long-standing management and oversight problems, the combination of these factors along with a struggling housing market and economy is a recipe for disaster.

It is critical that the Congress and the administration recognize these problems and not make HUD Secretary Donovan's job harder by placing more risk on FHA until the problems are fixed or the agency will crash and taxpayers will be footing another multi-billion-dollar bailout. While I understand the importance of FHA in many markets where lending is tight, an overburdened FHA does not benefit borrowers, neighbors, and communities if FHA continues to be provide poorly underwritten loans or loans serviced by bad actors.

I urge my colleagues, especially Banking Committee Chairman DODD and Ranking Member SHELBY, to conduct vigorous oversight of FHA and take additional legislative actions to address the agency's weaknesses.

Let me say that again—because this is important—if we continue to overburden FHA this powder keg will explode!

The ACTING PRESIDENT pro tempore. Who yields time in opposition?

Mr. DODD. Mr. President, I urge that we move to the vote and yield back the time.

The ACTING PRESIDENT pro tempore. Is there objection?

All time is yielded back.

Mr. DODD. Mr. President, I ask for a voice vote.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 1040) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1021, AS MODIFIED

Mr. DODD. Mr. President, the pending matter is the Grassley amendment, is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Who yields time on the Grassley amendment?

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

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

The legislative clerk proceeded to call the roll.

Mr. DODD. 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. DODD. Mr. President, my colleague, Senator GRASSLEY, the Senator from Iowa, has offered a very good amendment. I strongly support the Grassley amendment. It increases accountability of transparency at the Federal Reserve. Let me defer to my colleague to explain the amendment.

Mr. GRASSLEY. Before we do that, if the Senator is for it, can we adopt it on a voice vote?

Mr. DODD. I am happy to.

Mr. GRASSLEY. I will use my time.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. GRASSLEY. Mr. President, then let me speak off the cuff. What we have here is following on the President's promise for more transparency in Government—a promise to put everything dealing with bailouts on the Internet. There is more money involved with Federal Reserve and bailouts and stabilizing the economy than even in what we appropriate. So this is to bring transparency to what the Federal Reserve is doing, without affecting monetary policy whatsoever.

I ask us to agree to this amendment to bring transparency because the public's business ought to be public, including taxpayers' money spent by the Federal Reserve.

In March, the Finance Committee held a hearing on the progress and oversight of the Troubled Assets Relief Program, TARP. At that hearing the Government Accountability Office—GAO—testified that it is not just firms that take taxpayer money under TARP who can say ''no'' to GAO's requests for information, prior to my other amendment on this bill. The Federal Reserve can also refuse to cooperate.

The GAO's ability to audit the Federal Reserve is restricted by law. Perhaps those restrictions could be defended back when the Federal Reserve focused only on monetary policy. However, today it is routinely exercising extraordinary emergency powers to subsidize financial firms far above the levels Congress is willing to authorize through legislation. The Federal Reserve is taking on more and more risk in complicated and unprecedented ways. That risk is ultimately borne by the American taxpayer.

Congress authorized $700 billion in funds under TARP. However, the total projected assistance in various initiatives by the Federal Reserve could be up to $3.4 trillion by GAO estimates.

This modified version of the amendment does not give GAO authority to look at all of that additional taxpayer risk. It is much narrower than the one I originally filed, but it is a reasonable step in the right direction, and it does not threaten monetary policy independence.

Although I would have preferred to include all of the Fed's emergency actions under 13(3), in consultation with Senator SHELBY I agreed to limit my amendment to actions aimed at specific companies. I will ask to submit for the RECORD a list of those actions currently covered by the new language, according to Federal Reserve staff. Future actions of the same sort would also be subject to GAO audit.

The goal of this amendment is extend GAO authority to cover the Federal Reserve's emergency actions that are most similar to the TARP—in other words actions aimed at specific companies like Bear Stearns and AIG.

I appreciate the support of Senators SHELBY and DORGAN who are cosponsoring this amendment. I urge my colleagues to support amendment No. 1021. Let's not give GAO an important mission to do with a blindfold on. Let's take off the blindfold get a good hard look at what the Federal Reserve is doing.

I ask unanimous consent that the actions currently covered by the new language to which I referred be printed in the RECORD.

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

According to Federal Reserve staff, the following is a list of 13(3) emergency actions covered by the ''single and specific'' language of amendment No. 1021 to S. 896:

Actions related to Bear Stearns and its acquisition by JP Morgan Chase, including:

a. Loan To Facilitate the Acquisition of The Bear Stearns Companies, Inc. by JPMorgan Chase & Co. (Maiden Lane I)

b. Bridge Loan to The Bear Stearns Companies Inc. Through JPMorgan Chase Bank, N.A.

2. Bank of America—Authorization to Provide Residual Financing to Bank of America Corporation Relating to a Designated Asset Pool (taken in conjunction with FDIC and Treasury)

3. Citigroup—Authorization to Provide Residual Financing to Citigroup, Inc., for a Designated Asset Pool (taken in conjunction with FDIC and Treasury)

4. Various actions to stabilize American International Group (AIG), including a revolving line of credit provided by the Federal Reserve as well as several credit facilities (listed below). AIG has also received equity from Treasury, through the TARP, which would also be captured in amendment #1020.

a. Secured Credit Facility Authorized for American International Group, Inc., on September 16, 2008

b. Restructuring of the Government's Financial Support to American International Group, Inc., on November 10, 2008 (Maiden Lane II and Maiden Lane III)

c. Restructuring of the Government's Financial Support to American International Group, Inc., on March 2, 2009

5. TALF—finally, amendment No. 1020 would expand GAO's authority to oversee the TARP, including the joint Federal Reserve-Treasury Term Asset-Backed Securities Loan Facility (TALF)

Neither amendment No. 1021 nor No. 1020 would include short-term liquidity facilities:

1. Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility

2. (AMLF)

3. Commercial Paper Funding Facility (CPFF)

4. Money Market Investor Funding Facility (MMIFF)
5. Primary Dealer Credit Facility and Other Credit for Broker-Dealers (PDCF)
6. Term Securities Lending Facility (TSLF)

Mr. DODD. Mr. President, I strongly support the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas——

Mrs. HUTCHISON. Mr. President, I move that we vitiate a rollcall vote on this amendment.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—95

Akaka	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	Reed
Boxer	Harkin	Reid
Brown	Hatch	Risch
Brownback	Hutchison	Roberts
Bunning	Inhofe	Sanders
Burr	Inouye	Schumer
Burris	Isakson	Sessions
Byrd	Johanns	Shaheen
Cantwell	Kaufman	Shelby
Cardin	Kerry	Snowe
Carper	Klobuchar	Specter
Casey	Kohl	Stabenow
Chambliss	Kyl	Tester
Coburn	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	

NAYS—1

Alexander

NOT VOTING—3

Johnson	Kennedy	Rockefeller

The amendment (No. 1021), as modified, was agreed to.

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

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Under the previous order, the substitute amendment is agreed to and the motion to reconsider is considered made and laid upon the table.

The amendment (No. 1018), as amended, was agreed to.

PREDATORY LENDING

Ms. KLOBUCHAR. Mr. President, I would like to thank Senator DODD for his efforts to provide solutions to our neighborhoods and middle-class families to address the subprime and foreclosure crisis.

As the Nation struggles to deal with the fallout from subprime lending and the credit crunch, it is critical that families have access to safe, fair and affordable mortgages. Borrower protections, like those we have in Minnesota, should be national policy to help safeguard families across the country.

A decade ago, just 5 percent of mortgage loan originations were subprime—meaning that they were made to borrowers who would not qualify for regular mortgages. By 2005, 20 percent of new mortgages were subprime. This may have expanded access to home ownership, at least temporarily, for some people; but it also greatly increased the risk our system. In Minnesota, in 2000, there were 8,347 subprime mortgages issued. By 2005, it had increased more than fivefold to more than 47,000 subprime mortgages.

However, we now know that between 60 percent-65 percent of people who ended up with subprime mortgages actually qualified for traditional mortgages. We need to make sure this doesn't happen again.

That is why I have introduced the Homeowner Fairness Act, which is comprehensive housing reform legislation that proposes tough new national standards based on the successes of the Minnesota mortgage lending law passed in 2007.

The bill would put in place a number of key reforms. It would require all mortgage originators to verify a borrower's ability to repay a mortgage before giving loan approval. In addition, the bill would require mortgage brokers to have a minimum net worth of $500,000 while also subjecting them to fiduciary duties obligating them to act in the best interest of their clients. It further bans prepayment penalties and limits up-front fees to no more than 5 percent of the initial principal of the loan. Importantly, the bill prohibits ''steering,'' which is the act of approving a loan at a higher rate than that for which a borrower qualifies.

We need to make sure that abusive and exploitative mortgage practices come to an end. For far too long, subprime lenders have put the homes and home equity of Americans at unnecessary risk. These commons sense protections, modeled after Minnesota law, are essential to restoring our economy and preventing a future crisis in the housing market.

Mr. DODD. I thank my colleague from Minnesota for raising this very important issue. I point out that home ownership rates for African Americans, who were disproportionately steered into subprime loans, have actually dropped to levels below where they were prior to the explosion of subprime lending. While I agree that subprime lending can be helpful to borrowers with some credit problems, this lending must be properly regulated, as it so clearly has not been over the past decade.

I appreciate the work Senator KLOBUCHAR has done on this issue. Her bill is based on the Minnesota law, which I understand is one of the more progressive laws in the Nation. I look forward to working with her on this issue as we move forward.

FORECLOSURE SCAM NOTIFICATION

Mr. KOHL. Mr. President, I rise to engage in a colloquy with my colleague from Connecticut and the chairman of the Banking Committee, Senator DODD. As the chairman is aware, I have offered an amendment to S. 896, the helping families save their homes, which would require mortgage servicing companies to issue warnings to homeowners about foreclosure rescue scams. Foreclosure rescue scams have become more prevalent as more and more homeowners lose their homes. These financial predators claim to help desperate homeowners and often, walk away with their home and money.

The issuing of a simple disclosure from a mortgage servicing company would make it easier for people to identify the difference between scam artists and legitimate help. The disclosure requirement would provide the homeowner with a HUD hotline identifying the counseling agencies in their area and would give them a phone number in order to contact their lender. A simple disclosure will provide homeowners with relevant contact information so they can better understand their options and avoid scam artists. I hope that I can work with the chairman on this important issue as the Banking Committee moves forward with future legislation on financial reform.

Mr. DODD. I thank the Senator for raising this important issue. I will work with him to address this issue in future legislation so we can help homeowners avoid foreclosure rescue scams and make sure they get the necessary information to find real help.

Mr. KOHL. I thank the chairman of the Banking Committee for all his help and engaging in this colloquy.

DEFINITION OF HOMELESSNESS

Mrs. MURRAY. Mr. President, I thank my colleague Senator REED for his hard work on this bill. Unfortunately, our homeless shelters and our schools are seeing an increasing number of families and children experiencing homelessness and seeking services. This bill comes at an important time. And I am particularly pleased with the emphasis placed on prevention and rapid rehousing, and efforts to better serve homeless individuals, such as victims of domestic violence.

Mr. President, I would like to inquire of my colleagues Senator REED and

Chairman DODD regarding the definition of homelessness in HEARTH Act and amendment No. 1040.

Mr. REED. Certainly, Mr. President.

Mrs. MURRAY. I thank the Senator. As you know, this amendment contains a new definition of homelessness. Homelessness is an issue I have long been concerned about both the immediate consequences of not having housing, as well as the adverse effects it can have on the broader success of children and families. For example, children that experience homelessness are more likely to fall behind in school and to experience social and emotional difficulties that hinder their academic and workplace success. Therefore, the Federal Government not only helps provide housing services for youth and families, but also education services through the McKinney-Vento Education for Homeless Children and Youths program at the Department of Education.

I appreciate the efforts to broaden the definition of homelessness in the HEARTH Act. It is an important step forward. However, I want to ensure that this new definition of homelessness does not inadvertently cause a lapse in services or cause confusion with the definition of homelessness included in the McKinney Vento Education of Homeless Children and Youth program.

Is it the Senators' intent that the definition of homelessness in the HEARTH Act, which covers homeless youth as well as families, should ever replace or change the definition of homelessness under the McKinney-Vento Education for Homeless Children and Youths program at the U.S. Department of Education?

Mr. REED. I thank the Senator for her important question. The definition of homelessness in the HEARTH Act in no way seeks to replace or change the definition of homelessness in any other statute. The definition of homelessness in the Education for Homeless Children and Youths program is critical to ensuring that homeless students have access to supports and services for their success in school. The definition of homelessness in the HEARTH Act does not and should not change or replace that education definition.

Mr. DODD. I would concur with my colleague, Mr. REED. The definition of homelessness in the HEARTH Act is to apply to matters of housing under the Department of Housing and Urban Development. In fact, the amendment expressly states that the HUD homelessness definition is in no way meant to replace or change the definition of homelessness under the McKinney-Vento Education for Homeless Children and Youths program.

Mrs. MURRAY. I thank the Senators. I have also worked hard on helping to encourage collaboration between the Department of Housing and Urban Development and the Department of Education to ensure the best services possible for homeless youth. Is it the Senators' intent that the Department of Housing and Urban Development should do everything in its power to coordinate with the Department of Education on serving homeless youth, and to ensure that no lapse in services under the Education of Homeless Children and Youths program occurs for students as any new HEARTH Act definition of homelessness is implemented?

Mr. REED. Yes, that is my intent, and it is the intent of the amendment. We continue to work on, particularly with your leadership, encouraging strong communication and coordination between the Department of Housing and Urban Development and the Department of Education on the issue of serving homeless youth. It is my intent to continue to encourage that collaboration and to work to the utmost degree, not just to prevent lapses, but to strengthen education services for homeless students while implementing the HEARTH Act.

Mr. DODD. It is also our intent that the Interagency Council on Homelessness provide increased leadership, coordination, and information on this growing issue of children, youth, and families threatened with homelessness. The amendment requires the Interagency Council to develop a government-wide plan to end homelessness, promote State planning efforts, and of course promote interagency cooperation. We will continue to work with the Council to ensure that the needs of families, children, and youth figure prominently in their efforts.

Mrs. MURRAY. This amendment will broaden HUD's definition of homelessness to include a subset of children and youth who meet the definition of homelessness used by other federal statutes. I appreciate the inclusion of these children and believe it is a step in the right direction. In particular, it covers those children and youth who: (1) have experienced a long-term period without living stably or independently in permanent housing; (2) have experienced persistent instability; and (3) who are likely to continue to do so because of disability or other barriers.

Since these concepts, such as the term ''long term period,'' are open to interpretation, is it the Senators' intent that HUD should consider the needs of children and the effects of instability on their developmental and academic progress when developing the regulations for this provision?

Mr. DODD. Yes, the committee recognizes that the expansion of the definition of homelessness to include these children and families was carried out with the intent of addressing the housing needs and challenges of children and youth who are homeless.

Mrs. MURRAY. Mr. President, by including language that acknowledges the various definitions of homeless in other Federal statutes, is it the Senators' intention that HUD funded homeless providers should be encouraged to engage with homeless providers receiving funds from other Federal agencies to utilize their assessments and counsel in making eligibility determinations.

Mr. DODD. Yes. Federal programs must work together to meet the needs of families and unaccompanied youth, and that collaboration should include information needed for eligibility decisions.

Mrs. MURRAY. I look forward to working with my colleagues and the committee on improving services for students. Lastly, I understand that this amendment prohibits the Secretary from requiring that communities conduct actual counts of families and youth who are newly added to the HUD definition in HUD-mandated homelessness counts. Am I correct that this provision does not prohibit the Secretary from requiring communities to provide estimates of those who are newly added to the definition, so that communities may have a better sense of the shelter and housing needs of all families, children, and youth who will be considered homeless by HUD under this legislation?

Mr. REED. Yes, that is the case. We are open to finding ways to quantify the number of individuals and families experiencing housing instability and look forward to working with the Senator and the administration to do so.

I thank the Senator for her questions, and I look forward to working together on improving the prevention of homelessness and the provision of services to homeless individuals and families in order to break the cycle of homelessness.

Mr. DODD. I also thank the Senator for her questions, and I would be happy to continue working on to address the issue of homelessness with her.

Mrs. MURRAY. I thank the Senators, and I look forward to continuing to work on these issues.

Mr. REID. Mr. President, I received recently a letter from Linda Frazier, a single mom who lives in Las Vegas with her three teen-aged children and at times has had to work two jobs that paid hourly wages.

Linda told me how in recent years, both her income and the value of her house have plummeted. She now fears hers will become the latest Nevada family swallowed up by this devastating housing crisis.

Her story is distressing. It is unacceptable that a hardworking American like Linda wakes up worried every morning about whether she can put a roof over her children's heads. But what struck me most is that she wrote to me: ''I'm about to lose my house, which is the way it is.''

It doesn't have to be the way it is. In a Nation this great and this strong, a family shouldn't have to lose its home when it plays by the rules. And that family certainly shouldn't surrender to thinking that having the American dream vanish is simply ''the way it is.''

But stories like hers happen every day, in every State. The victims of foreclosure include families who did everything right—they put money down

on their new home and took out a responsible mortgage, not one of those interest-only gimmicks.

Nevadans like Linda Frazier have endured an appalling number of foreclosures over the past few years. Just last month, about 20,000 Nevada families received a foreclosure notice. Last year, not a single state had a worse foreclosure rate than Nevada's—this crisis hit one in 14 households.

One of the most underappreciated side effects of this crisis is that the victims of foreclosure aren't just those who live in the foreclosed-upon house.

Vacant homes drive crime up and property values down. Just try putting up a sign that says ''for sale'' next to one that says ''foreclosed.'' The average price of a home in Las Vegas went down more than 31 percent between last February and this February, and more than 40 percent since prices peaked in 2006.

Last fall I walked with Mayor Oscar Goodman of Las Vegas through the hardest-hit neighborhood in the hardest-hit city in the hardest-hit state in the country. A resident there came up to us and told us that the value of her home dropped more than $100,000. She will never get back what she paid for it.

Unfortunately, her situation is now the rule, not the exception. The numbers are shocking: Two out of every three homeowners in Las Vegas owe more on their home than it's worth. The same is true for more than half of homeowners in Nevada, and for one in five across the country.

American homeowners are underwater, and it is our job to help them to dry land.

Last year, after a long struggle, we passed legislation that will help those at risk of losing their homes and prevent foreclosures from happening. We reformed the mortgage-finance industry and helped homeowners get mortgage counseling. We had to file cloture on 7 filibusters. I wish we could have done more.

Democrats insisted that last fall's rescue legislation gave the administration the authority to design other ways to help families, which led to the Obama Administration's Making Home Affordable program. That program continues to be improved, and I am hopeful that many Nevadans will take advantage of it.

Last week, we passed a bill to prevent and prosecute scam artists from preying on homeowners desperate for help. The Nevada Bureau of Consumer Protection receives nearly 100 complaints each month from consumers complaining of possible mortgage scams. The number of fraud cases reported nationwide has almost quadrupled in the past seven years: in 2001 there were 18,000; last year there were 65,000. In the Hispanic community, the number of fraud victims has been disproportionately high.

We will continue to do more to protect the victims of these scams and all struggling homeowners.

I want to thank Chairman DODD for his tireless work in leading the Senate's response to the housing crisis. He shepherded major legislation through the Congress last year, and has done so again with the important bill we are about to pass.

So far, very few have participated in the Hope for Homeowners program, but thanks to Chairman DODD's leadership, this bill improves it by lowering fees for home owners and lenders alike. It also gives lenders greater incentives to encourage their participation. More home owners whose mortgages are underwater could be placed in FHA-guaranteed mortgages.

This bill also gives the Department of Housing and Urban Development the resources it needs to help vulnerable and at-risk home owners. I am grateful to Chairman DODD for incorporating into the underlying bill an amendment I authored that will stop mortgage scams.

I wish more Senators would have followed Senator DURBIN's extraordinary lead and stood up to the banking industry so that we could have done more to help homeowners get relief through bankruptcy. It is simply unfair that struggling homeowners cannot access a bankruptcy court to climb out of a housing crisis like this, but owners of vacation properties can.

Just as our Nation's housing crisis is the root of our nation's economic crisis, these problems in Nevada have inflamed economic challenges in the State.

It is important that we be realistic. Neither these proposals nor any other piece of legislation will solve all of our problems. Forces outside the control of any legislature—whether State or Federal—will always combine to affect housing supply, prices and foreclosures.

Given the size and scope of the struggles too many Nevadans and Americans endure, it will take more time before housing normalizes again. But with this bill, we are working to hasten that day so that no family will ever accept losing its home as ''the way it is.''

Mr. LEVIN. Mr. President, I support the Helping Families Save Their Homes Act of 2009.

The foreclosure situation in my State of Michigan continues to be dire. According to data released by real estate firm RealtyTrac, even though there are less foreclosure filings than this time last year, there were still over 11,000 Michigan foreclosure filings in January 2009 alone. That is 1 foreclosure filing for every 397 households in just 1 month, which puts Michigan's foreclosure rate at the seventh highest in the Nation. Nationwide, foreclosure filings are up 18 percent compared to this time last year.

Unfortunately, homeowners facing foreclosure are not the only ones being impacted by this crisis. Property values have dropped significantly in many areas, due in large part to the increased number of abandoned and foreclosed homes. These losses in property values also decrease State and local revenue from property taxes, creating shortfalls in revenues and reducing funding for important State and local programs and services.

Over the past year, Congress has taken a number of steps to help reduce the effects of this crisis. Today, the Senate is set to pass legislation that will further expand the tools available to homeowners facing foreclosure and increase access to these important programs. This legislation will expand access to the hope for homeowners program by providing incentives for servicers and lenders who participate in the program and streamlining borrower certification requirements. It will also expand the ability of FHA and Rural Housing to modify loans in order to help a homeowner avoid foreclosure and authorize additional funding for foreclosure prevention activities, including housing counseling and additional fair housing field workers.

Importantly, this act also creates additional enforcement tools to ensure the Department of Housing and Urban Development—HUD—is able to go after bad lenders who break the rules or misuse these programs.

In addition to these improvements, the act makes a number of changes to ensure the safety of depositors' savings, and improve the health of the banks and credit unions that are essential to our economic recovery.

Last year, we increased deposit insurance coverage from $100,000 to $250,000. That provision is set to expire at the end of this year. This act will extend the additional coverage for another 4 years. The act will also increase the borrowing authority of the FDIC to $100 billion and of the National Credit Union Administration to $6 billion. Collectively, these changes will help ensure the security of deposits for years to come.

The act also helps banks and credit unions that may be struggling to pay special assessments for their deposit insurance coverage. Due to the economic downturn, the insurance funds for these institutions are seeking additional funding through special assessments. And for many of these institutions, these assessments are at the absolute worst time—while they are trying to stabilize their capital positions. The act responsibly spreads out the period over which the insurance funds may seek these assessments, thereby giving the banks and credit unions the ability to preserve and more effectively use their precious capital. Lastly, the act creates a temporary corporate credit union stabilization fund to help ensure the stability and security of those who rely upon corporate credit unions.

This bill includes many improvements to current programs that will help the country dig out of this foreclosure crisis. To do so will require the efforts of Federal, State, and local governments, as well as community and neighborhood organizations, lenders,

brokers, and borrowers. This act will bring much-needed help to many of our homeowners who are trying desperately to save their homes as well as ensure that their savings are protected, and it deserves my support.

Mr. BEGICH. Mr. President, I commend Senators REED and BOND for bringing up the HEARTH Act in the form of their amendment, and for all the commitment they have shown to addressing homelessness in our Nation. While this amendment seeks to protect the homeless by expanding the definition of homelessness used by the Department of Housing and Urban Development, HUD, to a certain degree, it also places many unfortunate limitations on people living in several circumstances common to those who find themselves or their families temporarily without permanent lodging.

For instance, the definition proposed by my colleagues, Senators REED and BOND, would seem to exclude those who are sharing the housing of others due to loss of housing, economic hardship, or similar reasons, and those who are staying in motels due to the lack of adequate alternative accommodations. It would include people staying in motels if they only have enough money to stay for 14 days, and people in doubled-up situations only if there is ''credible evidence'' that the owner/renter of the housing will not then stay for more than 14 days. More troubling is the fact that children, youth, and families who meet other federal definitions of homelessness are included in the HUD definition only if they have been without permanent housing for a long period of time, and have moved frequently over that time, and can be expected to stay without permanent housing due to numerous barriers.

Over 70 percent of the homeless children and youth identified by public schools across the country last year—more than 500,000 students—were doubled-up or in motels, and therefore ineligible for HUD Homeless Assistance. In my home State of Alaska, the Anchorage School District, the largest in our State, has seen a quantum leap this school year in one category for which no school superintendent or resident can be proud: The number of school children in this State of being ''doubled-up'' numbers have increased 100 percent over last school year. Don't think for a moment that doubled-up families have more stable housing than those in shelters. Doubled-up families change locations 3–12 times in the course of a school year. Families are in shelters generally for 30–90 days.

The Reed-Bond amendment would have the unfortunate effect of continuing to exclude most of these children and youth from HUD services and attention. The failure of the HUD definition to include these families and youth compounds educational problems and makes the task of providing a stable education much more difficult. I hope we can continue to work on this issue to ensure that HUD adopts a definition of homelessness that matches the reality of homelessness among families and youth, and is similar to definitions used by the U.S. Department of Education, the U.S. Department of Health and Human Services, and the U.S. Department of Justice.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), 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.''

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

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—91

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

NAYS—5

Bunning	DeMint	Inhofe
Coburn	Gregg	

NOT VOTING—3

Johnson	Kennedy	Rockefeller

The bill (S. 896), as amended, was passed, as follows:

S. 896

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 ''Helping Families Save Their Homes Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents of this Act 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 of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

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

''(5) DISTRIBUTION OF FUNDS IN CERTAIN STATES; COMPETITION FOR FUNDS.—Each State that receives the minimum allocation of amounts pursuant to the requirement under section 2302 shall be permitted to use such amounts to address statewide concerns, provided that such amounts are made available for an eligible use described under paragraphs (3) and (4) of subsection (c).''; and

(2) in subsection (c), by adding at the end the following:

''(4) FORECLOSURE PREVENTION AND MITIGATION.—

''(A) IN GENERAL.—Each State and unit of general local government that receives an allocation of any covered amounts, as such amounts are distributed pursuant to section 2302, may use up to 10 percent of such amounts for foreclosure prevention programs, activities, and services, foreclosure mitigation programs, activities, and services, or both, as such programs, activities, and services are defined by the Secretary.

''(B) DEFINITION OF COVERED AMOUNTS.—For purposes of this paragraph, the term 'covered amount' means any amounts appropriated—

''(i) under this section as in effect on the date of enactment of this section; and

''(ii) under the heading 'Community Development Fund' of title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 217).''.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the Foreclosure Prevention Act of 2008 (Public Law 110–289).

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).''.

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 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 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 $2,316,000,000,'' 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 203(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 investment fund to identify for the Secretary each investor that, individually or together with its affiliates, directly or indirectly holds equity interests in the fund acquired as a result of—

(i) any investment by such investor or any of its affiliates in a vehicle formed for the purpose of directly or indirectly investing in the fund; or

(ii) any other investment decision by such investor or any of its affiliates to directly or indirectly invest in the fund that, in the aggregate, equal at least 10 percent of the equity interests in such 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 the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(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 $2,331,000,000,'' after ''$700,000,000,000''.

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 under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; or

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

(c) DEFINITION.—For purposes of this section, the term ''federally-related mortgage loan'' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

SEC. 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 initial 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:

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) a lack of affordable housing and limited scale of housing assistance programs are the primary causes of homelessness; and

(2) homelessness affects all types of communities in the United States, including rural, urban, and suburban areas.

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

(1) to consolidate the separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, and the shelter plus care program) into a single program with specific eligible activities;

(2) to codify in Federal law the continuum of care planning process as a required and integral local function necessary to generate the local strategies for ending homelessness; and

(3) to establish a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.

SEC. 1003. DEFINITION OF HOMELESSNESS.

(a) IN GENERAL.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(2) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—For purposes of this Act, the terms 'homeless', 'homeless individual', and 'homeless person' means—

''(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

''(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

''(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

''(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

''(5) an individual or family who—

''(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

''(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

''(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

''(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

''(B) has no subsequent residence identified; and

''(C) lacks the resources or support networks needed to obtain other permanent housing; and

''(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who—

''(A) have experienced a long term period without living independently in permanent housing,

''(B) have experienced persistent instability as measured by frequent moves over such period, and

''(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

''(b) DOMESTIC VIOLENCE AND OTHER DANGEROUS OR LIFE-THREATENING CONDITIONS.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.''.

(b) REGULATIONS.—Not later than the expiration of the 6-month period beginning upon the date of the enactment of this division, the Secretary of Housing and Urban Development shall issue regulations that provide sufficient guidance to recipients of funds under title IV of the McKinney-Vento Homeless Assistance Act to allow uniform and consistent implementation of the requirements of section 103 of such Act, as amended by subsection (a) of this section. This subsection shall take effect on the date of the enactment of this division.

(c) CLARIFICATION OF EFFECT ON OTHER LAWS.—This section and the amendments made by this section to section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) may not be construed to affect, alter, limit, annul, or supersede any other provision of Federal law providing a definition of ''homeless'', ''homeless individual'', or ''homeless person'' for purposes other than such Act, except to the extent that such provision refers to such section 103 or the definition provided in such section 103.

SEC. 1004. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

(a) IN GENERAL.—Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by inserting before the period at the end the following ''whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness'';

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by redesignating paragraph (16) as paragraph (22); and

(ii) by inserting after paragraph (15) the following:

''(16) The Commissioner of Social Security, or the designee of the Commissioner.

''(17) The Attorney General of the United States, or the designee of the Attorney General.

''(18) The Director of the Office of Management and Budget, or the designee of the Director.

''(19) The Director of the Office of Faith-Based and Community Initiatives, or the designee of the Director.

''(20) The Director of USA FreedomCorps, or the designee of the Director.'';

(B) in subsection (c), by striking ''annually'' and inserting ''four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under subsection (b) shall occur at the first meeting of each year''; and

(C) by adding at the end the following:

''(e) ADMINISTRATION.—The Executive Director of the Council shall report to the Chairman of the Council.'';

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (9), (10), and (11), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A), the following:

''(1) not later than 12 months after the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, develop, make available for public comment, and submit to the President and to Congress a National Strategic Plan to End Homelessness, and shall update such plan annually;'';

(C) in paragraph (5), as redesignated by subparagraph (A), by striking ''at least 2, but in no case more than 5'' and inserting ''not less than 5, but in no case more than 10'';

(D) by inserting after paragraph (5), as so redesignated by subparagraph (A), the following:

''(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of jurisdictional 10-year plans to end homelessness at State, city, and county levels;

''(7) annually obtain from Federal agencies their identification of consumer-oriented entitlement and other resources for which persons experiencing homelessness may be eligible and the agencies' identification of improvements to ensure access; develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the reports entitled 'Homelessness: Coordination and Evaluation of Programs Are Essential', issued February 26, 1999, and 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000;

''(8) conduct research and evaluation related to its functions as defined in this section;

''(9) develop joint Federal agency and other initiatives to fulfill the goals of the agency;'';

(E) in paragraph (10), as so redesignated by subparagraph (A), by striking ''and'' at the end;

(F) in paragraph (11), as so redesignated by subparagraph (A), by striking the period at the end and inserting a semicolon;

(G) by adding at the end the following new paragraphs:

''(12) develop constructive alternatives to criminalizing homelessness and eliminate laws and policies that prohibit sleeping, feeding, sitting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person's property without due process, or are selectively enforced against homeless persons; and

''(13) not later than the expiration of the 6-month period beginning upon completion of the study requested in a letter to the Acting Comptroller General from the Chair and Ranking Member of the House Financial Services Committee and several other members regarding various definitions of homelessness in Federal statutes, convene a meeting of representatives of all Federal agencies and committees of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive funding under any Federal program to assist homeless individuals or families, organizations advocating on behalf of such nonprofit providers and homeless persons receiving housing or services under any such Federal program, and homeless persons receiving housing or services under any such Federal program, at which meeting such representatives shall discuss all issues relevant to whether the definitions of 'homeless' under paragraphs (1) through (4) of section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended by section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, should be modified by the Congress, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs identified by the Government Accountability Office in the two reports identified in paragraph (7) of this subsection; and shall submit transcripts of such meeting, and any majority and dissenting recommendations from such meetings, to each committee of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families not later than the expiration of the 60-day period beginning upon conclusion of such meeting.''.

(4) in section 203(b)(1) (42 U.S.C. 11313(b))—

(A) by striking ''Federal'' and inserting ''national'';

(B) by striking ''; and'' and inserting ''and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made;'';

(5) in section 205(d) (42 U.S.C. 11315(d)), by striking ''property.'' and inserting ''property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.''; and

(6) by striking section 208 (42 U.S.C. 11318) and inserting the following:

''SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $3,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal years 2011. Any amounts appropriated to carry out this title shall remain available until expended.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on, and shall apply beginning on, the date of the enactment of this division.

TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS

SEC. 1101. DEFINITIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle A—General Provisions";

(2) by redesignating sections 401 and 402 (42 U.S.C. 11361, 11362) as sections 403 and 406, respectively; and

(3) by inserting before section 403 (as so redesignated by paragraph (2) of this section) the following new section:

"SEC. 401. DEFINITIONS.

''For purposes of this title:

''(1) AT RISK OF HOMELESSNESS.—The term 'at risk of homelessness' means, with respect to an individual or family, that the individual or family—

''(A) has income below 30 percent of median income for the geographic area;

''(B) has insufficient resources immediately available to attain housing stability; and

''(C)(i) has moved frequently because of economic reasons;

''(ii) is living in the home of another because of economic hardship;

''(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

''(iv) lives in a hotel or motel;

''(v) lives in severely overcrowded housing;

''(vi) is exiting an institution; or

''(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

''(2) CHRONICALLY HOMELESS.—

''(A) IN GENERAL.—The term 'chronically homeless' means, with respect to an individual or family, that the individual or family—

''(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

''(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

''(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

''(B) RULE OF CONSTRUCTION.—A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

''(3) COLLABORATIVE APPLICANT.—The term 'collaborative applicant' means an entity that—

''(A) carries out the duties specified in section 402;

''(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

''(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

''(4) COLLABORATIVE APPLICATION.—The term 'collaborative application' means an application for a grant under subtitle C that—

''(A) satisfies section 422; and

''(B) is submitted to the Secretary by a collaborative applicant.

''(5) CONSOLIDATED PLAN.—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

''(6) ELIGIBLE ENTITY.—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such subtitle.

''(7) FAMILIES WITH CHILDREN AND YOUTH DEFINED AS HOMELESS UNDER OTHER FEDERAL STATUTES.—The term 'families with children and youth defined as homeless under other Federal statutes' means any children or youth that are defined as 'homeless' under any Federal statute other than this subtitle, but are not defined as homeless under section 103, and shall also include the parent, parents, or guardian of such children or youth under subtitle B of title VII this Act (42 U.S.C. 11431 et seq.).

''(8) GEOGRAPHIC AREA.—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

''(9) HOMELESS INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

''(i)(I) is expected to be long-continuing or of indefinite duration;

''(II) substantially impedes the individual's ability to live independently;

''(III) could be improved by the provision of more suitable housing conditions; and

''(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

''(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

''(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

''(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

''(10) LEGAL ENTITY.—The term 'legal entity' means—

''(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code;

''(B) an instrumentality of State or local government; or

''(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

''(11) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

''(12) NEW.—The term 'new' means, with respect to housing, that no assistance has been provided under this title for the housing.

''(13) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

''(A) the administration, maintenance, repair, and security of such housing;

''(B) utilities, fuel, furnishings, and equipment for such housing; or

''(C) coordination of services as needed to ensure long-term housing stability.

''(14) OUTPATIENT HEALTH SERVICES.—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse services.

''(15) PERMANENT HOUSING.—The term 'permanent housing' means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

''(16) PERSONALLY IDENTIFYING INFORMATION.—The term 'personally identifying information' means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

''(A) a first and last name;

''(B) a home or other physical address;

''(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

''(D) a social security number; and

''(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

''(17) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

''(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

''(B) that has a voluntary board;

''(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

''(D) that practices nondiscrimination in the provision of assistance.

''(18) PROJECT.—The term 'project' means, with respect to activities carried out under subtitle C, eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

''(19) PROJECT-BASED.—The term 'project-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

''(A) is between—

''(i) the recipient or a project sponsor; and

''(ii) an owner of a structure that exists as of the date the contract is entered into; and

''(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

''(20) PROJECT SPONSOR.—The term 'project sponsor' means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

''(21) RECIPIENT.—Except as used in subtitle B, the term 'recipient' means an eligible entity who—

''(A) submits an application for a grant under section 422 that is approved by the Secretary;

''(B) receives the grant directly from the Secretary to support approved projects described in the application; and

''(C)(i) serves as a project sponsor for the projects; or

''(ii) awards the funds to project sponsors to carry out the projects.

''(22) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(23) SERIOUS MENTAL ILLNESS.—The term 'serious mental illness' means a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

''(24) SOLO APPLICANT.—The term 'solo applicant' means an entity that is an eligible entity, directly submits an application for a grant under subtitle C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

''(25) SPONSOR-BASED.—The term 'sponsor-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

''(A) is between—

''(i) the recipient or a project sponsor; and

''(ii) an independent entity that—

''(I) is a private organization; and

''(II) owns or leases dwelling units; and

''(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

''(26) STATE.—Except as used in subtitle B, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

''(27) SUPPORTIVE SERVICES.—The term 'supportive services' means services that address the special needs of people served by a project, including—

''(A) the establishment and operation of a child care services program for families experiencing homelessness;

''(B) the establishment and operation of an employment assistance program, including providing job training;

''(C) the provision of outpatient health services, food, and case management;

''(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

''(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

''(F) the provision of mental health services, trauma counseling, and victim services;

''(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

''(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

''(I) the provision of—

''(i) transportation services that facilitate an individual's ability to obtain and maintain employment; and

''(ii) health care; and

''(J) other supportive services necessary to obtain and maintain housing.

''(28) TENANT-BASED.—The term 'tenant-based' means, with respect to rental assistance, assistance that—

''(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

''(i) in a particular structure or unit for not more than the first year of the participation;

''(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

''(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

''(29) TRANSITIONAL HOUSING.—The term 'transitional housing' means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

''(30) UNIFIED FUNDING AGENCY.—The term 'unified funding agency' means a collaborative applicant that performs the duties described in section 402(g).

''(31) UNDERSERVED POPULATIONS.—The term 'underserved populations' includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

''(32) VICTIM SERVICE PROVIDER.—The term 'victim service provider' means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

''(33) VICTIM SERVICES.—The term 'victim services' means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.''.

SEC. 1102. COMMUNITY HOMELESS ASSISTANCE PLANNING BOARDS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 401 (as added by section 1101(3) of this division) the following new section:

''SEC. 402. COLLABORATIVE APPLICANTS.

''(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

''(1) submit an application for amounts under this subtitle; and

''(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

''(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

''(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

''(e) APPOINTMENT OF AGENT.—

''(1) IN GENERAL.—Subject to paragraph (2), a collaborative applicant may designate an agent to—

''(A) apply for a grant under section 422(c);

''(B) receive and distribute grant funds awarded under subtitle C; and

''(C) perform other administrative duties.

''(2) RETENTION OF DUTIES.—Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this title.

''(f) DUTIES.—A collaborative applicant shall—

''(1) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

''(A) to determine compliance with—

''(i) the program requirements under section 426; and

''(ii) the selection criteria described under section 427; and

''(B) to establish priorities for funding projects in the geographic area involved;

''(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

''(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as 'HMIS') that—

''(A) collects unduplicated counts of individuals and families experiencing homelessness;

''(B) analyzes patterns of use of assistance provided under subtitles B and C for the geographic area involved;

''(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

''(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

''(i) encryption of data collected for purposes of HMIS;

''(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

''(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

''(iv) rights of persons receiving services under this title;

''(v) criminal and civil penalties for unlawful disclosure of data; and

''(vi) such other standards as may be determined necessary by the Secretary.

''(g) UNIFIED FUNDING.—

''(1) IN GENERAL.—In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

''(A) the collaborative applicant—

''(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

''(ii) is selected to perform such responsibilities by the Secretary; or

''(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

''(i) a finding by the Secretary that the applicant—

''(I) has the capacity to perform such responsibilities; and

''(II) would serve the purposes of this Act as they apply to the geographic area; and

''(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

''(2) REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

''(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

''(h) CONFLICT OF INTEREST.—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.''.

SEC. 1103. GENERAL PROVISIONS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 403 (as so redesignated by section 1101(2) of this division) the following new sections:

''SEC. 404. PREVENTING INVOLUNTARY FAMILY SEPARATION.

''(a) IN GENERAL.—After the expiration of the 2-year period that begins upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, and except as provided in subsection (b), any project sponsor receiving funds under this title to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

''(b) EXCEPTION.—Notwithstanding the requirement under subsection (a), project sponsors of transitional housing receiving funds under this title may target transitional housing resources to families with children of a specific age only if the project sponsor—

''(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

''(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

''SEC. 405. TECHNICAL ASSISTANCE.

''(a) IN GENERAL.—The Secretary shall make available technical assistance to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to adopt and provide best practices in housing and services for persons experiencing homeless.

''(b) RESERVATION.—The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to provide technical assistance under subsection (a).''.

SEC. 1104. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

''SEC. 407. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.

''In the course of awarding grants or implementing programs under this title, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.''.

SEC. 1105. AUTHORIZATION OF APPROPRIATIONS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

''SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.''.

TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM

SEC. 1201. GRANT ASSISTANCE.

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle B—Emergency Solutions Grants Program'';

(2) by striking section 417 (42 U.S.C. 11377);

(3) by redesignating sections 413 through 416 (42 U.S.C. 11373–6) as sections 414 through 417, respectively; and

(4) by striking section 412 (42 U.S.C. 11372) and inserting the following:

''SEC. 412. GRANT ASSISTANCE.

''The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants made with reallocated amounts) for the purpose of carrying out activities described in section 415.

''SEC. 413. AMOUNT AND ALLOCATION OF ASSISTANCE.

''(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 415. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this subtitle and subtitle C for those individuals or families who are homeless.

''(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 415, in consultation with the collaborative applicants.''; and

(5) in section 414(b) (42 U.S.C. 11373(b)), as so redesignated by paragraph (3) of this section, by striking ''amounts appropriated'' and all that follows through ''for any'' and inserting ''amounts appropriated under section 408 and made available to carry out this subtitle for any''.

SEC. 1202. ELIGIBLE ACTIVITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 415 (42 U.S.C. 11374), as so redesignated by section 1201(3) of this division, and inserting the following new section:

''SEC. 415. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

''(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

''(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—

''(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or

''(B) the use of assistance under this subtitle would complement the provision of those essential services.

''(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.

''(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individuals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.

''(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—

''(A) stabilizing individuals and families in their current housing; or

''(B) quickly moving such individuals and families to other permanent housing.

''(b) MAXIMUM ALLOCATION FOR EMERGENCY SHELTER ACTIVITIES.—A grantee of assistance provided under section 412 for any fiscal year may not use an amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—

''(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or

''(2) the amount expended by such grantee for such activities during fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.''.

SEC. 1203. PARTICIPATION IN HOMELESS MANAGEMENT INFORMATION SYSTEM.

Section 416 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11375), as so redesignated by section 1201(3) of this division, is amended by adding at the end the following new subsection:

''(f) PARTICIPATION IN HMIS.—The Secretary shall ensure that recipients of funds under this subtitle ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.''.

SEC. 1204. ADMINISTRATIVE PROVISION.

Section 418 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11378) is amended by striking ''5 percent'' and inserting ''7.5 percent''.

SEC. 1205. GAO STUDY OF ADMINISTRATIVE FEES.

Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall—

(1) conduct a study to examine the appropriate administrative costs for administering the program authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.); and

(2) submit to Congress a report on the findings of the study required under paragraph (1).

TITLE III—CONTINUUM OF CARE PROGRAM

SEC. 1301. CONTINUUM OF CARE.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by striking the subtitle heading for subtitle C of title IV (42 U.S.C. 11381 et seq.) and inserting the following:

''Subtitle C—Continuum of Care Program''; and

(2) by striking sections 421 and 422 (42 U.S.C. 11381 and 11382) and inserting the following new sections:

''SEC. 421. PURPOSES.

''The purposes of this subtitle are—

''(1) to promote community-wide commitment to the goal of ending homelessness;

''(2) to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

''(3) to promote access to, and effective utilization of, mainstream programs described in section 203(a)(7) and programs funded with State or local resources; and

''(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

''SEC. 422. CONTINUUM OF CARE APPLICATIONS AND GRANTS.

''(a) PROJECTS.—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

''(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a notification of funding availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.

''(c) APPLICATIONS.—

''(1) SUBMISSION TO THE SECRETARY.—To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—

''(A) to determine compliance with the program requirements and selection criteria under this subtitle; and

''(B) to establish priorities for funding projects in the geographic area.

''(2) ANNOUNCEMENT OF AWARDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(B) TRANSITION.—For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(d) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

''(1) REQUIREMENTS FOR OBLIGATION.—

''(A) IN GENERAL.—Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).

''(B) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

''(C) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.

''(2) OBLIGATION.—Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

''(3) DISTRIBUTION.—A recipient that receives funds through such a grant—

''(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

''(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

''(4) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs (1) or (2) of section 423(a). The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

''(e) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

''(f) CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.—When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

''(g) MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

''(h) APPEALS.—

''(1) IN GENERAL.—The Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to a collaborative application or solo application for funding.

''(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this subtitle.

''(i) SOLO APPLICANTS.—A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

''(j) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—

''(1) IN GENERAL.—A collaborative applicant may use not more than 10 percent of funds awarded under this subtitle (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 423(a) to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 103(a)(6), but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B), especially with respect to children and unaccompanied youth.

''(2) LIMITATIONS.—The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

''(3) TREATMENT OF CERTAIN POPULATIONS.—

''(A) IN GENERAL.—Notwithstanding section 103(a) and subject to subparagraph (B), funds awarded under this subtitle may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this subtitle.

''(B) AT RISK OF HOMELESSNESS.—Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) from qualifying for, and being treated for purposes of this subtitle as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this subtitle for which individuals or families that are at risk of homelessness are eligible.''.

SEC. 1302. ELIGIBLE ACTIVITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 423 (42 U.S.C. 11383) and inserting the following new section:

''SEC. 423. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Grants awarded under section 422 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

''(1) Construction of new housing units to provide transitional or permanent housing.

''(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.

''(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

''(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this Act, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 429. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

''(5) Payment of operating costs for housing units assisted under this subtitle or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

''(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

''(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

''(A) are effective at moving homeless individuals and families immediately into housing; or

''(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

''(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(f)(3).

''(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

''(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(f), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs.

''(11) In the case of a collaborative applicant that is a unified funding agency under section 402(g), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

''(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this subtitle for such costs.

''(b) MINIMUM GRANT TERMS.—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

''(c) USE RESTRICTIONS.—

''(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

''(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

''(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

''(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

''(1) REPAYMENT.—If a recipient or project sponsor receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

''(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

''(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

''(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

''(3) EXCEPTION.—A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

''(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

''(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle;

''(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

''(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

''(e) STAFF TRAINING.—The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

''(f) ELIGIBILITY FOR PERMANENT HOUSING.—Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 428 may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

''(g) ADMINISTRATION OF RENTAL ASSISTANCE.—Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, or public housing agency.''.

SEC. 1303. HIGH PERFORMING COMMUNITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 424 (42 U.S.C. 11384) and inserting the following:

''SEC. 424. INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

''(a) DESIGNATION AS A HIGH-PERFORMING COMMUNITY.—

''(1) IN GENERAL.—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

''(2) CONSIDERATION.—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of

subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

''(3) 2-YEAR PHASE IN.—In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

''(4) EXCESS OF QUALIFIED APPLICANTS.—If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

''(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

''(b) APPLICATION.—

''(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

''(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

''(A) a report showing how any money received under this subtitle in the preceding year was expended; and

''(B) information that such applicant can meet the requirements described under subsection (d).

''(3) PUBLICATION OF APPLICATION.—The Secretary shall—

''(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

''(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

''(c) USE OF FUNDS.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

''(1) for any of the eligible activities described in section 423; or

''(2) for any of the eligible activities described in paragraphs (4) and (5) of section 415(a).

''(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term 'high-performing community' means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

''(1) TERM OF HOMELESSNESS.—The mean length of episodes of homelessness for that geographic area—

''(A) is less than 20 days; or

''(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

''(2) FAMILIES LEAVING HOMELESSNESS.—Of individuals and families—

''(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

''(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

''(3) COMMUNITY ACTION.—The communities that compose the geographic area have—

''(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

''(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

''(4) EFFECTIVENESS OF PREVIOUS ACTIVITIES.—If recipients in the geographic area have used funding awarded under section 422(a) for eligible activities described under section 415(a) in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

''(5) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—With respect to collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 427(b)(1)(F) according to such standards as the Secretary shall promulgate.

''(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.''.

SEC. 1304. PROGRAM REQUIREMENTS.

Section 426 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11386) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

''(b) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

''(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

''(2) to monitor and report to the Secretary the progress of the project;

''(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

''(4) to require certification from all project sponsors that—

''(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

''(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

''(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

''(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of this Act(42 U.S.C. 11431 et seq.); and

''(E) they will provide data and reports as required by the Secretary pursuant to the Act;

''(5) if a collaborative applicant is a unified funding agency under section 402(g) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(11), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

''(6) to monitor and report to the Secretary the provision of matching funds as required by section 430;

''(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

''(8) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.'';

(2) by redesignating subsection (d) as subsection (c);

(3) in the first sentence of subsection (c) (as so redesignated by paragraph (2) of this subsection), by striking ''recipient'' and inserting ''recipient or project sponsor'';

(4) by striking subsection (e);

(5) by redesignating subsections (f), (g), and (h), as subsections (d), (e), and (f), respectively;

(6) in the first sentence of subsection (e) (as so redesignated by paragraph (5) of this section), by striking ''recipient'' each place it appears and inserting ''recipient or project sponsor'';

(7) by striking subsection (i); and

(8) by redesignating subsection (j) as subsection (g).

SEC. 1305. SELECTION CRITERIA, ALLOCATION AMOUNTS, AND FUNDING.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by repealing section 429 (42 U.S.C. 11389); and

(2) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 432 and 433, respectively; and

(3) by inserting after section 426 the following new sections:

''SEC. 427. SELECTION CRITERIA.

''(a) IN GENERAL.—The Secretary shall award funds to recipients through a national

competition between geographic areas based on criteria established by the Secretary.

''(b) REQUIRED CRITERIA.—

''(1) IN GENERAL.—The criteria established under subsection (a) shall include—

''(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 412 (except that recipients applying from geographic areas where no funds have been awarded under this subtitle, or under subtitles C, D, E, or F of title IV of this Act, as in effect prior to the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

''(i) the length of time individuals and families remain homeless;

''(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

''(iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;

''(iv) overall reduction in the number of homeless individuals and families;

''(v) jobs and income growth for homeless individuals and families;

''(vi) success at reducing the number of individuals and families who become homeless;

''(vii) other accomplishments by the recipient related to reducing homelessness; and

''(viii) for collaborative applicants that have exercised the authority under section 422(j) to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in section 427(b)(1)(F);

''(B) the plan of the recipient, which shall describe—

''(i) how the number of individuals and families who become homeless will be reduced in the community;

''(ii) how the length of time that individuals and families remain homeless will be reduced;

''(iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.);

''(iv) the extent to which the recipient will—

''(I) address the needs of all relevant subpopulations;

''(II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 428(d);

''(III) set quantifiable performance measures;

''(IV) set timelines for completion of specific tasks;

''(V) identify specific funding sources for planned activities; and

''(VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

''(v) whether the recipient proposes to exercise authority to use funds under section 422(j), and if so, how the recipient will achieve the goals and outcomes identified in section 427(b)(1)(F);

''(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

''(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

''(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

''(iii) is based on objective criteria that have been publicly announced by the recipient; and

''(iv) is open to proposals from entities that have not previously received funds under this subtitle;

''(D) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 203(a)(7);

''(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

''(F) for collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

''(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this title; or

''(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

''(G) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

''(2) ADDITIONAL CRITERIA.—In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

''(A) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro rata estimated grant amount under this subtitle for the geographic area represented by the collaborative applicant.

''(B) AMOUNT.—

''(i) FORMULA.—Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this subtitle.

''(ii) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

''(iii) AUTHORITY OF SECRETARY.—Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

''(3) HOMELESSNESS COUNTS.—The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act (42 U.S.C. 11302(a)).

''(c) ADJUSTMENTS.—The Secretary may adjust the formula described in subsection (b)(2) as necessary—

''(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

''(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this Act.

''SEC. 428. ALLOCATION OF AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

''(a) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS INDIVIDUALS AND FAMILIES WITH DISABILITIES.—

''(1) IN GENERAL.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

''(2) CALCULATION.—In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

''(3) ADJUSTMENT.—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

''(4) SUSPENSION.—The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this subtitle after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this subtitle.

''(5) TERMINATION.—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

''(b) SET-ASIDE FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH CHILDREN.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

''(c) TREATMENT OF AMOUNTS FOR PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act may be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

''(d) INCENTIVES FOR PROVEN STRATEGIES.—

''(1) IN GENERAL.—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this

subtitle for activities that have been proven to be effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

''(A) permanent supportive housing for chronically homeless individuals and families;

''(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

''(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

''(3) BALANCE OF INCENTIVES FOR PROVEN STRATEGIES.—To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not implement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

''(e) INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or paragraphs (4) and (5) of section 415(a) for homeless people generally or for the relevant subpopulation.

''SEC. 429. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

''(a) IN GENERAL.—Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

''(1) under the appropriations account for this title; or

''(2) the section 8 project-based rental assistance account.

''(b) RENEWALS.—The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

''(1) there is a demonstrated need for the project; and

''(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

''SEC. 430. MATCHING FUNDING.

''(a) IN GENERAL.—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions from any source other than a grant awarded under this subtitle, including renewal funding of projects assisted under subtitles C, D, and F of this title as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

''(b) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

''(c) COUNTABLE ACTIVITIES.—The contributions required under subsection (a) may consist of—

''(1) funding for any eligible activity described under section 423; and

''(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.

''SEC. 431. APPEAL PROCEDURE.

''(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the consolidated plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

''(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

''(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.''.

SEC. 1306. RESEARCH.

There is authorized to be appropriated $8,000,000, for each of fiscal years 2010 and 2011, for research into the efficacy of interventions for homeless families, to be expended by the Secretary of Housing and Urban Development over the 2 years at 3 different sites to provide services for homeless families and evaluate the effectiveness of such services.

TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM

SEC. 1401. RURAL HOUSING STABILITY ASSISTANCE.

Subtitle G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle G—Rural Housing Stability Assistance Program''; and

(2) in section 491—

(A) by striking the section heading and inserting ''**RURAL HOUSING STABILITY GRANT PROGRAM**.'';

(B) in subsection (a)—

(i) by striking ''rural homelessness grant program'' and inserting ''rural housing stability grant program'';

(ii) by inserting ''in lieu of grants under subtitle C'' after ''eligible organizations''; and

(iii) by striking paragraphs (1), (2), and (3), and inserting the following:

''(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

''(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

''(3) improving the ability of the lowest-income residents of the community to afford stable housing.'';

(C) in subsection (b)(1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (I), (J), and (K), respectively; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness;

''(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

''(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

''(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

''(H) payment of operating costs for housing units assisted under this title;'';

(D) in subsection (b)(2), by striking ''appropriated'' and inserting ''transferred'';

(E) in subsection (c)—

(i) in paragraph (1)(A), by striking ''appropriated'' and inserting ''transferred''; and

(ii) in paragraph (3), by striking ''appropriated'' and inserting ''transferred'';

(F) in subsection (d)—

(i) in paragraph (5), by striking ''; and'' and inserting a semicolon;

(ii) in paragraph (6)—

(I) by striking ''an agreement'' and all that follows through ''families'' and inserting the following: ''a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization''; and

(II) by striking the period at the end, and inserting a semicolon; and

(iii) by adding at the end the following:

''(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and

''(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.'';

(G) by striking subsections (f) and (g) and inserting the following:

''(f) MATCHING FUNDING.—

''(1) IN GENERAL.—An organization eligible to receive a grant under subsection (a) shall

specify matching contributions from any source other than a grant awarded under this subtitle, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

''(2) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

''(3) COUNTABLE ACTIVITIES.—The contributions required under paragraph (1) may consist of—

''(A) funding for any eligible activity described under subsection (b); and

''(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

''(g) SELECTION CRITERIA.—The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

''(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

''(2) the degree to which the project addresses the most harmful housing situations present in the community;

''(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

''(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

''(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

''(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

''(7) any other relevant criteria as determined by the Secretary.'';

(H) in subsection (h)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking ''The'' and inserting ''Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the''; and

(ii) in paragraph (1)(A), by striking ''providing housing and other assistance to homeless persons'' and inserting ''meeting the goals described in subsection (a)'';

(iii) in paragraph (1)(B), by striking ''address homelessness in rural areas'' and inserting ''meet the goals described in subsection (a) in rural areas''; and

(iv) in paragraph (2)—

(I) by striking ''The'' and inserting ''Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the'';

(II) by striking '', not later than 18 months after the date on which the Secretary first makes grants under the program,''; and

(III) by striking ''prevent and respond to homelessness'' and inserting ''meet the goals described in subsection (a)'';

(I) in subsection (k)—

(i) in paragraph (1), by striking ''rural homelessness grant program'' and inserting ''rural housing stability grant program''; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''; or'' and inserting a semicolon;

(II) in subparagraph (B)(ii), by striking ''rural census tract.'' and inserting ''county where at least 75 percent of the population is rural; or''; and

(III) by adding at the end the following:

''(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 102 of the Housing and Community Development Act of 1974) in such State is the sole beneficiary of the grant amounts awarded under this section.'';

(J) in subsection (l)—

(i) by striking the subsection heading and inserting ''PROGRAM FUNDING.—''; and

(ii) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under section 427(b)(2) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under subtitle C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under subtitle C.''; and

(K) by adding at the end the following:

''(m) DETERMINATION OF FUNDING SOURCE.—For any fiscal year, in addition to funds awarded under subtitle B, funds under this title to be used in a city or county shall only be awarded under either subtitle C or subtitle D.''.

SEC. 1402. GAO STUDY OF HOMELESSNESS AND HOMELESS ASSISTANCE IN RURAL AREAS.

(a) STUDY AND REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall conduct a study to examine homelessness and homeless assistance in rural areas and rural communities and submit a report to the Congress on the findings and conclusion of the study. The report shall contain the following matters:

(1) A general description of homelessness, including the range of living situations among homeless individuals and homeless families, in rural areas and rural communities of the United States, including tribal lands and colonias.

(2) An estimate of the incidence and prevalence of homelessness among individuals and families in rural areas and rural communities of the United States.

(3) An estimate of the number of individuals and families from rural areas and rural communities who migrate annually to nonrural 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 nonrural communities.

(9) An assessment of the current roles of the Department of Housing and Urban Development, the Department of Agriculture, and other Federal departments and agencies in administering homeless assistance programs in rural areas and rural communities and recommendations for distributing Federal responsibilities, including homeless assistance program administration and grantmaking, among the departments and agencies so that service organizations in rural areas and rural communities are most effectively reached and supported.

(b) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Agriculture.

(2) The Secretary of Housing and Urban Development.

(3) The Secretary of Health and Human Services.

(4) The Secretary of Education.

(5) The Secretary of Labor.

(6) The Secretary of Veterans Affairs.

(7) The Executive Director of the United States Interagency Council on Homelessness.

(8) Project sponsors and recipients of homeless assistance grants serving rural areas and rural communities.

(9) Individuals and families in or from rural areas and rural communities who have sought or are seeking Federal homeless assistance services.

(10) National advocacy organizations concerned with homelessness, rural housing, and rural community development.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division

TITLE V—REPEALS AND CONFORMING AMENDMENTS

SEC. 1501. REPEALS.

Subtitles D, E, and F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., and 11403 et seq.) are hereby repealed.

SEC. 1502. CONFORMING AMENDMENTS.

(a) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act (as so redesignated by section 1101(2) of this division), is amended—

(1) by striking ''current housing affordability strategy'' and inserting ''consolidated plan''; and

(2) by inserting before the comma the following: ''(referred to in such section as a 'comprehensive housing affordability strategy')''.

(b) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), as amended by the preceding provisions of this division, is further amended by adding at the end the following new subsection:

''(e) PERSONS EXPERIENCING HOMELESSNESS.—Any references in this Act to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.''.

(c) RURAL HOUSING STABILITY ASSISTANCE.—Title IV of the McKinney-Vento Homeless Assistance Act is amended by redesignating subtitle G (42 U.S.C. 11408 et seq.), as amended by the preceding provisions of this division, as subtitle D.

SEC. 1503. EFFECTIVE DATE.

Except as specifically provided otherwise in this division, this division and the amendments made by this division shall take effect on, and shall apply beginning on—

(1) the expiration of the 18-month period beginning on the date of the enactment of this division, or

(2) the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504,

whichever occurs first.

SEC. 1504. REGULATIONS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this division, the Secretary of Housing and Urban Development shall promulgate regulations governing the operation of the programs that are created or modified by this division.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

SEC. 1505. AMENDMENT TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the item relating to the heading for title IV and all that follows through the item relating to section 492 and inserting the following new items:

''TITLE IV—HOUSING ASSISTANCE

''Subtitle A—General Provisions

''Sec. 401. Definitions.
''Sec. 402. Collaborative applicants.
''Sec. 403. Housing affordability strategy.
''Sec. 404. Preventing involuntary family separation
''Sec. 405. Technical assistance.
''Sec. 406. Discharge coordination policy.
''Sec. 407. Protection of personally identifying information by victim service providers.
''Sec. 408. Authorization of appropriations.

''Subtitle B—Emergency Solutions Grants Program

''Sec. 411. Definitions.
''Sec. 412. Grant assistance.
''Sec. 413. Amount and allocation of assistance.
''Sec. 414. Allocation and distribution of assistance.
''Sec. 415. Eligible activities.
''Sec. 416. Responsibilities of recipients.
''Sec. 417. Administrative provisions.
''Sec. 418. Administrative costs.

''Subtitle C—Continuum of Care Program

''Sec. 421. Purposes.
''Sec. 422. Continuum of care applications and grants.
''Sec. 423. Eligible activities.
''Sec. 424. Incentives for high-performing communities.
''Sec. 425. Supportive services.
''Sec. 426. Program requirements.
''Sec. 427. Selection criteria.
''Sec. 428. Allocation of amounts and incentives for specific eligible activities.
''Sec. 429. Renewal funding and terms of assistance for permanent housing.
''Sec. 430. Matching funding.
''Sec. 431. Appeal procedure.
''Sec. 432. Regulations.
''Sec. 433. Reports to Congress.

''Subtitle D—Rural Housing Stability Assistance Program

''Sec. 491. Rural housing stability assistance.
''Sec. 492. Use of FHMA inventory for transitional housing for homeless persons and for turnkey housing.''.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank the Presiding Officer, the floor staff, and others for their work. I thank my colleagues and the staff as well for the tremendous work on this bill over the last several days.

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

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

WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 454, which the clerk will report.

The assistant legislative clerk read as follows:

A 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.

The Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Weapon Systems Acquisition Reform Act of 2009''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) The term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

(2) The term ''major defense acquisition program'' has the meaning given that term in section 2430 of title 10, United States Code.

TITLE I—ACQUISITION ORGANIZATION

SEC. 101. REPORTS ON SYSTEMS ENGINEERING CAPABILITIES OF THE DEPARTMENT OF DEFENSE.

(a) REPORTS BY SERVICE ACQUISITION EXECUTIVES.—Not later than 180 days after the date of the enactment of this Act, the service acquisition executive of each military department shall submit to the Under Secretary of Defense for Acquisition, Technology, and Logistics a report setting forth the following:

(1) A description of the extent to which such military department has in place development planning organizations and processes staffed by adequate numbers of personnel with appropriate training and expertise to ensure that—

(A) key requirements, acquisition, and budget decisions made for each major weapon system prior to Milestones A and B are supported by a rigorous systems analysis and systems engineering process;

(B) the systems engineering strategy for each major weapon system includes a robust program for improving reliability, availability, maintainability, and sustainability as an integral part of design and development; and

(C) systems engineering requirements, including reliability, availability, maintainability, and sustainability requirements, are identified during the Joint Capabilities Integration Development System process and incorporated into contract requirements for each major weapon system.

(2) A description of the actions that such military department has taken, or plans to take, to—

(A) establish needed development planning and systems engineering organizations and processes; and

(B) attract, develop, retain, and reward systems engineers with appropriate levels of hands-on experience and technical expertise to meet the needs of such military department.

(b) REPORT BY UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Not later than 270 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the system engineering capabilities of the Department of Defense. The report shall include, at a minimum, the following:

(1) An assessment by the Under Secretary of the reports submitted by the service acquisition executives pursuant to subsection (a) and of the adequacy of the actions that each military department has taken, or plans to take, to meet the systems engineering and development planning needs of such military department.

(2) An assessment of each of the recommendations of the report on Pre-Milestone A and Early-Phase Systems Engineering of the Air Force Studies Board of the National Research Council, including the recommended checklist of systems engineering issues to be addressed prior to Milestones A and B, and the extent to which such recommendations should be implemented throughout the Department of Defense.

SEC. 102. DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.

(a) ESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—Chapter 4 of title 10, United States Code, is amended by inserting after section 139b the following new section:

''§ 139c. Director of Developmental Test and Evaluation

''(a) There is a Director of Developmental Test and Evaluation, who shall be appointed by the Secretary of Defense from among individuals with an expertise in acquisition and testing.

''(b)(1) The Director of Developmental Test and Evaluation shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on developmental test and evaluation in the Department of Defense.

''(2) The individual serving as the Director of Developmental Test and Evaluation may also serve concurrently as the Director of the Department of Defense Test Resource Management Center under section 196 of this title.

''(3) The Director shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary.

''(4)(A) The Under Secretary shall provide guidance to the Director to ensure that the developmental test and evaluation activities of the Department of Defense are fully integrated into and consistent with the systems engineering and development processes of the Department.

''(B) The guidance under this paragraph shall ensure, at a minimum, that—

''(i) developmental test and evaluation requirements are fully integrated into the Systems Engineering Master Plan for each major defense acquisition program; and

''(ii) systems engineering and development planning requirements are fully considered in the Test and Evaluation Master Plan for each major defense acquisition program.

''(c) The Director of Developmental Test and Evaluation shall—

''(1) develop policies and guidance for the developmental test and evaluation activities of the Department of Defense (including integration and developmental testing of software);

''(2) monitor and review the developmental test and evaluation activities of the major defense acquisition programs and major automated information systems programs of the Department of Defense;

''(3) review and approve the test and evaluation master plan for each major defense acquisition program of the Department of Defense;

''(4) supervise the activities of the Director of the Department of Defense Test Resource Management Center under section 196 of this title, or carry out such activities if serving concurrently as the Director of Developmental Test and Evaluation and the Director of the Department of Defense Test Resource Management Center under subsection (b)(2);

''(5) review the organizations and capabilities of the military departments with respect to developmental test and evaluation and identify needed changes or improvements to such organizations and capabilities; and

''(6) perform such other activities relating to the developmental test and evaluation activities of the Department of Defense as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

''(d) The Director of Developmental Test and Evaluation shall have access to all records and data of the Department of Defense (including the records and data of each military department) that the Director considers necessary in order to carry out the Director's duties under this section.

''(e)(1) The Director of Developmental Test and Evaluation shall submit to Congress each year a report on the developmental test and evaluation activities of the major defense acquisition programs and major automated information system programs of the of the Department of Defense. Each report shall include, at a minimum, the following:

''(A) A discussion of any waivers to testing activities included in the Test and Evaluation Master Plan for a major defense acquisition program in the preceding year.

''(B) An assessment of the organization and capabilities of the Department of Defense for test and evaluation.

''(2) The Secretary of Defense may include in any report submitted to Congress under this subsection such comments on such report as the Secretary considers appropriate.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of such title is amended by inserting after the item relating to section 139b the following new item:

''139c. Director of Developmental Test and Evaluation.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 196(f) of title 10, United States Code, is amended by striking ''the Under Secretary of Defense for Acquisition, Technology, and Logistics'' and all that follows and inserting ''the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of Developmental Test and Evaluation.''.

(B) Section 139(b) of such title is amended—

(i) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively; and

(ii) by inserting after paragraph (3) the following new paragraph (4):

''(4) review and approve the test and evaluation master plan for each major defense acquisition program of the Department of Defense;''.

(b) REPORTS ON DEVELOPMENTAL TESTING ORGANIZATIONS AND PERSONNEL.—

(1) REPORTS BY SERVICE ACQUISITION EXECUTIVES.—Not later than 180 days after the date of the enactment of this Act, the service acquisition executive of each military department shall submit to the Director of Developmental Test and Evaluation a report on the extent to which the test organizations of such military department have in place, or have effective plans to develop, adequate numbers of personnel with appropriate expertise for each purpose as follows:

(A) To ensure that testing requirements are appropriately addressed in the translation of operational requirements into contract specifications, in the source selection process, and in the preparation of requests for proposals on all major defense acquisition programs.

(B) To participate in the planning of developmental test and evaluation activities, including the preparation and approval of a test and evaluation master plan for each major defense acquisition program.

(C) To participate in and oversee the conduct of developmental testing, the analysis of data, and the preparation of evaluations and reports based on such testing.

(2) FIRST ANNUAL REPORT BY DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION.—The first annual report submitted to Congress by the Director of Developmental Test and Evaluation under section 139c(e) of title 10, United States Code (as added by subsection (a)), shall be submitted not later than one year after the date of the enactment of this Act, and shall include an assessment by the Director of the reports submitted by the service acquisition executives to the Director under paragraph (1).

SEC. 103. ASSESSMENT OF TECHNOLOGICAL MATURITY OF CRITICAL TECHNOLOGIES OF MAJOR DEFENSE ACQUISITION PROGRAMS BY THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

(a) ASSESSMENT BY DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—

(1) IN GENERAL.—Section 139a of title 10, United States Code, is amended by adding at the end the following new subsection:

''(c)(1) The Director of Defense Research and Engineering shall periodically review and assess the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense and report on the findings of such reviews and assessments to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

''(2) The Director shall submit to the Secretary of Defense and to Congress each year a report on the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense.''.

(2) FIRST ANNUAL REPORT.—The first annual report under subsection (c)(2) of section 139a of title 10, United States Code (as added by paragraph (1)), shall be submitted to Congress not later than March 1, 2011, and shall address the results of reviews and assessments conducted by the Director of Defense Research and Engineering pursuant to subsection (c)(1) of such section (as so added) during the preceding calendar year.

(b) REPORT ON RESOURCES FOR IMPLEMENTATION.—Not later than 120 days after the date of the enactment of this Act, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report describing any additional resources, including specialized workforce, that may be required by the Director, and by other science and technology elements of the Department of Defense, to carry out the following:

(1) The requirements under the amendment made by subsection (a).

(2) The technological maturity assessments required by section 2366b(a) of title 10, United States Code, as amended by section 202 of this Act.

(3) The requirements of Department of Defense Instruction 5000, as revised.

SEC. 104. DIRECTOR OF INDEPENDENT COST ASSESSMENT.

(a) DIRECTOR OF INDEPENDENT COST ASSESSMENT.—

(1) IN GENERAL.—Chapter 4 of title 10, United States Code, as amended by section 102 of this Act, is further amended by inserting after section 139c the following new section:

''§ 139d. Director of Independent Cost Assessment

''(a) There is a Director of Independent Cost Assessment in the Department of Defense, appointed by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the Director.

''(b) The Director is the principal advisor to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Under Secretary of Defense (Comptroller) on cost estimation and cost analyses for the acquisition programs of the Department of Defense and the principal cost estimation official within the senior management of the Department of Defense. The Director shall—

''(1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of cost estimation and cost analysis for the acquisition programs of the Department of Defense;

''(2) provide guidance to and consult with the Secretary of Defense, the Under Secretary of

Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and the Secretaries of the military departments with respect to cost estimation in the Department of Defense in general and with respect to specific cost estimates and cost analyses to be conducted in connection with a major defense acquisition program under chapter 144 of this title or a major automated information system program under chapter 144A of this title;

''(3) establish guidance on confidence levels for cost estimates on major defense acquisition programs and require the disclosure of all such confidence levels;

''(4) monitor and review all cost estimates and cost analyses conducted in connection with major defense acquisition programs and major automated information system programs; and

''(5) conduct independent cost estimates and cost analyses for major defense acquisition programs and major automated information system programs for which the Under Secretary of Defense for Acquisition, Technology, and Logistics is the Milestone Decision Authority—

''(A) in advance of—

''(i) any certification under section 2366a or 2366b of this title;

''(ii) any certification under section 2433(e)(2) of this title; and

''(iii) any report under section 2445c(f) of this title; and

''(B) whenever necessary to ensure that an estimate or analysis under paragraph (4) is unbiased, fair, and reliable.

''(c)(1) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.

''(2) The Director shall consult closely with, but the Director and the Director's staff shall be independent of, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and all other officers and entities of the Department of Defense responsible for acquisition and budgeting.

''(d)(1) The Secretary of a military department shall report promptly to the Director the results of all cost estimates and cost analyses conducted by the military department and all studies conducted by the military department in connection with cost estimates and cost analyses for major defense acquisition programs of the military department.

''(2) The Director may make comments on cost estimates and cost analyses conducted by a military department for a major defense acquisition program, request changes in such cost estimates and cost analyses to ensure that they are fair and reliable, and develop or require the development of independent cost estimates or cost analyses for such program, as the Director determines to be appropriate.

''(3) The Director shall have access to any records and data in the Department of Defense (including the records and data of each military department) that the Director considers necessary to review in order to carry out the Director's duties under this section.

''(e)(1) The Director shall prepare an annual report summarizing the cost estimation and cost analysis activities of the Department of Defense during the previous year and assessing the progress of the Department in improving the accuracy of its costs estimates and analyses.

''(2) Each report under this subsection shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and Congress not later than 10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31. The Director shall ensure that a report submitted under this subsection does not include any information, such as proprietary or source selection sensitive information, that could undermine the integrity of the acquisition process.

''(3) The Secretary may comment on any report of the Director to Congress under this subsection.

''(f) The President shall include in the budget transmitted to Congress pursuant to section 1105 of title 31 for each fiscal year a separate statement of estimated expenditures and proposed appropriations for that fiscal year for the Director of Independent Cost Assessment in carrying out the duties and responsibilities of the Director under this section.''.

''(g) The Secretary of Defense shall ensure that the Director has sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 of such title, as so amended, is further amended by inserting after the item relating to section 139c the following new item:

''139d. Director of Independent Cost Assessment.''.

(3) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Director of Operational Test and Evaluation, Department of Defense the following new item:

''Director of Independent Cost Assessment, Defense of Defense.''.

(b) REPORT ON MONITORING OF OPERATING AND SUPPORT COSTS FOR MDAPS.—

(1) REPORT TO SECRETARY OF DEFENSE.—Not later than one year after the date of the enactment of this Act, the Director of Independent Cost Assessment under section 139d of title 10 United States Code (as added by subsection (a)), shall review existing systems and methods of the Department of Defense for tracking and assessing operating and support costs on major defense acquisition programs and submit to the Secretary of Defense a report on the finding and recommendations of the Director as a result of the review.

(2) TRANSMITTAL TO CONGRESS.—Not later than 30 days after receiving the report required by paragraph (1), the Secretary shall transmit the report to the congressional defense committees, together with any comments on the report the Secretary considers appropriate.

(c) TRANSFER OF PERSONNEL AND FUNCTIONS OF COST ANALYSIS IMPROVEMENT GROUP.—The personnel and functions of the Cost Analysis Improvement Group of the Department of Defense are hereby transferred to the Director of Independent Cost Assessment under section 139d of title 10, United States Code (as so added), and shall report directly to the Director.

(d) CONFORMING AMENDMENTS.—

(1) Section 181(d) of title 10, United States Code, is amended by inserting ''the Director of Independent Cost Assessment,'' before ''and the Director''.

(2) Section 2306b(i)(1)(B) of such title is amended by striking ''Cost Analysis Improvement Group of the Department of Defense'' and inserting ''Director of Independent Cost Assessment''.

(3) Section 2366a(a)(4) of such title is amended by striking ''has been submitted'' and inserting ''has been approved by the Director of Independent Cost Assessment''.

(4) Section 2366b(a)(1)(C) of such title is amended by striking ''have been developed to execute'' and inserting ''have been approved by the Director of Independent Cost Assessment to provide for the execution of''.

(5) Section 2433(e)(2)(B)(iii) of such title is amended by striking ''are reasonable'' and inserting ''have been determined by the Director of Independent Cost Assessment to be reasonable''.

(6) Subparagraph (A) of section 2434(b)(1) of such title is amended to read as follows:

''(A) be prepared or approved by the Director of Independent Cost Assessment; and''.

(7) Section 2445c(f)(3) of such title is amended by striking ''are reasonable'' and inserting ''have been determined by the Director of Independent Cost Assessment to be reasonable''.

SEC. 105. ROLE OF THE COMMANDERS OF THE COMBATANT COMMANDS IN IDENTIFYING JOINT MILITARY REQUIREMENTS.

Section 181 of title 10, United States Code, as amended by section 104(d)(1) of this Act, is further amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by adding after subsection (d) the following new subsection (e):

''(e) INPUT FROM COMBATANT COMMANDERS ON JOINT MILITARY REQUIREMENTS.—The Council shall seek and consider input from the commanders of the combatant commands in carrying out its mission under paragraphs (1) and (2) of subsection (b) and in conducting periodic reviews in accordance with the requirements of subsection (f).''.

TITLE II—ACQUISITION POLICY

SEC. 201. CONSIDERATION OF TRADE-OFFS AMONG COST, SCHEDULE, AND PERFORMANCE IN THE ACQUISITION OF MAJOR WEAPON SYSTEMS.

(a) CONSIDERATION OF TRADE-OFFS.—

(1) IN GENERAL.—The Secretary of Defense shall develop and implement mechanisms to ensure that trade-offs between cost, schedule, and performance are considered as part of the process for developing requirements for major weapon systems.

(2) ELEMENTS.—The mechanisms required under this subsection shall ensure, at a minimum, that—

(A) Department of Defense officials responsible for acquisition, budget, and cost estimating functions are provided an appropriate opportunity to develop estimates and raise cost and schedule matters before performance requirements are established for major weapon systems; and

(B) consideration is given to fielding major weapon systems through incremental or spiral acquisition, while deferring technologies that are not yet mature, and capabilities that are likely to significantly increase costs or delay production, until later increments or spirals.

(3) MAJOR WEAPONS SYSTEM DEFINED.—In this subsection, the term ''major weapon system'' has the meaning given that term in section 2379(d) of title 10, United States Code.

(b) DUTIES OF JOINT REQUIREMENTS OVERSIGHT COUNCIL.—Section 181(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(C) in ensuring the consideration of trade-offs among cost, schedule and performance for joint military requirements in consultation with the advisors specified in subsection (d);''.

(c) ANALYSIS OF ALTERNATIVES.—

(1) REQUIREMENT AT MATERIAL SOLUTION ANALYSIS PHASE.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall ensure that Department of Defense guidance on major defense acquisition programs requires the Milestone Decision Authority to conduct an analysis of alternatives (AOA) during the Material Solution Analysis Phase of each major defense acquisition program.

(2) ELEMENTS.—Each analysis of alternatives under paragraph (1) shall, at a minimum—

(A) solicit and consider alternative approaches proposed by the military departments and Defense Agencies to meet joint military requirements; and

(B) give full consideration to possible trade-offs between cost, schedule, and performance for each of the alternatives so considered.

(d) DUTIES OF MILESTONE DECISION AUTHORITY.—Section 2366b(a)(1)(B) of title 10, United States Code, is amended by inserting ''appropriate trade-offs between cost, schedule, and performance have been made to ensure that'' before ''the program is affordable''.

SEC. 202. PRELIMINARY DESIGN REVIEW AND CRITICAL DESIGN REVIEW FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) PRELIMINARY DESIGN REVIEW.—Section 2366b(a) of title 10, United States Code, as amended by section 201(d) of this Act, is further amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) by redesignating paragraph (2) as paragraph (3);

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

''(2) has received a preliminary design review (PDR) and conducted a formal post-preliminary design review assessment, and certifies on the basis of such assessment that the program demonstrates a high likelihood of accomplishing its intended mission; and''; and

(4) in paragraph (3), as redesignated by paragraph (2) of this section—

(A) in subparagraph (D), by striking the semicolon and inserting '', as determined by the Milestone Decision Authority on the basis of an independent review and assessment by the Director of Defense Research and Engineering; and'';

(B) by striking subparagraph (E); and

(C) by redesignating subparagraph (F) as subparagraph (E).

(b) CRITICAL DESIGN REVIEW.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall ensure that Department of Defense guidance on major defense acquisition programs requires a critical design review and a formal post-critical design review assessment for each major defense acquisition program to ensure that such program has attained an appropriate level of design maturity before such program is approved for System Capability and Manufacturing Process Development.

SEC. 203. ENSURING COMPETITION THROUGHOUT THE LIFE CYCLE OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) ENSURING COMPETITION.—The Secretary of Defense shall ensure that the acquisition plan for each major defense acquisition program includes measures to ensure competition, or the option of competition, at both the prime contract level and the subcontract level of such program throughout the life cycle of such program as a means to incentivize contractor performance.

(b) MEASURES TO ENSURE COMPETITION.—The measures to ensure competition, or the option of competition, utilized for purposes of subsection (a) may include, but are not limited to, measures to achieve the following, in appropriate cases where such measures are cost-effective:

(1) Competitive prototyping.

(2) Dual-sourcing.

(3) Funding of a second source for interchangeable, next-generation prototype systems or subsystems.

(4) Utilization of modular, open architectures to enable competition for upgrades.

(5) Periodic competitions for subsystem upgrades.

(6) Licensing of additional suppliers.

(7) Requirements for Government oversight or approval of make or buy decisions to ensure competition at the subsystem level.

(8) Periodic system or program reviews to address long-term competitive effects of program decisions.

(9) Consideration of competition at the subcontract level and in make or buy decisions as a factor in proposal evaluations.

(c) COMPETITIVE PROTOTYPING.—The Secretary of Defense shall modify the acquisition regulations of the Department of Defense to ensure with respect to competitive prototyping for major defense acquisition programs the following:

(1) That the acquisition strategy for each major defense acquisition program provides for two or more competing teams to produce prototypes before Milestone B approval (or Key Decision Point B approval in the case of a space program) unless the milestone decision authority for such program waives the requirement on the basis of a determination that—

(A) but for such waiver, the Department would be unable to meet critical national security objectives; or

(B) the cost of producing competitive prototypes exceeds the potential life-cycle benefits of such competition, including the benefits of improved performance and increased technological and design maturity that may be achieved through prototyping.

(2) That if the milestone decision authority waives the requirement for prototypes produced by two or more teams for a major defense acquisition program under paragraph (1), the acquisition strategy for the program provides for the production of at least one prototype before Milestone B approval (or Key Decision Point B approval in the case of a space program) unless the milestone decision authority waives such requirement on the basis of a determination that—

(A) but for such waiver, the Department would be unable to meet critical national security objectives; or

(B) the cost of producing a prototype exceeds the potential life-cycle benefits of such prototyping, including the benefits of improved performance and increased technological and design maturity that may be achieved through prototyping.

(3) That whenever a milestone decision authority authorizes a waiver under paragraph (1) or (2), the waiver, the determination upon which the waiver is based, and the reasons for the determination are submitted in writing to the congressional defense committees not later than 30 days after the waiver is authorized.

(4) That prototypes may be required under paragraph (1) or (2) for the system to be acquired or, if prototyping of the system is not feasible, for critical subsystems of the system.

(d) APPLICABILITY.—This section shall apply to any acquisition plan for a major defense acquisition program that is developed or revised on or after the date that is 60 days after the date of the enactment of this Act.

SEC. 204. CRITICAL COST GROWTH IN MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) AUTHORIZED ACTIONS IN EVENT OF CRITICAL COST GROWTH.—Section 2433(e)(2) of title 10, United States Code, is amended—

(1) by redesignating subparagraph (C) as subparagraph (D);

(2) by striking subparagraph (B); and

(3) by inserting after subparagraph (A) the following new subparagraphs (B) and (C):

''(B) terminate such acquisition program, unless the Secretary determines that the continuation of such program is essential to the national security of the United States and submits a written certification in accordance with subparagraph (C)(i) accompanied by a report setting forth the assessment carried out pursuant to subparagraph (A) and the basis for each determination made in accordance with clauses (I) through (IV) of subparagraph (C)(i), together with supporting documentation;

''(C) if the program is not terminated—

''(i) submit to Congress, before the end of the 60-day period beginning on the day the Selected Acquisition Report containing the information described in subsection (g) is required to be submitted under section 2432(f) of this title, a written certification stating that—

''(I) such acquisition program is essential to national security;

''(II) there are no alternatives to such acquisition program which will provide equal or greater capability to meet a joint military requirement (as that term is defined in section 181(h)(1) of this title) at less cost;

''(III) the new estimates of the program acquisition unit cost or procurement unit cost were arrived at in accordance with the requirements of section 139d of this title and are reasonable; and

''(IV) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost;

''(ii) rescind the most recent Milestone approval (or Key Decision Point approval in the case of a space program) for such program and withdraw any associated certification under section 2366a or 2366b of this title; and

''(iii) require a new Milestone approval (or Key Decision Point approval in the case of a space program) for such program before entering into a new contract, exercising an option under an existing contract, or otherwise extending the scope of an existing contract under such program; and''.

(b) TOTAL EXPENDITURE FOR PROCUREMENT RESULTING IN TREATMENT AS MDAP.—Section 2430(a)(2) of such title is amended by inserting '', including all planned increments or spirals,'' after ''an eventual total expenditure for procurement''.

SEC. 205. ORGANIZATIONAL CONFLICTS OF INTEREST IN THE ACQUISITION OF MAJOR WEAPON SYSTEMS.

(a) REVISED REGULATIONS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall revise the Defense Supplement to the Federal Acquisition Regulation to address organizational conflicts of interest by contractors in the acquisition of major weapon systems.

(b) ELEMENTS.—The revised regulations required by subsection (a) shall, at a minimum—

(1) ensure that the Department of Defense receives advice on systems architecture and systems engineering matters with respect to major weapon systems from federally funded research and development centers or other sources independent of the prime contractor;

(2) require that a contract for the performance of systems engineering and technical assistance (SETA) functions with regard to a major weapon system contains a provision prohibiting the contractor or any affiliate of the contractor from having a direct financial interest in the development or construction of the weapon system or any component thereof;

(3) provide for an exception to the requirement in paragraph (2) for an affiliate that is separated from the contractor by structural mechanisms, approved by the Secretary of Defense, that are similar to those required under rules governing foreign ownership, control, or influence over United States companies that have access to classified information, including, at a minimum—

(A) establishment of the affiliate as a separate business entity, geographically separated from related entities, with its own employees and management and restrictions on transfers for personnel;

(B) a governing board for the affiliate that has organizational separation from related entities and governance procedures that require the board to act solely in the interest of the affiliate, without regard to the interests of related entities, except in specified circumstances;

(C) complete informational separation, including the execution of non-disclosure agreements;

(D) initial and recurring training on organizational conflicts of interest and protections against organizational conflicts of interest; and

(E) annual compliance audits in which Department of Defense personnel are authorized to participate;

(4) prohibit the use of the exception in paragraph (3) for any category of systems engineering and technical assistance functions (including, but not limited to, advice on source selection matters) for which the potential for an organizational conflict of interest or the appearance of an organizational conflict of interest

makes mitigation in accordance with that paragraph an inappropriate approach;

(5) authorize waiver of the requirement in paragraph (2) in cases in which the agency head determines in writing that—

(A) the financial interest of the contractor or its affiliate in the development or construction of the weapon system is not substantial and does not include a prime contract, a first-tier subcontract, or a joint venture or similar relationship with a prime contractor or first-tier subcontractor; or

(B) the contractor—

(i) has unique systems engineering capabilities that are not available from other sources;

(ii) has taken appropriate actions to mitigate any organizational conflict of interest; and

(iii) has made a binding commitment to comply with the requirement in paragraph (2) by not later than January 1, 2011; and

(6) provide for fair and objective ''make-buy'' decisions by the prime contractor on a major weapon system by—

(A) requiring prime contractors to give full and fair consideration to qualified sources other than the prime contractor for the development or construction of major subsystems and components of the weapon system;

(B) providing for government oversight of the process by which prime contractors consider such sources and determine whether to conduct such development or construction in-house or through a subcontract;

(C) authorizing program managers to disapprove the determination by a prime contractor to conduct development or construction in-house rather than through a subcontract in cases in which—

(i) the prime contractor fails to give full and fair consideration to qualified sources other than the prime contractor; or

(ii) implementation of the determination by the prime contractor is likely to undermine future competition or the defense industrial base; and

(D) providing for the consideration of prime contractors ''make-buy'' decisions in past performance evaluations.

(c) ORGANIZATIONAL CONFLICT OF INTEREST REVIEW BOARD.—

(1) ESTABLISHMENT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall establish within the Department of Defense a board to be known as the ''Organizational Conflict of Interest Review Board''.

(2) DUTIES.—The Board shall have the following duties:

(A) To advise the Under Secretary of Defense for Acquisition, Technology, and Logistics on policies relating to organizational conflicts of interest in the acquisition of major weapon systems.

(B) To advise program managers on steps to comply with the requirements of the revised regulations required by this section and to address organizational conflicts of interest in the acquisition of major weapon systems.

(C) To advise appropriate officials of the Department on organizational conflicts of interest arising in proposed mergers of defense contractors.

(d) MAJOR WEAPON SYSTEM DEFINED.—In this section, the term ''major weapon system'' has the meaning given that term in section 2379(d) of title 10, United States Code.

SEC. 206. AWARDS FOR DEPARTMENT OF DEFENSE PERSONNEL FOR EXCELLENCE IN THE ACQUISITION OF PRODUCTS AND SERVICES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall commence carrying out a program to recognize excellent performance by individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense in the acquisition of products and services for the Department of Defense.

(b) ELEMENTS.—The program required by subsection (a) shall include the following:

(1) Procedures for the nomination by the personnel of the military departments and the Defense Agencies of individuals and teams of members of the Armed Forces and civilian personnel of the Department of Defense for eligibility for recognition under the program.

(2) Procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the government, academia, and the private sector who have such expertise, and are appointed in such manner, as the Secretary shall establish for purposes of the program.

(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Secretary may award to any individual recognized pursuant to the program a cash bonus authorized by any other provision of law to the extent that the performance of such individual so recognized warrants the award of such bonus under such provision of law.

Mr. LEVIN. Mr. President, on behalf of the Senate Armed Services Committee, we are pleased to bring S. 454, the Weapon Systems Acquisition Reform Act of 2009 to the Senate floor. I introduced this bill with Senator MCCAIN on February 23 to address problems in the performance of the major defense acquisition programs of the Department of Defense at a time when the cost growth on these programs has reached levels we simply cannot afford.

Five weeks later, the bill was unanimously approved by the Armed Services Committee, and just last week the President called on Congress to act quickly on the bill. Report after report has shown that there are fundamental problems with the way we buy major weapons systems. In the last month alone, we received three major reports documenting problems with the acquisition system.

First, the Government Accountability Office reported that the cost overruns of the Department's 97 largest acquisition programs now total almost $300 billion over the original program estimates, and the programs are an average of 22 months behind schedule. That is true even though the Department has cut unit quantities and reduced performance expectations on many programs in an effort to expedite production and hold costs down.

Second, we got a report from the Business Executives for National Security, BENS. They reported:

> We have an acquisition system at odds with the best practices in the business world: insufficient systems engineering capability [and] unrealistic cost estimating that injects too much optimism in early program execution. . . .

Then, thirdly, there was a Defense Science Board report that said:

> Today, the defense acquisition process takes too long to produce weapons that are too expensive. . . .

As Secretary Gates pointed out in his testimony before our committee earlier this year:

> The list of big-ticket weapons systems that have experienced contract or program performance problems spans the services.

Here are just a few examples of the kind of problems the Department of Defense's major acquisition programs have encountered. The Navy initially established a goal of $220 million and a 2-year construction cycle for the two lead ships on the Littoral Combat Ship, the LCS program. Those goals ran counter to the Navy's historic experience in building new ships and were inconsistent with the complexity of the design required to make the program successful. As a result, program costs have tripled and the program is almost 4 years behind schedule.

Next, the Air Force initially estimated that commonality between the three variants, threat varieties, of the Joint Strike Fighter would significantly reduce development costs. However, that level of commonality has proven impossible to achieve. Twelve years after the program started, three of the JSF's eight critical technologies are still not mature. Its production processes are not mature, and its designs are still not fully proven and tested.

As a result, the program is now expected to exceed its original budget by almost 40 percent. That is $40 billion. The Army underestimated the lines of code needed to support the Future Combat System's software development by a factor of three. That led to an increase in software development costs that now approaches $8 billion. So 8 years after the program started, only three of the Future Combat System's 44 critical technologies are fully mature. GAO tells us that the Army has not advanced the maturity of 11 critical technologies since 2003, and that 2 other technologies, which are central to the Army's plans, are now rated less mature than when the program began. As a result, the program is now expected to exceed its original budget by about 45 percent or $40 billion. It is as much as 5 years behind schedule and is likely to be substantially restructured.

There is a set of common problems underlying all these program failures. As a general rule, when the Department of Defense acquisition program fails, it is because the Department relies on unreasonable costs and schedule estimates; establishes unrealistic performance expectations; insists on the use of immature technologies; and adopts costly changes to program requirements, production quantities and funding levels in the middle of ongoing programs.

The bill we bring before the Senate today is designed to address these problems and to help put major defense acquisition programs on a sound footing from the outset by addressing program shortcomings in the early phases of the acquisition process. Our bill is going to address problems with unreasonable performance requirements and immature technologies by requiring the Department of Defense to reestablish systems engineering organizations and developmental testing capabilities that were downsized or eliminated as a result of reductions in the acquisition workforce in the late 1990s; periodically review and assess the maturity of critical technologies; and make greater use of prototypes, including competitive prototypes, to prove that new

technologies work before trying to produce them.

Our bill will address problems with unreasonable cost and schedule estimates by establishing an independent cost estimating office headed by a Senate-confirmed director of independent cost assessment in an effort to ensure that the budget assumptions underlying acquisition programs are sound.

We deal with a similar problem in the Congress by using an independent office, the Congressional Budget Office, to tell us how much direct spending programs are really going to cost. Those of us who have tangled with the CBO over the years know how tough and independent that office can be in insisting on its estimates. We can decide to spend the money anyway, but we do so with our eyes wide open because the cost estimator is not going to back down.

The Department of Defense itself has a model for this type of independence in the Director of Operational Test and Evaluation, the DOT&E. For the last 25 years, that Director, who is appointed by the President, confirmed by the Senate, and reports directly to the Secretary of Defense, has ensured that weapons systems are adequately tested before they are deployed by providing independent certifications as to whether new military systems are effective and suitable for combat. Program officials and contractors may disagree with the Director, but they have discovered they cannot go around him.

Section 104 of our bill would ensure comparable discipline when it comes to cost estimating by establishing a new director of independent cost assessment. Like the DOT&E, a new director will be appointed by the President, confirmed by the Senate, and will report directly to the Secretary of Defense. Like the Director of Test and Evaluation, this official would have the independence and the clout within the Department to make objective determinations and stick to them. A truly independent cost estimating director will not be popular within the Department, as the DOT&E is not popular often, but he will make our acquisition system work better by forcing the Department to recognize the real cost of what our Secretary of Defense has called ''exquisite requirements.''

Only when the Department faces up to these costs will it become more realistic in its requirements and start to make the necessary tradeoffs between cost, schedule, and performance.

Section 104 makes the Director responsible for all cost estimates and cost analyses conducted in connection with major defense acquisition programs and major automated systems programs in the Department of Defense. Under section 104, the Director is required to perform his own cost estimates at four separate points in the life of each program for which the Under Secretary is the milestone decision authority. On other programs, he may rely on an independent cost estimate produced by one of the military departments but only if he determines that the service's independent estimate is unbiased, fair, and reliable.

Our bill would also address problems with costly changes in the middle of a program by putting teeth in the Nunn-McCurdy requirements that currently exist for troubled acquisition programs.

We will establish a presumption that any program that exceeds its original baseline by more than 50 percent will be terminated unless it can be justified—be ''justified;'' and this is critically important—from the ground up.

Finally, our bill would address an inherent conflict of interest we see on a number of programs today, when a contractor hired to give us an independent assessment of an acquisition program is participating in the development or construction side of the same program.

We held a hearing back in March on S. 454, at which four witnesses, including two former Under Secretaries of Defense for Acquisition, Technology, and Logistics, endorsed the committee's acquisition reform effort. The new Under Secretary for Acquisition, Technology, and Logistics added his support at his March 26 nomination hearing. In addition, we have since received extensive comments on the bill from the Department of Defense, from the defense industry, and from independent experts on the acquisition system.

Senator MCCAIN and I took those comments into consideration and we offered a number of modifications to the bill, which were adopted by the Armed Services Committee at our April 2 markup. We did not make all of the changes requested by the Department or the contractor community. For example, the Department would like to eliminate the provision on the Director of Independent Cost Assessment. Many contractors would prefer we not tighten the rules for organizational conflicts of interest. And both the Department and industry would like us to drop our Nunn-McCurdy amendments, which place tough new requirements on failing programs. We have not done that. These provisions are tough medicine, but the acquisition system needs tough medicine.

In January, Secretary Gates told our committee that we must work together to address the ''repeated—and unacceptable—problems with requirements, schedule, cost, and performance'' from which too many of our defense acquisition programs suffer. On March 4, the President endorsed the goals of the bill, telling the press that ''It's time to end the extra costs and long delays that are all too common in our defense contracting.'' Last week, the President reiterated his position that the bill has his full support, and he urged us to act quickly.

I hope our colleagues will join us. Senator MCCAIN has been instrumental in making this happen, and we and the Nation are appreciative to him for so many things, but we can add this now to the list. Also, our full committee endorsed this bill. It was adopted unanimously in committee. It is a bipartisan bill.

We look forward to beginning consideration of this legislation. And to those Senators who have amendments, we hope they will let us know about them to see if we can work them out, and, if not, arrange a time for their consideration.

Again, I thank my friend from Arizona for all his work on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I wish to begin by thanking my friend from Michigan, the distinguished chairman of the committee, whom I have had the great honor of working with for many years. Senator LEVIN and I have not always agreed on every issue; we are of different parties. But we have had, in my view, a great opportunity to work together for the good of this Nation and its security and the men and women who serve it.

I again thank Senator LEVIN for his leadership in bringing this legislation quickly through our committee in a unanimous, bipartisan fashion, and bringing it to the floor.

As Senator LEVIN has mentioned, there may be some amendments or some modifications that our colleagues want to make, but I am confident we can get this bill done, into conference, and on the desk of the President. I am happy to say the President is very supportive. A meeting he and Senator LEVIN and I had with the leaders in the House Armed Services Committee indicates the President and the administration's commitment.

I also want to say Secretary Gates—a man who I believe is one of the outstanding Secretaries of Defense in the history of our country—has always been forcefully in support of this legislation. There obviously is more to do because we have a broken system, a system that is broken so badly that in our attempt to provide a replacement for the President's helicopter—which is some 30 years old, known as Marine One—we came to a point where the helicopter costs more than Air Force One.

You cannot make it up—where we have a future combat system with cost overruns of tens of billions of dollars; a joint strike fighter program that is completely out of control; and contracts—and there are many areas to place the blame and responsibility—but contracts that are let at certain cost estimates and then lose all touch with the original realities.

Is there anybody who is an expert on defense acquisition, weapons systems acquisition, who believes the final cost will be anything near what the initial cost was as presented to Congress and the American people? Of course not. Of course not.

So the title of this legislation is the ''Weapon Systems Acquisition Reform Act of 2009''—perhaps not a very exciting title. But the fact is, we have out-

of-control costs of our weapons systems, which we cannot afford. We are expanding our Army and Marine Corps. We have increased obligations in Afghanistan, which has certainly been highlighted by the recent events in Pakistan, as well as Afghanistan. We cannot afford it.

We cannot afford to take care of our obligations in at least two wars, and potential flashpoints all over the world, and continue the spending spree we are on on weapons systems acquisition. This is timely. It is needed.

I again thank the chairman of the committee, Senator LEVIN, for his leadership in seeing this bill from introduction through floor consideration today. It shows, I think—and I do not want to make too much of it, but it does show when there is an issue that cries out for bipartisan action, this one can be an example now and in the future.

I do not want to get into a lot of the details of how all this came about. But I would remind my colleagues that back some years ago, we used to have a thing called fixed-cost contracts. Those were the majority of the contracts that were let when we wanted to build a new weapons system: a new airplane, a new ship, a new tank. For many years, we were almost able to stay within those costs.

There were some dramatic exceptions. I can remember back in the 1970s the cost escalation associated with new nuclear submarines. And I can remember some others. But, generally speaking, we built weapons systems and gave them to the military at very close to their original cost estimates. That is not the case today.

Some will argue—as I have heard in the industry—well, there are technical changes that are ordered by the military which increase the cost. I think Secretary Gates pointed out some months ago: Are we allowing the perfect to be the enemy of the good? Are we getting a weapon system which achieves 80 to 90 percent of what we want—which, it seems to me, is under reasonable costs—or are we making all these technical changes, which cause the cost of these systems to go up in the most dramatic fashion?

We cannot afford to continue to do it. We cannot. I think this is an important step. I know the chairman would agree with me. This is not the only step that needs to be taken to bring an out-of-control system under some kind of control and accountability to the American taxpayer.

In its most recent assessment of the Department of Defense's major weapons systems, the General Accountability Office observed that ''the overall performance of weapon system programs is poor [and] the time for change is now.''

So I say to my colleagues, as they come to the floor with amendments and debate—and we need to discuss this—we should keep in mind the General Accountability Office's observation that ''the time for change is now.''

I would also remind my colleagues and the American people this legislation has to pass through the House. We have to then go to conference. We then have to have the President sign it. And then the changes have to be implemented. So we are not seeing even an immediate turnaround with the rapid consideration of this legislation, as I think we can achieve today.

I would ask my colleagues on this side of the aisle, if they have amendments, if they would notify the cloakroom, and we will make time for them. I know the chairman and I can enter into time agreements so we can dispense with the legislation in an expeditious way as possible, but also taking into consideration any concerns, amendments, our colleagues on both sides of the aisle have.

The chairman has described, I think, this bill very well, and I do not want to repeat his assessment. But I do want to point out a couple things or emphasize a couple points the chairman made.

The bill improves how the Department of Defense manages probably the single most significant driver of cost growth in our largest weapons procurement programs: technology risk. Basically, it does so by starting programs off right—with sound systems engineering, developmental testing, and independent cost estimates early in the program. We have seen these cost estimates particularly being unrealistic because we have not done the proper sound systems engineering and developmental testing that is necessary to get a correct assessment of costs.

The bill, among many other things, requires the Department of Defense to assess each department's ability to conduct early stage systems engineering and fill in any gaps in that important capability.

The bill provides for the creation or resumption of key oversight positions, including a Director of Independent Cost Assessment and a Director of Developmental Testing and Evaluation. I am not one who believes in creating new positions. I think our bureaucracy over on the other side of the river is big enough. But I do believe we need to create and resume key oversight functions, and those do require a Director of Independent Cost Assessment and a Director of Developmental Testing and Evaluation.

The relationship between those who are doing the contracting, other contractors, and the awardee is way too close today for us to get truly independent assessments and cost controls.

The bill requires that preliminary design and critical design reviews are completed early in a program's acquisition cycle so as to inform go/no-go purchase decisions on major weapons systems.

The bill requires that the Department's budget, requirements, and acquisitions community consult with each other and make tradeoffs between cost, schedule, and performance early in the procurement process, and get combatant commanders more involved in the requirements process.

I want to emphasize that last point. The combatant commanders are the end users of the equipment we provide them with. Unfortunately, on many occasions, the combatant commanders have not been involved in the requirements process early enough on or too late, to the point where they cannot make significant changes. What we want to do is give the Department, under the leadership of our great Secretary of Defense and the Congress, a big stick—bigger than anything available under current law—to wield against the very worst performing programs.

On the broadest level, this bill recognizes that only when a program is predictable; that is, when milestones are being met, estimated costs are actual costs, and performance-to-contract specifications and ''key performance parameters'' are achieved, only then can we rely on the acquisition process to provide the joint warfighter with timely optimal capability at the most reasonable cost to the taxpayer.

The approach provided for in this bill, which allows the Department of Defense to manage technology risks effectively, should help it move away from cost-reimbursable contracts and instead maximize its use of fixed price-type contracts. When coupled with initiatives that subject programs to full and open competition, this approach could save taxpayers billions of dollars.

While we do not intend this bill as a panacea that will cure all that ails the defense procurement process, as it is, it constitutes an important next step in Congress's continuing effort to help the Department reform itself.

Two final points.

Since the chairman and I originally introduced the bill, the Department of Defense and others have raised various concerns about discrete elements of the bill. The bill now under consideration has benefited from that dialog as it addresses their reasonable concerns, without undermining the underlying intent of the bill, to put in place an evolutionary, knowledge-based acquisition process that metes out technology risks early in a program.

I note for the record that we received testimony on this bill in our March 3, 2009, hearing. A day later, the President came out in support of the bill's underlying principles. Just a few days ago, he offered an unqualified endorsement. In addition, Secretary Gates and Dr. Ashton Carter, the new Under Secretary of Defense for Acquisition, Technology and Logistics, have spoken approvingly of the bill. Also, the General Accountability Office, two former Defense acquisition chiefs, and various taxpayer advocacy and think tank organizations, including the Center for American Progress, Business Executives for National Security, the Project on Government Oversight, known as POGO, the National Taxpayers Union, NTU, the U.S. Public Interest Research

Group, PIRG, and Taxpayers for Common Sense, have also weighed in in support of the bill.

I ask unanimous consent to have their statements printed in the RECORD.

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

Hon. CARL LEVIN,
Chairman, U.S. Senate Committee on Armed Services, Washington, DC.
Hon. JOHN MCCAIN,
Ranking Member, U.S. Senate Committee on Armed Services, Washington, DC.

DEAR CHAIRMAN LEVIN AND RANKING MEMBER MCCAIN, The undersigned groups applaud your commitment to reforming and improving the Department of Defense's (DoD's) acquisition system through the Weapons Acquisition Reform Act of 2009 (S. 454) and the Weapons Acquisition System Reform Through Enhancing Technical Knowledge and Oversight (WASTE TKO) Act of 2009 (H.R. 2101). Both pieces of legislation include important provisions to restore discipline to DoD's procurement process. As the final legislation is worked out in conference, we believe that the following principles should be preserved:

Ensuring only programs with design maturity move forward—Programs that enter production before their designs are mature are vulnerable to gross schedule and cost overruns. The Senate bill advocates a strategy that would significantly improve programs by requiring design reviews to certify that programs have attained an appropriate level of design maturity before a program is approved for System Capability and Manufacturing Process Development. As a result of this reform, program and cost risk could be significantly reduced.

Elevating independent cost estimates—We support the establishment of a Director of Independent Cost Assessment to provide oversight and implement policies and procedures to make sure that the cost estimation process is reliable and objective. Creating this new, independent position is important to prevent the cycle of costs that exceed estimates due to insufficient knowledge of accurate requirements.

Increasing accountability for programs that experience critical cost growth—Both bills propose language that place additional and needed scrutiny on programs that experience critical cost growth. The House bill seeks to increase accountability by asking for an assessment of the root cause of growth, program validity, the viability of program strategy, and the quality of program management to determine whether a program should be terminated. But we believe the more aggressive strategy advocated by the Senate will do more to increase program discipline by requiring that a program be terminated unless the Secretary determines that it is essential to national security, and includes documentation that also states that 1) there are no alternatives to the acquisition program ''which will provide equal or greater capability to meet a joint military requirement''; 2) the new acquisition cost or procurement unit costs are reasonable; and 3) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost. By also rescinding the most recent Milestone approval and requiring a new approval, we believe program management for programs that experience critical cost growth will be improved.

Reducing organizational conflicts of interest—Independent analysis is key to ensuring that DoD decision makers are given unbiased, accurate information upon which to base program decisions. While we applaud the House for calling for a study to examine how to eliminate or mitigate organizational conflicts of interest, we also strongly support preventing organizational conflicts. The Senate version of this bill would decrease conflicts of interest by mandating that DoD seek independent advice on systems architecture and systems engineering for major weapon systems. We also support the language initially proposed in S. 454 that would require that a contract for the performance of systems engineering and technical assistance (SETA) functions for major weapons systems contain a provision prohibiting the contractor or any affiliate of the contractor from having a direct financial interest in the development or construction of the weapon system or any component thereof. We urge you to include the ''Organizational Conflict of Interest'' provision that explicitly defines the minimum regulations to be enacted that will preclude contractors from advising the Department of Defense on weapons systems and then developing them.

Increasing competition in major weapons systems—Both bills enhance competition in the procurement process that will translate into the best value for taxpayers and also serves as an important tool to prevent waste, fraud, and abuse. We support language that would encourage programs to utilize methods such as competitive prototyping, periodic competitions for subsystem upgrades, licensing of additional suppliers, and periodic system or program reviews to address long-term competitive effects of program decisions. But we believe that competition, and with it benefits to taxpayers, will only be further enhanced by measures in the Senate bill to increase the use of government oversight or approval in make or buy decisions at every system level.

Increasing transparency in the waiver process—The answer to solving the problems with DoD's procurement process is not simply a matter of making new rules. We believe that many of the rules and controls are already in place for responsible procurement of weapons systems, but that these rules are too frequently ignored or otherwise not followed, resulting in a system that has been plagued by cost and schedule overruns. The House adopts an important strategy for this effort by forcing DoD to supply Congress with explanations for waivers to key provisions for Milestone decisions and follow-up annual reviews of these programs. This significantly increases Congress's ability to oversee DoD and make sure that taxpayers are getting the national security capabilities they need at a reasonable price.

We also support the proposed reforms to increase the emphasis on systems engineering, developmental testing, and technology maturity assessments, along with confidence levels for cost estimates. All of these principles help programs to have a strong foundation.

As important as all of these provisions are, it's important to recognize that this legislation is only one step in reforming weapons acquisition. The defense procurement process is also in desperate need of discipline. Standards for appropriate levels of design maturity should be clearly defined to meet missions and requirements. Waivers from procurement rules should be used rarely, should be the exception, not the rule, and should be made available to both Congress and the public. Additionally, spiral acquisition contracts should not be used to push immature technologies back in the production process, where they can still endanger the program's cost and schedule. All technologies should be mature before committing to production.

In the short term, Defense Secretary Robert Gates has demonstrated his commitment to restoring discipline to the Pentagon's weapons acquisition by his aggressive program cuts, and Congress should follow his lead in putting the public good ahead of their parochial interests. But in order to achieve lasting, meaningful change, the Pentagon must follow the rules and controls in place, and Congress must conduct oversight to make sure that they do so. We look forward to working with you in the future to implement these changes.

DANIELLE BRIAN,
Project on Government Oversight.
PETE SEPP,
Vice President, National Taxpayers Union, U.S. Public Interest Research Group.
RYAN ALEXANDER,
Taxpayers for Common Sense.

BUSINESS EXECUTIVES FOR NATIONAL SECURITY,
Washington, DC, March 31, 2009.
Hon. JOHN MCCAIN,
Ranking Member, Committee on Armed Services, U.S. Senate.

DEAR SENATOR MCCAIN: We note with pleasure the introduction of your bill targeted towards improvement of the Defense Department's acquisition management process. At Business Executives for National Security (BENS), we believe—and have asserted for some time—that acquisition reform is one of the most important areas for achieving efficiencies and savings that can be redirected to the warfighter. In line with your proposals, research shows the keys to successful acquisition are to start programs with sound systems engineering, realism in cost-estimating and subsequent funding, and ensuring appropriate technology maturation before entry into the program. Your proposal takes steps in the appropriate direction toward ensuring increased attention to these important areas.

For over twenty five years BENS has been the nation's pre-eminent conduit for bringing the best business practices and advice from the private sector to the world of national security. Through this engagement BENS has come to recognize that the Department of Defense and the Military Services are not businesses; they are organizations with an ethos and culture unique to their members and mission. Recognizing the difference has allowed BENS to help the Defense Department adopt relevant, proven practices that slash bureaucracy, streamline operations, and cut waste without violating those non-business characteristics which cannot be changed.

Therefore, we are particularly supportive of the Senate bill, Weapon Systems Acquisition Reform Act of 2009 (S. 454). We believe this bill, as good as it is, could go further in addressing many of the embedded processes that continue to detract from the overall effectiveness of the process. We fail sometimes in the basic recognition that the defense acquisition system is a national enterprise comprised of branches and agencies of the federal government on both sides of the Potomac River, and in the defense and private sectors nationally and globally. Based on the research of our Task Force on Acquisition Law and Oversight, BENS has concluded that it is time to fundamentally reset the expectations for what our nation wants from the defense acquisition enterprise and its processes. Congress is best suited to define and advocate these expectations. Too many studies and too many good recommendations have gone unheeded. If we are to reform, only Congress can lead it.

Your attention to this important issue is heartening. BENS recommends that Congress, as it continues to fashion this legislation, give careful consideration to the recommendations we make in our report, which is expected to be issued by April 30, 2009. We look forward to a successful outcome on the acquisition management issue, and to providing any further help as you negotiate the final bill. Please contact Chuck Boyd should you have any questions.

Sincerely,

JOSEPH E. ROBERT, Jr.
Chairman, BENS Board of Directors, Chairman and CEO, J.E. Robert Companies.

CHARLES G. BOYD,
President & CEO, BENS.

Mr. MCCAIN. Finally, I wish to say that there is another ongoing battle I will continue to engage in for as long as I am here, and that is the earmarking and porkbarreling that goes on in the Defense appropriations bill.

I am proud to have served for many years on the authorizing committee of the Armed Services Committee of the Senate. I see year after year, time after time, billions of dollars of unwanted, unnecessary porkbarrel-earmark spending, many of it having nothing to do with the defense of this Nation and the men and women who serve it. I see earmark-porkbarrel projects highlighted even as short a time ago as yesterday in the Washington Post, and the outrageous abuse of the taxpayers' dollars. When Members of Congress were put in Federal prison, it was the Defense appropriations bill that was the source of some of the corruption.

So I look forward to passing this to help reform the Pentagon. We still need to reform the way the Congress of the United States does business in porkbarreling and earmarking scarce taxpayers' dollars that should be used to defend this Nation and not for the sources of porkbarrel and earmark spending that has become rampant. The last Omnibus appropriations bill had 9,000 earmark-porkbarrel projects in it, thousands of them on the defense side of the appropriations. It is unacceptable. It is outrageous. The American people are sick and tired of it. I will continue that fight.

Again, I thank the distinguished chairman, Senator LEVIN, for his leadership on this legislation.

I yield the floor.

Mr. LEVIN. Mr. President, let me again thank Senator MCCAIN for all he has done to bring us to the floor today. This is a bipartisan bill. It is a major reform of the acquisition system. It is long overdue. It is genuinely and desperately needed.

Mr. MCCAIN. Mr. President, I wish to take just a couple minutes to discuss the kinds of overruns we are talking about.

I ask unanimous consent that this report by the GAO of 2009 on major weapons programs, changes in costs and quantities for 10 of the highest cost acquisition programs, be printed in the RECORD.

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

2009 GAO REPORT ON MAJOR WEAPONS PROGRAMS

TABLE 2: CHANGES IN COSTS AND QUANTITIES FOR 10 OF THE HIGHEST-COST ACQUISITION PROGRAMS

Program	Total cost (fiscal year 2009 dollars in millions)		Total quantity		Acquisition unit cost
	First full estimate	Current estimate	First full estimate	Current estimate	Percentage change
Joint Strike Fighter	206,410	244,772	2,866	2,456	*38
Future Combat System	89,776	129,731	15	15	*45
Virginia Class Submarine	58,378	81,556	30	30	*40
F–22A Raptor	88,134	73,723	648	184	*195
C–17 Globemaster III	51,733	73,571	210	190	57
V–22 Joint Services Advanced Vertical Lift Aircraft	38,726	55,544	913	458	*186
F/A–18E/F Super Hornet	78,925	51,787	1,000	493	33
Trident II Missile	49,939	49,614	845	561	50
CVN 21 Nuclear Aircraft Class Carrier	34,360	29,914	3	3	-13
P–8A Poseidon Multi-mission Maritime Aircraft	29,974	29,622	115	113	1

*Enormous cost growth.

Source: GAO analysis of DOD data.

Mr. MCCAIN. For the Joint Strike Fighter, the first full estimate was that the cost would be $2.866 billion. The current estimate and percentage change is a 38-percent increase.

The Future Combat System was first estimated to cost $89-and-some billion. It is now up to $129 billion, a 45-percent increase in cost.

The Virginia class submarine was originally estimated to be around $58 billion. It is now $81 billion, a 40-percent increase.

The F–22, which will be the subject of debate on the floor of the Senate, original cost estimate was $88 billion, and the cost has increased by 195 percent.

The Globemaster has a 57-percent increase, the C–17.

The V–22 Joint Services Advanced Vertical Lift Aircraft, a 186-percent increase in cost.

The list goes on and on, with the exception of the nuclear aircraft carrier, which has a 13-percent decrease in cost. We ought to see what they are doing.

The programs GAO reviewed in 2008, the most used initial cost estimates from sources previously found to be unreliable, many still began with low levels of technical maturity. The promised capabilities continued to be delivered later than planned, and 10 of the Pentagon's largest programs equaling half of the Department's overall acquisition dollars are significantly over budget and under delivery in capability.

So these are the reasons we are absolutely in need of addressing weapons acquisition reform as early and quickly as possible.

Mr. LEVIN. Mr. President, our staffs have worked hard to try to clear some amendments. We have been able to do so. But in order for us to move these amendments be adopted, they are going to have to have their sponsors come to the floor.

The nine amendments which have been cleared on both sides and which we can accept if we can get the sponsors here would be three amendments of Senator MCCASKILL, one of Senator COLLINS, one of Senator COBURN, one of Senator WHITEHOUSE, one of Senator CARPER, one of Senator INHOFE, and one of Senator CHAMBLISS.

These amendments have not been filed yet. We have cleared them but they need to be filed by the Senators, and that is the reason we need them to come to the floor.

I will be happy to yield to my colleague.

Mr. MCCAIN. Mr. President, the Chairman explained what is necessary. I urge my colleagues to come to the floor, if they have additional amendments, so we can finish the bill. It seems to be remarkably free of controversy.

Mr. LEVIN. Mr. President, on a bipartisan basis our committee approved this bill unanimously, the Weapon Systems Acquisition Reform Act of 2009. We have a few minutes so I will just make a few points highlighting this bill.

The Government Accountability Office reported last month, as both Senator MCCAIN and I mentioned earlier, the cost overruns on the Department's 97 largest acquisition programs alone totaled almost $300 billion over the original program estimates. That is true, even though the Department of Defense cut the quantities being purchased and they reduced the performance expectations on many of the programs in order to hold down costs.

Second, we know what the underlying problems are at the Department of Defense. The Department of Defense acquisition programs fail because the

Department continues to rely on unreasonable cost and schedule estimates. They continue to establish unrealistic performance expectations. The Department continues to use immature technologies and to adopt costly changes to program requirements, to production quantities, and to funding levels right in the middle of these programs. When we do that we have unstable programs and costs that are going to rise.

Third, this bill contains a number of specific measures to address the problems I have just identified. The bill has the support of the President, Secretary of Defense, the Government Accountability Office, many independent experts on acquisition policy, and a number of public interest groups. There are many important provisions in this bill, but I want to highlight one of them this afternoon.

We are waiting for sponsors of amendments we have cleared, and those that we have not cleared, to come to the floor. We are open for business.

One of the most important provisions that is in this bill is the provision which establishes a director of independent cost assessment. It is the way to bring real discipline to the DOD's cost estimating process. At present, there is an entity called Cost Assessment Improvement Group, or CAIG, for short. They are supposed to be producing independent cost estimates on DOD acquisition programs. That is their responsibility. However, the CAIG operation is too low down in the bureaucracy. It is not directly accountable and reporting to the Secretary of Defense. It is a committee and includes representatives of each of the Under Secretaries and a number of other senior officials in the Department, chaired by a civil servant in the Senior Executive Service who is the Deputy Director for Resource Analysis in the Office of Program Analysis and Evaluation.

Just almost by saying those words one can understand why it does not have the direct clout we need this person to have. We are going to establish an individual who is responsible, a person who directly reports to the Secretary of Defense just the way in which another critically important office now does, the one that evaluates the technologies.

We are also going to have this person be Senate confirmed. The person who now is Senate confirmed, who does this for a different role, is the Director of Program Analysis and Evaluation. That person, that Director, is—I misspoke. It is the Director of Operational Testing and Evaluation who now is directly accountable to the Secretary of Defense and is Senate confirmed. We want this person who is going to be responsible for cost analysis to be also in that same position and to have that same kind of clout.

Now, the CAIG staff does a terrific job at what they do. I am not, in any way, disparaging the work of the CAIG staff. But a career official in the Senior Executive Service who serves as the Deputy Director of an office that is not even headed by a Presidential appointee simply does not have the independence and the clout that is essential if the cost of these programs is going to be put under control.

By establishing a tough and an independent cost estimator who is Senate confirmed and reports directly to the Secretary of Defense, we believe our bill is going to go a long way toward ending the unrealistic, the overly optimistic cost assessments that are too often used in order to sell the new acquisition programs.

We have to reduce the unnecessary ''gold plating'' of weapon systems. We have to bring the Department of Defense undisciplined requirements system under control.

As I indicated, we are ready to begin addressing amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

REPUBLIC OF GEORGIA SITUATION

Mr. MCCAIN. Mr. President, I thank my friend, the distinguished chairman of the Committee. I hope we can get these amendments filed as quickly as possible. In the meantime, I would like to make a comment about the recent situation in the Republic of Georgia.

It has been just 8 months since the world's attention was riveted by Russia's invasion of neighboring Georgia. In the midst of the fighting, the United States, the European Union, and the international community decried the violence and called on Russia to withdraw its troops from sovereign Georgian soil. 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.

The 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 have returned to normal in this part of the world, that the 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, and Russian troops continue to be stationed on sovereign Georgian territory. I would like to spend a few moments addressing this issue. It bears remembering.

Last August, following months of escalating tension in the breakaway Georgian province of South Ossetia, the Russian military sent tanks and troops across the internationally recognized border into South Ossetia. It did not stop there, and Moscow also sent troops into Abkhazia, another breakaway province, dispatched its Black Sea Fleet to take up positions along the Georgian coastline, barred access to the port at Poti, and commenced bombing raids deep into Georgian territory. Despite an appeal from Georgian officials on August 10, noting the Georgian withdrawal from nearly all of South Ossetia and requesting a ceasefire, the Russian attacks continued.

Two days later, the Russian president met with French President Nicolas Sarkozy, and ultimately agreed to a six-point ceasefire requiring, among other things, that all parties to the conflict cease hostilities and pull back their troops to the positions they had occupied before the conflict began. Despite this agreement, the Russian military continued its operations throughout Georgia, targeting the country's military infrastructure and reportedly engaging in widespread looting.

A follow-on ceasefire agreement signed on September 8 by French President Sarkozy and Russian President Medvedev required that all Russian forces would withdraw from areas adjoining South Ossetia and Abkhazia by October 10, but it took just 1 day for Moscow to announce that, while it would withdraw its troops to the two provinces, it intended to station thousands of Russian soldiers there, in violation of its commitment to return those numbers to preconflict levels. Russia also recognized the independence of South Ossetia and Abkhazia, the only country in the world to do so other than Nicaragua. The leaders of both provinces have suggested publicly that they may seek eventual unification with Russia.

Despite the initial international reaction to these moves, the will to impose consequences on Russia for its aggression quickly faded. To cite one example, the European Parliament agreed on September 3 to postpone its talks with Russia on a new partnership agreement until Russian troops had withdrawn from Georgia. Just 2 months later, the European Union decided to restart those talks. The U.N. Security Council attempted to move forward a resolution embracing the terms of the ceasefire, but Russia blocked action. The NATO allies suspended meetings of the NATO-Russia Council, then decided in March to resume them.

Yet today, Russia remains in violation of its obligations of the ceasefire agreement. 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 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. Just last week, President Medvedev denounced NATO exercises currently taking place in Georgia, describing them as ''provocative.'' These ''provocative'' exercises do not involve heavy equipment or arms and focus 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 cyberattack 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 us not forget what has happened in Georgia, and what is happening there today. I would urge the Europeans, including the French President who brokered the ceasefire, to help hold the Russians to its terms. And in the United States, where there remain areas of potential cooperation with Moscow, from nuclear issues to ending the Iranian nuclear program, let us not sacrifice the full independence and sovereignty of countries we have been proud to call friends.

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.

Ms. COLLINS. 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. 1045

Ms. COLLINS. Mr. President, the Weapon Systems Acquisition Reform Act of 2009, authored by Senators LEVIN and MCCAIN, would strengthen and reform the Department of Defense acquisition process.

The bill would bring increased accountability, more transparency, and cost savings to major defense acquisition programs. Simply put, the bill would build discipline into the planning and requirements process, keep projects focused, help to prevent cost overruns and schedule delays and ultimately save taxpayers' dollars.

I am very proud to join the chairman and ranking member of the Armed Services Committee in cosponsoring this important initiative. I applaud their continued efforts to improve procurement at the Pentagon.

In fiscal year 2008, DOD spending reached $396 billion, approximately 74 percent of total Federal contract spending. The scope of the Department's contract spending is particularly startling when one examines closely Army procurement. The number of Army contract actions has grown by more than 600 percent since 2001, and contract dollars have increased by more than 500 percent.

In 2007, the Army put on contract one out of every four Federal contracting dollars. These figures alone are overwhelming. But they actually understate the scope of the procurement challenges at the Department of Defense.

Research, development, testing, evaluation, and procurement of increasingly complex weapon systems challenge the Department's ability to ensure that taxpayer dollars are wisely spent. Let me give you an example: The National Polar Orbiting Operational Environmental Satellite System—there is a mouthful—is just one of several Defense programs that have been undermined by cost overruns and schedule delays.

This is a complicated program that is required to promote and provide a remote sensing capability that is used by the Department of Defense and by the National Oceanic and Atmospheric Administration.

A 2006 report by an inspector general indicated that this one program was more than $3 billion over the initial life cycle cost estimates and nearly 17 months behind schedule. So here we have an essential program that is $3 billion over the initial life cycle cost estimates and it is about a year and a half behind schedule. Unfortunately, this is not an isolated example. It is but one of many examples of defense procurements that have suffered from soaring cost increases and unacceptable delays.

The legislation introduced by Senators LEVIN and MCCAIN, which I am pleased to cosponsor, would improve the Defense Department's planning and program oversight in many ways.

First, the bill would create a new director of independent cost assessment to be the principal cost estimation official at the Department. The director would be responsible for monitoring and reviewing all cost estimates and cost analyses conducted in connection with the major defense acquisition programs. Having this set of independent eyes on critical but expensive programs would help to prevent wasteful spending. It would help to ensure that when we embark on a new defense acquisition, we truly have confidence in the cost estimates.

The bill also mandates that the Department carefully balance cost, schedule, and performance as part of the requirements development process. These reforms would build important discipline into the procurement process long before a request for proposals is issued and a contract is awarded. By carefully considering the needs of the program office, the associated requirements and estimated cost of a program, and the risks inherent in system development and deployment, the Department will be able to make much more rational decisions about its investments and use more effective contracting vehicles for procurements long before taxpayer dollars are committed to the project.

I also applaud the bright lines this legislation would establish regarding organizational conflicts of interest by defense contractors. These reforms would strengthen the wall between Government employees and contractors, helping to ensure that ethical boundaries are respected. While certainly private sector contractors are vital partners with military and civilian employees at the Department of Defense, 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.

What we are finding—and we have had oversight hearings in the Homeland Security Committee on this issue—is that in the Department of Homeland Security and the Department of Defense, in some cases we have defense contractors involved in setting requirements, defining requirements for projects on which subsidiaries of those defense contractors may well be bidding. We want to avoid those kinds of conflicts of interest which impair confidence in the integrity of the process.

We also want to make sure we are following current law as far as activities that should be done in-house because they are inherently governmental.

I note, too, that this legislation encourages the Department to reinvest personnel resources in systems engineers—a necessary element for any successful acquisition reform of the Department's major weapon systems programs. Without experienced, well-trained engineers, the Department will be unable to set definitive requirements during the planning process, incapable of effectively testing and evaluating the development of these systems, and ineffective in addressing systems defects in the incredibly complex programs in which the Department, of necessity, invests. The lack of systems engineers also prevents strong program oversight, as the limited number of engineers available simply cannot focus sufficient time and attention on the programs as they are constantly pulled in multiple directions.

Adding systems engineers is only one part of the overall personnel reforms necessary to improve the acquisition process. DOD must also invest significantly in its undermanned acquisition workforce.

The dramatic downsizing of the defense acquisition workforce during the 1990s was followed by an even more dramatic increase in workload. So at the time that the Defense Department's acquisition workforce was declining, the workload was increasing. In fiscal year 2001, the Department spent $138 billion on contracts. Seven years later, DOD

spending reached $396 billion—a 187-percent increase. Of that amount, $202 billion was for the procurement of services. That requires labor-intensive acquisition management and oversight. Needless to say, these factors have greatly strained the defense acquisition workforce and greatly increased the risk of acquisition failure. At the same time, a significant increase in the use of contractor acquisition support personnel has added another layer of complexity as the Department must manage both organizational and personal conflicts of interest.

I commend Secretary Gates for recognizing just how important these workforce issues are. Under his leadership, the Department has set forth an aggressive program for strengthening the acquisition workforce, including increasing the number of acquisition personnel and improving their training. The Secretary has proposed increasing the workforce by 15 percent through 2015. That amounts to approximately 20,000 new employees. I also praise the Secretary for not only adding additional personnel but for thinking about what they should be doing. For example, he has proposed that some of these new employees take over tasks that are currently being performed by defense contractors. That is that conflict-of-interest issue I mentioned earlier. If the Secretary's plan goes through—and I am going to support him strongly in this regard—the acquisition workforce would increase to numbers not seen in a decade. That will save money and improve acquisition outcomes.

But this isn't just a numbers game. In addition to having a sufficient number of personnel, the Department must have the right mix. I am pleased that the Secretary has proposed 600 additional auditors for DCAA, the Defense Contract Audit Agency, and additional engineers and technical experts.

These acquisition changes will help to prevent contracting waste, fraud, abuse, and mismanagement. Most of all, they are absolutely essential to the effective implementation of the procurement reforms in this bill. We can write the best laws. We can impose the strongest reforms. But if we do not have sufficient personnel, well-trained employees to carry out these reforms, our efforts will be for naught.

I now call up an amendment I have at the desk. It is amendment No. 1045.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mrs. MCCASKILL, proposes an amendment numbered 1045.

Ms. COLLINS. 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:

AMENDMENT NO. 1045

(Purpose: To require the Secretary of Defense to apply uniform earned value management standards to reliably and consistently measure contract performance, and to ensure that contractors establish and use approved earned value management systems)

On page 69, after line 2, add the following:

SEC. 207. EARNED VALUE MANAGEMENT.

(a) ENHANCED TRACKING OF CONTRACTOR PERFORMANCE.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review the existing guidance and, as necessary, prescribe additional guidance governing the implementation of the Earned Value Management (EVM) requirements and reporting for contracts to ensure that the Department of Defense—

(1) applies uniform EVM standards to reliably and consistently measure contract or project performance;

(2) applies such standards to establish appropriate baselines at the award of a contract or commencement of a program, whichever is earlier;

(3) ensures that personnel responsible for administering and overseeing EVM systems have the training and qualifications needed to perform this function; and

(4) has appropriate mechanisms in place to ensure that contractors establish and use approved EVM systems.

(b) ENFORCEMENT MECHANISMS.—For the purposes of subsection (a)(4), mechanisms to ensure that contractors establish and use approved EVM systems shall include—

(1) consideration of the quality of the contractors' EVM systems and the timeliness of the contractors' EVM reporting in any past performance evaluation for a contract that includes an EVM requirement; and

(2) increased government oversight of the cost, schedule, scope, and performance of contractors that do not have approved EVM systems in place.

Ms. COLLINS. Mr. President, this amendment, which I am offering along with my distinguished colleague, Senator MCCASKILL, who has brought great auditing skills to this body, would help to ensure that the Department is supplying certain critical principles consistently and reliably to all projects that use a specific management tool that is known as EVM, earned value management. The Department currently requires EVM tracking for all contracts that exceed $20 million. This provides important visibility into the scope, schedule, and cost in a single integrated system. When properly applied, this system can provide an early warning of performance problems. The Government Accountability Office has observed, however, that contractor reporting on EVM often lacks consistency, leading to inaccurate data and faulty application of this metric. In other words, this is a garbage-in/garbage-out problem that we need to correct.

To address this challenge, our amendment would provide enforcement mechanisms to ensure that contractors establish and use approved EVM systems, and we would require the Department of Defense to consider the quality of the contractor's EVM systems and reporting in the past performance evaluation for a contract. When a contractor is bidding, the contracting official looks at any past performance. With improved data quality, both the Government and the contractor will be able to improve program oversight, leading to better acquisition outcomes.

This is so important. Some of the provisions that are particularly important in the Levin-McCain bill would increase transparency and oversight so that if an acquisition process is going in the wrong direction, we know about it and are able to take action. We are able to decide whether the Nunn-McCurdy breaches, for example, warrant halting the project. We are improving the cost estimate system for weapons acquisition projects. We have a lot of reforms. This would increase our transparency, our ability to flag problems.

I believe this amendment Senator MCCASKILL and I offer would help to strengthen the Department's acquisition planning, increase and improve program oversight, and help to prevent contracting waste, fraud, and mismanagement.

Let me end my comments by reminding all of us why this bill and our amendment are so important.

Ultimately, these procurement reforms will help ensure that our brave men and women in uniform—our military personnel—have the equipment they need when they need it, that it performs as promised, and that our tax dollars are not wasted on programs that are doomed to fail.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, before the Senator from Maine leaves the floor, let me congratulate her on this amendment. She has put her finger on a very significant point. There is a weakness in this system of contract oversight that the Department of Defense has not satisfactorily addressed.

As frequently happens, the Senator from Maine is willing to take on issues which are not necessarily the most glamorous and do not necessarily get the headlines but really get to the inside of what needs to be delved into, needs to be looked at, needs to be analyzed, and needs to be addressed.

This is an amendment which will require the Department of Defense to use a management tool which is called earned value management. They acknowledge it is an important tool, but they also acknowledge too often contractors are not using it and that Government officials who are responsible for overseeing this system and this management tool are inadequately trained, not qualified. There are inadequate mechanisms to enforce contractor compliance.

So the Senator from Maine, as she so often does, has put her finger on a critical issue and is willing to tackle it and make it understandable for the rest of us. I commend her and Senator MCCASKILL for this amendment, and we are delighted to support it.

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

Ms. COLLINS. Mr. President, I thank the chairman for his thoughtful comments and for working with us on this amendment. I hope at the appropriate time it can be adopted. I believe it is acceptable to Senator MCCAIN. But I am unclear whether there is further clearance that needs to be done.

But, again, while the Senator is on the floor, I want to once again praise Senator LEVIN and Senator MCCAIN for tackling this critical issue. It is complex. And it is important that the reforms make a difference to our military—to those who need these weapon systems, who need the material and the supplies that the contracting is procuring. It is also important that taxpayers be protected. There have been far too many cost overruns and schedule delays that hurt those who are on the front lines, quite literally.

I praise and thank the chairman again for his leadership in this area.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I am informed that the amendment I have offered with Senator MCCASKILL, which is the pending amendment, No. 1045, has been cleared on our side.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we very strongly support the amendment and hope it will be acted upon immediately.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1045) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. Thank you, Mr. President. And I thank the chairman.

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

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

Mr. DORGAN. Mr. President, I have come to the floor to speak about a couple of issues that relate to the Department of Defense and to defense issues, but I want to especially today talk about the work that has been done by my colleague, Senator LEVIN, and my colleague from Arizona. The work they have done on procurement reform is very important.

I listened to some of the presentations earlier today by Senator LEVIN and Senator MCCAIN about the overruns in various weapons programs, the cost overruns, and the significant dislocations with respect to decisions that have been made or not made with certain weapons programs.

I think there is real need for reform, and the bill they have brought to the floor of the Senate is a great service to the American taxpayer. I think it is also a great service to our defense structure. We have limited funds. We have to use them effectively. We have to fund weapons programs that are essential to the defense strength of this country. That is what both of my colleagues are saying. And they are saying, when we have a program that has outlived its usefulness, a program that has cost overruns that never stop and seem completely out of control, we have to address that and deal with it and respond to it.

So we have been going through a long period here of unbelievable cost overruns in some programs without much notice and without much action attending to it. I think my two colleagues are doing a great service. I hope, as I know the chairman does, we will be able to move quickly to address this legislation, perhaps without even amendments, and go forward and get it through the Senate. We will have done, I think, a great service to strengthen our defense capability and protect the American taxpayer at the same time.

DEFENSE DUPLICATION

Mr. President, I want to raise an issue that does not directly relate to this bill but relates to all the considerations of this bill because it is a follow-on and one I think we will deal with in the next bill, defense authorization. That bill will also be chaired on the floor of the Senate by my colleague, Senator LEVIN. It deals with the issue of duplication.

In addition to contract and procurement reform—in this case procurement reform—the issue of duplication of our services at the Department of Defense is a very important issue. Every service wants to do everything. That is just the way it is. I wish to give an example of something I have been working on, so far unsuccessfully, but I am going to raise it and push it during Defense authorization because it relates to the very same things that my colleagues have talked about today.

These are pictures of unmanned aerial vehicles; UAVs they are called. It is sort of the new way to fly, particularly over a battlefield for reconnaissance purposes and so on. Many of us are familiar with what is called the Predator B, which the Air Force refers to as the Reaper. That is this airplane. The Predator B is used extensively and has been used extensively in the war theater in Afghanistan and in Iraq and in that region. It is an unmanned aerial vehicle, unmanned aerial aircraft without a pilot. The pilot sits on the ground someplace in a little thing that looks almost like a trailer house, and they are flying this aircraft. In some cases, the pilot is 6,000, 8,000 miles away from where the aircraft is, flying it at a duty station perhaps at a National Guard base or somewhere else.

But, anyway, the Air Force has what is called the Predator. That is built by General Atomics, and it is a worthwhile program that has provided great service to us and to our country in terms of our defense capability.

This, by the way, is called the Sky Warrior. This is the Reaper. It is owned by the Air Force. This is the Sky Warrior. That is the U.S. Army.

Why does it look alike? Well, it is because it is made by the same company. It is made to different specifications because the Army wants a slightly different vehicle, but the Air Force has the Predator B, and the Army has the Sky Warrior.

Why does the Army have a Sky Warrior? Well, because they want to run their own reconnaissance. So what we have in these circumstances is, the Army, in the next 5 years, wants to spend $800 million to buy more than 100 of the Sky Warriors, and eventually they want to have 500 Sky Warriors. The Air Force wants to spend $1.5 billion to buy 150 more Predators, Predator Bs.

Here is what the Predator B and the Sky Warrior look like. As you can see, they are nearly identical. Both carry intelligence, surveillance, and reconnaissance sensors so they can find and track targets on the ground. Both can fire missiles so they can hit a target they might find, both can fly over 25,000 feet high for more than 30 hours which gives them range and endurance, but it seems to me a complete duplication of effort.

We are not talking about just the UAV mission itself; we are talking about the duplication of acquisition programs—engineering, contracting. I don't understand it.

For years, the Air Force used U–2s, F–15s, F–16s, even B–52s from time to time to provide surveillance, intelligence, reconnaissance, and close air support for the Army. They used manned aircraft to provide all of those services for the U.S. Army. It is not clear why that ought to be different just because we are using unmanned aircraft.

The Army says they plan to assign each set of 12 Sky Warriors to a specific combat unit. Of course, since most combat units in the Army are at their home base at any given time, most Sky Warriors will be based in the United States or perhaps Europe at any given time. The Air Force has a different approach. They have a streamlined operation concept. They have been working nearly 8 years in almost constant combat operations, and almost every single

Air Force Predator is at this point in the Central Command of Operations—CENTCOM.

It seems to me the services ought to do what they do best. What the Army does best is fight a war on the ground. What the Air Force does best is to provide timely intelligence, surveillance, and reconnaissance for the troops on the ground and to attack ground targets from the air. That is what each does best.

However, the Army wants to do exactly what the Air Force does and have a separate acquisition program to do so.

So we ought to be asking the question: Does this make sense to send thousands of airmen to Iraq and Afghanistan to be truck drivers in Army convoys while the Army plans to have thousands of troops operating unmanned aircraft? Yes, that is happening. Putting all of our large UAVs under the Air Force will result, in my judgment, in streamlined and more efficient acquisition of UAVs and allow the Army to concentrate its manpower on Army tasks.

Let me be clear. There are some surveillance—at low-altitude, over-the-battlefield surveillance with unmanned aircraft—that are just fine at 500 feet, 1,000 feet with various kinds of unmanned devices. I understand why the Army would want to operate that, and should. However, I don't understand the Army flying at 25,000 or 30,000 feet, a duplicate mission for which the Air Force exists.

So given the budget problems we face, with nondiscretionary and discretionary spending, we can't afford duplication of effort.

A few years ago, the Air Force proposed that it be designated as the executive agent for all medium- and high-altitude unmanned aerial vehicles. That made sense to me. The Air Force is the logical choice. They already have the infrastructure to deliver that combat power.

In 2007, by the way, the Pentagon's Joint Requirements Oversight Council endorsed that proposal, but the proposal didn't go anywhere because of intense opposition from the Army and those who support the Army in this Congress.

I don't think this should be an intramural debate between supporting the Army and supporting the Air Force. I support both. I want the Army to be equipped in an unbelievably important way to do its mission, and I want the Air Force to be similarly equipped. I just don't want the taxpayer to be paying for duplication of effort, and I don't want every service to believe it should do everything because that clearly is a duplication of effort.

The legislation that is before us today is about procurement reform, procurement reform itself. It does not address this specific issue of duplication, but this issue is certainly the second cousin to it. We will be discussing this when we get to the Defense authorization bill, and that, too, is a very important part of how we can strengthen our defense; how do we make certain the taxpayers are getting their money's worth; and how do we make certain the men and women who serve in defense of this country are equipped to do what they do best.

I raise this issue of duplication because I think it is so important that we find a way to begin to unravel the unmistakable duplication that exists in so many areas within the Pentagon. This is one that should be self-evident to virtually everyone.

I wish to mention as well today the issue that will also come up in Defense authorization that is the first or second cousin to procurement reform, and that is contracting reform. I know my colleague from Michigan and my colleague from Arizona are very concerned about this as well, and I look forward to working with them on the Defense authorization bill.

A couple of points about contract reform: I have held, I believe, 18 hearings in the Democratic Policy Committee that I chair on contracting issues over a good number of years now. I wish to show a couple of photographs that describe some of the unbelievable circumstances that have existed and that we must take steps to correct, and I know my colleagues, the chairman and ranking member, are already doing so.

This, by the way, deals with contracting. I understand during wartime there are going to be contracts sometimes that are let without a lot of scrutiny and somebody is going to make a lot of money, or perhaps somebody doesn't quite measure up, but this is different. I think we have seen some of the greatest waste, fraud, and abuse in the history of this country in contracting.

This is a picture of a couple million dollars wrapped in Saran wrap, a couple of million dollars in cash. Franklin Willis is the guy with the white shirt. He is holding one of these. This happens to be in a palace in Iraq, one of Saddam's palaces. I assume the chairman of the committee has been in one of Saddam's palaces. I have been in one of Saddam's palaces in Baghdad. So we took over all of those palaces for headquarters, or a good many of them. This happens to be a couple of million dollars in cash put on a table because the contractor was coming to pick up the cash. Franklin Willis—a very respected guy, by the way, who went over from the Federal Government to work on these issues and testified in one of my hearings—said the word was to contractors: Bring a bag because we pay cash.

We were contracting for everything in Iraq. Just all kinds—they had over 130,000 contractors, I believe, at one point. So the company who was going to pick up this cash, by the way, was later indicted in criminal court. But Franklin Willis was showing us how reimbursements were made in Iraq. This is bills wrapped in Saran wrap. He would say from time to time he would see people playing football catch with 100-dollar bills wrapped in Saran wrap waiting for the contractors to bring a bag, to pick up a couple million dollars on this day.

It is not an isolated problem that the contractor that was going to show up to pick up this money was later convicted—indicted and convicted—in a U.S. court for stealing millions of taxpayers' dollars. Franklin Willis said it was just like the old Wild West. That is what he said to us: It was like the Wild West. Bring a bag. We have cash.

So during this period of time, in Baghdad, as they began to try to set up a provisional government—which was the U.S. Government trying to set up a government, and we sent Ambassador Bremer over to set up a government—during that time, we know that pallets of cash were shipped to Iraq. This cash left the Federal Reserve Bank in New York. This pallet, each pallet, contains 640 bundles of 1,000-dollar bills and weighs 1,500 pounds. They sent 484 of these pallets to Iraq on C–130s. That is more than 363 tons of cash that was sent to Iraq in C–130s, totaling $12 billion. Think of that: $12 billion with reports of distributing cash onto the back of pickup trucks. Do you wonder why we were stolen blind?

A woman who has had a substantial amount of experience who has never gotten her due, but one of the most courageous women I have met in Washington, DC, Bunny Greenhouse, and for her testimony and for her courage she lost her job. Here is what she said. She was the former chief contracting officer at the Corps of Engineers. She was the top civilian working for the Army Corps of Engineers, and she was in the room when the logcap project was negotiated.

Let me describe to you what she said. This is the top civilian official in the U.S. Army Corps of Engineers. She had 25 years of great service to our country with two masters degrees, unbelievable qualifications, and performance appraisals that said she was outstanding every single time—until she spoke publicly.

Here is what she said:

> I can unequivocally state that the abuse related to the contracts awarded to Kellogg, Brown & Root—
>
> A subsidiary of Halliburton—
>
> represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

For that, this woman was demoted and lost her job; for the courage to speak out, she lost her job. Pretty unbelievable. This is an extraordinary woman.

We have seen from all of these circumstances unbelievable waste in contracting. It is not just—it is what Bunnatine Greenhouse said, the way the contracts were negotiated. She said they were illegal and so on.

Let me give an example, and I could give 100 examples. This shows $40 million spent on a prison in Iraq they

called the whale. This is when most of the money had already been spent. You can see there is virtually nothing done. The Parsons Corporation got that money. This now sits empty, never having been used. A top floor was never finished. The U.S. Government says: Well, we gave it to the Iraqis.

The Iraqi Government says: Are you kidding me? We wouldn't take that in a million years. We don't want the prison. We would not use the prison. It was never given to us.

So $40 million was spent of the taxpayers' money. Procurement reform and contractor reform are all related. I don't want to come and provide a message that steps in any way on anything that the chairman is doing on procurement reform because that is critically important.

We have to follow it with its first cousin, contract reform. The stories are so legend. In this photo is a young man who was killed. He was a Ranger and a Green Beret. He was electrocuted while taking a shower. This is his mother Cheryl. He was electrocuted because KBR got the contract for wiring facilities in Iraq and didn't do a good job. He was killed in a shower. Another man was power washing a Jeep or humvee and got electrocuted. The Army said: We think he took a radio or an electrical device into the shower. But he didn't.

It is not just this, but it is providing water to military bases that was more contaminated than the Euphrates River.

I will be on the floor when we come to defense authorization with a good number of amendments on contracting reform because we have to put a stop to this. It has gone on way too long.

Let me finish by coming back to where I started, and that is the issue of procurement reform. Our colleagues on the Defense Authorization Committee are trying to deal with virtually unlimited wants and resources. That is not new. We understand the problems that creates. So they have decided they have to put together procurement reform legislation. It is so important to this country to get this done and to get it right. Procurement reform is essential. It is the foundation of fixing the problems that exist with respect to these major weapons programs.

Then, I hope we can segue into contracting reform and the issues of duplication, on which I wish to work with the chairman and ranking member. I thank Senators LEVIN and MCCAIN for their leadership. I requested that I be made a cosponsor of the procurement reform legislation. I look forward to visiting and working with them on amendments on contracting reform in the coming month or two, when we get to the defense authorization.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, let me very quickly thank Senator DORGAN for his extraordinary commitment to the issues he has outlined. I don't know of anybody in this body who has devoted anywhere near the time he has to these issues. He has a passion second to none, and I commend him for it. We look forward to working with him on amendments on the authorization bill, and we also more than welcome his cosponsorship of the pending bill. I thank him for the effort he made.

I assume all the materials he has produced will go to the Commission on Contracting Reform, which has been created on wartime contracting. That will probably give us an opportunity, with the power they have, to take some concrete steps. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I believe we have cleared some amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 1044, 1053, 1046, 1051, 1049, 1050, 1047, AND 1048, EN BLOC

Mr. LEVIN. Mr. President, Senator MCCAIN and I now, with our staffs, have been able to clear eight amendments.

I ask unanimous consent that the following amendments be called up, considered, and approved en bloc: amendment No. 1044, by Senator INHOFE, which he will speak on; amendment No. 1053, Senator CHAMBLISS; Senator COBURN's amendment No. 1046; Senator MCCASKILL's amendments numbered 1051, 1049, and 1050; Senator WHITEHOUSE's amendment No. 1047; Senator CARPER's amendment No. 1048.

The PRESIDING OFFICER. Without objection, the amendments are considered en bloc and are agreed to.

The amendments were agreed to as follows:

AMENDMENT NO. 1044

(Purpose: To require a report on certain cost growth matters following the termination of a major defense acquisition program for critical cost growth)

On page 59, line 25, strike ''(D)'' and inserting ''(E)''.

On page 60, strike line 3 and insert the following:

lowing new subparagraphs (B), (C), and (D):

On page 60, line 4, insert ''and submit the report required by subparagraph (D)'' after ''terminate such acquisition program''.

On page 61, strike like 24 and insert the following:

gram;

''(D) if the program is terminated, submit to Congress a written report setting forth—

''(i) an explanation of the reasons for terminating the program;

''(ii) the alternatives considered to address any problems in the program; and

''(iii) the course the Department plans to pursue to meet any continuing joint military requirements otherwise intended to be met by the program; and''.

AMENDMENT NO. 1053

(Purpose: To clarify an exception to conflict of interest requirements applicable to contracts for systems engineering and technical assistance functions)

On page 63, line 11, insert ''for special security agreements'' after ''to those required''.

AMENDMENT NO. 1046

(Purpose: To require reports on the operation and support costs of major defense acquisition programs and major weapons systems)

On page 49, strike line 15 and all that follows through page 51, line 8, and insert the following:

view, including an assessment by the Director of the feasibility and advisability of establishing baselines for operating and support costs under section 2435 of title 10, United States Code.

(2) TRANSMITTAL TO CONGRESS.—Not later than 30 days after receiving the report required by paragraph (1), the Secretary shall transmit the report to the congressional defense committees, together with any comments on the report the Secretary considers appropriate.

(c) TRANSFER OF PERSONNEL AND FUNCTIONS OF COST ANALYSIS IMPROVEMENT GROUP.—The personnel and functions of the Cost Analysis Improvement Group of the Department of Defense are hereby transferred to the Director of Independent Cost Assessment under section 139d of title 10, United States Code (as so added), and shall report directly to the Director.

(d) CONFORMING AMENDMENTS.—

(1) Section 181(d) of title 10, United States Code, is amended by inserting ''the Director of Independent Cost Assessment,'' before ''and the Director''.

(2) Section 2306b(i)(1)(B) of such title is amended by striking ''Cost Analysis Improvement Group of the Department of Defense'' and inserting ''Director of Independent Cost Assessment''.

(3) Section 2366a(a)(4) of such title is amended by striking ''has been submitted'' and inserting ''has been approved by the Director of Independent Cost Assessment''.

(4) Section 2366b(a)(1)(C) of such title is amended by striking ''have been developed to execute'' and inserting ''have been approved by the Director of Independent Cost Assessment to provide for the execution of''.

(5) Section 2433(e)(2)(B)(iii) of such title is amended by striking ''are reasonable'' and inserting ''have been determined by the Director of Independent Cost Assessment to be reasonable''.

(6) Subparagraph (A) of section 2434(b)(1) of such title is amended to read as follows:

''(A) be prepared or approved by the Director of Independent Cost Assessment; and''.

(7) Section 2445c(f)(3) of such title is amended by striking ''are reasonable'' and inserting ''have been determined by the Director of Independent Cost Assessment to be reasonable''.

(e) COMPTROLLER GENERAL OF THE UNITED STATES REVIEW OF OPERATING AND SUPPORT COSTS OF MAJOR WEAPON SYSTEMS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on growth in operating and support costs for major weapon systems.

(2) ELEMENTS.—In preparing the report required by paragraph (1), the Comptroller General shall, at a minimum—

(A) identify the original estimates for operating and support costs for major weapon systems selected by the Comptroller General for purposes of the report;

(B) assess the actual operating and support costs for such major weapon systems;

(C) analyze the rate of growth for operating and support costs for such major weapon systems;

(D) for such major weapon systems that have experienced the highest rate of growth in operating and support costs, assess the factors contributing to such growth;

(E) assess measures taken by the Department of Defense to reduce operating and support costs for major weapon systems; and

(F) make such recommendations as the Comptroller General considers appropriate.

(3) MAJOR WEAPON SYSTEM DEFINED.—In this subsection, the term ''major weapon system'' has the meaning given that term in 2379(d) of title 10, United States Code.

AMENDMENT NO. 1051

(Purpose: To enhance the review of joint military requirements)

On page 53, between lines 17 and 18, insert the following:

(c) REVIEW OF JOINT MILITARY REQUIREMENTS.—

(1) JROC SUBMITTAL OF RECOMMENDED REQUIREMENTS TO UNDER SECRETARY FOR ATL.—Upon recommending a new joint military requirement, the Joint Requirements Oversight Council shall transmit the recommendation to the Under Secretary of Defense for Acquisition, Technology, and Logistics for review and concurrence or non-concurrence in the recommendation.

(2) REVIEW OF RECOMMENDED REQUIREMENTS.—The Under Secretary for Acquisition, Technology, and Logistics shall review each recommendation transmitted under paragraph (1) to determine whether or not the Joint Requirements Oversight Council has, in making such recommendation—

(A) taken appropriate action to solicit and consider input from the commanders of the combatant commands in accordance with the requirements of section 181(e) of title 10, United States Code (as amended by section 105);

(B) given appropriate consideration to trade-offs among cost, schedule, and performance in accordance with the requirements of section 181(b)(1)(C) of title 10, United States Code (as amended by subsection (b)); and

(C) given appropriate consideration to issues of joint portfolio management, including alternative material and non-material solutions, as provided in Chairman of the Joint Chiefs of Staff Instruction 3170.01G.

(3) NON-CONCURRENCE OF UNDER SECRETARY FOR ATL.—If the Under Secretary for Acquisition, Technology, and Logistics determines that the Joint Requirements Oversight Council has failed to take appropriate action in accordance with subparagraphs (A), (B), and (C) of paragraph (2) regarding a joint military requirement, the Under Secretary shall return the recommendation to the Council with specific recommendations as to matters to be considered by the Council to address any shortcoming identified by the Under Secretary in the course of the review under paragraph (2).

(4) NOTICE ON CONTINUING DISAGREEMENT ON REQUIREMENT.—If the Under Secretary for Acquisition, Technology, and Logistics and the Joint Requirements Oversight Council are unable to reach agreement on a joint military requirement that has been returned to the Council by the Under Secretary under paragraph (4), the Under Secretary shall transmit notice of lack of agreement on the requirement to the Secretary of Defense.

(5) RESOLUTION OF CONTINUING DISAGREEMENT.—Upon receiving notice under paragraph (4) of a lack of agreement on a joint military requirement, the Secretary of Defense shall make a final determination on whether or not to validate the requirement.

On page 53, line 18, strike ''(c)'' and insert ''(d)''.

On page 54, line 12, strike ''(d)'' and insert ''(e)''.

AMENDMENT NO. 1049

(Purpose: To specify certain inputs to the Joint Requirements Oversight Council from the commanders of the combatant commands on joint military requirements)

On page 51, line 12, insert ''(a) IN GENERAL.—'' before ''Section 181''.

On page 51, line 23, strike ''of subsection (f).''.'' and insert the following: ''of subsection (f). Such input may include, but is not limited to, an assessment of the following:

''(1) Any current or projected missions or threats in the theater of operations of the commander of a combatant command that would justify a new joint military requirement.

''(2) The necessity and sufficiency of a proposed joint military requirement in terms of current and projected missions or threats.

''(3) The relative priority of a proposed joint military requirement in comparison with other joint military requirements.

''(4) The ability of partner nations in the theater of operations of the commander of a combatant command to assist in meeting the joint military requirement or to partner in using technologies developed to meet the joint military requirement.''.

(b) COMPTROLLER GENERAL OF THE UNITED STATES REVIEW OF IMPLEMENTATION.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the requirements of subsection (e) of section 181 of title 10, United States Code (as amended by subsection (a)), for the Joint Requirements Oversight Council to solicit and consider input from the commanders of the combatant commands. The report shall include, at a minimum, an assessment of the extent to which the Council has effectively sought, and the commanders of the combatant commands have provided, meaningful input on proposed joint military requirements.

AMENDMENT NO. 1050

(Purpose: To provide for a review by the Comptroller General of the United States of waivers of the requirement for competitive prototypes based on excessive cost)

On page 59, strike line 15 and insert the following:

(d) COMPTROLLER GENERAL OF THE UNITED STATES REVIEW OF CERTAIN WAIVERS.—

(1) NOTICE TO COMPTROLLER GENERAL.—Whenever a milestone decision authority authorizes a waiver of the requirement for prototypes under paragraph (1) or (2) of subsection (c) on the basis of excessive cost, the milestone decision authority shall submit a notice on the waiver, together with the rational for the waiver, to the Comptroller General of the United States at the same time a report on the waiver is submitted to the congressional defense committees under paragraph (3) of that subsection.

(2) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after receipt of a notice on a waiver under paragraph (1), the Comptroller General shall—

(A) review the rationale for the waiver; and

(B) submit to the congressional defense committees a written assessment of the rationale for the waiver.

(e) APPLICABILITY.—This section shall apply to any

AMENDMENT NO. 1047

(Purpose: To further improve the cost assessment procedures and processes of the Department of Defense)

On page 43, between lines 20 and 21, insert the following:

(c) TECHNOLOGICAL MATURITY STANDARDS.—For purposes of the review and assessment conducted by the Director of Defense Research and Engineering in accordance with subsection (c) of section 139a of title 10, United States Code (as added by subsection (a)), a critical technology is considered to be mature—

(1) in the case of a major defense acquisition program that is being considered for Milestone B approval, if the technology has been demonstrated in a relevant environment; and

(2) in the case of a major defense acquisition program that is being considered for Milestone C approval, if the technology has been demonstrated in a realistic environment.

On page 45, beginning on line 9, strike ''programs and require the disclosure of all such confidence levels;'' and insert ''programs, require that all such estimates include confidence levels compliant with such guidance, and require the disclosure of all such confidence levels (including through Selected Acquisition Reports submitted pursuant to section 2432 of this title);''.

On page 47, line 16, add at the end the following: ''The report shall include an assessment of—

''(A) the extent to which each of the military departments have complied with policies, procedures, and guidance issued by the Director with regard to the preparation of cost estimates; and

''(B) the overall quality of cost estimates prepared by each of the military departments.

On page 48, line 2, add at the end the following: ''Each report submitted to Congress under this subsection shall be posted on an Internet website of the Department of Defense that is available to the public.''.

AMENDMENT NO. 1048

(Purpose: To require consultation between the Director of Defense Research and Engineering and the Director of Developmental Test and Evaluation in assessments of technological maturity of critical technologies of major defense acquisition programs)

On page 42, line 12, insert '', in consultation with the Director of Developmental Test and Evaluation,'' after ''shall''.

Mr. LEVIN. Mr. President, I move to reconsider the vote regarding the amendments agreed to en bloc.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. Mr. President, it is my understanding, and I believe also the chairman's understanding, that we may have one or two other amendments pending.

Mr. LEVIN. I thank the Senator for making that point. We want to see additional amendments if they are out there. We will do our best to clear them but, if not, debate them. We appreciate the cooperation of everybody.

I yield the floor.

AMENDMENT NO. 1044

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, my amendment was one of the eight

amendments agreed to. I will be brief. I wish to get on record as to what it is I am trying to do.

First of all, though, I think my name may be on there as a cosponsor; if not, I ask unanimous consent that I be added at this time.

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

Mr. INHOFE. Mr. President, section 2094 of the bill requires the Secretary to submit written certification if a program is not terminated that states the acquisition program is essential to the national security, that no alternatives meet the joint military requirement, the new estimates are reasonable, and the management structure is adequate to manage and control the program acquisition cost. I concur with the certification process, but no similar requirement is there for the termination of an acquisition program. That is an area in which oversight is required and information critical as we continue to improve the acquisition process, which I believe this legislation will do.

My amendment requires the Secretary of Defense to submit a written report explaining the reasons for terminating the program, alternatives considered to address any problems in the program, and the course of action the Department of Defense plans to pursue to meet continuing joint military requirements intended to be met by the program being canceled. This report will provide Congress with historical documentation of the terminated or failed programs and why they are terminated.

Essentially, the language of the amendment is simply the requirement that if a program is terminated, submit to Congress a written report setting forth three things: One, an explanation of the reason for terminating the program; two, the alternatives considered to address any problems in the program; three, the course the Department plans to pursue to meet any continuing joint military requirements otherwise intended to be met by the program.

In other words, it makes the same requirement on terminated programs as others. This has already been adopted en bloc, and I have no motion to make.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 1049, 1050, AND 1051

Mrs. MCCASKILL. Mr. President, I rise to thank Chairman LEVIN and Ranking Member MCCAIN on a good bill to address a serious and expensive problem in our military. We have costs that have ballooned. As Senator LEVIN explained earlier today, in 2008 alone the portfolio of DOD's 97 major defense acquisition programs was nearly $300 billion over cost and the average delay in terms of delivering these capabilities to the warfighter was 22 months. That is unacceptable to our warfighters and unacceptable to taxpayers.

There are obviously many examples of these systems that have been underestimated both on time of delivery and costs, but a good one is the Joint Strike Fighter. Right now, the JSF continues to rely on immature technologies and unrealistic cost schedules. We have a situation where DOD might actually procure these aircraft, these F–35s, costing $57 billion, before we have even completed the developmental flight testing. That is just one, but it is a very good example of a program that is underperforming for the warfighter and for the taxpayer.

There are three amendments that have been added to this bill at my request, and I thank the Armed Services staff and particularly Senator LEVIN and Senator MCCAIN for accepting these three amendments. I would like to briefly explain the three amendments we have added.

The first is one that will provide some more teeth in a very critical area that is of huge importance in this process; that is, tightening up the process and procedures at JROC.

JROC is the military's Joint Requirements Oversight Council. Now, that sounds pretty good. JROC sounds like a place where you are going to get oversight. But unfortunately, invariably, JROC has become a place where one branch of the military gets what it wants, and in return the other branch of the military gets what it wants, and in return the other branch of the military gets what it wants. It has been kind of a murky process. Based on hearings we have had and testimony and questions I have asked, it is clear to me that JROC has not been providing a lot of oversight—maybe a little too much back-scratching and not enough oversight. So two of these amendments are to deal with the JROC situation and hopefully improve it.

One is going to bring more input from combatant commands to the JROC process. The warfighter's perspective is very important, as this council makes decisions about requirements on systems the U.S. taxpayer is going to purchase. It is very important that the warfighters have input because they are the end user. Maybe what they are saying in that room is what is needed or it turns out that maybe it is not what is needed. We have had examples of where we have failed our warfighters in not anticipating what the needs actually are on the ground. The Iraq war is full of examples where we underestimated what we needed in some regards and overestimated what we needed in others. The warfighter being in the process is very important.

The other amendment that deals with the JROC—the Joint Requirements Oversight Council—is bringing another voice to this process. The Under Secretary of Defense for Acquisitions, Technology and Logistics will now be required to concur on the JROC requirements with an eye toward cost, utility, and policy considerations. So we have now added a referee of sorts—another voice. So it isn't just going to be about the Air Force or the Navy or the Army keeping each other happy but, rather, someone in a responsible position to look and concur that what they are doing is in the best interest of cost, utility, and overall policy considerations.

That critical layer of the Under Secretary of Defense for Acquisitions, Technology and Logistics will also bring into the process the Secretary of Defense, if necessary, because if there is not an agreement, then the Secretary of Defense will have to come in and provide that ultimate decisionmaking with an eye toward cost, utility, and policy. This will allow the kind of leadership from the top to make sure these decisions are in the best interests of all of the military as opposed to everybody getting what they want.

The final amendment that has been accepted that I believe will help is a little bit of looking over the shoulder on cost waivers. We have put into this bill a number of situations where certain safeguards can be waived if they are going to be too expensive. The best example is the prototype. There is going to be no need for them to do a competitive prototype if they decide they need to waive that requirement based on the cost of producing that prototype. I don't disagree that there may be some circumstances where costs are going to be too high to do a prototype, but what I want to make sure is that we don't abuse the cost waiver. In order to avoid abusing the cost waiver, we need an auditor looking over their shoulders. So this amendment mandates the reporting of cost waivers to GAO—the Government Accountability Office, the overall auditor in the Federal Government—and it requires the GAO to provide a written review to the Senate Armed Services Committee and the House Armed Services Committee within 60 days of the receipt of that waiver. This will allow the GAO to look over the shoulder and make sure the cost waiver is one based on reliable, objective, and reasonable information. I don't think it is going to be necessary for GAO to do a lot of these analyses if the military knows that it can. Sometimes, just knowing somebody is looking over your shoulder brings about better behavior. That is the goal of this amendment, to make sure we don't abuse cost waivers because this bill is not going to do a lot of good if the military has the opportunity to drive in, around, and through it without appropriate oversight.

So I believe these amendments improve the bill. They are going to be helpful as we try to get a handle on the acquisition process.

I will continue to work with the chairman and the ranking member in any way I can, particularly on the Subcommittee on Contracting Oversight, which I chair, which is now part of the Homeland Security and Governmental Affairs Committee. We on that subcommittee are going to continue to look at contracting in DOD, particularly keeping an eye not just on the weapons acquisition but the acquisition of services at DOD. That has also has been a huge growth industry as we have entered into contracting for support services such as never before in the American military, with, frankly, boxes and boxes of examples of waste, abuse, and fraud.

So I am pleased this bill is moving as quickly as it has, and I am particularly pleased there has been such a bipartisan effort in this body. It is refreshing when we can all come together and do the right thing, as we are doing on this bill.

Mr. President, I yield the floor.

Mr. UDALL of Colorado. Mr. President, I am pleased to rise in support of an amendment to this important bill, offered by my colleague Senator MCCASKILL. I am proud to be a cosponsor of this amendment, which adds to good language in the bill requiring competitive prototyping. At its heart, this amendment is about our government wisely using taxpayer dollars.

Last year, the U.S. Department of Defense announced a new policy that DOD development programs in their early stages must involve at least two prototypes—to be developed by competing industry teams—before DOD can move forward into the system design and development phase, the longest and costliest part of the process.

The idea behind this policy makes sense: Technologies should be proven before contracts are awarded. Paper proposals alone do not always provide sufficient information on technical risk and cost estimates. But an investment in prototyping up-front can result in greater knowledge up-front, which in turn can lead to better cost and schedule assessments.

It seems to me that DOD had the right idea to resurrect competitive prototyping. The sponsors of this bill—Senators LEVIN and MCCAIN—agreed. The bill we are considering today would codify DOD's policy.

The bill would also authorize a waiver for competitive prototyping in the event of excessive cost. This was a change we made in the Senate Armed Services Committee, on which I sit. This change reflects DOD's concerns that it can sometimes be cost prohibitive to produce two or more prototypes of a system.

One of the goals of competitive prototyping is to try to reduce costs, not increase them. So I believe DOD should have authority to waive this requirement when producing two or more prototypes of a system would be cost prohibitive. However, we should ensure that this waiver authority is not abused, or casually used as a way to avoid prototyping.

So I support this amendment offered by my colleague today, which will add a layer of fiscal oversight to the sole-source nature of prototyping that can result from these waivers. It would require DOD to report cost waivers both to the Government Accountability Office and to congressional defense committees and require GAO to provide a written review to the congressional defense committees. This amendment is about good government, and I would hope that my colleagues in both parties would support it.

I want to close by addressing the larger issue we are considering today—acquisition reform. As a member of the Armed Services Committee and as a taxpayer, this issue concerns me greatly. There seems to be universal agreement that reform is necessary. The GAO reported this year that DOD's major defense acquisition programs are nearly $300 billion over budget. At a time of economic crisis and uncertainty, we need to work much harder to get these costs under control.

But DOD's acquisition system is complex and there is no shortage of ideas on how to fix it. I am a cosponsor of this bill because I believe it takes important steps in the right direction. It does not try to fix the whole system, but instead focuses mainly on the early phases of the acquisition process, which can often start with ''inadequate foundations.'' As Chairman LEVIN stated in our committee, the ''bill is designed to help put major defense acquisition programs on a sound footing from the outset.'' I believe this bill will do that. I commend the authors of this bill for their important work and for building bipartisan support for this bill.

I urge support of this bill and of the McCaskill amendment.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, let me thank Senator MCCASKILL for her great work on the amendments she has just described. These are significant amendments, important amendments. They reflect the kind of dogged determination the good Senator from Missouri shows every day.

These amendments are so important to the procurement process.

I thank Senator MCCASKILL for her three amendments, which have strengthened the bill by, No. 1, reinforcing requirements to make tradeoffs between cost, schedule, and performance, by directing the Under Secretary of Defense for Acquisition, Technology and Logistics to review requirements and ensure that such tradeoffs have been made; No. 2, enhancing the role of combatant commanders in developing requirements by spelling out issues on which their input should be solicited and considered; and No. 3, reinforcing competitive prototyping requirements in the bill by requiring a GAO review and assessment of any waiver on the requirement on the basis of excessive cost.

These amendments improve the bill and reflect Senator MCCASKILL's consistent dedication to acquisition reform in the best interests of the taxpayers.

I commend the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I also would express my appreciation to the Senator from Missouri for her hard work, not only on this amendment but on the committee. I thank her and I think it has improved the legislation.

In consultation, I think the chairman is going to talk about what we intend to do. I understand there are a couple of amendments that may require recorded votes, but we really need to have all amendments in so we can wrap up this legislation either tonight or tomorrow, depending on the wishes of the respective leaders.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank the Senator from Arizona. What we are trying to do is see if we can't limit amendments. We think we know the amendments that are still out there, but we need people who want to pursue amendments to let us know that and give us an opportunity to look at them, to discuss the amendments with folks.

I have not had an opportunity to talk with the majority leader about whether there will be an opportunity to have votes tonight if we can't work out amendments, but I better not say anything until I have that opportunity to check it out with the majority leader. I know Senator CHAMBLISS is here to be recognized.

I yield the floor.

AMENDMENTS NOS. 1053 AND 1054

Mr. CHAMBLISS. Mr. President, I rise to call up two amendments that have been filed at the desk, No. 1053 and No. 1054. I want to start by recognizing the great work Senators LEVIN and MCCAIN have done on this issue. I have been extremely concerned about the acquisition process at the Department of Defense for years—during my House years as well as my Senate years. There have been no two greater champions on the issue than Senators LEVIN and MCCAIN.

They put together a piece of legislation that I think really does move us down the road in the right direction. We are dealing with less money in the defense budget than we have ever had. Yet the needs are greater. So I commend them for the great work they have done.

One of the amendments I am going to talk about has already been accepted. I am very appreciative of their support of that amendment.

Both of these amendments relate to the organizational conflict of interest—OCI—area of the bill.

The first amendment, No. 1053, deals with the ways in which contractors

that have affiliates that provide systems engineering and technical assistance, or ''SETA'' services, must organize their SETA affiliates in order to mitigate conflict of interest.

In relation to large contractors having affiliates that perform SETA functions, this amendment would allow for a closer modeling of the arrangements that large U.S. companies that are foreign-owned or controlled currently have for their defense-related operations in order to protect classified information.

One aspect of these arrangements relates to how the corporate board for the U.S. company, or SETA affiliate in this case, is organized.

One model is ''proxy board'' which cannot communicate in any way with the parent company and prohibits any board member for the affiliate from serving on the board of or having other responsibilities within the parent company.

The proxy board model requires all outside board members and removes all prerogatives of ownership for the parent company. It does not allow the parent company to exercise any management control or oversight over the separate entity and, as such, is a huge liability for the parent company. As such, it is not an attractive model in many cases.

The other approach is a ''special security agreement'' which is what BAE, Rolls Royce, and other large defense contractors who have a reputation for responsibility and trustworthiness use for their U.S. affiliates. This approach requires some board members to be totally independent of the parent company but also permits some communication between the board of the affiliate and the parent company.

This model allows for regulated discussions between the affiliate and the parent and protects sensitive—versus routine—information from being shared.

This model has other aspects to it that provide for independence and security, and it makes sense and is less onerous for the parent company.

My amendment specifies that the arrangements between large contractors and their SETA affiliates should be similar to the ''special security agreement'' I have discussed above.

I am pleased that the managers have agreed to accept the amendment. I thank them for that.

The second amendment which I have filed, No. 1054, relates to prime contractor ''make-buy'' decisions. These decisions relate to which aspects of a contract the prime contractor chooses to either make themselves or contract out to another company.

The current bill prescribes what I believe to be onerous procedures for regulating the prime contractors' decisions in this regard and provides for ''government oversight of the process by which prime contractors consider such sources'' and authorizes ''program managers to disapprove the determination by a prime contractor to conduct development or construction in-house rather than through a subcontract.''

In my opinion, this is an example of the Government interfering in a private company's legitimate business decisions and adds little value to the process.

Current acquisition regulations already provide for oversight of ''make-buy'' decisions by the Government. The ''Acquisition Reform Working Group'' composed of industry associations has strong language in their recent report on this bill opposing further Government intervention in ''make-buy'' decisions.

Prime contractors are already incentivized through the market to make wise choices in this area and are held accountable to the Government for their choices, both through the terms of the contract in question and through future competitions for which past performance is always a consideration.

My amendment strikes much of the provision in the bill and is intended to account for the fact that there are already procedures in place to address this issue. My amendment also attempts to prohibit excessive Government involvement in private sector business decisions.

I would like to quote from the Acquisition Reform Working Group's, position paper they issued on this bill in relation to this issue.

> The acquisition regulations already grant the government oversight of contractors' make/buy programs . . . The government has an appropriate oversight role, but that role must be managed to assure that the government is able to hold a contractor accountable for results. If the government is to determine which subcontractors will be part of a major program, the government will necessarily assume responsibility for that choice which will result in a corresponding reduction in the prime contractor 's responsibility for the program.
>
> Make-buy decisions are critical to program success. The prime contractor must consider the selection of a major subcontractor much as the government considers the selection of the prime contractor in the source selection process. The selection of the major subcontractors is made early in the proposal process . . . To have the government substitute an agency decision concerning these selections after award would likely put the prime contractor's performance against the contract awarded base-line at risk. Any additional emphasis on the make-buy process should take into account the program risk created by Government direction for contractor source selection decisions.
>
> There is a fine balance that must be maintained to hold contractors accountable for performance and results while affording the government an appropriate oversight role. It is unreasonable to expect a contractor to be held accountable for results if the government does not both provide the responsibility and the right incentives for that performance. Better and earlier planning and program management by the Government will mitigate a contractor's performance risks more effectively than taking away a contractor's intellectual property rights, innovation incentives, and accountability. Taking away such rights will also render the Defense market less attractive for new companies, especially commercial companies, with high risk and little chance of reward.

That is a rather extensive quote from that report by the Acquisition Reform Working Group, but I thought it was important to rationalize the way of thinking related to how we look at this issue. Basically, what we are proposing is, not to change the way the situation works today with respect to make-buy contracts.

So if you have a major weapons system contractor that is awarded a contract, and under that contract, let's say for an automobile that obviously requires a steering wheel, then the contractor ought to have the ability to decide whether to make that steering wheel themselves or whether to subcontract that steering wheel out to another contractor. If the contractor has a right to make those decisions then the numbers that were contained in their bid are going to reflect that and accurately reflect the ultimate price the Government pays. But if the Government has the right, as the bill says, to step in after the award and tell the prime contractor: You are not going to subcontract out, we are going to mandate that you make that steering wheel, then I think it does take away some of the flexibility and the ability on the part of the prime contractor to be able to adhere to the numbers and pricing that their bid contains.

This is a situation where, if we think contractors in the defense community are taking advantage of the system, the language in the bill is the direction in which we ought to go. But there are safeguards in every contract that the Department of Defense awards. I think what we need to do is focus more on making sure contractors are giving us the best possible buy we can get and the best quality of product we can get, and not hamstring those contractors who are making these bids. This will allow us to take the most advantage of taxpayer dollars that we have to use in equipping our men and women who wear the uniform of the United States.

I understand the committee may have issues with this amendment, but I think it is a good amendment. I urge its adoption.

I want to close by saying again that Senator MCCAIN and I have talked about this issue of acquisition reform a number of times during my years in the Senate. There is no stronger advocate for doing what is right related to proper expenditure of taxpayer money than Senator MCCAIN. I applaud him and Senator LEVIN for taking this on, getting in the weeds on it, because the contracts for which the Pentagon solicits bids and that they award on a daily basis are extremely complex, they are very large in the amount of money they spend, and this type of reform is not easy to put together.

But I think Senators LEVIN and MCCAIN have done an excellent job of coming up with what I think is a good product. I think with some of the amendments that have come forward

today it is going to be an even better product.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me commend the Senator from Georgia for the amendment which we have adopted, amendment No. 1053, that makes a very useful clarification of the standard for the separate business unit definition on this original conflict-of-interest provision we have.

I wish to commend my friend from Georgia for doing that, for catching that, and for making that suggested change which we have now adopted in amendment No. 1053.

We would oppose amendment No. 1054, if it were offered, for the following reasons: There has been a report from the Defense Science Board Task Force that, because of consolidation in the defense industry, there has been a substantial reduction in innovation and competition.

In order to stimulate that, to make sure the avenues are open for small business, we have a provision in this bill which basically adopts the approach of the Defense Science Board Task Force and is consistent with the concerns they raise about the lack of competition resulting from consolidation.

But, equally important, we hear from small business owners consistently that they have been excluded by prime contractors from competing for subcontract work. When they do that, they, of course, are reserving the business for themselves, for the prime contractors themselves.

As the Senator from Georgia mentions, there is now some oversight. But the problem is, there is no ability to veto, in effect, the decision to keep the work in-house. We would not take over the competition or the contracting bidding process. But what we do provide for is the veto of a decision to keep work in-house, where we think it is anticompetitive or unfair.

It is kind of an in-between position. The Defense Science Board actually suggested we go further than we have. What we do in this bill is say that if a decision is made that the contractor is keeping work in-house, which should be put up to competition to allow small businesses to bid on it, the discretion would be available for the Department to override that decision.

We think that is kind of an appropriate thing to do to protect small businesses, to protect competition, and to make sure there is reasonable oversight of that decision of any prime contractor to keep the work for themselves instead of bidding it out, which, of course, would open it to smaller businesses and greater innovation.

So we would oppose this amendment should it be called up. On the other hand, we want to, again, commend the Senator from Georgia because he has gotten into issues such as this. While we disagree with him on this one, we do want to note he has been very deeply involved in this bill. He has worked with us on this bill, and we greatly appreciate his support for our bill.

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

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

HEALTH CARE REFORM

Mr. BROWN. Mr. President, as has always been the case when our Nation attempts to improve its health care system, some people and some groups try to scare Americans into believing it would be better to cling to what we have than to strive for something better—the same old story, the same old song.

Those who are using anti-reform scare tactics are typically people who are doing just fine, thank you, under the current system and, frankly, could not care less about those who are not doing so well, along with industry groups that want to make sure they can keep squeezing as much profit out of the health care system as possible.

It is that lust for profits—not a desire to honestly inform the public—that leads industry groups to demonize any reform proposals they themselves did not write.

In this case, conservative pundits, who I would guess have excellent health care coverage for themselves—the people you see on TV, the writers you see in the newspapers, the commentators you hear on the radio—conservative pundits, who probably have excellent health coverage for themselves, are trying to convince Americans that the only alternative to the status quo is ''socialized medicine.'' And the health insurance industry is trying to convince Americans that if it has to coexist with a federally backed insurance plan; that is, as an option for people, the insurance industry will disappear.

The private insurance industry did not disappear when Medicare was established. The private insurance industry did not disappear when Medicaid was established, even though many insurance companies said they would. Why would it disappear when a federally backed option is created for working-age adults?

Improving our health care system is too important a topic to be co-opted by inflammatory, unfounded rhetoric—rhetoric about ''socialized medicine,'' rhetoric about ''Medicare for all,'' rhetoric about ''single-payer systems,'' rhetoric that at the end of the day is nothing more than a bunch of hot air coming from a bunch of hotheads.

The truth is, Congress is contemplating health care reform that would increase consumer choice—increase consumer choice—by improving access to private and public insurance alike.

We are not eliminating private plans. We are saying: OK, the private plans will be here. They will have rules. The public plan will be here as an option—only as an option. It will have the same rules. Let them compete. If the private plans are so good, they will do well. The public plan is there, frankly, to keep the private plans honest so the private plans do not eliminate people because of community rating, do not eliminate people because they might have a preexisting medical condition.

As I said, the truth is, the Congress is contemplating health care reforms that would increase consumer choice. There are zero—count them, zero—health care proposals under consideration in this Senate that would eliminate the private insurance system. In fact, every single one of them embraces and strengthens the private health insurance system.

If you have employer-sponsored coverage, the reforms under consideration are designed to help you keep it. So understand, if you have insurance today, you can keep what you have. Under the legislation we will look at, if you want to choose a new insurance plan, you should have the full complement of choices: several private plans and a public plan, if you want to choose it. It is simply an option. It makes sense. It is not socialized medicine. It is simply good government. It is good health care.

What we have done in the past simply has not worked. It is time for a different approach. It is time for a public option for the American people.

Mr. President, I yield the floor.

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. LEVIN. 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. 1055

Mr. LEVIN. Mr. President, I would call up, on behalf of Senator BINGAMAN, amendment No. 1055. I understand this has been cleared now. It is a useful clarification of the relationship between the developmental testing requirements in the bill and the testing reforms that were enacted 6 years ago.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. BINGAMAN, proposes an amendment numbered 1055.

Mr. LEVIN. 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 clarify the submittal of certifications of the adequacy of budgets by the Director of the Department of Defense Test Resource Management Center)

At the end of title I, add the following:

SEC. 106. CLARIFICATION OF SUBMITTAL OF CERTIFICATION OF ADEQUACY OF BUDGETS BY THE DIRECTOR OF THE DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

Section 196(e)(2) of title 10, United States Code, is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) If the Director of the Center is not serving concurrently as the Director of Developmental Test and Evaluation under subsection (b)(2) of section 139c of this title, the certification of the Director of the Center under subparagraph (A) shall, notwithstanding subsection (c)(4) of such section, be submitted directly and independently to the Secretary of Defense.''.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1055) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I ask unanimous consent that the following be the only first-degree amendments in order to S. 454, other than the committee-reported substitute amendment, that the listed first-degree amendments be subject to second-degree amendments which are relevant to the amendment to which offered; that with respect to any subsequent agreement which provides for a limitation of debate regarding an amendment on the list, then that time be equally divided and controlled in the usual form; that if there is a sequence of votes with respect to these amendments, then there be 2 minutes equally divided and controlled prior to a vote in relation thereto; that upon disposition of the listed amendments, the substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time, and the Senate proceed to vote on passage of the bill.

The amendments I am including in this unanimous consent proposal are as follows:

The Snowe amendment No. 1056 regarding small business contracting; a Thune amendment regarding weapons systems; a Coburn amendment regarding financial management, which we think we may have worked out, by the way; the Chambliss amendment No. 1054 regarding ''make buy;'' the Bingaman amendment, which we have already adopted so I will not refer to that; and the Murray amendment No. 1052 regarding national security objectives.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEVIN. I thank the Chair, and I thank my friend from Arizona and the staffs who worked this out. I think these amendments then would be considered probably tomorrow morning, although I don't know that we have final word on that. We ought to probably doublecheck that with our leaders, and I would note the absence of a quorum while we do that.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

Mr. LEVIN. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

DEFENSE PROCUREMENT PROCESS

Mrs. MURRAY. Mr. President, there is no question that our country's defense procurement process is broken. At a time when the American people are tightening their personal budgets, making sacrifices, and focusing on essentials, our defense acquisition program continues to run up huge bills.

Just this year, the GAO reported that the major defense procurement program is $296 billion over budget. Not only are they over budget, they are behind schedule. In fact, 95 percent of DOD's largest acquisition programs are now an average of 2 years behind schedule. Every extra day, every additional dollar spent on these systems is a step backward for our Nation's other priorities.

As we tackle the big challenges by getting our economy back on track or our health care system working again for all Americans or establishing a clean energy future, it is time that we focused on trimming the fat in our defense budget.

I applaud our Armed Services chairman, Senator LEVIN, and the ranking member, Senator MCCAIN, for introducing the bold plan that is now before the Senate, which will bring about reform. Their bill recognizes that making changes to acquisition starts at the beginning of the process, with the proper testing and the cost calculating and development procedures. It also returns discipline to the process by making sure the rules limiting cost are enforced. Those and other badly needed steps are going to help reform our system and return Federal dollars to meet the challenges we have on the horizon.

Mr. President, that should be only the first step because the truth is that, while today's debate has been delayed for far too long, there is another hard conversation surrounding procurement that we have not yet even started, and that is the conversation about the future of the men and women who produce our tanks, our planes, and our boats. The skilled workforce our military depends on is a workforce that is disappearing today before our eyes.

Our Government depends on our highly skilled industries, our manufacturers, our engineers, our researchers, and our development and science base to keep the U.S. military stocked with the best and most advanced equipment and tools available. Whether it is scientists who are designing the next generation of military satellites or engineers who are improving our radar system or machinists who are assembling warplanes, these industries and their workers are one of our greatest strategic assets today. What if those weren't available? What if we made budgetary and policy decisions without talking about the future needs of our domestic workforce? It is not impossible. It is not even unthinkable. It is actually what is happening.

We need to have a real dialog about the ramifications of these decisions before we lose the capability to provide our military with the tools and equipment they need because once our plants shut down, once our skilled workforce and workers move to other fields, and once that infrastructure is gone, it is not going to be rebuilt overnight if we need it.

As a Senator from the State of Washington, representing five major military bases and many military contractors, I am very aware of the important relationship between our military and the producers that keep them protected with the latest technological advances. I have also seen the ramifications of the Pentagon's decisions on communities, workers, and families. As many here know, I have been sounding the alarm about a declining domestic aerospace industry for years.

This isn't just about one company or one State or one industry. This is about our Nation's economic stability. It is about our skill base. It is about our future military capability. We have watched as the domestic base has shrunk. We have watched as competition has disappeared and as our military has looked overseas for the products that we have the capability to produce right here at home.

Many in the Senate have spent a lot of time talking about how many American jobs are being shipped overseas in search of cheaper labor. But we haven't focused nearly enough attention on the high-wage, high-skilled careers being lost to the realities of our procurement system. That is why, today, I am going to be introducing an amendment that will require the Pentagon to explain to

us in Congress and to the American people how their decisions affect good-paying jobs and the long-term strength of our industrial base.

My amendment will help to ensure that our industrial base is capable of meeting our national security objectives. It took us a very long time to build our industrial base. We have machinists who have past experience and know-how down the ranks for more than 50 years. We have engineers who know our mission, know the needs of our soldiers, sailors, airmen, and marines. We have a reputation for delivering for our military. But once those plants shut down, those industries are gone. We not only lose the jobs, but we lose the skills and the potential ability to provide our military with the equipment to defend our Nation and project our might worldwide. Preserving a healthy domestic base also breeds competition. That is good for innovation and, ultimately, for our taxpayers.

So today, as we begin this very serious and necessary conversation on procurement reform, we cannot afford to forget the needs of our industrial base. We have to consider how we achieve reform while continuing to support the development of our industrial base here at home.

It calls for thoughtful planning and projection about who our future enemies might possibly be and how they might possibly try to defeat us in this Nation. It is critical that our country and our military maintain a nimble and dynamic base. Once a new threat is identified, a solution has to be close at hand.

The discussion we are having on procurement reform in the Senate is happening as our country faces two difficult but not unrelated challenges: winning an international war on terror and rebuilding a faltering economy. It would be irresponsible not to include the needs of our industrial base as we move forward because unless we begin to address this issue now, we are not only going to continue to lose some of our best paying American jobs, we are going to lose the backbone of our military might.

I will be offering this amendment, and I would love to have the support of our colleagues to make sure we have a strong nation in the future.

ACADEMIC EXCHANGE

Mr. LEAHY. Mr. President, in early April of 2003, a professor of engineering at United Arab Emirates University contacted an American professor at the Worcester, MA, Polytechnic Institute about spending the summer in Worcester as a visiting professor. By late May his visit had been arranged—he would come for the months of July and August, the time when he was not teaching in the UAE, and they would collaborate on research on axiomatic design and fractal analysis of manufactured surfaces.

On June 7 the UAE professor applied for a nonimmigrant visa for June 27—August 26. Apart from being called back to the consulate for fingerprinting on June 22 and told that he would receive an answer in the next 2 to 3 weeks, he heard nothing in response to his inquiries other than a reminder to check his visa application status on the embassy Web site. On August 9, with still no sign of his record on the Web site and the beginning of his fall semester approaching, he cancelled his plans and stayed at home in the UAE.

Without any information about the reason for the delay it is impossible to determine whether it was due to some legitimate concern or more likely the result of a bureaucratic logjam. But at a minimum, the professor should have received a response informing him of the status of his application before June 27. Instead, he and his American colleague were left in the dark to wonder, and had no choice but to cancel their research plans which would have been mutually beneficial, as well as for their students.

This is one incident; however, it is illustrative of the larger problem of foreign scholars and teachers being denied entry into the United States not because of travel bans, but because of delays and inefficiencies in the visa application process, particularly in geographical regions of concern for the Department of Homeland Security.

Transnational academic collaboration is, if not politically blind, politically myopic. Diplomats sit across from each other, even when meeting in friendship, to resolve differences. To study, the parties sit on the same side of the table and, irrespective of national, religious, ethnic or political backgrounds, focus on what they have in common. Some fields of study are so universal that they transcend language—mathematics does not need a common tongue for collaboration to happen.

This is in no way meant to disparage diplomacy, which has been and will continue to be the keystone of how governments interact. It emphasizes differences because it addresses them—academic collaboration will never negotiate an arms reduction treaty. But neither should we be limited by thinking that diplomacy is the only way of working towards understanding between two societies.

Nor is this type of academic exchange limited to technical or scientific work. I am reminded of when, after Robert Frost's visit to the Soviet Union in 1962, Siberian poet Yevgeny Yevtushenko wrote to him ''I have read your poems again and again today, and I am glad you live on Earth.'' I picture Frost and Yevtushenko talking about the rural beauties of their homeland, Frost of Ripton, VT and Yevtushenko of Stantsiya Zima, Siberia.

It is not only relations that we damage and the resentment we create by limiting these partnerships. The United States and the world also lose the body of scholarship that would have been produced. In no academic discipline is anyone so bold as to suggest that knowledge lies only on one side of a fence or of an ocean.

To the foreign scholars who would study and do research here, I would say that in the post-9/11 world our immigration laws and procedures have indeed become more stringent, burdensome and time consuming. But do not interpret that as a sign that you are not welcome or that your presence is not desired. To the contrary, it is valuable—indispensable to you, to us and to the rest of the world.

It is also undeniable that during the Bush administration some of the immigration laws and regulations, enacted in haste to respond to 9/11, crossed the line between keeping a vigilant watch over our borders and creating unnecessary and illogical barriers to entry for those who pose no danger. The Department of Homeland Security and the Department of State deserve credit for their efforts to keep our borders secure, but I also urge them to continually review their policies and procedures to make sure they are keeping out those who need to be kept out, but facilitating the entry of those whose presence we want and need.

The case of the UAE professor is, again, one example. But it did not only inconvenience the two professors; such cases can have a compounding, ripple effect as family members, friends and colleagues conclude that it is pointless, and potentially humiliating, to apply for a visa to study, teach or conduct academic research in the United States. At a time when we should be doing everything possible to rebuild our image abroad, particularly in predominantly Muslim countries, this is not the message we should be sending.

As the Departments of Homeland Security, State and Justice continue to review their policies they should look closely at these issues. If existing laws regarding who and what constitute legitimate security risks need to be clarified, then the administration should come to Congress with a recommendation. If the problem is a lack of staff or other resources to process visa applications in a timely manner, we can allocate the funds necessary to ensure that legitimate visa applicants get the prompt and fair consideration they are due. But whatever the cause of the problem, it needs to be fixed.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me

through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

Do not you think it is time to do something about the current price gouging on gasoline, even if it means leaning on the refiners in Utah? The price of oil has dropped about 27% off of the high point as of just a few moments ago, and has been hovering around the 23–25% drop for some time now, yet we do not see even a 10% drop in price at the pumps. I know that the retailers have taken advantage of the holiday weekend to make extra money, and hopefully now they will have the heart to drop the prices to levels that are fair.

Please move our country forward in domestic drilling so we may be less dependent on foreign oil. It would also help to curtail some of the terrorist activities, as we are funding some of that with each purchase of oil, maybe indirectly but funding just the same. I do not wish to finance terrorism or gold and diamond encrusted planes and autos for some Sheik. I would rather create jobs in America for Americans by utilizing our own resources. Thank you for reading this.

MONA.

I was employed [by a printing company] in Idaho Falls. I greatly enjoyed my job, and it helped give us the opportunity to purchase our first home in January 2008, which is located in the Ammon, Idaho area. We have been married for 15 years and have been working and saving for the day when we could purchase our first home. This has been my wife's dream to have a home of her own with a small garden. When we purchased this home, the first thing we did after the snow of winter had gone was to erect a 22-foot flag pole in the front yard. You see this has always been my dream to have a home of my own where I could display and show my love for this great country and its beautiful flag. It is also my way of paying respect and saying thank you to the many men and women that have fought to protect the freedoms I have been privileged to enjoy as a citizen of The United States of America.

On July 9, 2008, I was laid off from my employment because of slow business due to high-energy cost. One of their main customers is [a meat packing company], which has in the past ordered thousands of labels for their meat packing lines and international markets. I have been searching for other employment, but it is hard if not impossible to find a company or business that has not been affected by the out-of-control gas and energy prices.

I am now 55 years old and have worked my whole life to have the so-called American Dream. I know from personal experience what it is like to go hungry or to have no place to lay your head at night or shelter from the cold of a January night. These were very hard times and I do not wish to repeat them. It is upsetting to realize that we could lose it all just because of the greed of a few and the unwillingness of [our leaders] to intervene on behalf of the American people. Instead it is like watching a bunch of kids fighting over a toy in a sandbox, [our elected leaders] need to stop fighting and start working together for the good of the American people. In the Williston oil basin which covers Montana, the Dakotas and Wyoming, there are oil wells that were capped in the 1970s. From studies, this oil could carry the U.S. for the next 100 years or more—that is if we used it to supply only the U.S. and not other nations. So I ask you just what are we waiting for, a rainy day? I find it most interesting that the United States is the greatest super power in the world, but yet we cannot work together in Congress to resolve the issues facing our nation for fear the other political party may take or get credit for it. As an American citizen and taxpayer my message is to forget political lines and yourselves and just go to work together. I, for one, am tired of losing everything we have worked so hard for including our future just because [partisan politics prevent solutions from being found.]

I now ask all the members of Congress to work to save this great nation and our economy from total collapse and to restore the United States of America to that grandeur this nation once enjoyed. A house, nation, government, or people, divided against itself cannot stand or long endure. Ladies and Gentlemen of the U.S. Congress, the Constitution of the United States of America and the future of this great nation and its citizens are now in your hands. Please respect the sacred trust you have been given and honor the integrity of the office in which you now stand.

WALTER.

I have been an Idahoan all my life. I would not want to live anywhere else, and I love my state. I saw on the news awhile back about you wanting input on the gas prices and such. Well, I have more than that that concerns me.

First, I cannot believe the prices of gas. I use a lot of gas. I am a caregiver and I drive to my work two times a day, five days a week. I have had to borrow money just to get there and back. I should let you know I make an average of $400 a month; my husband makes around $1,200 a month. I receive a mere $6 in food stamps. The DHW say we make too much. We do not make enough to pay all our expenses. We cannot seem to get ahead of anything. I just got a ticket for no insurance. I cannot afford it. What am I to do? I have so many things to pay for. I could burden you with all my problems but I am not going to. Tell me, is there a low-income insurance agency around for people like me? I read about grants, but you have to pay just to get a little information. There are so many families that are in the same situation as I am; we try to do right, but get punished in other ways. We should not have to worry about how to get back and forth to work. How am I going to feed my family? How am I going to pay for everything so I do not lose it! I want to go to school to get my GED so I can become a nurse of some kind. I really want to be a doctor's assistant but I cannot because I have to support my family with what little I make. I cannot afford to lose any hours. I have a lot more I can complain about but it would take me all day. But this sums it up to the shortest degree. Thank you for listening to me.

CHRYSTALYNN, *Nampa.*

As crude oil begins to express its omnipresence amongst the consumers of this nation as a relevant component, that has raised a multitude of concern as transportation energy is now being brought forth—even with the expectations of food consumption as mentioned and expressed. As Americans are being brought to maintain and conserve what is left of this planet, transportation energy assumptions are now being presented to becoming a considerable difference when considering crop production rather for the purpose of food or a new found energy material. It seems that we as a consumer nation are stuck at a losing crossroad when the expectation of cost efficiency is approached and considered. Will the current crop land begin to be used for this process as new innovative responses towards transportation energy is expressed amongst this nation of consumers?

I do not think that this question has been asked by any consumer as the efforts are being presented to align this nation into a position to have safe and environmental friendly responses to all considerations that may arise as trends and new found provisions are being considered and met.

What are the responses expected from bringing forth a theory that fuel for the purpose of energy with the regards of transportation is expressed, what other questions and responses will arise from what seems to be a Third World theory of effective enterprising?

AARON.

Thank you for this opportunity to voice my opinion about the rising energy costs. We are seeing the effects of the escalating gas prices in every aspect of our family finances. We feel like the high price of gas has made me more cautious about how we spend money in all areas of our life from groceries, to activities we choose to let our children participate in, vacation, entertainment, and home repair/new home purchases. Our family is thrifty, we look for deals, we are conservative in our spending and we are consistently building our savings, yet we are still seeing a constant and steady increase in prices that are causing us to be concerned.

We appreciate your efforts to vote on issues that will lower our energy costs. We support the idea of drilling here in the United States and would like to see that starting so that the benefits of on shore drilling can begin sooner than later. Thank you for representing Idaho well.

BOB and CHARLYNN.

As you requested I am responding to your request to itemize some ways that my family and I are adversely affected by the extreme increases in the cost of energy. I live in a rural area of southeast Idaho. We are about fifteen miles south of Idaho Falls. As you accurately mentioned, there is no public transportation available in this area. We are suffering with the cost of gas especially but not just that. We heat our home, and water with propane, and the cost of that has gone through the roof also. The cost of electricity has doubled too. The bottom line is my income is not increasing at the rate the utility costs are increasing. This is becoming a real burden on my family.

DAVE, *Firth.*

You guys have got it all wrong: the problem is the consumption not the supply. We are not getting out of this mess by drilling for more oil. The only way is to use less oil. We need more hydro electric, solar power, nuclear energy, Stop building coal and gas power plants that only make our air worse. The air is getting so bad we are soon going to have air filtration systems for our homes and for our gas-guzzling cars so we can leave our homes. We will never have cheap gas again, so let us get on with something that makes sense for a change. I am amazed that the people of this country have not [protested], demanding some action. I do think there are enough concerned voters to crush

the stalemate in Washington. The biggest problem is no one is listening to any of the experts on our problems. Everyone just blunders ahead whether anything makes sense or not. We are going to keep spending like there is no tomorrow and then turn around and give people tax refunds. Where did we find the math that makes that work? I could go on and on for days, [but it does not appear to make any difference to our political leaders.]

DAVE.

If it is not already in the works, please consider sponsoring a bill to raise the IRS mileage deduction. It is now at 50½ cents/per mile, which is inadequate given the increases in gas, oil, tires, and other related auto products. I am a small business owner in Bonner County, and I travel nearly seven days per week to service clients. Some days I am all over this very large county! Though I usually drive a Honda Civic, even it is becoming expensive to drive. If I raise my prices, I will surely lose some business. Many other business owners are suffering, too.

LEXIE.

First, as for fuel prices. I am sure you have heard most all opinions on how to attempt to solve this issue. I believe there needs to be both short-term and long-range solutions. For the short term, off-shore and North Slope oil drilling needs to be allowed to provide some near-term relief on fuel prices. In addition, new refineries need to be allowed/encouraged in the U.S. as soon as possible. Long term—there needs to be an all-out funding of R&D to provide renewable energy for both transportation and to sustain our homes. I believe in this great nation we can harness the energy of the sun, etc. to provide unlimited renewable energy.

Also another issue close to home is jobs. It is very disturbing the rate at which we are losing jobs to India, etc. due to outsourcing. The corporate environment today is to save a buck at any cost, even sending jobs to under-developed countries. At my place of business, we have seen over the last seven years, many, many technology jobs go out of the country. In addition, just recently, it was announced that many clerical jobs are also to be outsourced. What is happening is that the better-paying jobs are being sent out of the country, and we are left with the lower-paying service industry jobs and are very quickly lowering the American standard of living. Also, this is also happening during tough economic times along with the rising energy costs.

It seems that Congress and our countries leadership is more concerned with everyone else around the world except our own citizens. In this area, there needs to be some kind of tax penalty/incentive to keep these jobs here, in America. If there is no economic benefit to outsource, the jobs will come back.

BEN, *Parma*.

Thanks for being interested in energy; our family sees the future as pretty bleak. Return to the Carter years, high energy prices, stagflation, no raises, general depression. We have upped our level pay on natural gas, expecting the price to double. We have rearranged our budget, less food and entertainment, etc. Far less travel. But I have to ask [if there are not some of our political leaders who want the U.S. economy to slow down. They view this as a way to stop lifestyles they consider wasteful.]

DAVE and MIEKE, *Pocatello*.

My biggest [worry is] fuel that we cannot afford. It is nice for our salary to go up, too. But if you only make $8 an hour or less, it is really tough to go anywhere and even going to work, and if you have a gas-eating vehicle, the pay is gone. How can we afford to live and a smile on your face when you put all your paycheck for the gas? Our country has to do something about this situation. When my kids asked me to go to practice for tennis, I say no, I could not afford the gas. It is very sad to see the face of my kids. And I know that it is not just me suffering for this issue. There are many more that cannot afford to even get groceries for their families. I hope that our government will do something to help our country, too.

EDITH, *Nampa*.

I began my professional career as a Forester in 1961 and have witnessed a massive change in Forest management and the timber industry. Currently my closest job involves driving 100 miles roundtrip to my closest job. I must drive a four-wheel drive pickup due to forest roads and occasional seedlings, tools etc. I would love to drive a more fuel economic vehicle but as you can see this is not an option. In terms of my business, transportation is extremely costly and typically log and pulpwood haulers charge in excess of $2/mile to haul their product. Today it is not uncommon for a surcharge to be added.

The big push in my business today is to remove forest waste as biomass to be used as an energy source and the biggest obstacle is the cost of transporting this material out of the woods economically.

The American people with the help of Congress must address this energy crisis immediately. The answer in my opinion is to commence exploration and oil recovery (drilling) immediately, build new refining capacity, and develop and utilize alternative sources such as nuclear, hydroelectric, wind, solar, tidal, etc. I do not see this as an ''either/or'' situation. We need a blend of all of the aforementioned to keep our ever-expanding population and economy healthy and vibrant.

I am involved with an invention that converts forest slash into a fine powder. This machine/process reduces weight and volume by roughly 40%, has fertilizer value, food value, and appears to be the breakthrough for the cellulosic production of ethanol. I have a report describing this invention that I would be willing and eager to share with you or your representative in Boise at your convenience.

LEWIS, *Eagle*.

My wife and I have recently started a small business in Idaho. Outrageous gas prices are making it hard to get this young company off the ground. My wife has quit her job of six years to finish school full-time at BSU. We figured we could live comfortably without her income but with the gas prices constantly rising we are getting a little uncomfortable about our decision. We feel that Congress needs to do something immediately to help the working people of this country.

SAM, *Nampa*.

I work in southern Idaho at the Idaho National Lab and the lab workers who work way out in the desert work a four-day work week. This helps keep the price to commute low. We here in town work a 9X80 schedule. It would behoove us to look at making the standard work week four days, possibly. I had seen on the news that a couple of the other states have enacted that legislation. Here in Idaho, where we have such wide open expanses and so far to drive in many cases, it could potentially save a lot of money.

MELISSA, *Ammon*.

I am a 68-year-old taxpaying American citizen, and military veteran. I work in Spokane, Washington. It is getting increasingly more difficult to afford the gas to drive to and from work. Carpooling or the use of public transportation is out of the question as I work in the construction industry on various jobs throughout the Spokane area. It appears that some elected people in Congress are letting the environmental lobbyists and their corrupt judges run our country.

The time has come to start drilling for oil in Alaska, Colorado, Wyoming, and offshore. From what has been in the news and from what we read in various publications, all from very intelligent engineers and scientists, we know the oil is there. We have shale deposits in several states that we could be using. We need to work harder on wind and nuclear power. The states want to drill, and we need to lift the federal bans.

We should either sell or give the abandoned military bases to companies willing to build refineries on them. The time has come to quit asking—it is time to demand that this be done. We have the resources, let us use them. The United States of America should not have to go begging to other countries for oil when we have it within our own shores.

We, the people, should not be suffering these exorbitant prices due to the incompetence in all areas of our government, and speculators in the stock market.

WAYNE, *Coeur d'Alene*.

ADDITIONAL STATEMENTS

RECOGNIZING WEST ANCHORAGE HIGH SCHOOL STUDENTS

• Mr. BEGICH. Mr. President, I am proud to announce a class from West Anchorage High School represented the State of Alaska by winning national distinction at the National We The People: The Citizen and the Constitution National Finals. These outstanding students, through their knowledge of the U.S. Constitution, won Alaska's statewide competition and earned the chance to come to our Nation's Capital and compete at the national level.

This competition involved a 3-day academic competition simulating a congressional hearing in which students demonstrate their knowledge and skills as they evaluate, take, and defend positions on historical and contemporary constitutional issues.

The students from West Anchorage High School were the Nation's top performers in the competition's unit on How the Values and Principles Embodied in the Constitution Shaped American Institutions and Practices. This year is the 50th year of Alaska's statehood and while we may be one of the youngest States, the performance of these students is indicative of the unique contributions Alaska has made to America's institutions and practices.

I had the distinction of meeting these students so it makes me even more proud to recognize them on behalf of the State of Alaska. The names of these outstanding students from West Anchorage High School are: Grace Abbott, Sinivevela Aho, Spencer Bailly, Gizelle Baylon, Colby Bleicher, Blake Young, Jacqueline Braden, Santina

Chamberlain, Caitlin Cheely, Jon Derman Harris, Christa Eussen, Christina Hendrickson, Ryan Hunte, Terra Laughton, Logan Miller, Jasmine Neeno, Madeleine Overturf, Luke Park, Kassandra Smith, Krista Soderlund, Chelsea Thompson, Luicia Valencia, Stacy Wheeler, Sophie Wiepking-Brown, Amanda Xayasane, and Ethan Zinck.

I also commend the teacher of the class, Pamela Orme, who is responsible for preparing these young constitutional experts for the national finals. Also worthy of special recognition are Maida Buckley, the State coordinator, and Todd Heuston, the district coordinator, who are responsible for implementing the We the People program in Alaska.

I congratulate these young ''constitutional experts'' on their outstanding achievement and for their proud representation of the State of Alaska.●

TRIBUTE TO LOUISIANA WWII VETERANS

● Ms. LANDRIEU. Mr. President, I am proud to honor a group of 120 World War II veterans from all over Louisiana who will travel to Washington, DC, on May 9 to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable servicemembers.

Louisiana HonorAir, a group based in Lafayette, LA, sponsored this trip to the Nation's Capital. The organization is honoring each surviving World War II Louisiana veteran by giving them an opportunity to see the memorials dedicated to their service. The veterans will visit the World War II, Korea, Vietnam and Iwo Jima memorials. They will also travel to Arlington National Cemetery.

This is the third of four flights Louisiana HonorAir is making to Washington, DC, this spring. It is the 16th flight to depart from Louisiana, which has sent more HonorAir flights than any other state to the Nation's Capital.

World War II was one of America's greatest triumphs but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American servicemembers were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today more than 33,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. This group had 44 veterans who served in the U.S. Army, 27 in the U.S. Air Force, 42 in the Navy, 3 in the Coast Guard and 4 in the Marines.

Our heroes trekked the world for their country. They fought in Germany, France, Italy, Africa, Japan, Guam, Guadalcanal, China, Okinawa, the Philippines, New Guinea, Korea, Thailand, and Saipan. Their journeys included the invasions of North Africa, Sicily and Normandy, and the Battle of the Bulge. Their fight for freedom extended to New Caledonia and the Solomon Islands.

One of our Army Airborne veterans navigated a glider plane and became a prisoner of war. He also lost a brother during the D-day invasion and earned many awards, including the Purple Heart. One of our Army Air Corps veterans flew 50 European missions in a B–24 bomber as a flight engineer. Another of our Army Air Corps heroes flew 20 missions as a tail gunner in a B–17 Flying Fortress. And one of our Navy veterans fought at Pearl Harbor.

I ask the Senate to join me in honoring these 120 veterans, all Louisiana heroes, who will visit Washington, and Louisiana HonorAir for making these trips a reality.●

TRIBUTE TO CADILLAC MOUNTAIN SPORTS

● Ms. SNOWE. Mr. President, with the weather beginning to warm up, Mainers and tourists alike are preparing to once again head outdoors and enjoy the beauty that our State has to offer. I rise this week to highlight the work one small business—Cadillac Mountain Sports—is doing to ensure that outdoorsmen and women have the gear and tools they need to make the most of their outings.

Cadillac Mountain Sports was founded in May 1989 by Matthew Curtis. Mr. Curtis set up his small shop in busy downtown Bar Harbor, a summer haven for those visiting Acadia National Park. His intention, however, was to build a year-round sports store that served both members of the local community and the region's seasonal visitors. The store initially carried a wide variety of equipment for a host of individual sports and fitness activities, from swimming and tennis to running and aerobics. It soon widened its product line to include hiking, rock climbing, and backpacking equipment.

Immensely popular from the outset, the business soon needed to significantly increase its space. Mr. Curtis moved his business to a larger location across the street after just 2 years, doubling its size and allowing the company to grow its product line. Since then, the company has undergone several expansions and renovations. Additionally, over the years, Cadillac has expanded to become a five-store chain, with four locations in downtown Bar Harbor, and one in nearby Ellsworth. Its line includes Cadillac's Patagonia, Cadillac's The North Face, and Cadillac's Nike, which all sell those particular brands' products. Cadillac now employs 30 people during the slow season, a number that rises to 100 people during the summer months.

Cadillac Mountain Sports is grounded in the communities where it is located, and strives to improve the quality of living in those towns. Cadillac was recently instrumental in supporting the Ellsworth High Street Beautification Program to revamp its downtown area. Additionally, Cadillac utilizes a number of ''green'' business practices, including recycling programs. As a result of its considerable efforts to improve the town's well being, Cadillac Mountain Sports will be presented with the 2009 ''Top Drawer'' Award by the Ellsworth Area Chamber of Commerce at the organization's 54th annual meeting on Thursday, May 14, 2009.

The ''Top Drawer'' Award is presented annually to either a business or person that makes a lasting contribution to the development and improvement of the greater Ellsworth region. The award was founded in 1980 to commemorate the late Tom Caruso, who established Bar Harbor Airlines to ''Link Maine With The World.''

It is clear that Cadillac Mountain Sports, with its solid and intelligent commitment to the customer and the community, is highly worthy of this recognition. A small business that has grown to become a regional leader in the sale of sports equipment, Cadillac is a prime example of the success that comes with hard work, community involvement, and customer responsiveness. Congratulations to Matthew Curtis and everyone at Cadillac Mountain Sports for winning the 2009 ''Top Drawer'' Award, and best wishes for continued success.●

TRIBUTE TO MATT GIRAUD

● Ms. STABENOW. Mr. President, today I pay tribute, on behalf of myself and Senator LEVIN, to Matt Giraud of Kalamazoo, MI.

Each week on ''American Idol,'' Matt sang his heart out and inspired many throughout Michigan. Early on, the judges recognized his incredible talent. Despite nearly being eliminated in the early stages of the competition, Matt rebounded with grace, confidence, and poise. His songs were a moving reminder of the toughness and resilience of our State.

Matt was born and raised in Michigan. He went to high school in Ypsilanti and graduated from Western Michigan University. Before he went on ''American Idol,'', he performed at a dueling piano bar in Kalamazoo. And on the show, he never forgot his roots.

He got the opportunity to work with Smokey Robinson, the ''King of Motown,'' during the show's Motown episode. His rendition of ''Let's Get it On'' deeply impressed Robinson, the show's judges, and the audience.

When he was faced with elimination in April, the judges, for the first time in the show's history, intervened to save a contestant. He came back strong the next week, singing ''Stayin' Alive.'' His enthusiasm in spite of adversity was a real inspiration to his fans across Michigan.

After his elimination, Matt remained graceful and thanked his fans back home for all of their support.

On behalf of myself and Senator LEVIN, and all the people of the great State of Michigan, we want to return the favor. We want to thank Matt for reaching for the stars, for pushing himself to the limit, and for showing America Michigan's creative and resilient spirit.●

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.)

MESSAGES FROM THE HOUSE

At 2:26 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following resolutions, in which it requests the concurrence of the Senate:

H. R. 774. An act to designate the facility of the United States Postal Service located at 46–02 21St Street in Long Island City, New York, as the ''Geraldine Ferraro Post Office Building''.

H. R. 1271. An act to designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the ''Elijah Pat Larkins Post Office Building''.

H. R. 1397. An act to designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the ''Caroline O'Day Post Office Building''.

At 5:37 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill with amendments, in which it requests the concurrence of the Senate:

S. 386. An act to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, 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. 774. An act to designate the facility of the United States Postal Service located at 46-02 21st Street in Long Island City, New York, as the ''Geraldine Ferraro Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1271. An act to designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the ''Elijah Pat Larkins Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 1397. An act to designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the ''Caroline O'Day Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

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–1510. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Novaluron; Pesticide Tolerances for Emergency Exemptions'' (FRL–8409–8) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1511. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, the report of a violation of the Antideficiency Act that occurred at Fort Belvoir, Virginia, and has been assigned Army case number 06–07; to the Committee on Appropriations.

EC–1512. A communication from the Vice Director, Defense Logistics Agency, Department of Defense, transmitting, pursuant to law, a report relative to an interim response to the reporting requirement of the Strategic and Critical Materials Stockpiling Act; to the Committee on Armed Services.

EC–1513. A communication from the Vice Director, Defense Logistics Agency, Department of Defense, transmitting, pursuant to law, a report relative to the biennial report on stockpile requirements of the Strategic and Critical Materials Stockpiling Act; to the Committee on Armed Services.

EC–1514. A communication from the Deputy Under Secretary of Defense for Logistics and Materiel Readiness, transmitting, pursuant to law, a report relative to the percentage of funds that was expended during the preceding fiscal year and is projected to be expended during the current fiscal year for the Department's depot maintenance and repair workloads by the public and private sectors; to the Committee on Armed Services.

EC–1515. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General Robert J. Elder, Jr., United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–1516. A communication from the Vice Chair and First Vice President, Export–Import Bank of the United States, transmitting, pursuant to law, a report relative to transactions involving exports to Canada, China, Panama, India, Ukraine and to other countries yet to be determined; to the Committee on Banking, Housing, and Urban Affairs.

EC–1517. A communication from the Deputy General Counsel for Operations, Department of Housing and Urban Development, transmitting, pursuant to law, (4) reports relative to vacancy announcements within the Department; to the Committee on Banking, Housing, and Urban Affairs.

EC–1518. A communication from the Secretary of Transportation, transmitting, the Department's Fiscal Year 2008 Annual Report as required by the Superfund Amendments and Reauthorization Act of 1986; to the Committee on Environment and Public Works.

EC–1519. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's annual report on the administration of the Surface Transportation Project Delivery Pilot Program; to the Committee on Environment and Public Works.

EC–1520. A communication from the Acting Administrator, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report relative to the cost of response and recovery efforts for FEMA–3302–EM in the Commonwealth of Kentucky having exceeded the $5,000,000 limit for a single emergency declaration; to the Committee on Environment and Public Works.

EC–1521. 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; Indiana; Extended Permit Terms for Renewal of Federally Enforceable State Operating Permits'' (FRL–8899–3) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Environment and Public Works.

EC–1522. 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; Kentucky; Section 110(a)(1) Maintenance Plans for the 1997 8–Hour Ozone Standard for the Huntington–Ashland Area, Lexington Area and Edmonson County; Withdrawal of Direct Final Rule'' (FRL–8900–4) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Environment and Public Works.

EC–1523. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Finding of Failure to Submit State Implementation Plans Required for the 1997 8–Hour Ozone National Ambient Air Quality Standard; North Carolina and South Carolina'' (FRL–8901–8) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Environment and Public Works.

EC–1524. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan; North Coast Unified Air Quality Management'' (FRL–8780–1) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Environment and Public Works.

EC–1525. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, North Coast Unified Air Quality Management District'' (FRL–8782–7) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Environment and Public Works.

EC–1526. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Santa Barbara County Air Pollution Control District'' (FRL–8900–2) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Environment and Public Works.

EC–1527. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting,

pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District Sacramento Metropolitan Air Quality Management District'' (FRL–8783–9) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Environment and Public Works.

EC–1528. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Convention on Cultural Property Implementation Act, a report relative to action taken to enter into a Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Imposition of Import Restrictions on Categories of Archaeological Material; to the Committee on Finance.

EC–1529. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Convention on Cultural Property Implementation Act, a report relative to extending the Memorandum of Understanding Between the Government of the United States of America and the Government of the Republic of Honduras Concerning the Imposition of Import Restrictions on Categories of Archaeological Material; to the Committee on Finance.

EC–1530. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2009 (RY 2010)'' (RIN0938–AP50) received in the Office of the President of the Senate on May 5, 2009; to the Committee on Finance.

EC–1531. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the website address of a report entitled ''Country Report on Terrorism 2008''; to the Committee on Foreign Relations.

EC–1532. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the incidental capture of sea turtles in commercial shrimping operations; to the Committee on Foreign Relations.

EC–1533. A communication from the Acting Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the Agency's second FY 2009 quarterly report; to the Committee on Foreign Relations.

EC–1534. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a quarterly report entitled, ''Acceptance of Contributions for Defense Programs, Projects, and Activities; Defense Cooperation Account''; to the Committee on Foreign Relations.

EC–1535. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of the Treasury, transmitting, the report of a draft bill ''To authorize an amendment to the Articles of Agreement of the International Bank for Reconstruction and Development increasing the basic votes of members''; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

Special Report entitled ''Activities of the Committee on Banking, Housing, and Urban Affairs During the 110th Congress Pursuant to Rule XXVI of the Standing Rules of the United States Senate'' (Rept. No. 111–17).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEVIN for the Committee on Armed Services.

*Ines R. Triay, of New Mexico, to be an Assistant Secretary of Energy (Environmental Management).

*Jo-Ellen Darcy, of Maryland, to be an Assistant Secretary of the Army.

*Michael Nacht, of California, to be an Assistant Secretary of Defense.

*Elizabeth Lee King, of the District of Columbia, to be an Assistant Secretary of Defense.

*Wallace C. Gregson, of Colorado, to be an Assistant Secretary of Defense.

*Air Force nomination of Col. Michael W. Miller, to be Brigadier General.

*Air Force nomination of Maj. Gen. Marc E. Rogers, to be Lieutenant General.

*Air Force nomination of Maj. Gen. Thomas J. Owen, to be Lieutenant General.

*Air Force nomination of Maj. Gen. Robert R. Allardice, to be Lieutenant General.

*Air Force nomination of Lt. Gen. Frank G. Klotz, to be Lieutenant General.

*Air Force nominations beginning with Brigadier General Thomas K. Andersen and ending with Brigadier General Janet C. Wolfenbarger, which nominations were received by the Senate and appeared in the Congressional Record on April 20, 2009. (minus 2 nominees: Brigadier General Richard T. Devereaux; Brigadier General Noel T. Jones)

*Air Force nomination of Maj. Gen. Larry O. Spencer, to be Lieutenant General.

*Navy nomination of Adm. Jonathan W. Greenert, to be Admiral.

*Navy nomination of Adm. Patrick M. Walsh, to be Admiral.

*Navy nomination of Vice Adm. John C. Harvey, Jr., to be Admiral.

*Navy nomination of Vice Adm. Samuel J. Locklear III, to be Vice Admiral.

*Navy nomination of Rear Adm. Richard W. Hunt, to be Vice Admiral.

*Navy nomination of Rear Adm. Mark D. Harnitchek, to be Vice Admiral.

*Navy nomination of Capt. Mark L. Tidd, to be Rear Admiral (lower half).

*Marine Corps nominations beginning with Brigadier General George J. Allen and ending with Brigadier General John E. Wissler, which nominations were received by the Senate and appeared in the Congressional Record on March 3, 2009.

*Marine Corps nominations beginning with Colonel John J. Broadmeadow and ending with Colonel Vincent R. Stewart, which nominations were received by the Senate and appeared in the Congressional Record on April 23, 2009.

Mr. LEVIN. Mr. President, for the Committee on Armed Services 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.

Air Force nominations beginning with Michael F. Adames and ending with Kathryn D. Vanderlinden, which nominations were received by the Senate and appeared in the Congressional Record on March 10, 2009.

Air Force nominations beginning with Paul L. Cannon and ending with Cherri S. Wheeler, which nominations were received by the Senate and appeared in the Congressional Record on March 25, 2009.

Air Force nominations beginning with Richard Edward Alford and ending with Richard D. Younts, which nominations were received by the Senate and appeared in the Congressional Record on March 25, 2009.

Air Force nomination of George E. Loughran, to be Colonel.

Air Force nomination of Raymond B. Abarca, to be Lieutenant Colonel.

Air Force nomination of Ian C. B. Diaz, to be Major.

Air Force nominations beginning with William T. Houston and ending with David L. Wells II, which nominations were received by the Senate and appeared in the Congressional Record on April 21, 2009.

Army nomination of Elizabeth M. Sherr, to be Major.

Army nomination of Erin T. Doyle, to be Major.

Army nomination of Scott A. Bier, to be Major.

Army nomination of Robert G. Young, to be Colonel.

Army nominations beginning with George R. Berry and ending with Perry W. Sarver, Jr., which nominations were received by the Senate and appeared in the Congressional Record on April 21, 2009.

Army nominations beginning with Michael G. Amundson and ending with Paul C. Thorn, which nominations were received by the Senate and appeared in the Congressional Record on April 21, 2009.

Army nominations beginning with Buster D. Akers, Jr. and ending with Michael T. Zell, which nominations were received by the Senate and appeared in the Congressional Record on April 21, 2009.

Marine Corps nominations beginning with John W. Hahn IV and ending with Stephanie L. Malmanger, which nominations were received by the Senate and appeared in the Congressional Record on April 21, 2009.

Navy nomination of Michael T. Echols, to be Commander.

Navy nomination of Gregory J. Hazlett, to be Lieutenant Commander.

Navy nomination of Brian J. Ellis, Jr., to be Lieutenant Commander.

Navy nomination of Jesus S. Moreno, to be Lieutenant Commander.

Navy nomination of Colleen L. Jackson, to be Lieutenant Commander.

Navy nomination of Gregory P. Mitchell, to be Lieutenant Commander.

Navy nominations beginning with Jonathan V. Ahlstrom and ending with Joel E. Yoder, which nominations were received by the Senate and appeared in the Congressional Record on April 21, 2009.

*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.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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 Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 983. A bill to reform the essential air service program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mr. BOND, and Mr. KENNEDY):

S. 984. A bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. LINCOLN (for herself, Mr. BUNNING, Mr. LIEBERMAN, Ms. SNOWE, Mr. KERRY, and Ms. COLLINS):

S. 985. A bill to establish and provide for the treatment of Individual Development Accounts, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU (for herself, Mr. BAYH, and Mrs. LINCOLN):

S. 986. A bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care; to the Committee on Finance.

By Mr. DURBIN (for himself, Ms. SNOWE, Mr. WHITEHOUSE, Mr. BROWN, and Mrs. MURRAY):

S. 987. A bill to protect girls in developing countries through the prevention of child marriage, and for other purposes; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. BINGAMAN):

S. 988. A bill to amend the Internal Revenue Code of 1986 to allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, and for other purposes; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Mr. LIEBERMAN, and Mr. SANDERS):

S. 989. A bill to amend the Public Utility Regulatory Policies Act of 1978 to promote energy independence, increase competition, democratize energy generation, and provide for the connection of certain small electric energy generation systems, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. LUGAR, and Mr. SANDERS):

S. 990. A bill to amend the Richard B. Russell National School Lunch Act to expand access to healthy afterschool meals for school children in working families; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. INHOFE:

S. 991. A bill to declare English as the official language of the United States, to establish a uniform English language rule for naturalization, and to avoid misconstructions of the English language texts of the laws of the United States, pursuant to Congress' powers to provide for the general welfare of the United States and to establish a rule of naturalization under article I, section 8, of the Constitution; to the Committee on Homeland Security and Governmental Affairs.

By Mr. INHOFE (for himself, Mr. ALEXANDER, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURR, Mr. SHELBY, Mr. VITTER, Mr. BUNNING, Mr. COBURN, Mr. WICKER, Mr. DEMINT, Mr. ENZI, Mr. THUNE, Mr. CORKER, and Mr. COCHRAN):

S. 992. A bill to amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. VITTER (for himself, Mr. COCHRAN, Mr. ROBERTS, Mr. BROWNBACK, Mr. GRASSLEY, Mr. ISAKSON, Mr. CRAPO, Mr. CHAMBLISS, Mr. BUNNING, Mr. INHOFE, Mr. DEMINT, Mr. BURR, Mr. JOHANNS, Mr. ENZI, Mr. WICKER, Mr. THUNE, Mr. RISCH, and Ms. MURKOWSKI):

S.J. Res. 15. A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DORGAN (for himself and Mr. CONRAD):

S. Res. 132. A resolution commending the heroic efforts of the people fighting the floods in North Dakota; considered and agreed to.

By Ms. KLOBUCHAR (for herself and Mr. THUNE):

S. Res. 133. A resolution designating May 1 through May 7, 2009, as ''National Physical Education and Sport Week''; considered and agreed to.

By Ms. LANDRIEU (for herself, Mr. ALEXANDER, Mr. LIEBERMAN, Mr. CARPER, Mr. BAYH, Mr. BURR, Mr. GREGG, and Mr. VITTER):

S. Res. 134. A resolution congratulating the students, parents, teachers, and administrators at charter schools across the United States for their ongoing contributions to education and supporting the ideas and goals of the 10th annual National Charter Schools Week, May 3 through May 9, 2009; considered and agreed to.

By Mr. BURR (for himself and Mrs. FEINSTEIN):

S. Res. 135. A resolution designating May 8, 2009, as ''Military Spouse Appreciation Day''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 52

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 52, a bill to amend title XIX of the Social Security Act to provide 100 percent reimbursement for medical assistance provided to a Native Hawaiian through a Federally-qualified health center or a Native Hawaiian health care system.

S. 144

At the request of Mr. KERRY, the names of the Senator from Wisconsin (Mr. KOHL) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 211

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

S. 407

At the request of Mr. AKAKA, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 407, a bill to increase, effective as of December 1, 2009, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

S. 417

At the request of Mr. LEAHY, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 417, a bill to enact a safe, fair, and responsible state secrets privilege Act.

S. 421

At the request of Mr. SPECTER, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 421, a bill to impose a temporary moratorium on the phase out of the Medicare hospice budget neutrality adjustment factor.

S. 423

At the request of Mr. AKAKA, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 449

At the request of Mr. SPECTER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 449, a bill to protect free speech.

S. 454

At the request of Mr. LEVIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 454, a bill to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

At the request of Mr. INHOFE, his name was added as a cosponsor of S. 454, supra.

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. 454, supra.

S. 468

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 468, a bill to amend title XVIII of the Social Security Act to improve access to emergency medical services and the quality and efficiency of care furnished in emergency departments of hospitals and critical access hospitals by establishing a bipartisan commission to examine factors that affect the effective delivery of such services, by providing for additional payments for certain physician services furnished in such emergency departments, and by establishing a Centers for Medicare & Medicaid Services Working Group, and for other purposes.

S. 475

At the request of Mr. BURR, the names of the Senator from Kansas (Mr.

BROWNBACK), the Senator from Kentucky (Mr. BUNNING) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 491

At the request of Mr. WEBB, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 491, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 561

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 561, a bill to authorize a supplemental funding source for catastrophic emergency wildland fire suppression activities on Department of the Interior and National Forest System lands, to require the Secretary of the Interior and the Secretary of Agriculture to develop a cohesive wildland fire management strategy, and for other purposes.

S. 581

At the request of Mr. BENNET, the name of the Senator from Illinois (Mr. BURRIS) 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. 614

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

S. 638

At the request of Mrs. MURRAY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 638, a bill to provide grants to promote financial and economic literacy.

S. 700

At the request of Mr. BINGAMAN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 700, a bill to amend title II of the Social Security Act to phase out the 24-month waiting period for disabled individuals to become eligible for Medicare benefits, to eliminate the waiting period for individuals with life-threatening conditions, and for other purposes.

S. 799

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 799, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 816

At the request of Mr. CRAPO, the names of the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. GRAHAM) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of S. 816, a bill to preserve the rights granted under second amendment to the Constitution in national parks and national wildlife refuge areas.

S. 849

At the request of Mr. CARPER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 849, a bill to require the Administrator of the Environmental Protection Agency to conduct a study on black carbon emissions.

S. 870

At the request of Mrs. LINCOLN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 870, a bill to amend the Internal Revenue Code of 1986 to expand the credit for renewable electricity production to include electricity produced from biomass for on-site use and to modify the credit period for certain facilities producing electricity from open-loop biomass.

S. 930

At the request of Mrs. MURRAY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 930, a bill to promote secure ferry transportation and for other purposes.

S. 934

At the request of Mr. HARKIN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Michigan (Ms. STABENOW), the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 934, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

S. 941

At the request of Mr. CRAPO, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 943

At the request of Mr. THUNE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 943, a bill to amend the Clean Air Act to permit the Administrator of the Environmental Protection Agency to waive the lifecycle greenhouse gas emission reduction requirements for renewable fuel production, and for other purposes.

S. 962

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 962, a bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

S. 982

At the request of Mr. DORGAN, his 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.

At the request of Mrs. SHAHEEN, her name was added as a cosponsor of S. 982, supra.

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 982, supra.

S.J. RES. 14

At the request of Mr. BROWNBACK, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S.J. Res. 14, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the Federal Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. RES. 7

At the request of Mr. INOUYE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 7, a resolution expressing the sense of the Senate regarding designation of the month of November as ''National Military Family Month''.

S. RES. 111

At the request of Mr. KOHL, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 111, a resolution recognizing June 6, 2009, as the 70th anniversary of the tragic date when the M.S. St. Louis, a ship carrying Jewish refugees from Nazi Germany, returned to Europe after its passengers were refused admittance to the United States.

AMENDMENT NO. 1036

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

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 983. A bill to reform the essential air service program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to join my colleague, Senator BINGAMAN, to introduce the bipartisan Rural Aviation Improvement Act. I am proud to join the senior Senator from New Mexico, a steadfast and resolute guardian of commercial aviation service to all communities, particularly rural areas that would otherwise be deprived of any air service.

It has always been true that reliable air service to our Nation's rural areas is not simply a luxury or a convenience. It is an imperative. Ask any town manager or mayor of a small community how critical aviation is to economic development. All of us in the Senate who come from rural states understand the vital role aviation plays in the moving of people and goods to and from areas that would otherwise face a paucity of transportation options. Quite frankly, I have long held serious concerns about the impact deregulation of the airline industry has had on small cities and smaller towns in rural areas, like those in my home State of Maine. That fact is, since deregulation, many of these communities across the country have experienced a decline in flights and size of aircraft while seeing an increase in fares. More than 300 have lost air service altogether.

This legislation will serve to improve the long-underfunded Essential Air Service program. The additional commitment of resources will augment the ability of the program to achieve its desired goals, reducing the impact on the general fund while providing small communities with a greater degree of certainty when planning future improvements or bringing enhanced service to their airports. The bill also gives those same communities a greater role in retaining and determining the sort of air service which they receive, and assists in making that service sustainable.

Increasingly, the Essential Air Service program has been plagued with a decline in the number of airlines willing to provide this critical link to the national transportation network. Not only have we lost a rash of participants in the program due to wildly fluctuating fuel costs and the omnipresent economic downturn, but in addition, a few 'bad actors' have jeopardized commercial aviation for entire regions by submitting low-ball contracts to the Department of Transportation and then reneging on their commitment to the extent and quality of their service. Our bill will not only establish a system of minimum requirements for contracts to protect these small cities that rely on EAS, but it will also extend those contracts to 4 years from the current 2. This gives a heightened degree of stability in terms of air service, rather than having communities negotiating new contracts or receiving service from entirely new carriers every 18 months. Actively encouraging communities to get involved in the process, and build relationships with the carriers who serve them, can only bolster the quality of the program.

In the final analysis, everyone benefits when our Nation is at its strongest economically. Most importantly in this case, greater prosperity everywhere will, in the long run, mean more passengers for the airlines. We cannot afford to ignore rural America—which contains nearly a quarter of the population—as we move forward with aviation policy and the next generation air traffic system. Therefore, it is very much in our national interests to ensure that every region has reasonable, consistent access to commercial air service. That is why I strongly believe the federal government has an obligation to fulfill the commitment it made to these communities when Congress deregulated the airlines in 1978; to safeguard their ability to continue commercial air service.

By Mrs. BOXER (for herself, Mr. BOND, and Mr. KENNEDY):

S. 984. A bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I am pleased to join Senator KENNEDY and Senator BOND in introducing the Arthritis Prevention, Control and Cure Act, which makes a national commitment to find new ways to prevent and treat arthritis, and care for the patients that suffer from it.

Many people do not know that arthritis is the leading cause of disability in the U.S. As many as 46 million Americans, including almost 300,000 children, live every day with the pain of arthritis. Not only does this disease affect the health and quality of life of millions of Americans, arthritis also costs our Nation's economy an estimated $128 billion annually in visits to physicians, surgeries and missed work days.

By the year 2030, an estimated 67 million Americans will suffer from the debilitating pain and limited mobility caused by arthritis. It is past time that we came together to find a cure for arthritis and invest in the scientific research needed to conquer this disease.

Specifically, the Arthritis Prevention, Control and Cure Act would authorize the Secretary of Health and Human Services, HHS, to implement a National Arthritis Action Plan that includes grants for the coordination of research and training, education and outreach, and grants to States and Indian tribes to support comprehensive arthritis control and prevention programs.

I am especially pleased that this legislation would also increase support for efforts to address juvenile arthritis. While there are almost 300,000 children suffering from pediatric arthritis in the U.S., there are only 200 pediatric rheumatologists in the country to treat them. There are 9 States that do not have even one doctor trained specifically to treat these children.

This legislation will provide loan repayment to physicians who agree to practice pediatric rheumatology in underserved areas—so children do not have to travel to another state just to see a doctor.

The bill would also allow the Centers for Disease Control and Prevention to coordinate and expand programs related to juvenile arthritis, collect data and develop a National Juvenile Arthritis Patient Registry.

I hope that my colleagues will join me, Senator BOND and Senator KENNEDY, as well as the Arthritis Foundation, the American College of Rheumatology, and the American Academy of Pediatrics in support of the Arthritis Prevention, Control and Cure Act, to take a critical step forward in helping millions of Americans living with this devastating disease.

By Mr. DURBIN (for himself, Ms. SNOWE, Mr. WHITEHOUSE, Mr. BROWN, and Mrs. MURRAY):

S. 987. A bill to protect girls in developing countries through the prevention of child marriage, and for other purposes; to the Committee on Foreign Relations.

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

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

S. 987

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 ''International Protecting Girls by Preventing Child Marriage Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Child marriage, also known as ''forced marriage'' or ''early marriage'', is a harmful traditional practice that deprives girls of their dignity and human rights.

(2) Child marriage as a traditional practice, as well as through coercion or force, is a violation of article 16 of the Universal Declaration of Human Rights, which states, ''Marriage shall be entered into only with the free and full consent of intending spouses.''.

(3) According to the United Nations Children's Fund (UNICEF), an estimated 60,000,000 girls in developing countries now ages 20-24 were married under the age of 18, and if present trends continue more than 100,000,000 more girls in developing countries will be married as children over the next decade, according to the Population Council.

(4) Child marriage ''treats young girls as property'' and ''poses grave risks not only to women's basic rights but also their health, economic independence, education, and status in society'', according to the Department of State in 2005.

(5) In 2005, the Department of State conducted a world-wide survey and found child marriage to be a concern in 64 out of 182 countries surveyed, with child marriage most common in sub-Saharan Africa and parts of South Asia.

(6) In Ethiopia's Amhara region, about ½ of all girls are married by age 14, with 95 percent not knowing their husbands before marriage, 85 percent unaware they were to be

married, and 70 percent reporting their first sexual initiation within marriage taking place before their first menstrual period, according to a 2004 Population Council survey.

(7) In some areas of northern Nigeria, 45 percent of girls are married by age 15 and 73 percent by age 18, with age gaps between girls and the husbands averaging between 12 and 18 years.

(8) Between ½ and ¾ of all girls are married before the age of 18 in Niger, Chad, Mali, Bangladesh, Guinea, the Central African Republic, Mozambique, Burkina Faso, and Nepal, according to Demographic Health Survey data.

(9) Factors perpetuating child marriage include poverty, a lack of educational or employment opportunities for girls, parental concerns to ensure sexual relations within marriage, the dowry system, and the perceived lack of value of girls.

(10) Child marriage has negative effects on the health of girls, including significantly increased risk of maternal death and morbidity, infant mortality and morbidity, obstetric fistula, and sexually transmitted diseases, including HIV/AIDS.

(11) According to the United States Agency for International Development (USAID), increasing the age at first birth for a woman will increase her chances of survival. Currently, pregnancy and childbirth complications are the leading cause of death for women 15 to 19 years old in developing countries.

(12) In developing countries, girls 15 years of age are 5 times more likely to die in childbirth than women in their 20s.

(13) Child marriage can result in bonded labor or enslavement, commercial sexual exploitation, and violence against the victims, according to UNICEF.

(14) Out-of-school or unschooled girls are at greater risk of child marriage while girls in school face pressure to withdraw from school when secondary school requires monetary costs, travel, or other social costs, including lack of lavatories and supplies for menstruating girls and increased risk of sexual violence.

(15) In Mozambique 60 percent of girls with no education are married by age 18, compared to 10 percent of girls with secondary schooling and less than 1 percent of girls with higher education.

(16) According to UNICEF, in 2005 it was estimated that ''about half of girls in Sub-Saharan Africa who drop out of primary school do so because of poor water and sanitation facilities''.

(17) UNICEF reports that investments in improving school sanitation resulted in a 17 percent increase in school enrollment for girls in Guinea and an 11 percent increase for girls in Bangladesh.

(18) Investments in girls' schooling, creating safe community spaces for girls, and programs for skills building for out-of-school girls are all effective and demonstrated strategies for preventing child marriage and creating a pathway to empower girls by addressing conditions of poverty, low status, and norms that contribute to child marriage.

(19) Most countries with high rates of child marriage have a legally-established minimum age of marriage, yet child marriage persists due to strong traditional norms and the failure to enforce existing laws.

(20) In Afghanistan, where the legal age of marriage for girls is 16 years, 57 percent of marriages involve girls below the age of 16, including girls younger than 10 years, according to the United Nations Children's Fund (UNICEF).

(21) Secretary of State Hillary Clinton has stated that ''child marriage is a clear and unacceptable violation of human rights, and that the Department of State denounces all cases of child marriage as child abuse''.

SEC. 3. CHILD MARRIAGE DEFINED.

In this Act, the term ''child marriage'' means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law in the country in which the girl or boy is a resident.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) child marriage is a violation of human rights and the prevention, and elimination of child marriage should be a foreign policy goal of the United States;

(2) the practice of child marriage undermines United States investments in foreign assistance to promote education and skills building for girls, reduce maternal and child mortality, reduce maternal illness, halt the transmission of HIV/AIDS, prevent gender-based violence, and reduce poverty; and

(3) expanding educational opportunities for girls, economic opportunities for women, and reducing maternal and child mortality are critical to achieving the Millennium Development Goals and the global health and development objectives of the United States, including efforts to prevent HIV/AIDS.

SEC. 5. ASSISTANCE TO PREVENT THE INCIDENCE OF CHILDHOOD MARRIAGE IN DEVELOPING COUNTRIES.

(a) ASSISTANCE AUTHORIZED.—The President is authorized to provide assistance, including through multilateral, nongovernmental, and faith-based organizations, to prevent the incidence of child marriage in developing countries and to promote the educational, health, economic, social, and legal empowerment of girls and women as part of the strategy established pursuant to section 6 to prevent child marriage in developing countries.

(b) PRIORITY.—In providing assistance authorized under subsection (a), the President shall give priority to—

(1) areas or regions in developing countries in which 15 percent of girls under the age of 15 are married or 40 percent of girls under the age of 18 are married; and

(2) activities to—

(A) expand and replicate existing community-based programs that are successful in preventing the incidence of child marriage;

(B) establish pilot projects to prevent child marriage; and

(C) share evaluations of successful programs, program designs, experiences, and lessons.

(c) COORDINATION.—Assistance authorized under subsection (a) shall be integrated with existing United States programs for advancing appropriate age and grade-level basic and secondary education through adolescence, ensure school enrollment and completion for girls, health, income generation, agriculture development, legal rights, and democracy building and human rights, including—

(1) support for community-based activities that encourage community members to address beliefs or practices that promote child marriage and to educate parents, community leaders, religious leaders, and adolescents of the health risks associated with child marriage and the benefits for adolescents, especially girls, of access to education, health care, livelihood skills, microfinance, and savings programs;

(2) enrolling girls in primary and secondary school at the appropriate age and keeping them in age-appropriate grade levels through adolescence;

(3) reducing education fees, and enhancing safe and supportive conditions in primary and secondary schools to meet the needs of girls, including—

(A) access to water and suitable hygiene facilities, including separate lavatories and latrines for girls;

(B) assignment of female teachers;

(C) safe routes to and from school; and

(D) eliminating sexual harassment and other forms of violence and coercion;

(4) ensuring access to health care services and proper nutrition for adolescent girls, which is essential to both their school performance and their economic productivity;

(5) increasing training for adolescent girls and their parents in financial literacy and access to economic opportunities, including livelihood skills, savings, microfinance, and small-enterprise development;

(6) supporting education, including through community and faith-based organizations and youth programs, that helps remove gender stereotypes and the bias against girls used to justify child marriage, especially efforts targeted at men and boys, promotes zero tolerance for violence, and promotes gender equality, which in turn help to increase the perceived value of girls;

(7) creating peer support and female mentoring networks and safe social spaces specifically for girls; and

(8) supporting local advocacy work to provide legal literacy programs at the community level and ensure that governments and law enforcement officials are meeting their obligations to prevent child and forced marriage.

SEC. 6. STRATEGY TO PREVENT CHILD MARRIAGE IN DEVELOPING COUNTRIES.

(a) STRATEGY REQUIRED.—The President, acting through the Secretary of State, shall establish a multi-year strategy to prevent child marriage in developing countries and promote the empowerment of girls at risk of child marriage in developing countries, including by addressing the unique needs, vulnerabilities, and potential of girls under age 18 in developing countries.

(b) CONSULTATION.—In establishing the strategy required by subsection (a), the President shall consult with Congress, relevant Federal departments and agencies, multilateral organizations, and representatives of civil society.

(c) ELEMENTS.—The strategy required by subsection (a) shall—

(1) focus on areas in developing countries with high prevalence of child marriage; and

(2) encompass diplomatic initiatives between the United States and governments of developing countries, with attention to human rights, legal reforms and the rule of law, and programmatic initiatives in the areas of education, health, income generation, changing social norms, human rights, and democracy building.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report that includes—

(1) the strategy required by subsection (a);

(2) an assessment, including data disaggregated by age and gender to the extent possible, of current United States-funded efforts to specifically assist girls in developing countries; and

(3) examples of best practices or programs to prevent child marriage in developing countries that could be replicated.

SEC. 7. RESEARCH AND DATA COLLECTION.

The Secretary of State shall work through the Administrator of the United States Agency for International Development and any other relevant agencies of the Department of State, and in conjunction with relevant executive branch agencies as part of their ongoing research and data collection activities, to—

(1) collect and make available data on the incidence of child marriage in countries that receive foreign or development assistance from the United States where the practice of child marriage is prevalent; and

(2) collect and make available data on the impact of the incidence of child marriage and the age at marriage on progress in meeting key development goals.

SEC. 8. DEPARTMENT OF STATE'S COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES.

The Foreign Assistance Act of 1961 is amended—

(1) in section 116 (22 U.S.C. 2151n), by adding at the end the following new subsection:

''(g) The report required by subsection (d) shall include for each country in which child marriage is prevalent at rates at or above 40 percent in at least one sub-national region, a description of the status of the practice of child marriage in such country. In this subsection, the term 'child marriage' means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law in the country in which such girl or boy is a resident.''; and

(2) in section 502B (22 U.S.C. 2304), by adding at the end the following new subsection:

''(i) The report required by subsection (b) shall include for each country in which child marriage is prevalent at rates at or above 40 percent in at least one sub-national region, a description of the status of the practice of child marriage in such country. In this subsection, the term 'child marriage' means the marriage of a girl or boy, not yet the minimum age for marriage stipulated in law in the country in which such girl or boy is a resident.''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act and the amendments made by this Act, there are authorized to be appropriated such sums as may be necessary for fiscal years 2010 through 2014.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. BINGAMAN):

S. 988. A bill to amend the Internal Revenue Code of 1986 to allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the SIMPLE Cafeteria Plan Act of 2009, which will increase the access to quality, affordable health care for millions of small business owners and their employees. I am pleased that my good friends, Senator BOND from Missouri and Senator BINGAMAN from New Mexico, have agreed to cosponsor this critical, bipartisan piece of legislation. We have introduced this legislation together since 2005.

In order to help small businesses increase their employees' access to health insurance and other benefits, and help them compete for talented workers, we are introducing the SIMPLE Cafeteria Plan Act. This bill will enable small business employees to purchase health insurance with tax-free dollars in the same way that many employees of large companies already do—in their cafeteria plans. This legislation is modeled after the Savings Incentive Match Plan for Employees SIMPLE, Pension Plan enacted in 1996.

As former Chair and now Ranking Member of the Senate Small Business Committee, if there's one concern I've heard time and again—from small businesses in Maine and across the country—it's the exorbitant cost to small businesses of providing health insurance to their employees. Throughout America, health insurance premiums have increased by a staggering 89 percent since 2000—far outpacing inflation and wage gains. In Maine, the annual premium for the most heavily subscribed policy in the small group insurance market is $5,400 for individual coverage, and over $16,000 for a family plan.

Clearly our Nation's health care system is terribly broken—and the majority of the uninsured—52 percent—are either self-employed, work for a small business with 100 or fewer employees, or are dependent upon someone who does. I am pleased that the Congress is now in the midst of a serious reform effort that will result in a much better system of delivering health care. In order to address the problem of the working uninsured, we must address access and affordability in small businesses. The bill we are introducing today will do just that.

So why are our Nation's small businesses, which are our country's job creators and the true engine of our economic growth, not offering health insurance? Survey after survey tells us that the main reason is that they cannot afford to offer it, or other benefits. Still other small firms can only afford to pay a portion of their employees' health insurance premiums. As a result, countless employees of small business must try to obtain health insurance from the individual market rather than through their work place. As we debate reforming health insurance, we must consider cafeteria plans—Section 125 plans, as they are often known—which are a proven vehicle for access, and should be a key component to reform. I would like to add that another component to reform that must be considered is the SHOP Act, which I reintroduced yesterday with Senators DURBIN and LINCOLN, which would also help to reverse the pernicious problems of access and affordability of health insurance.

Currently, many large employers, and even the Federal Government, allow employees to purchase health insurance, and other qualified benefits, with tax-free dollars. Cafeteria plans allow employers to offer health benefits with pre-tax dollars. As the name suggests, cafeteria plans are programs where employees can purchase a variety of qualified benefits. Specifically, cafeteria plans offer employees great flexibility in selecting their desired benefits while allowing them to disregard those benefits that do not fit their particular needs. Moreover, the employees are usually purchasing benefits at a lower cost because their employers are often able to obtain a reduced group rate prices.

Typically, in cafeteria plans, a combination of employer contributions and employee contributions are used to fund the accounts that employees used to buy specific benefits. Under current law, qualified benefits include health insurance, dependent-care reimbursement, life and disability insurance. Unfortunately, long term care insurance is not currently a qualified benefit available for purchase in cafeteria plans. I will come back to long term care insurance in a moment.

Again, cafeteria plans already have a proven record of providing good benefits to a wide group of employees. However, in order for companies to qualify for cafeteria plans they must satisfy the tax code's strict non-discrimination rules and these rules are a major impediment to small employers being able to offer benefits to employees. These rules exist to ensure that companies offer the same benefits to their low-wage employees along with their highly compensated employees.

Now, I want to be clear. I believe that these non-discrimination rules serve a legitimate purpose and are necessary employee protections. Indeed, we need to ensure that employers are not able to game the tax system to benefit only upper income employees or the business owners. As with the SIMPLE pension plan, a small business employer that is willing to make a minimum contribution for all employees, or who is willing to match contributions, will be permitted to waive the non-discrimination rules that currently prevent them from otherwise offering these benefits. This structure has worked extraordinarily well in the pension area with little risk of abuse. I am confident that it will be just as successful when it comes to broad-based benefits offered through cafeteria plans. The SIMPLE Cafeteria Plan Act requires the employer to either match contributions of 3 percent of an employee's income or contribute 2 percent without the employee's contribution.

An essential change allows small business owners themselves to participate in cafeteria plans generally. Current law punitively prohibits the owners of small businesses from participating in these benefit plans. As a result, if a business owner is unable to obtain any benefit for himself or his own family he is unlikely to undertake the time and financial commitment of offering the benefit. It is time to remove this punitive prohibition which I believe will expand access to this flexible platform for employee benefits.

Another improvement generally applicable to all cafeteria plan law updates the rules regarding depended care flexible spending accounts, DCFSA. The bill increases the amount that can be excluded to $7,500 for one dependent or $10,000 for two or more dependents. Had the original $5,000 limit for DCFSA been indexed for inflation when it was created in 1986, it would have risen to $9,692. The bill also indexes these amounts for future inflation so that families will not see an erosion of their benefit in the future. In order for millions of working moms to be able to

work outside of the home, they must have help in addressing child care costs. It is critical to note that it is not just working parents but an increasing number of baby-boom adults who need help caring for aging dependent parents. Increasing the dependent care exclusion in flexible spending accounts is an essential update to cafeteria plan law for working families.

Another provision of the bill generally revises the use it or lose it rule under current law, and permits participants to carry over up to $500 left in a health-care or dependent-care flexible spending account to the next plan year. Such unused contributions could also be carried over to the employee's retirement account, such as a 401(k) plan, or to a Health Savings Account. In either case, any carried over contributions will reduce the amount that the employee could contribute to the flexible spending account or pension plan in the subsequent year. The bill indexes the carry-over amount for inflation.

Finally, the bill also works to address our aging populations' need for long-term care insurance which is also a probable component to the debate on health care reform. In the U.S., nearly half of all seniors age 65 or older will need long-term care at some point in their life. Unfortunately, most seniors have not adequately prepared for this possibility, just as many working age individuals have not given much thought to their eventual long-term care needs. With the cost of a private room in a nursing home averaging more than $74,000 annually, many Americans risk losing their life savings—and jeopardizing their children's inheritance—by failing to properly plan for the long-term care services they will need as they grow older.

To address this problem, this bill would allow employees to purchase long-term care insurance coverage through their cafeteria plans and flexible spending arrangements. Expanding eligibility of these benefits will make long-term care insurance more affordable and help Americans prepare for their future long-term care needs.

If more small business owners are able to offer their employees the chance to enjoy a variety of employee benefits these firms will be more likely to attract, recruit, and retain talented workers. This will ultimately make small enterprises more competitive. Therefore, I urge my colleagues to join Senator BOND and Senator BINGAMAN and me in cosponsoring this important legislation as we work together to achieve broader health care reform.

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. 988

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''SIMPLE Cafeteria Plan Act of 2009''.

(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. ESTABLISHMENT OF SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.

(a) IN GENERAL.—Section 125 (relating to cafeteria plans) is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

''(i) SIMPLE CAFETERIA PLANS FOR SMALL BUSINESSES.—

''(1) IN GENERAL.—An eligible employer maintaining a simple cafeteria plan with respect to which the requirements of this subsection are met for any year shall be treated as meeting any applicable nondiscrimination requirement with respect to benefits provided under the plan during such year.

''(2) SIMPLE CAFETERIA PLAN.—For purposes of this subsection, the term 'simple cafeteria plan' means a cafeteria plan—

''(A) which is established and maintained by an eligible employer, and

''(B) with respect to which the contribution requirements of paragraph (3), and the eligibility and participation requirements of paragraph (4), are met.

''(3) CONTRIBUTIONS REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

''(i) the employer makes matching contributions on behalf of each employee who is eligible to participate in the plan and who is not a highly compensated or key employee in an amount equal to the elective plan contributions of the employee to the plan to the extent the employee's elective plan contributions do not exceed 3 percent of the employee's compensation, or

''(ii) the employer is required, without regard to whether an employee makes any elective plan contribution, to make a contribution to the plan on behalf of each employee who is not a highly compensated or key employee and who is eligible to participate in the plan in an amount equal to at least 2 percent of the employee's compensation.

''(B) MATCHING CONTRIBUTIONS ON BEHALF OF HIGHLY COMPENSATED AND KEY EMPLOYEES.—The requirements of subparagraph (A)(i) shall not be treated as met if, under the plan, the rate of matching contribution with respect to any elective plan contribution of a highly compensated or key employee at any rate of contribution is greater than that with respect to an employee who is not a highly compensated or key employee.

''(C) SPECIAL RULES.—

''(i) TIME FOR MAKING CONTRIBUTIONS.—An employer shall not be treated as failing to meet the requirements of this paragraph with respect to any elective plan contributions of any compensation, or employer contributions required under this paragraph with respect to any compensation, if such contributions are made no later than the 15th day of the month following the last day of the calendar quarter which includes the date of payment of the compensation.

''(ii) FORM OF CONTRIBUTIONS.—Employer contributions required under this paragraph may be made either to the plan to provide benefits offered under the plan or to any person as payment for providing benefits offered under the plan.

''(iii) ADDITIONAL CONTRIBUTIONS.—Subject to subparagraph (B), nothing in this paragraph shall be treated as prohibiting an employer from making contributions to the plan in addition to contributions required under subparagraph (A).

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) ELECTIVE PLAN CONTRIBUTION.—The term 'elective plan contribution' means any amount which is contributed at the election of the employee and which is not includible in gross income by reason of this section.

''(ii) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

''(iii) KEY EMPLOYEE.—The term 'key employee' has the meaning given such term by section 416(i).

''(4) MINIMUM ELIGIBILITY AND PARTICIPATION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph shall be treated as met with respect to any year if, under the plan—

''(i) all employees who had at least 1,000 hours of service for the preceding plan year are eligible to participate, and

''(ii) each employee eligible to participate in the plan may, subject to terms and conditions applicable to all participants, elect any benefit available under the plan.

''(B) CERTAIN EMPLOYEES MAY BE EXCLUDED.—For purposes of subparagraph (A)(i), an employer may elect to exclude under the plan employees—

''(i) who have less than 1 year of service with the employer as of any day during the plan year,

''(ii) who have not attained the age of 21 before the close of a plan year,

''(iii) who are covered under an agreement which the Secretary of Labor finds to be a collective bargaining agreement if there is evidence that the benefits covered under the cafeteria plan were the subject of good faith bargaining between employee representatives and the employer, or

''(iv) who are described in section 410(b)(3)(C) (relating to nonresident aliens working outside the United States).

A plan may provide a shorter period of service or younger age for purposes of clause (i) or (ii).

''(5) ELIGIBLE EMPLOYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, any employer if such employer employed an average of 100 or fewer employees on business days during either of the 2 preceding years. For purposes of this subparagraph, a year may only be taken into account if the employer was in existence throughout the year.

''(B) EMPLOYERS NOT IN EXISTENCE DURING PRECEDING YEAR.—If an employer was not in existence throughout the preceding year, the determination under subparagraph (A) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current year.

''(C) GROWING EMPLOYERS RETAIN TREATMENT AS SMALL EMPLOYER.—If—

''(i) an employer was an eligible employer for any year (a 'qualified year'), and

''(ii) such employer establishes a simple cafeteria plan for its employees for such year, then, notwithstanding the fact the employer fails to meet the requirements of subparagraph (A) for any subsequent year, such employer shall be treated as an eligible employer for such subsequent year with respect to employees (whether or not employees during a qualified year) of any trade or business which was covered by the plan during any qualified year. This subparagraph shall cease to apply if the employer employs an average of 200 more employees on business days during any year preceding any such subsequent year.

''(D) SPECIAL RULES.—

''(i) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(ii) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person.

''(6) APPLICABLE NONDISCRIMINATION REQUIREMENT.—For purposes of this subsection, the term 'applicable nondiscrimination requirement' means any requirement under subsection (b) of this section, section 79(d), section 105(h), or paragraph (2), (3), (4), or (8) of section 129(d).

''(7) COMPENSATION.—The term 'compensation' has the meaning given such term by section 414(s).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2009.

SEC. 3. MODIFICATIONS OF RULES APPLICABLE TO CAFETERIA PLANS.

(a) APPLICATION TO SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 125(d) (defining cafeteria plan) is amended by adding at the end the following new paragraph:

''(3) EMPLOYEE TO INCLUDE SELF-EMPLOYED.—

''(A) IN GENERAL.—The term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(B) LIMITATION.—The amount which may be excluded under subsection (a) with respect to a participant in a cafeteria plan by reason of being an employee under subparagraph (A) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the cafeteria plan is established.''.

(2) APPLICATION TO BENEFITS WHICH MAY BE PROVIDED UNDER CAFETERIA PLAN.—

(A) GROUP-TERM LIFE INSURANCE.—Section 79 (relating to group-term life insurance provided to employees) is amended by adding at the end the following new subsection:

''(f) EMPLOYEE INCLUDES SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under the exceptions contained in subsection (a) or (b) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the individual is so treated.''.

(B) ACCIDENT AND HEALTH PLANS.—Subsection (g) of section 105 (relating to amounts received under accident and health plans) is amended to read as follows:

''(g) EMPLOYEE INCLUDES SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under this section by reason of subsection (b) or (c) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.''.

(C) CONTRIBUTIONS BY EMPLOYERS TO ACCIDENT AND HEALTH PLANS.—

(i) IN GENERAL.—Section 106, as amended by subsection (b), is amended by inserting after subsection (b) the following new subsection:

''(c) EMPLOYER TO INCLUDE SELF-EMPLOYED.—

''(1) IN GENERAL.—For purposes of this section, the term 'employee' includes an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

''(2) LIMITATION.—The amount which may be excluded under subsection (a) with respect to an individual treated as an employee by reason of paragraph (1) shall not exceed the employee's earned income (within the meaning of section 401(c)) derived from the trade or business with respect to which the accident or health insurance was established.''.

(ii) CLARIFICATION OF LIMITATIONS ON OTHER COVERAGE.—The first sentence of section 162(l)(2)(B) is amended to read as follows: ''Paragraph (1) shall not apply to any taxpayer for any calendar month for which the taxpayer participates in any subsidized health plan maintained by any employer (other than an employer described in section 401(c)(4)) of the taxpayer or the spouse of the taxpayer.''.

(b) LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—The last sentence of section 125(f) (defining qualified benefits) is amended to read as follows: ''Such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract.''.

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 (relating to contributions by employer to accident and health plans) is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 4. MODIFICATION OF RULES APPLICABLE TO FLEXIBLE SPENDING ARRANGEMENTS.

(a) MODIFICATION OF RULES.—

(1) IN GENERAL.—Section 125, as amended by section 2, is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

''(j) SPECIAL RULES APPLICABLE TO FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a flexible spending or similar arrangement solely because under the plan or arrangement—

''(A) the amount of the reimbursement for covered expenses at any time may not exceed the balance in the participant's account for the covered expenses as of such time,

''(B) except as provided in paragraph (4)(A)(ii), a participant may elect at any time specified by the plan or arrangement to make or modify any election regarding the covered benefits, or the level of covered benefits, of the participant under the plan, and

''(C) a participant is permitted access to any unused balance in the participant's accounts under such plan or arrangement in the manner provided under paragraph (2) or (3).

''(2) CARRYOVERS AND ROLLOVERS OF UNUSED BENEFITS IN HEALTH AND DEPENDENT CARE ARRANGEMENTS.—

''(A) IN GENERAL.—A plan or arrangement may permit a participant in a health flexible spending arrangement or dependent care flexible spending arrangement to elect—

''(i) to carry forward any aggregate unused balances in the participant's accounts under such arrangement as of the close of any year to the succeeding year, or

''(ii) to have such balance transferred to a plan described in subparagraph (E).

Such carryforward or transfer shall be treated as having occurred within 30 days of the close of the year.

''(B) DOLLAR LIMIT ON CARRYFORWARDS.—

''(i) IN GENERAL.—The amount which a participant may elect to carry forward under subparagraph (A)(i) from any year shall not exceed $500. For purposes of this paragraph, all plans and arrangements maintained by an employer or any related person shall be treated as 1 plan.

''(ii) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2010, the $500 amount under clause (i) shall be increased by an amount equal to—

''(I) $500, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this clause is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

''(C) EXCLUSION FROM GROSS INCOME.—No amount shall be required to be included in gross income under this chapter by reason of any carryforward or transfer under this paragraph.

''(D) COORDINATION WITH LIMITS.—

''(i) CARRYFORWARDS.—The maximum amount which may be contributed to a health flexible spending arrangement or dependent care flexible spending arrangement for any year to which an unused amount is carried under this paragraph shall be reduced by such amount.

''(ii) ROLLOVERS.—Any amount transferred under subparagraph (A)(ii) shall be treated as an eligible rollover under section 219, 223(f)(5), 401(k), 403(b), or 457, whichever is applicable, except that—

''(I) the amount of the contributions which a participant may make to the plan under any such section for the taxable year including the transfer shall be reduced by the amount transferred, and

''(II) in the case of a transfer to a plan described in clause (ii) or (iii) of subparagraph (E), the transferred amounts shall be treated as elective deferrals for such taxable year.

''(E) PLANS.—A plan is described in this subparagraph if it is—

''(i) an individual retirement plan,

''(ii) a qualified cash or deferred arrangement described in section 401(k),

''(iii) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b),

''(iv) an eligible deferred compensation plan described in section 457, or

''(v) a health savings account described in section 223.

''(3) DISTRIBUTION UPON TERMINATION.—

''(A) IN GENERAL.—A plan or arrangement may permit a participant (or any designated heir of the participant) to receive a cash payment equal to the aggregate unused account balances in the plan or arrangement as of the date the individual is separated (including by death or disability) from employment with the employer maintaining the plan or arrangement.

''(B) INCLUSION IN INCOME.—Any payment under subparagraph (A) shall be includible in gross income for the taxable year in which such payment is distributed to the employee.

''(4) TERMS RELATING TO FLEXIBLE SPENDING ARRANGEMENTS.—

''(A) FLEXIBLE SPENDING ARRANGEMENTS.—

''(i) IN GENERAL.—For purposes of this subsection, a flexible spending arrangement is a benefit program which provides employees with coverage under which specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions).

''(ii) ELECTIONS REQUIRED.—A plan or arrangement shall not be treated as a flexible spending arrangement unless a participant may at least 4 times during any year make or modify any election regarding covered benefits or the level of covered benefits.

''(B) HEALTH AND DEPENDENT CARE ARRANGEMENTS.—The terms 'health flexible spending arrangement' and 'dependent care flexible spending arrangement' means any flexible spending arrangement (or portion thereof) which provides payments for expenses incurred for medical care (as defined in section 213(d)) or dependent care (within the meaning of section 129), respectively.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 125 is amended by inserting ''and flexible spending arrangements'' after ''plans''.

(B) The item relating to section 125 in the table of sections for part III of subchapter B of chapter 1 is amended by inserting ''and flexible spending arrangements'' after ''plans''.

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 is amended by striking subsection (e) (relating to FSA and HRA Terminations to Fund HSAs).

(2) Section 223(c)(1)(B)(iii)(II) is amended to read as follows:

''(II) the individual is transferring the entire balance of such arrangement as of the end of the plan year to a health savings account pursuant to section 125(j)(2)(A)(ii), in accordance with rules prescribed by the Secretary.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5. RULES RELATING TO EMPLOYER-PROVIDED HEALTH AND DEPENDENT CARE BENEFITS.

(a) HEALTH BENEFITS.—Section 106, as amended by section 4(b)(1), is amended by adding at the end the following new subsection:

''(e) LIMITATION ON CONTRIBUTIONS TO HEALTH FLEXIBLE SPENDING ARRANGEMENTS.—

''(1) IN GENERAL.—Gross income of an employee for any taxable year shall include employer-provided coverage provided through 1 or more health flexible spending arrangements (within the meaning of section 125(j)) to the extent that the amount otherwise excludable under subsection (a) with regard to such coverage exceeds the applicable dollar limit for the taxable year.

''(2) APPLICABLE DOLLAR LIMIT.—For purposes of this subsection—

''(A) IN GENERAL.—The applicable dollar limit for any taxable year is an amount equal to the sum of—

''(i) $7,500, plus

''(ii) if the arrangement provides coverage for 1 or more individuals in addition to the employee, an amount equal to one-third of the amount in effect under clause (i) (after adjustment under subparagraph (B)).

''(B) COST-OF-LIVING ADJUSTMENT.—In the case of taxable years beginning in any calendar year after 2010, the $7,500 amount under subparagraph (A) shall be increased by an amount equal to—

''(i) $7,500, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this subparagraph is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.''.

(b) DEPENDENT CARE.—

(1) EXCLUSION LIMIT.—

(A) IN GENERAL.—Section 129(a)(2) (relating to limitation on exclusion) is amended—

(i) by striking ''$5,000'' and inserting ''the applicable dollar limit'', and

(ii) by striking ''$2,500'' and inserting ''one-half of such limit''.

(B) APPLICABLE DOLLAR LIMIT.—Section 129(a) is amended by adding at the end the following new paragraph:

''(3) APPLICABLE DOLLAR LIMIT.—For purposes of this subsection—

''(A) IN GENERAL.—The applicable dollar limit is $7,500 ($10,000 if dependent care assistance is provided under the program to 2 or more qualifying individuals of the employee).

''(B) COST-OF-LIVING ADJUSTMENTS.—In the case of taxable years beginning after 2010, each dollar amount under subparagraph (A) shall be increased by an amount equal to—

''(i) such dollar, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting '2009' for '1992' in subparagraph (B) thereof.

If any dollar amount as increased under this clause is not a multiple of $100, such dollar amount shall be rounded to the next lowest multiple of $100.''.

(2) AVERAGE BENEFITS TEST.—

(A) IN GENERAL.—Section 129(d)(8)(A) (relating to benefits) is amended—

(i) by striking ''55 percent'' and inserting ''60 percent'', and

(ii) by striking ''highly compensated employees'' the second place it appears and inserting ''employees receiving benefits''.

(B) SALARY REDUCTION AGREEMENTS.—Section 129(d)(8)(B) (relating to salary reduction agreements) is amended—

(i) by striking ''$25,000'' and inserting ''$30,000'', and

(ii) by adding at the end the following: ''In the case of years beginning after 2010, the $30,000 amount in the first sentence shall be adjusted at the same time, and in the same manner, as the applicable dollar amount is adjusted under subsection (a)(3)(B).''.

(3) PRINCIPAL SHAREHOLDERS OR OWNERS.—Section 129(d)(4) (relating to principal shareholders and owners) is amended by adding at the end the following: ''In the case of any failure to meet the requirements of this paragraph for any year, amounts shall only be required by reason of the failure to be included in gross income of the shareholders or owners who are members of the class described in the preceding sentence.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

THE SIMPLE CAFETERIA PLAN ACT OF 2009

Small businesses face a crisis when it comes to securing affordable, quality health care and other benefits for their employees. Of the working uninsured, who make up a majority of the uninsured—52 percent—are either self-employed or work for a small business with 100 or fewer employees or are dependent upon someone who does. The SIMPLE Cafeteria Plan Act is modeled after the Savings Incentive Match Plan for Employees (SIMPLE) pension plan enacted in 1996 and it will address access and affordability for health insurance coverage and for other employee benefits. The legislation also updates current law for all cafeteria plans for dependent care flexible spending accounts (DCFSA) and long-term care insurance.

First, the SIMPLE Cafeteria Plan Act will increase access to quality, affordable health care for millions of small business owners and their employees by amending the nondiscrimination rules so that the employer must either: (1) make a minimum 3% matching contribution to amounts contributed by non-highly compensated employees to the SIMPLE Cafeteria Plan; or (2) contribute a minimum of 2% of compensation on behalf of each non-highly compensated employee eligible to participate in the plan. The bill eliminates the prohibition against small business owners' participation in cafeteria plans.

For all flexible spending accounts, the bill revises the ''use it or lose it'' rule under current law, and permits participants to carry over up to $500 left in a health-care or dependent-care flexible spending account to the next plan year. Such unused contributions could also be carried over to the employee's retirement account, such as a 401(k) plan, or to a Health Savings Account. In either case, any carried over contributions will reduce the amount that the employee could contribute to the flexible spending account or pension plan in the subsequent year. The bill indexes the carry-over amount for inflation.

The SIMPLE Cafeteria Act also updates DCFSA limits for any cafeteria plan by increasing the amount that can be excluded to $7,500 for one dependent or $10,000 for two or more dependents. Had the original $5,000 limit for DCFSA been indexed for inflation when it was created in 1986, it would have risen to $9,692. The bill also indexes these amounts for future inflation so that families will not see an erosion of their benefit in the future.

Finally, the bill allows long-term care benefits to be provided under a cafeteria plan, thereby reversing the current law prohibition against such benefits.

By Mr. INHOFE:

S. 991. A bill to declare English as the official language of the United States, to establish a uniform English language rule for naturalization, and to avoid misconstructions of the English language texts of the laws of the United States, pursuant to Congress' powers to provide for the general welfare of the United States and to establish a rule of naturalization under article I, section 8, of the Constitution; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, today I would like to introduce two pieces of legislation that I believe are of great importance to the unity of the American people—the National Language Act, S. 992, and the English Language Unity Act, S. 991.

The National Language Act recognizes the practical reality of the role of English as our national language and makes English the national language of the U.S. Government, a status in law it has not had before, and calls on government to preserve and enhance the role of English as the national language. It clarifies that there is no entitlement to receive Federal documents and services in languages other than English, unless required by statutory law, recognizing decades of unbroken court opinions that civil rights laws protecting against national origin discrimination do not create rights to Government services and materials in languages other than English. This is especially important considering the Office of Management and Budget has estimated that the annual cost of providing multilingual assistance required by Clinton Executive Order 13166 is $1–$2 billion annually.

The National Language Act is an attempt to legislate a common sense language policy that a nation of immigrants needs one national language. Our Nation was settled by a group of people with a common vision. When members of our society cannot speak a common language, individuals miss out on many opportunities to advance in society and achieve the American Dream. By establishing that there is no entitlement to receive documents or services in languages other than English, we set the precedent that English is a common to us all in the public forum of Government.

The Language Unity Act of 2009, the second piece of legislation that I am introducing today, incorporates all the ideas of the National Language Act, and requires the establishment of a uniform language requirement for naturalization and sets the framework for uniform testing of English language ability for candidates for naturalization.

I want to empower new immigrants coming to our Nation by helping them understand and become successful in their new home. I believe that one of the most important ways immigrants can achieve success is by learning English.

There is enormous popular support for English as the National Language, according to polling that has taken place over the last few years. In polling reported only a few days ago, 86 percent of Oklahomans favor making English the official language; 87 percent of Americans support making English the official language of the U.S.; 77 percent of Hispanics believe English should be the official language of government operations; 82 percent of Americans support legislation that would require the Federal Government to conduct business solely in English; 74 percent of Americans support all election ballots and other government documents be printed in English. This polling data refers to making English an official language of the U.S., or further creating an affirmative responsibility on the part of Government to conduct its operations in English.

My colleagues who have followed this debate will remember that the National Language Act of 2009 is identical to S. 2715, legislation I introduced in the 110th Congress. Most importantly, this language is identical to the English amendments I authored which passed the Senate in 2007 as Senate Amendment 1151, and in 2006 as Senate Amendment 4064, each being part of the Comprehensive Immigration Reform Act of each respective Congress. Senate Amendment 1151 was agreed to in the Senate by a vote of 64–33. Senate Amendment 4064 was agreed to in the Senate by a vote of 62–35. As you can see, there is widespread and bipartisan support for legislation that empowers this nation's immigrants to learn English,

I am especially pleased to be introducing these bills today because just hours ago in my home State the Oklahoma State Legislature passed a joint resolution in support of English as the official language. This resolution, which passed the Oklahoma House of Representatives by an overwhelming vote of 89 to 8 and the Senate by a vote of 44 to 2, will allow the people of Oklahoma to vote on a statewide ballot for a constitutional amendment to make English the official language of Oklahoma. I am encouraged by the State Legislature's tireless efforts to affirm the importance of English as the unifying language in our society. I hope that the U.S. Congress will follow their lead and let the voice of the people be heard—a voice that overwhelmingly supports English as the official language.

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. 991

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 ''English Language Unity Act of 2009''.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The United States is comprised of individuals from diverse ethnic, cultural, and linguistic backgrounds, and continues to benefit from this rich diversity.

(2) Throughout the history of the United States, the common thread binding individuals of differing backgrounds has been the English language.

(3) Among the powers reserved to the States respectively is the power to establish the English language as the official language of the respective States, and otherwise to promote the English language within the respective States, subject to the prohibitions enumerated in the Constitution of the United States and in laws of the respective States.

SEC. 3. ENGLISH AS OFFICIAL LANGUAGE OF THE UNITED STATES.

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 6—OFFICIAL LANGUAGE

''§ 161. Official language of the United States

''The official language of the United States is English.

''§ 162. Preserving and enhancing the role of the official language

''Representatives of the Federal Government shall have an affirmative obligation to preserve and enhance the role of English as the official language of the Federal Government. Such obligation shall include encouraging greater opportunities for individuals to learn the English language.

''§ 163. Official functions of Government to be conducted in English

''(a) OFFICIAL FUNCTIONS.—The official functions of the Government of the United States shall be conducted in English.

''(b) SCOPE.—For the purposes of this section, the term 'United States' means the several States and the District of Columbia, and the term 'official' refers to any function that (i) binds the Government, (ii) is required by law, or (iii) is otherwise subject to scrutiny by either the press or the public.

''(c) PRACTICAL EFFECT.—This section shall apply to all laws, public proceedings, regulations, publications, orders, actions, programs, and policies, but does not apply to—

''(1) teaching of languages;

''(2) requirements under the Individuals with Disabilities Education Act;

''(3) actions, documents, or policies necessary for national security, international relations, trade, tourism, or commerce;

''(4) actions or documents that protect the public health and safety;

''(5) actions or documents that facilitate the activities of the Bureau of the Census in compiling any census of population;

''(6) actions that protect the rights of victims of crimes or criminal defendants; or

''(7) using terms of art or phrases from languages other than English.

''§ 164. Uniform English language rule for naturalization

''(a) UNIFORM LANGUAGE TESTING STANDARD.—All citizens should be able to read and understand generally the English language text of the Declaration of Independence, the Constitution, and the laws of the United States made in pursuance of the Constitution.

''(b) CEREMONIES.—All naturalization ceremonies shall be conducted in English.

''§ 165. Rules of construction

''Nothing in this chapter shall be construed—

''(1) to prohibit a Member of Congress or any officer or agent of the Federal Government, while performing official functions, from communicating unofficially through any medium with another person in a language other than English (as long as official functions are performed in English);

''(2) to limit the preservation or use of Native Alaskan or Native American languages (as defined in the Native American Languages Act);

''(3) to disparage any language or to discourage any person from learning or using a language; or

''(4) to be inconsistent with the Constitution of the United States.

''§ 166. Standing

''A person injured by a violation of this chapter may in a civil action (including an action under chapter 151 of title 28) obtain appropriate relief.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of title 4, United States Code, is amended by inserting after the item relating to chapter 5 the following new item:

''CHAPTER 6. OFFICIAL LANGUAGE''.

SEC. 4. GENERAL RULES OF CONSTRUCTION FOR ENGLISH LANGUAGE TEXTS OF THE LAWS OF THE UNITED STATES.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following new section:

''§ 8. General rules of construction for laws of the United States

''(a) English language requirements and workplace policies, whether in the public or private sector, shall be presumptively consistent with the Laws of the United States; and

''(b) Any ambiguity in the English language text of the Laws of the United States shall be resolved, in accordance with the last two articles of the Bill of Rights, not to deny or disparage rights retained by the people, and to reserve powers to the States respectively, or to the people.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, is amended by inserting after the item relating to section 7 the following new item:

''8. General Rules of Construction for Laws of the United States.''.

SEC. 5. IMPLEMENTING REGULATIONS.

The Secretary of Homeland Security shall, within 180 days after the date of enactment of this Act, issue for public notice and comment a proposed rule for uniform testing English language ability of candidates for naturalization, based upon the principles that—

(1) all citizens should be able to read and understand generally the English language text of the Declaration of Independence, the Constitution, and the laws of the United States which are made in pursuance thereof; and

(2) any exceptions to this standard should be limited to extraordinary circumstances, such as asylum.

SEC. 6. EFFECTIVE DATE.

The amendments made by sections 3 and 4 shall take effect on the date that is 180 days after the date of the enactment of this Act.

By Mr. INHOFE (for himself, Mr. ALEXANDER, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURR, Mr. SHELBY, Mr. VITTER, Mr. BUNNING, Mr. COBURN, Mr. WICKER, Mr. DEMINT, Mr. ENZI, Mr. THUNE, Mr. CORKER, and Mr. COCHRAN):

S. 992. A bill to amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. 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. 992

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Language Act of 2009''.

SEC. 2. AMENDMENT TO TITLE 4.

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following:

''CHAPTER 6—LANGUAGE OF THE GOVERNMENT

''Sec.
''161. Declaration of national language.
''162. Preserving and enhancing the role of the national language.
''163. Use of language other than English.

''§ 161. Declaration of national language

''English shall be the national language of the Government of the United States.

''§ 162. Preserving and enhancing the role of the national language

''(a) IN GENERAL.—The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America.

''(b) EXCEPTION.—Unless specifically provided by statute, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If an exception is made with respect to the use of a language other than English, the exception does not create a legal entitlement to additional services in that language or any language other than English.

''(c) FORMS.—If any form is issued by the Federal Government in a language other than English (or such form is completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

''§ 163. Use of language other than English

''Nothing in this chapter shall prohibit the use of a language other than English.''.

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following new item:

''6. Language of the Government ..... 161''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 132—COMMENDING THE HEROIC EFFORTS OF THE PEOPLE FIGHTING THE FLOODS IN NORTH DAKOTA

Mr. DORGAN (for himself and Mr. CONRAD) submitted the following resolution; which was considered and agreed to:

S. RES. 132

Whereas 47 of the 53 counties in North Dakota have been declared Federal disaster areas;

Whereas wide swaths of North Dakota have faced unprecedented flooding crises, including cities along the Des Lacs, Heart, James, Knife, Missouri, Little Missouri, Park, Pembina, Red, Sheyenne, Souris, and Wild Rice Rivers and Beaver Creek;

Whereas the people of North Dakota have suffered tremendous damage to their homes, livelihoods, and communities;

Whereas the ranchers of North Dakota are estimated to have lost nearly 100,000 head of livestock;

Whereas many of the roads and bridges, and much of the other infrastructure, in North Dakota are in need of repair;

Whereas, despite terrible conditions, the people of North Dakota have shown the strength of their shared bond, coming together in large numbers to save their cities, towns, businesses, farms, and ranches;

Whereas stories of exceptional efforts abound, from people filling millions of sandbags on short notice, to people saving lives and effecting rapid emergency evacuations;

Whereas Federal, State, and local officials have provided outstanding leadership and effective service throughout the crisis in North Dakota; and

Whereas the response of the people of North Dakota to the disaster has shown the world how communities can unite, fight, and win in a crisis: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people of North Dakota for their heroic efforts in fighting the floods in North Dakota;

(2) commends the many people from around the United States who assisted the people of North Dakota during this time of need;

(3) expresses appreciation to the officials of the numerous Federal agencies working on the ground in North Dakota for their consistently rapid, efficient, and effective response to the disaster; and

(4) continues to stand with the communities of North Dakota in the efforts to recover from the flooding during 2009, and to improve protections against flooding in the future.

SENATE RESOLUTION 133—DESIGNATING MAY 1 THROUGH MAY 7, 2009, AS ''NATIONAL PHYSICAL EDUCATION AND SPORT WEEK''

Ms. KLOBUCHAR (for herself and Mr. THUNE) submitted the following resolution; which was considered and agreed to:

S. RES. 133

Whereas childhood obesity has reached epidemic proportions in the United States;

Whereas the Department of Health and Human Services estimates that, by 2010, 20 percent of children in the United States will be obese;

Whereas a decline in physical activity has contributed to the unprecedented epidemic of childhood obesity;

Whereas regular physical activity is necessary to support normal and healthy growth in children;

Whereas overweight adolescents have a 70 to 80 percent chance of becoming overweight adults, increasing their risk for chronic disease, disability, and death;

Whereas Type II diabetes can no longer be referred to as ''late in life'' or ''adult onset'' diabetes because it occurs in children as young as 10 years old;

Whereas the Physical Activity Guidelines for Americans recommend that children engage in at least 60 minutes of physical activity on most, and preferably all, days of the week;

Whereas children spend many of their waking hours at school and therefore need to be active during the school day to meet the recommendations of the Physical Activity Guidelines for Americans;

Whereas teaching children about physical education and sports not only ensures that they are physically active during the school day, but also educates them on how to be physically active and its importance;

Whereas only 3.8 percent of elementary schools, 7.9 percent of middle schools, and 2.1 percent of high schools provide daily physical education or its equivalent for the entire school year, and 22 percent of schools do not require students to take any physical education at all;

Whereas research shows that fit and active children are more likely to thrive academically;

Whereas participation in sports and physical activity improves self-esteem and body image in children and adults;

Whereas the social and environmental factors affecting children are in the control of the adults and the communities in which they live, and therefore this Nation shares a collective responsibility in reversing the childhood obesity trend; and

Whereas Congress strongly supports efforts to increase physical activity and participation of youth in sports: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 1 through May 7, 2009, as ''National Physical Education and Sport Week'';

(2) recognizes ''National Physical Education and Sport Week'' and the central role of physical education and sports in creating a healthy lifestyle for all children and youth;

(3) calls on school districts to implement local wellness policies as defined by the Child Nutrition and WIC Reauthorization Act of 2004 that include ambitious goals for physical education, physical activity, and other activities addressing the childhood obesity epidemic and promoting child wellness; and

(4) encourages schools to offer physical education classes to students and work with community partners to provide opportunities and safe spaces for physical activities

before and after school and during the summer months for all children and youth.

SENATE RESOLUTION 134—CONGRATULATING THE STUDENTS, PARENTS, TEACHERS, AND ADMINISTRATORS AT CHARTER SCHOOLS ACROSS THE UNITED STATES FOR THEIR ONGOING CONTRIBUTIONS TO EDUCATION AND SUPPORTING THE IDEAS AND GOALS OF THE 10TH ANNUAL NATIONAL CHARTER SCHOOLS WEEK, MAY 3 THROUGH MAY 9, 2009

Ms. LANDRIEU (for herself, Mr. ALEXANDER, Mr. LIEBERMAN, Mr. CARPER, Mr. BAYH, Mr. BURR, Mr. GREGG, and Mr. VITTER) submitted the following resolution; which was considered and agreed to:

S. RES. 134

Whereas charter schools deliver high-quality education and challenge all students to reach their potential;

Whereas charter schools provide thousands of families with diverse and innovative educational options for their children;

Whereas charter schools are public schools authorized by a designated public entity that respond to the needs of communities, families, and students in the United States and promote the principles of quality, choice, and innovation;

Whereas, in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 40 States and the District of Columbia have passed laws authorizing charter schools;

Whereas approximately 4,700 charter schools are now operating in 40 States and the District of Columbia, serving more than 1,400,000 students;

Whereas, during the last 14 years, Congress has provided more than $2,478,288,000 in financial assistance to the charter school movement through facilities financing assistance and grants for planning, startup, implementation, and dissemination;

Whereas many charter schools improve the achievements of students and stimulate improvement in traditional public schools;

Whereas charter schools must meet the student achievement accountability requirements under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) in the same manner as traditional public schools and often set higher and additional individual goals to ensure that charter schools are of high quality and truly accountable to the public;

Whereas charter schools give parents new freedom to choose public schools, routinely measure parental satisfaction levels, and must prove their ongoing success to parents, policymakers, and their communities;

Whereas more than 50 percent of charter schools report having a waiting list, and the total number of students on all such waiting lists is enough to fill more than 1,100 average-sized charter schools;

Whereas the President has called for increased Federal support for replicating and expanding high-performing charter schools to meet the dramatic demand created by the more than 365,000 children on charter school waiting lists; and

Whereas the 10th annual National Charter Schools Week is May 3 through May 9, 2009: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the students, parents, teachers, and administrators of charter schools across the United States for their ongoing contributions to education, especially their impressive results in closing the persistent achievement gap in the United States, and improving and strengthening the public school system in the United States;

(2) supports the ideas and goals of the 10th annual National Charter Schools Week, a week-long celebration to be held May 3 through May 9, 2009, in communities throughout the United States; and

(3) encourages the people of the United States to conduct appropriate programs, ceremonies, and activities during National Charter Schools Week to demonstrate support for charter schools.

SENATE RESOLUTION 135—DESIGNATING MAY 8, 2009, AS ''MILITARY SPOUSE APPRECIATION DAY''

Mr. BURR (for himself and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 135

Whereas the month of May marks National Military Appreciation Month;

Whereas military spouses provide vital support to men and women in the Armed Forces and help to make their service to the Armed Forces possible;

Whereas military spouses have been separated from their loved ones because of deployment in support of the Global War on Terrorism and other military missions carried out by the Armed Forces;

Whereas the establishment of Military Spouse Appreciation Day would be an appropriate way to honor the spouses of members of the Armed Forces; and

Whereas May 8, 2009, would be an appropriate date to establish as ''Military Spouse Appreciation Day'': Now, therefore, be it

Resolved, That the Senate—

(1) designates May 8, 2009, as ''Military Spouse Appreciation Day'';

(2) honors and recognizes the contributions made by spouses of members of the Armed Forces; and

(3) encourages the people of the United States to observe Military Spouse Appreciation Day to promote awareness of the contributions of spouses of members of the Armed Forces and the importance of their role in the lives of members of the Armed Forces and veterans.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1044. Mr. INHOFE submitted an amendment intended to be proposed by him 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.

SA 1045. Ms. COLLINS (for herself and Mrs. MCCASKILL) submitted an amendment intended to be proposed by her to the bill S. 454, supra.

SA 1046. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 454, supra.

SA 1047. Mr. WHITEHOUSE (for himself, Mr. FEINGOLD, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 454, supra.

SA 1048. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 454, supra.

SA 1049. Mrs. MCCASKILL (for herself and Mr. CASEY) submitted an amendment intended to be proposed by her to the bill S. 454, supra.

SA 1050. Mrs. MCCASKILL (for herself, Mr. UDALL of Colorado, and Mr. CASEY) submitted an amendment intended to be proposed by her to the bill S. 454, supra.

SA 1051. Mrs. MCCASKILL (for herself and Mr. CASEY) submitted an amendment intended to be proposed by her to the bill S. 454, supra.

SA 1052. Mrs. MURRAY (for herself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by her to the bill S. 454, supra; which was ordered to lie on the table.

SA 1053. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 454, supra.

SA 1054. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill S. 454, supra; which was ordered to lie on the table.

SA 1055. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 454, supra.

SA 1056. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 454, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1044. Mr. INHOFE submitted an amendment intended to be proposed by him 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; as follows:

On page 59, line 25, strike ''(D)'' and inserting ''(E)''.

On page 60, strike line 3 and insert the following:

lowing new subparagraphs (B), (C), and (D):

On page 60, line 4, insert ''and submit the report required by subparagraph (D)'' after ''terminate such acquisition program''.

On page 61, strike like 24 and insert the following:

gram;

''(D) if the program is terminated, submit to Congress a written report setting forth—

''(i) an explanation of the reasons for terminating the program;

''(ii) the alternatives considered to address any problems in the program; and

''(iii) the course the Department plans to pursue to meet any continuing joint military requirements otherwise intended to be met by the program; and''.

SA 1045. Ms. COLLINS (for herself and Mrs. MCCASKILL) submitted an amendment intended to be proposed by her 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; as follows:

On page 69, after line 2, add the following:

SEC. 207. EARNED VALUE MANAGEMENT.

(a) ENHANCED TRACKING OF CONTRACTOR PERFORMANCE.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall review the existing guidance and, as necessary, prescribe additional guidance governing the implementation of the Earned Value Management (EVM) requirements and reporting for contracts to ensure that the Department of Defense—

(1) applies uniform EVM standards to reliably and consistently measure contract or project performance;

(2) applies such standards to establish appropriate baselines at the award of a contract or commencement of a program, whichever is earlier;

(3) ensures that personnel responsible for administering and overseeing EVM systems have the training and qualifications needed to perform this function; and

(4) has appropriate mechanisms in place to ensure that contractors establish and use approved EVM systems.

(b) ENFORCEMENT MECHANISMS.—For the purposes of subsection (a)(4), mechanisms to ensure that contractors establish and use approved EVM systems shall include—

(1) consideration of the quality of the contractors' EVM systems and the timeliness of the contractors' EVM reporting in any past performance evaluation for a contract that includes an EVM requirement; and

(2) increased government oversight of the cost, schedule, scope, and performance of contractors that do not have approved EVM systems in place.

SA 1046. Mr. COBURN submitted an amendment intended to be proposed by him 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; as follows:

On page 49, strike line 15 and all that follows through page 51, line 8, and insert the following:

view, including an assessment by the Director of the feasibility and advisability of establishing baselines for operating and support costs under section 2435 of title 10, United States Code.

(2) TRANSMITTAL TO CONGRESS.—Not later than 30 days after receiving the report required by paragraph (1), the Secretary shall transmit the report to the congressional defense committees, together with any comments on the report the Secretary considers appropriate.

(c) TRANSFER OF PERSONNEL AND FUNCTIONS OF COST ANALYSIS IMPROVEMENT GROUP.—The personnel and functions of the Cost Analysis Improvement Group of the Department of Defense are hereby transferred to the Director of Independent Cost Assessment under section 139d of title 10, United States Code (as so added), and shall report directly to the Director.

(d) CONFORMING AMENDMENTS.—

(1) Section 181(d) of title 10, United States Code, is amended by inserting ''the Director of Independent Cost Assessment,'' before ''and the Director''.

(2) Section 2306b(i)(1)(B) of such title is amended by striking ''Cost Analysis Improvement Group of the Department of Defense'' and inserting ''Director of Independent Cost Assessment''.

(3) Section 2366a(a)(4) of such title is amended by striking ''has been submitted'' and inserting ''has been approved by the Director of Independent Cost Assessment''.

(4) Section 2366b(a)(1)(C) of such title is amended by striking ''have been developed to execute'' and inserting ''have been approved by the Director of Independent Cost Assessment to provide for the execution of''.

(5) Section 2433(e)(2)(B)(iii) of such title is amended by striking ''are reasonable'' and inserting ''have been determined by the Director of Independent Cost Assessment to be reasonable''.

(6) Subparagraph (A) of section 2434(b)(1) of such title is amended to read as follows:

''(A) be prepared or approved by the Director of Independent Cost Assessment; and''.

(7) Section 2445c(f)(3) of such title is amended by striking ''are reasonable'' and inserting ''have been determined by the Director of Independent Cost Assessment to be reasonable''.

(e) COMPTROLLER GENERAL OF THE UNITED STATES REVIEW OF OPERATING AND SUPPORT COSTS OF MAJOR WEAPON SYSTEMS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report on growth in operating and support costs for major weapon systems.

(2) ELEMENTS.—In preparing the report required by paragraph (1), the Comptroller General shall, at a minimum—

(A) identify the original estimates for operating and support costs for major weapon systems selected by the Comptroller General for purposes of the report;

(B) assess the actual operating and support costs for such major weapon systems;

(C) analyze the rate of growth for operating and support costs for such major weapon systems;

(D) for such major weapon systems that have experienced the highest rate of growth in operating and support costs, assess the factors contributing to such growth;

(E) assess measures taken by the Department of Defense to reduce operating and support costs for major weapon systems; and

(F) make such recommendations as the Comptroller General considers appropriate.

(3) MAJOR WEAPON SYSTEM DEFINED.—In this subsection, the term ''major weapon system'' has the meaning given that term in 2379(d) of title 10, United States Code.

SA 1047. Mr. WHITEHOUSE (for himself, Mr. FEINGOLD, and Mr. SANDERS) submitted an amendment intended to be proposed by him 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; as follows:

On page 43, between lines 20 and 21, insert the following:

(c) TECHNOLOGICAL MATURITY STANDARDS.—For purposes of the review and assessment conducted by the Director of Defense Research and Engineering in accordance with subsection (c) of section 139a of title 10, United States Code (as added by subsection (a)), a critical technology is considered to be mature—

(1) in the case of a major defense acquisition program that is being considered for Milestone B approval, if the technology has been demonstrated in a relevant environment; and

(2) in the case of a major defense acquisition program that is being considered for Milestone C approval, if the technology has been demonstrated in a realistic environment.

On page 45, beginning on line 9, strike ''programs and require the disclosure of all such confidence levels;'' and insert ''programs, require that all such estimates include confidence levels compliant with such guidance, and require the disclosure of all such confidence levels (including through Selected Acquisition Reports submitted pursuant to section 2432 of this title);''.

On page 47, line 16, add at the end the following: ''The report shall include an assessment of—

''(A) the extent to which each of the military departments have complied with policies, procedures, and guidance issued by the Director with regard to the preparation of cost estimates; and

''(B) the overall quality of cost estimates prepared by each of the military departments.

On page 48, line 2, add at the end the following: ''Each report submitted to Congress under this subsection shall be posted on an Internet website of the Department of Defense that is available to the public.''.

SA 1048. Mr. CARPER submitted an amendment intended to be proposed by him 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; as follows:

On page 42, line 12, insert '', in consultation with the Director of Developmental Test and Evaluation,'' after ''shall''.

SA 1049. Mrs. MCCASKILL (for herself and Mr. CASEY) submitted an amendment intended to be proposed by her 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; as follows:

On page 51, line 12, insert ''(a) IN GENERAL.—'' before ''Section 181''.

On page 51, line 23, strike ''of subsection (f).''.'' and insert the following: ''of subsection (f). Such input may include, but is not limited to, an assessment of the following:

''(1) Any current or projected missions or threats in the theater of operations of the commander of a combatant command that would justify a new joint military requirement.

''(2) The necessity and sufficiency of a proposed joint military requirement in terms of current and projected missions or threats.

''(3) The relative priority of a proposed joint military requirement in comparison with other joint military requirements.

''(4) The ability of partner nations in the theater of operations of the commander of a combatant command to assist in meeting the joint military requirement or to partner in using technologies developed to meet the joint military requirement.''.

(b) COMPTROLLER GENERAL OF THE UNITED STATES REVIEW OF IMPLEMENTATION.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of the requirements of subsection (e) of section 181 of title 10, United States Code (as amended by subsection (a)), for the Joint Requirements Oversight Council to solicit and consider input from the commanders of the combatant commands. The report shall include, at a minimum, an assessment of the extent to which the Council has effectively sought, and the commanders of the combatant commands have provided, meaningful input on proposed joint military requirements.

SA 1050. Mrs. MCCASKILL (for herself, Mr. UDALL of Colorado, and Mr. CASEY) submitted an amendment intended to be proposed by her 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; as follows:

On page 59, strike line 15 and insert the following:

(d) COMPTROLLER GENERAL OF THE UNITED STATES REVIEW OF CERTAIN WAIVERS.—

(1) NOTICE TO COMPTROLLER GENERAL.—Whenever a milestone decision authority authorizes a waiver of the requirement for prototypes under paragraph (1) or (2) of subsection (c) on the basis of excessive cost, the milestone decision authority shall submit a notice on the waiver, together with the rational for the waiver, to the Comptroller General of the United States at the same time a report on the waiver is submitted to the congressional defense committees under paragraph (3) of that subsection.

(2) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after receipt of a notice on a waiver under paragraph (1), the Comptroller General shall—

(A) review the rationale for the waiver; and

(B) submit to the congressional defense committees a written assessment of the rationale for the waiver.

(e) APPLICABILITY.—This section shall apply to any

SA 1051. Mrs. MCCASKILL (for herself and Mr. CASEY) submitted an amendment intended to be proposed by her 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; as follows:

On page 53, between lines 17 and 18, insert the following:

(c) REVIEW OF JOINT MILITARY REQUIREMENTS.—

(1) JROC SUBMITTAL OF RECOMMENDED REQUIREMENTS TO UNDER SECRETARY FOR ATL.—Upon recommending a new joint military requirement, the Joint Requirements Oversight Council shall transmit the recommendation to the Under Secretary of Defense for Acquisition, Technology, and Logistics for review and concurrence or non-concurrence in the recommendation.

(2) REVIEW OF RECOMMENDED REQUIREMENTS.—The Under Secretary for Acquisition, Technology, and Logistics shall review each recommendation transmitted under paragraph (1) to determine whether or not the Joint Requirements Oversight Council has, in making such recommendation—

(A) taken appropriate action to solicit and consider input from the commanders of the combatant commands in accordance with the requirements of section 181(e) of title 10, United States Code (as amended by section 105);

(B) given appropriate consideration to trade-offs among cost, schedule, and performance in accordance with the requirements of section 181(b)(1)(C) of title 10, United States Code (as amended by subsection (b)); and

(C) given appropriate consideration to issues of joint portfolio management, including alternative material and non-material solutions, as provided in Chairman of the Joint Chiefs of Staff Instruction 3170.01G.

(3) NON-CONCURRENCE OF UNDER SECRETARY FOR ATL.—If the Under Secretary for Acquisition, Technology, and Logistics determines that the Joint Requirements Oversight Council has failed to take appropriate action in accordance with subparagraphs (A), (B), and (C) of paragraph (2) regarding a joint military requirement, the Under Secretary shall return the recommendation to the Council with specific recommendations as to matters to be considered by the Council to address any shortcoming identified by the Under Secretary in the course of the review under paragraph (2).

(4) NOTICE ON CONTINUING DISAGREEMENT ON REQUIREMENT.—If the Under Secretary for Acquisition, Technology, and Logistics and the Joint Requirements Oversight Council are unable to reach agreement on a joint military requirement that has been returned to the Council by the Under Secretary under paragraph (4), the Under Secretary shall transmit notice of lack of agreement on the requirement to the Secretary of Defense.

(5) RESOLUTION OF CONTINUING DISAGREEMENT.—Upon receiving notice under paragraph (4) of a lack of agreement on a joint military requirement, the Secretary of Defense shall make a final determination on whether or not to validate the requirement.

On page 53, line 18, strike ''(c)'' and insert ''(d)''.

On page 54, line 12, strike ''(d)'' and insert ''(e)''.

SA 1052. Mrs. MURRAY (for herself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by her 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; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 207. EXPANSION OF NATIONAL SECURITY OBJECTIVES OF THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.

(a) IN GENERAL.—Subsection (a) of section 2501 of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(6) Maintaining critical design skills to ensure that the armed forces are provided with systems capable of ensuring technological superiority over potential adversaries.''.

(b) CERTIFICATION OF COMPLIANCE OF TERMINATION OF MDAPS WITH NATIONAL SECURITY OBJECTIVES.—Such section is further amended by adding at the end the following new subsection:

''(c) CERTIFICATION OF COMPLIANCE OF TERMINATION OF MAJOR DEFENSE ACQUISITION PROGRAM WITH OBJECTIVES.—(1) Upon the termination of a major defense acquisition program, the Secretary of Defense shall certify to Congress that the termination of the program is consistent with the national security objectives for the national technology and industrial base set forth in subsection (a).

''(2) In this subsection, the term 'major defense acquisition program' has the meaning given that term in section 2430 of this title.''.

SA 1053. Mr. CHAMBLISS submitted an amendment intended to be proposed by him 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; as follows:

On page 63, line 11, insert ''for special security agreements'' after ''to those required''.

SA 1054. Mr. CHAMBLISS submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

On page 65, strike line 16 and all that follows through page 66, line 17, and insert the following:

system by providing for the consideration of prime contractors ''make-buy'' decisions in past performance evaluations.

SA 1055. Mr. BINGAMAN submitted an amendment intended to be proposed by him 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; as follows:

At the end of title I, add the following:

SEC. 106. CLARIFICATION OF SUBMITTAL OF CERTIFICATION OF ADEQUACY OF BUDGETS BY THE DIRECTOR OF THE DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

Section 196(e)(2) of title 10, United States Code, is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) If the Director of the Center is not serving concurrently as the Director of Developmental Test and Evaluation under subsection (b)(2) of section 139c of this title, the certification of the Director of the Center under subparagraph (A) shall, notwithstanding subsection (c)(4) of such section, be submitted directly and independently to the Secretary of Defense.''.

SA 1056. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her 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; which was ordered to lie on the table; as follows:

On page 69, after line 2, add the following:

SEC. 207. AMENDMENTS TO THE FEDERAL ACQUISITION REGULATION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall amend the Federal Acquisition Regulation issued pursuant to section 25 of such Act to clarify the relationship between certain programs of the Small Business Administration.

(b) CONTENT OF AMENDMENTS.—The amendments made pursuant to subsection (a) shall—

(1) reflect the interpretations of the Small Business Act (15 U.S.C. 631 et seq.) by the Administrator of the Small Business Administration relating to the order of precedence that applies when determining whether to satisfy a requirement under the Federal Acquisition Regulation through an award of a contract to—

(A) a small business concern, as that term is used in section 3 of the Small Business Act (15 U.S.C. 632);

(B) a HUBZone small business concern, within the meaning given that term under section 3(p)(3) of the Small Business Act (15 U.S.C. 632(p)(3));

(C) a small business concern owned and controlled by service-disabled veterans, as that term is defined in section 3(q)(2) of the Small Business Act (15 U.S.C. 632(q)(2)); or

(D) a small business concern that participates in the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)); and

(2) include the amendments relating to socioeconomic program parity proposed by the Federal Acquisition Regulatory Council and published in the Federal Register on March 10, 2008 (73 Fed. Reg. 12699 et seq.).

(c) TECHNICAL CLARIFICATION.—Section 36(b) of the Small Business Act (15 U.S.C. 657f(b)) is amended by striking ''may'' and inserting ''shall''.

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 7, 2009, at 2:15 p.m. in Room 628 of the Dirksen Senate office building to conduct a hearing on the nomination of Larry J. Echo Hawk to be Assistant Secretary for Indian Affairs, U.S. Department of the Interior.

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. LEVIN. 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 6, 2009, at 9:30 a.m., to conduct a hearing entitled ''Regulating and Resolving Institutions Considered 'Too Big to Fail'.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, May 6, 2009, at 10 a.m., in room SD–366 of the Dirksen Senate office building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. 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 6, 2009, at 9:30 a.m., to hold a hearing entitled ''Engaging Iran: Obstacles and Opportunities.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. 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 6, 2009, at 2:30 p.m., to hold a subcommittee hearing entitled ''NATO Post-60: Institutional Challenges Moving Forward.''

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

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Oversight of the Department of Homeland Security,'' on Wednesday, May 6, 2009, at 10 a.m., in room SD–224 of the Dirksen Senate office building.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, May 6, 2009, at 9 a.m. The Committee will meet in room 418 of the Russell Senate office building beginning at 9:30 a.m.

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

SUBCOMMITTEE ON COMMUNICATIONS, TECHNOLOGY, AND THE INTERNET

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Communications, Technology, and the Internet of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, May 6, 2009, at 2:30 p.m., in room 253 of the Russell Senate office building.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. LEVIN. 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 6, 2009, at 2:15 p.m.

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

SPECIAL COMMITTEE ON AGING

Mr. LEVIN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate, on May 6, 2009, from 2 p.m.—4 p.m. in Hart 216 for the purpose of conducting a hearing.

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

PRIVILEGES OF THE FLOOR

Ms. COLLINS. Mr. President, I ask unanimous consent that Eric Cho, a detailee on my Homeland Security and Governmental Affairs staff, be granted the privileges of the floor during the duration of the debate on this legislation S. 454.

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

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that CAPT David Evans, of my staff, be granted the privilege of the floor for the remainder of the discussion of this bill.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 80, 85, 99, 100, 101, 102, 103, 104, 105, 106, 107, and all nominations on the Secretary's desk in the Foreign Service; that the nominations be confirmed en bloc, and the motions to reconsider be laid upon the table en bloc; that no further motions be in order; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Ronald C. Sims, of Washington, to be Deputy Secretary of Department of Housing and Urban Development.

EXPORT-IMPORT BANK OF THE UNITED STATES

Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States for a term expiring January 20, 2013.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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

DEPARTMENT OF HOMELAND SECURITY

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

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

DEPARTMENT OF THE TREASURY

Alan B. Krueger, of New Jersey, to be an Assistant Secretary of the Treasury.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

William V. Corr, of Virginia, to be Deputy Secretary of Health and Human Services.

EXECUTIVE OFFICE OF THE PRESIDENT

Demetrios J. Marantis, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador.

DEPARTMENT OF STATE

Johnnie Carson, of Illinois, to be an Assistant Secretary of State (African Affairs).

Ivo H. Daalder, of Virginia, to be United States Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Luis C. de Baca, of Virginia, to be Director of the Office to Monitor and Combat Trafficking, with rank of Ambassador at Large.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

FOREIGN SERVICE

PN273 FOREIGN SERVICE nominations (7) beginning Gregory D. Loose, and ending Gregory M. Wong, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 2, 2009.

PN274 FOREIGN SERVICE nominations (154) beginning Laszlo F. Sagi, and ending Daniel E. Harris, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 2, 2009.

PN275 FOREIGN SERVICE nominations (224) beginning John M. Kowalski, and ending Jeremy Terrill Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 2, 2009.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009—MOTION TO PROCEED

Mr. REID. Mr. President, I now move to proceed to Calendar No. 55, which is H.R. 627, and I send a cloture motion to the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to the H.R. 627, the Credit Cardholders' Bill of Rights.

Patrick J. Leahy, Barbara Boxer, Mark Udall, Robert P. Casey, Jr., Kent Conrad, Patty Murray, Herb Kohl, Jeff Bingaman, Russell D. Feingold, Bernard Sanders, Ben Nelson, Ron Wyden, Debbie Stabenow, Bill Nelson, Richard Durbin, Jack Reed, Amy Klobuchar, Harry Reid.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. I now withdraw the motion, Mr. President.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. REID. 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.

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

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

COMMENDING HEROIC EFFORTS OF PEOPLE FIGHTING FLOODS IN NORTH DAKOTA

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 132, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 132) commending the heroic efforts of the people fighting the floods in North Dakota.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 132) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 132

Whereas 47 of the 53 counties in North Dakota have been declared Federal disaster areas;

Whereas wide swaths of North Dakota have faced unprecedented flooding crises, including cities along the Des Lacs, Heart, James, Knife, Missouri, Little Missouri, Park, Pembina, Red, Sheyenne, Souris, and Wild Rice Rivers and Beaver Creek;

Whereas the people of North Dakota have suffered tremendous damage to their homes, livelihoods, and communities;

Whereas the ranchers of North Dakota are estimated to have lost nearly 100,000 head of livestock;

Whereas many of the roads and bridges, and much of the other infrastructure, in North Dakota are in need of repair;

Whereas, despite terrible conditions, the people of North Dakota have shown the strength of their shared bond, coming together in large numbers to save their cities, towns, businesses, farms, and ranches;

Whereas stories of exceptional efforts abound, from people filling millions of sandbags on short notice, to people saving lives and effecting rapid emergency evacuations;

Whereas Federal, State, and local officials have provided outstanding leadership and effective service throughout the crisis in North Dakota; and

Whereas the response of the people of North Dakota to the disaster has shown the world how communities can unite, fight, and win in a crisis: Now, therefore, be it

Resolved, That the Senate—

(1) commends the people of North Dakota for their heroic efforts in fighting the floods in North Dakota;

(2) commends the many people from around the United States who assisted the people of North Dakota during this time of need;

(3) expresses appreciation to the officials of the numerous Federal agencies working on the ground in North Dakota for their consistently rapid, efficient, and effective response to the disaster; and

(4) continues to stand with the communities of North Dakota in the efforts to recover from the flooding during 2009, and to improve protections against flooding in the future.

NATIONAL PHYSICAL EDUCATION AND SPORT WEEK

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 133, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 133) designating May 1 through May 7, 2009, as ''National Physical Education and Sport Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 133) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 133

Whereas childhood obesity has reached epidemic proportions in the United States;

Whereas the Department of Health and Human Services estimates that, by 2010, 20 percent of children in the United States will be obese;

Whereas a decline in physical activity has contributed to the unprecedented epidemic of childhood obesity;

Whereas regular physical activity is necessary to support normal and healthy growth in children;

Whereas overweight adolescents have a 70 to 80 percent chance of becoming overweight adults, increasing their risk for chronic disease, disability, and death;

Whereas Type II diabetes can no longer be referred to as ''late in life'' or ''adult onset'' diabetes because it occurs in children as young as 10 years old;

Whereas the Physical Activity Guidelines for Americans recommend that children engage in at least 60 minutes of physical activity on most, and preferably all, days of the week;

Whereas children spend many of their waking hours at school and therefore need to be active during the school day to meet the recommendations of the Physical Activity Guidelines for Americans;

Whereas teaching children about physical education and sports not only ensures that they are physically active during the school day, but also educates them on how to be physically active and its importance;

Whereas only 3.8 percent of elementary schools, 7.9 percent of middle schools, and 2.1 percent of high schools provide daily physical education or its equivalent for the entire school year, and 22 percent of schools do not require students to take any physical education at all;

Whereas research shows that fit and active children are more likely to thrive academically;

Whereas participation in sports and physical activity improves self-esteem and body image in children and adults;

Whereas the social and environmental factors affecting children are in the control of the adults and the communities in which they live, and therefore this Nation shares a collective responsibility in reversing the childhood obesity trend; and

Whereas Congress strongly supports efforts to increase physical activity and participation of youth in sports: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 1 through May 7, 2009, as ''National Physical Education and Sport Week'';

(2) recognizes ''National Physical Education and Sport Week'' and the central role of physical education and sports in creating a healthy lifestyle for all children and youth;

(3) calls on school districts to implement local wellness policies as defined by the Child Nutrition and WIC Reauthorization Act of 2004 that include ambitious goals for physical education, physical activity, and other activities addressing the childhood obesity epidemic and promoting child wellness; and

(4) encourages schools to offer physical education classes to students and work with community partners to provide opportunities and safe spaces for physical activities before and after school and during the summer months for all children and youth.

NATIONAL CHARTER SCHOOLS WEEK

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 134, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 134) congratulating the students, parents, teachers, and administrators at charter schools across the United States for their ongoing contributions to education and supporting the ideas and goals of the 10th annual National Charter Schools Week, May 3 through May 9, 2009.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Mr. President, I further ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 134) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 134

Whereas charter schools deliver high-quality education and challenge all students to reach their potential;

Whereas charter schools provide thousands of families with diverse and innovative educational options for their children;

Whereas charter schools are public schools authorized by a designated public entity that respond to the needs of communities, families, and students in the United States and promote the principles of quality, choice, and innovation;

Whereas, in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 40 States and the District of Columbia have passed laws authorizing charter schools;

Whereas approximately 4,700 charter schools are now operating in 40 States and the District of Columbia, serving more than 1,400,000 students;

Whereas, during the last 14 years, Congress has provided more than $2,478,288,000 in financial assistance to the charter school movement through facilities financing assistance and grants for planning, startup, implementation, and dissemination;

Whereas many charter schools improve the achievements of students and stimulate improvement in traditional public schools;

Whereas charter schools must meet the student achievement accountability requirements under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) in the same manner as traditional public schools and often set higher and additional individual goals to ensure that charter schools are of high quality and truly accountable to the public;

Whereas charter schools give parents new freedom to choose public schools, routinely measure parental satisfaction levels, and must prove their ongoing success to parents, policymakers, and their communities;

Whereas more than 50 percent of charter schools report having a waiting list, and the total number of students on all such waiting lists is enough to fill more than 1,100 average-sized charter schools;

Whereas the President has called for increased Federal support for replicating and expanding high-performing charter schools to meet the dramatic demand created by the more than 365,000 children on charter school waiting lists; and

Whereas the 10th annual National Charter Schools Week is May 3 through May 9, 2009: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the students, parents, teachers, and administrators of charter schools across the United States for their ongoing contributions to education, especially their impressive results in closing the persistent achievement gap in the United States, and improving and strengthening the public school system in the United States;

(2) supports the ideas and goals of the 10th annual National Charter Schools Week, a week-long celebration to be held May 3 through May 9, 2009, in communities throughout the United States; and

(3) encourages the people of the United States to conduct appropriate programs, ceremonies, and activities during National Charter Schools Week to demonstrate support for charter schools.

MILITARY SPOUSE APPRECIATION DAY

Mrs. MURRAY. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 135, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 135) designating May 8, 2009, as ''Military Spouse Appreciation Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mrs. MURRAY. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 135) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 135

Whereas the month of May marks National Military Appreciation Month;

Whereas military spouses provide vital support to men and women in the Armed Forces and help to make their service to the Armed Forces possible;

Whereas military spouses have been separated from their loved ones because of deployment in support of the Global War on Terrorism and other military missions carried out by the Armed Forces;

Whereas the establishment of Military Spouse Appreciation Day would be an appropriate way to honor the spouses of members of the Armed Forces; and

Whereas May 8, 2009, would be an appropriate date to establish as ''Military Spouse Appreciation Day'': Now, therefore, be it

Resolved, That the Senate—

(1) designates May 8, 2009, as ''Military Spouse Appreciation Day'';

(2) honors and recognizes the contributions made by spouses of members of the Armed Forces; and

(3) encourages the people of the United States to observe Military Spouse Appreciation Day to promote awareness of the contributions of spouses of members of the Armed Forces and the importance of their role in the lives of members of the Armed Forces and veterans.

ORDERS FOR THURSDAY, MAY 7, 2009

Mrs. MURRAY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, May 7; following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half; further, I ask that at 10:30 a.m. the Senate resume consideration of S. 454, the Weapon Systems Acquisition Reform Act of 2009.

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

PROGRAM

Mrs. MURRAY. Mr. President, rollcall votes in relation to the procurement bill are expected during tomorrow's session. Senators will be notified when the votes are scheduled.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mrs. MURRAY. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:01 p.m., adjourned until Thursday, May 7, 2009, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF THE INTERIOR

WILMA A. LEWIS, OF THE VIRGIN ISLANDS, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE C. STEPHEN ALLRED, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CARMEN R. NAZARIO, OF PUERTO RICO, TO BE ASSISTANT SECRETARY FOR FAMILY SUPPORT, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE DIANE D. RATH.

DEPARTMENT OF STATE

ERIC P. SCHWARTZ, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF STATE (POPULATION, REFUGEES, AND MIGRATION), VICE ELLEN R. SAUERBREY.

ANDREW J. SHAPIRO, OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF STATE (POLITICAL-MILITARY AFFAIRS), VICE MARK KIMMITT, RESIGNED.

ELLEN O. TAUSCHER, OF CALIFORNIA, TO BE UNDER SECRETARY OF STATE FOR ARMS CONTROL AND INTERNATIONAL SECURITY, VICE ROBERT JOSEPH, RESIGNED.

DEPARTMENT OF LABOR

JANE OATES, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE EMILY STOVER DEROCCO.

DEPARTMENT OF HOMELAND SECURITY

TARA JEANNE O'TOOLE, OF MARYLAND, TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF HOMELAND SECURITY, VICE JAY M. COHEN, RESIGNED.

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. HERBERT J. CARLISLE

CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, May 6, 2009:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RONALD C. SIMS, OF WASHINGTON, TO BE DEPUTY SECRETARY OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

EXPORT-IMPORT BANK OF THE UNITED STATES

FRED P. HOCHBERG, OF NEW YORK, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2013.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

YVETTE ROUBIDEAUX, OF ARIZONA, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOR THE TERM OF FOUR YEARS.

DEPARTMENT OF HOMELAND SECURITY

IVAN K. FONG, OF OHIO, TO BE GENERAL COUNSEL, DEPARTMENT OF HOMELAND SECURITY.

TIMOTHY W. MANNING, OF NEW MEXICO, TO BE DEPUTY ADMINISTRATOR FOR NATIONAL PREPAREDNESS, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY.

DEPARTMENT OF THE TREASURY

ALAN B. KRUEGER, OF NEW JERSEY, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

WILLIAM V. CORR, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES.

EXECUTIVE OFFICE OF THE PRESIDENT

DEMETRIOS J. MARANTIS, OF THE DISTRICT OF COLUMBIA, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF STATE

JOHNNIE CARSON, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS).

IVO H. DAALDER, OF VIRGINIA, TO BE UNITED STATES PERMANENT REPRESENTATIVE ON THE COUNCIL OF THE NORTH ATLANTIC TREATY ORGANIZATION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

LUIS C. DE BACA, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE TO MONITOR AND COMBAT TRAFFICKING, WITH RANK OF AMBASSADOR AT LARGE.

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.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING WITH GREGORY D. LOOSE AND ENDING WITH GREGORY M. WONG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 2, 2009.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH LASZLO F. SAGI AND ENDING WITH DANIEL E. HARRIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 2, 2009.

FOREIGN SERVICE NOMINATIONS BEGINNING WITH JOHN M. KOWALSKI AND ENDING WITH JEREMY TERRILL YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 2, 2009.