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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Ms. BERKLEY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 24, 2008.

I hereby appoint the Honorable SHELLEY BERKLEY to act as Speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2007, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 25 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

THE FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2008

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arizona (Mr. FLAKE) for 5 minutes.

Mr. FLAKE. Madam Speaker, today, the House will take up an extension of the Federal Aviation Administration's authorization. Unfortunately, this bill is more than it seems. It contains an $8 billion bailout for the Highway Trust Fund. Now, for years, we've known that the Highway Trust Fund didn't have sufficient money, that it was losing its purchasing power. In fact, that was a concern going into the 2005 highway bill reauthorization. But what did we do?

We not only took no action to shore it up or to do things differently; we approved more than three times as many earmarks as there were in the last highway reauthorization. So now, here we are 3 years later, about a year before our next reauthorization, and we're out of money to cover the projects that we've authorized.

Now, I would submit that the action contained in this bill is the most irresponsible thing we can do. We're transferring $8 billion from the general fund into the Highway Trust Fund. As we've known, as we've seen, when Members have the ability to earmark funds from an account, they do so. We did so to the tune of tens of billions of dollars in the highway authorization bill the last time, including the bridge to nowhere and 6,300 other earmarks. If we move additional moneys from the general fund into the Highway Trust Fund, then Katy bar the door when it comes to spending. We simply cannot keep a lid on it.

I'm just wondering: When are we going to take up the tough choices? It seems like every time we come to a point when we simply don't have money in the account we simply increase the deficit more and more. We're finding the easy way out. There are options available to us. I will offer amendments wherever I can to take money from the earmarks that haven't been spent, money that we know is not priority spending, and shore up the Highway Trust Fund so that we don't have to move general fund moneys into this account. We simply can't do that. We can't start the process of taking general fund moneys and shoring up the Highway Trust Fund when we know that we can't control our spending appetite when it comes to earmarks. I urge my colleagues to oppose this irresponsible bailout.

Another thing that is objectionable: We're doing this on the suspension calendar. That's my understanding today. The suspension calendar is meant as a vehicle to name post offices or to honor sports teams or to do things that are noncontroversial. Yet here we're transferring $8 billion from the general fund to bail out the Highway Trust Fund. Under rules of suspension, that simply doesn't seem right. That is not responsible legislating. It wouldn't be responsible if Republicans did it in the majority. It's not responsible when Democrats do it.

I urge my colleagues to oppose it. Let's find time to actually take a stand for the taxpayers and say enough is enough. We cannot continue to spend money this way.

IMPROVING FEDERAL FLOOD DISASTER POLICY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

Mr. BLUMENAUER. Madam Speaker, like the proverbial pig that has been swallowed by the python, the swollen surge of the Mississippi flood waters is slowly working its way down the river. The damage inflicted is not just to the homes, businesses and farms along the way, but it will have serious consequences for the environment at the mouth of the Mississippi, the so-called ''dead zone''—further erosion of topsoil along the length of the river while raising food prices across America and around the world.

The consensus of the scientific community is that extreme weather events like the heavy rainfalls are going to make episodes like this more frequent, but even if you do not agree with the scientific consensus, one thing is beyond dispute: The policies and practices of the Federal Government and of our State and local partners are not just contributing to the disaster but are themselves a disaster.

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For generations now, along the riverbank, we have been increasing the amount of water in the mighty Mississippi River as we narrow its course and reduce its meandering ways, making it much shorter than it was at the time of the first European explorers. Weather events resulting from global warming and resulting from humans having put more water in the river, shortening its course or narrowing it, have a compounding effect.

In the State of Iowa, more than 90 percent of the wetlands, nature's natural sponges, have been filled. In vast sections of Iowa, there are tiles under many areas of the farmland, making it this massive plumbing project that is designed to reduce the power of the land to absorb and to retain water. By replacing native vegetation that has deep root systems, with corn and soybeans that don't, covering, some have said, as much as a third of the State, we further accelerate the runoff, and those relatively shallow root systems allow more precious topsoil to erode into the already Big Muddy, which in turn reduces the capacity of the waterways to carry water. All of these greatly enhance the impact of the flood.

It's not just our agriculture and land use policies that are a disaster but how we respond to the challenges posed by the river. From levee failures in New Orleans to the upper Mississippi lock and dam project, all along the Mississippi, the Corps of Engineers and its local and state political and civic leadership, at the behest of Congress, are investing in questionable navigation projects while ignoring the problems of the integrity of the existing levees. All of a sudden, it's news now that there are problems with the ability of these levees along the river system to provide needed protection. I have said on the floor of the House when we were debating the upper Mississippi lock and dam project, that there was questionable need since there is steady or even slightly declining barge traffic in the river, this project, the most expensive navigation project in history would be at the expense of protecting public safety.

At the end of the day, a critical part of the equation is restoring some of the natural balance so the inevitable floods can be handled as nature intended, into the surrounding fields and wetlands. This is illustrated by what happened when some of the levee failures reflooded farmland, relieved the pressure and thus reduced the magnitude of flooding downstream. This, obviously, needs to be built into the system. Yet there are cries now going out to remove land—106,000 acres of conservation reserve in Iowa. Now, this is a program that pays farmers to protect the environment and to enhance wildlife habitat and to provide a safety valve, that sponge effect.

Some in Congress are making serious proposals to take this land out of protection and to plant it with the very crops that will help make this situation worse.

I have worked for 10 years to reform our flood insurance program so that, instead of repeatedly putting people in harm's way, we use the money to relocate them or to flood-proof their properties, making them less susceptible to damage. We ought to extend flood insurance coverage so that all responsible property owners will protect themselves, and it will be a signal of the costs of living and of doing business in these risky areas.

As this disaster unfolds, there are actually letters circulating in the Senate that would eliminate the requirement of reform legislation for providing flood insurance inside these levees despite further proof positive that people need it.

The Federal Government needs to get its policies straight. Some of the vast sums we spend in the bloated farm bill should be redirected to pay farmers to restore the environment rather than to make it worse.

Our long-term investments should be to make people safer and slowly reduce support for repetitive flood loss, paying to protect and relocate rather than simply put them back in harm's way. Responsibility, common sense, and sustainable economic and environmental practices can help repair our disaster policies which make the events, which have occurred for centuries, worse and more expensive.

In so doing we make our communities more livable and our families safer, healthier and more economically secure.

Either way, the farmers will be paid. Doesn't it make sense to pay them to make things better?

I strongly suggest that it's time to increase the capacity of the land to absorb water, to get people out of harm's way and to do things in a way that's fair for us all.

DRILL HERE, DRILL NOW, LOWER PRICES

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. WESTMORELAND) for 5 minutes.

Mr. WESTMORELAND. It's good to be here this morning and to be back to work on a good Tuesday morning, Madam Speaker, to let the American people know that we are on the job and that we're here to, hopefully, this week work on the price at the pump. We are here to work on America's independence. As we're coming up on Independence Day, on the Fourth of July, we're working on America's independence from foreign oil.

About 2 weeks ago, I started getting calls from constituents about signing a petition that was on americansolutions.com, and then there were other petitions I was called about—Internet petitions—where Americans were telling Congress this is what we want you to do: Drill here. Drill now. Lower prices.

I was at a gas station in my district, and I went in, and there was a petition there. It said, ''We want to lower gas prices.'' I guess the attendant there was doing that to keep people busy so they wouldn't be hollering at him. So I came up with an idea.

The American people are telling us how they feel. Let's have an opportunity. Let's have our own petition within this House, Madam Speaker, to tell the American people how we feel. So I've come up with a petition. There is no legislation. There is no discharge petition. It's just something that each Member of this body can state to their constituents.

Basically, it says American energy solutions for lower gas prices. Bring onshore oil on line. Bring deepwater oil on line. Bring new refineries on line. The pledge has 435 lines, one for every Member. What it says is ''I will vote to increase U.S. oil production to lower gas prices for Americans.'' It's very simple. ''I will vote to increase U.S. oil production to lower gas prices for Americans.'' That's very simple.

Now, I've heard every excuse in the world from people on this floor, Madam Speaker, about why they didn't want to sign it. Well, if people out there are wanting to know if their Member has signed, they could go to house.gov/westmoreland and see if their Member is on there. They can see if they've signed, and they can see if it says that they will vote to increase U.S. oil production to lower gas prices for Americans.

This is very important. We need to let you know, the American people know, how we feel about the situation that you're in. You're in a situation where you go to the gas pump, and you may have to spend a larger portion of your paycheck than you normally would, but that's only small. We've got winter coming. With natural gas prices as high as they are, you're going to be cold in your home and will not be able to get in your car and drive anywhere to get warm.

So it's not just about the crude oil. It's about the natural gas. We have so much off of our coast, so much natural gas, so much oil in the Outer Continental Shelf. Untie our hands, Madam Speaker. Let our oil go. We want to be self-dependent. We don't want to rely on foreign countries.

I hope that the American people will help us persuade other Members of this body that we need to vote to drill here, to drill now and to lower prices.

AMERICAN ENERGY INDEPENDENCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO) for 5 minutes.

Mr. DEFAZIO. I agree with the gentleman. We should be doing more drilling in the United States. The oil companies should begin to develop the 6,391 offshore leases they already have that are environmentally approved, that are sitting idle, but the industry is not moving to develop those leases despite the vast resources available. In fact,

the estimates of the Minerals Management Service are that they could access 80 percent of the available oil off the shores of the United States of America from their existing leases. They just don't want to do it. Now, why might that be?

Well, maybe it has something to do with their making piles of money the way it is. So why would they want to provide relief to the American consumer by cutting into their obscene profits?

Second, there's some pressure on that side to open up the Arctic National Wildlife Refuge. There may be a fair amount of oil under there. We don't really know. There was one exploratory well drilled 30-some-odd years ago. Proprietary. No one knows. But we do know that right next-door to the west of the pipeline is a vast area that used to be called the Naval Petroleum Reserve. Why was it called that? Because we know there is a huge amount of oil under there. We've known that for 70 years. In fact, Bill Clinton, as President, decided to lease that to the industry to bring on line over 10 billion barrels of oil, of U.S. oil, for the American people.

Now, first, of course, we have to do away with the little loophole the Republicans created when they allowed the ban on the export of Alaska oil to lapse. I have a bill, and I've had a bill for a number of years to reinstate a bill on the ban of the export of Alaska oil.

But how about that known 10-billion-barrel reserve? The oil industry has drilled 25 exploratory wells and then has capped them, and they have no plans to provide transit from there to the existing pipeline, which is just to the east of that reserve.

So how about the industry takes some of the 20–30 billion barrels that are available off of their existing leases that could double our domestic supply for the next 20 years and then develop that? Then we can talk about more leases or, hopefully, by then, we will have transited into a new energy future that isn't going to require the same massive amounts of oil that the current economy requires.

There is something else the Republicans have left out. Had we started down a new energy path after 9/11, the lesson there would have been we don't want to be dependent upon the Middle East and Saudi Arabia. Most of those were Saudis who attacked us.

Who's giving hundreds of billions of dollars a year to the Saudis? Well, unfortunately, American consumers are, and we're dependent upon them, and the President goes over and begs for oil. Even though they're violating international law, he won't file complaints against them. We treat them with kid gloves. We need to be free of those people, so we need to be looking toward a different energy future, but in the short term, we don't need to be price-gouged, which brings up a third point which the Republicans don't want to address.

It's estimated that 50 cents of every gallon today is pure speculation for Wall Street. We could do away with that by closing the Enron loophole. Remember Ken-Boy Lay, the President's principal financier throughout his political career? He's dead now. Ken-Boy ran Enron. He wrote our energy policy behind closed doors with DICK CHENEY. Enron is bankrupt, but the Enron loophole lives on, and other major firms on Wall Street—Goldman Sachs, Morgan Stanley and others—are now fully utilizing that loophole.

According to today's Washington Times, 99 percent of the premium crude in America is controlled not by ExxonMobil, Shell, BP, and others but by Wall Street and futures speculation. They're making a pile of money at the cost to American consumers. So let's close that loophole. But, no, the Republicans never want to take on Big Oil and make them do what they should do, which is to develop existing leases which they're sitting on, and they don't want to take on Wall Street and close the loophole that was created for Enron's Ken-Boy Lay, the President's best buddy.

Those are things we could do to provide short-term relief of, virtually immediately, 50 cents a gallon. Then in the medium and short term, by developing the 6,391 offshore oil leases and the former Naval Petroleum Reserve, with known reserves of over 10 billion barrels, we could make them develop that. Use it or lose it.

I think we're going to have a discussion about that later this week. Let's see where the Republicans come down on that. These are already let leases, and they can be developed much more quickly than new leases could be. Let's see what they're really all about.

ENERGY SUPPLY AND DEMAND

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. SHIMKUS) for 5 minutes.

Mr. SHIMKUS. Madam Speaker, it is great to be on the floor today. You know, just because it's said on the floor doesn't mean it's true, and there are a lot of people who've discussed things today and who've discussed things throughout the debate, and so let's start talking about facts.

I've been on the floor numerous times to talk about energy, and I've softened my discussions. I used to talk about the Pelosi premium. I've kind of gone away from that because, really, the problem is a problem of supply. So I go back to the Bush administration, to January 2001, where a barrel of crude oil was $23. You know, I just want to be honest. I want to talk about supply and demand. I want to get away from the partisan wrangle and address what we really need to address—lower gas prices—which is to bring on more supply. As we talk about these bills that are going to come forward this week, they do nothing for supply, and we'll talk about why that is.

Then when this new majority came in and since Bush has come in, the price has doubled to $58 a barrel. Now, I didn't have time to update today's crude oil price, but as of Thursday of last week, it was $136 a barrel, which is over double the $58. The trend line is negative. The trend line is not a positive thing. So the debate is how do we change the trend line. How do we get to a price where we at least stabilize the price of a barrel of crude oil? Then how do we help that effect the lowering of gas prices?

I live in the bi-State area between St. Louis and Illinois where it's $4.17 a gallon. So, even if we're assuming the promise of the Speaker that we drop it by 50 cents on speculation, we're still paying $3.85 or $3.75. I mean it is still way too high for people in rural America to get to work, to go to school, to get in the fields. Diesel prices have doubled. It's way too high. Even if we assume the promise of speculation at 50 cents, which I reject, that's still way too high. We need to bring on more supply. This is a problem.

So, when you have a problem, you need to start really addressing credible solutions, not scapegoating, not trying to find blame. What do we need to do as a country? We've brought this to the floor numerous times. As for the Outer Continental Shelf, I think the public is now there. The national polls are clear. The Outer Continental Shelf is over 50 miles off the coast. You can't see it from the coastline.

What is more hazardous to our beaches and to our tourism are super tankers that are bringing crude oil from around the world, super tankers that are then having a wreck or are having a disaster where that crude oil is then washing to shore. The exploration off the east coast, off the west coast and off the eastern gulf of billions of barrels of oil that are trillions of cubic feet is not debatable anymore. It is accepted, in principle, by the American public. It was put off access by this Congress years ago.

This year, through the appropriations cycle, we can change this. We can say: Let's encourage our business and industry. Let's go into the Outer Continental Shelf. Let's explore for oil and gas, wind and solar. The great thing about the Republican policy is that we want everything, more of everything. We want wind. There's going to be a big wind generation facility built in my district, and I welcome it. We want solar. I want to encourage tax incentives for people to put solar cells on their homes. All of the above is a solution.

If you'll look to the far right, I have a bigger chart of fuel from coal. The Germans did it in World War II with the Fischer-Tropsch technology. We can do it today. In Illinois alone, there are 250 years of BTU ability, the same as Saudi Arabia's. Then there are renewable fuels. In December, this Congress passed an expansion in renewable fuels, hoping cellulosic comes on. Add

that to corn-based ethanol, to biodiesel and to soy diesel. All of the above is our solution and is American made.

The great thing about this: American jobs exploring the OCS, American jobs building the wind and the solar panels, American jobs mining the coal and refining the coal, American jobs in the farm fields across America.

In an era when we are concerned about jobs and the dollar, it makes sense to invest in America, in American energy sources and in American jobs.

AVAILABLE AND AFFORDABLE ENERGY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. KAGEN) for 5 minutes.

Mr. KAGEN. Madam Speaker, everywhere in Wisconsin, people are asking for help to cut the cost for gasoline and diesel fuels. People are having a tough time just keeping their heads above water, paying one out of four of their paychecks toward gas just to get to work. We must do everything possible to make certain gas and oil become more affordable. During the past year, I've been listening to everyone involved in the oil industry, and one thing is clear. Current oil prices are not explainable by normal marketplace forces of supply and demand. Why are gas prices so high?

Well, there are many reasons, including increased demand from China and India and the declining value of the dollar, but these reasons alone do not explain today's surging oil prices.

While ignoring cries for help from ordinary people, President Bush and Vice President CHENEY—the two oil men in the White House—have been unwilling to investigate the anticompetitive activities of big oil companies and speculators in large investment banks. Their only response to the surge in oil prices has been to beg for more addictive oil from the Arabian kings in the Middle East, even though last year, as we emptied our pockets, Saudi Arabia enjoyed a windfall of $500 billion.

We cannot afford to follow the advice of the White House oil men and of their supporters. For, if we do, we will become not just bankrupt but a nation of beggars.

Aside from begging, the White House oil men also offered more of the same losing ideas that caused this mess in the first place: More drilling rights for Big Oil. Their old school drilling idea is shortsighted for it requires years—years, not weeks—to explore, pump, refine, and deliver gasoline and diesel fuels. We need gas price relief now, not next year. Here is how we get started.

First, we need leaders who will stand up to Big Oil and who will provide the necessary oversight to the oil markets to prevent speculators from manipulating prices for their own benefit. On June 23, just yesterday, an Oppenheimer equity research expert, Mr. Gyte, testified before an Energy and Commerce subcommittee, focusing on oil price manipulation.

In his words, ''I believe the surge in crude oil price, which more than doubled in the past 12 months, was mainly due to excessive speculation and not due to an unexpected shift in market fundamentals.''

His testimony and that of others is that speculative manipulation in the oil futures market is real and that, by designing effective regulation of the oil markets, prices for oil may decline immediately, anywhere from $45 to $65 a barrel immediately, not in 10 years.

Based upon all of the information available today, the first and best choice for Congress is to prepare appropriate legislative and regulatory actions, which, according to experts, will drop prices dramatically in several weeks.

In addition to better oversight of the oil markets, Congress must begin to invest in the development of reliable and affordable energy resources. We can do this by continuing to drill for new oil on Federal lands already leased to American oil companies even as we invest in renewable sources of energy using solar, wind, geothermal, cellulosic, and biomass-based technologies. We must also ask: Is it time to build new and more modern nuclear sources of electricity?

By investing in these new renewable energy resources, we will create millions of new, higher waged jobs, and we will develop what we've been talking about—the green economy right here at home—as we become an energy independent Nation.

We cannot neglect again to mention the OPEC kingdoms, which have been manipulating both world oil prices and supplies for years. To push back against their illegal manipulation of the oil market, I sponsored and passed major legislation that will, in time, bust up the oil cartels and will reestablish a freely competitive marketplace to make prices reasonable once again for everyone.

What is it? What is it that my colleagues on the other side have against free markets? Simply put, we cannot continue to be held hostage by OPEC and by the manipulative partners in Big Oil.

The final piece to solving the surge in oil price is the declining value of the dollar. Here, you see a picture form of the dollar in 2000, when President Bush took office, declining by 38 percent in the last year. In several more months of this economic activity of borrow and spend, you will be able to take your dollar, paste it with some glue on an envelope and use it as a postage stamp.

Regretfully, as a direct result of President Bush's economic policy of borrow and spend, our money has lost its purchasing power. It simply doesn't stretch as far as it did before. As a direct result of dollar light, prices for everything have gone up, not just for gasoline but for a loaf of bread, for a gallon of milk and for everything we require just to survive: Our rent, our mortgage payments and our health care bills.

People are screaming, ''It's the dollar, stupid!''

Prices for everything are up, but by working together, we can bring about a different economic policy, one different from borrow and spend. We're working hard to bring about the changes we need. By working together, we will become an energy independent Nation, and we will make available, affordable energy for all of us.

LESSON FOR TODAY: DRILL OFFSHORE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. POE) for 5 minutes.

Mr. POE. Madam Speaker, they say it's not safe to drill offshore because, they say, oil rigs are polluters of crude oil. So the lesson for today is: Where does the oil pollution from off our coasts come from?

Let's keep it simple. This is a chart. This is a chart that shows oil pollution from off our coasts. It comes from the National Academy of Sciences. It gives four sources.

As shown by the blue line, the number 1 polluter of crude oil off our coasts comes from Mother Nature. Sixty-three percent of the crude that has polluted our coasts and our gulfs comes from Mother Nature. It seeps from the bottom of the Gulf of Mexico to the surface, 63 percent.

The number 2 polluter, as shown by the green line, is recreational boating. Thirty-two percent of the pollution of crude oil comes from boating.

The number 3 source, shown by the yellow line, appropriately so, is from tankers from overseas, 3 percent. It's those tankers, for example, that come from Saudi Arabia that are polluting our oceans by leaking crude oil, but it's only 3 percent.

As shown by the red line, the little bitty red line, 2 percent of offshore drilling rigs cause 2 percent of that oil pollution.

Let's do it again, Madam Speaker, to make sure it takes.

As shown by the blue line, the number 1 polluter of our oceans and off our coasts is Mother Nature. Sixty-three percent of that pollution seeps from the bottom of the Gulf of Mexico to our shores. Mother Nature is the number 1 villain.

The number 2 culprit, as shown by the green line, is recreational boating. It causes 32 percent of that oil pollution off our shores.

The number 3 culprit, as shown by the appropriate yellow line, are rigs or, rather, tankers from other nations such as Saudi Arabia, causing 3 percent of the pollution.

Lastly, the number 4 culprit of 2 percent, as shown by the little bitty red line, are those nasty offshore drilling rigs.

So, Madam Speaker, maybe it's time we look at the facts and realize that

the lesson for today is we should not be punishing America by refusing to drill offshore. Maybe we should drill offshore because we can do so safely and because it has been proven in the past that we can drill safely. There is only a small portion off the U.S. coasts where leasing is allowed, but we know there is crude oil off the east coast, off the sacred west coast and even in other areas of the Gulf of Mexico, so maybe we should drill there as one solution to the problem of high gasoline prices. We need more supply, and this is one way to do it.

And that's just the way it is.

THE PRESIDENT'S CALL TO LIFT THE BAN ON OFFSHORE OIL DRILLING

The SPEAKER pro tempore. The Chair recognizes the gentleman from Washington (Mr. MCDERMOTT) for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, we've just been treated to a lecture to a third grade class about what pollution we ought to worry about. Apparently, my colleague from Texas doesn't understand that the problem is that, when you burn oil, you pollute the atmosphere, and that's where the real problem is and why finding more oil is not the answer to the world's problems.

The American people have had a few days to consider the President's call to lift the ban on offshore oil drilling. The New York Times calls it ''The Big Pander to Big Oil,'' saying, ''This is worse than a dumb idea. It is cruelly misleading. It will make only a modest difference, at best, to prices at the pump, and even then, the benefits will be years away.''

The Los Angeles Times was even blunter in its characterization of this proposal by our President. It said, ''It's nonsense for them to use the run-up in gas prices as an excuse to advocate offshore drilling.'' Continuing, ''What's really needed, though, is a moratorium on worthless suggestions from politicians for lowering gas prices.''

The Seattle Post-Intelligencer's editorial, up north from Los Angeles, said, ''Offshore drilling: This well is dry.'' They said, ''But drilling/plundering our coasts for about 19 billion barrels of oil—that's really all that's available—is akin to placing a Band-Aid on the hemorrhaging wound that is our oil-dependent, wasteful lifestyle.''

The Seattle Times called it Bush's last gasp on oil, and their editorial said, ''Longing for a higher mileage vehicle in the face of gasoline at $4.30 a gallon? The President's response has been ANWR, not CAFE. (Corporate Average Fuel Economy)—drilling in a wildlife refuge, not fuel efficiency.''

There's a pattern here from coast to coast. The American people are tired of rhetoric that fails to meet the reality test. The oil industry already has access to 68 million acres of Federal oil reserves, but they are only pumping out press releases. The President already has access to mountains of data on the urgent need to dramatically change our energy policy to focus on renewable resources, conservation and efficiency. Instead, the President gives us political expediency that will not fill a gas tank, that will not lower gas prices and that will not help our addiction to oil.

For the first time, Congress will have to go it alone to shape energy policy for the 21st century. NANCY PELOSI, our Speaker, has shown that the people's House is up to the task. This week, the House will consider several bills from Democratic leadership that builds upon our existing record for bold, new energy legislation. We are going to take up legislation that holds oil companies accountable, but the fact is we may not get it all done, and we may have to wait for a new President. As long as the oil dynasty occupies 1600 Pennsylvania Avenue, we're not going to get any serious changes in this country.

So hang onto your hats, folks. You're going to have a lot of trouble with oil prices and with gas prices over the next few months.

BATTLING OIL AND GAS POWER PLAYS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. OLVER) for 5 minutes.

Mr. OLVER. Madam Speaker, we are witnessing the mother of all oil and gas power plays in this country. Big Oil and their allies are desperately trying to open every possible site for oil drilling before the Texas oil men, Bush and CHENEY, leave the White House in January.

Under the Bush-Cheney-McCain plan, were it to become law, every acre of the Outer Continental Shelf, 50 to 200 miles offshore, and all of our coastline would be open to leasing and drilling. You can bet your home that the most promising areas for oil production would be fully leased at the foolish, long-term, low-price policy now in effect, but that's all. There's no certainty that the newly leased areas would be producing a drop of oil 10 years out. Big Oil could simply bank their cheap long-term leases until the price of oil reaches $200 or even $500 per barrel. And we, the Congress and country, would be over the barrel. That, after all, has been the history.

The claim has been made that opening the Outer Continental Shelf would unlock 86 billion barrels of known estimated reserves. Eighty-six billion barrels, by the way, would provide a dozen years of America's oil without using any foreign oil at all, but our Minerals Management Service estimates that 80 percent of those reserves lie in areas already open for leasing and for drilling. So the big oil companies have already leased large areas that have the greatest potential for high production, and yet they're producing on less than one quarter of the already leased acreage. Ironically, that may be the best policy for the U.S. because America's problem is huge.

Our less than 5 percent of the planet's population consumes almost 25 percent of the oil produced in the world. We are so dependent on oil that we have limited leverage to reduce demand, but we have only 3 percent of the known oil reserves on the planet, and therefore, have very little leverage to increase the supply. Because exploration has been more thorough and extensive on our land and in our sovereign waters, the oil yet to be discovered on this planet lies not just predominantly but overwhelmingly beyond U.S. sovereignty.

The Bush-McCain solution is doomed to failure because, first, opening more land and waters to leasing will not necessarily lead to production. Second, even if it did, the production under the best circumstances of shallow waters and of easy drilling and infrastructure in place would take 5 and, more typically, 10 years to produce. Third, if we were foolish enough to pursue that policy, we would use all of our oil, economically recoverable, in about 20 years and would be totally at the mercy of unfriendly oil producers.

For America, the only certain solution to the high price of gasoline is to reduce the consumption of gasoline. Many of the big ways to do that require time to achieve, things like developing and switching to renewable energy, the research and development of fuel cell vehicles, living closer to work, building more extensive public transportation systems, replacing the whole vehicle fleet—both cars and trucks—with high fuel efficiency vehicles.

There are immediate ways we can cut the speculation now. We can drive slower. We can drive less. We can carpool. We can use public transportation when it's possible. We can develop ''work from home'' wherever and whenever that's feasible as an option, and we need to start doing all of those immediate ways immediately.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 48 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HOLDEN) at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God of infinite patience and mercy, at times a Member of this

Chamber may feel as a ''voice crying in the wilderness.'' Representative of so many Americans, personal opinion often seems not to be heard in such a noisy and busy Nation such as ours. So, Lord, grant perseverance and consistency to Your servants who work in government day after day.

When their words seem to fall on desert land, help them to create a pool of conviction with others that the united effort may soon be recognized. When their efforts seem to be blown away by media winds or opinion polls, enable them to go deeper into where their convictions are rooted and affirm the life there.

In the depths where You breathe forth Your spirit, let them hear the echo of Your revelation and give You thanks and praise now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WILSON of South Carolina. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WILSON of South Carolina. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Pennsylvania (Mr. PITTS) come forward and lead the House in the Pledge of Allegiance.

Mr. PITTS 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.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 3180. An act to temporarily extend the programs under the Higher Education Act of 1965.

DEMOCRATS TAKE ACTION ON RECORD HIGH GAS PRICES AT THE PUMP

(Mr. ARCURI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCURI. Mr. Speaker, the American people are looking to Washington for help in reducing prices at the pump. They don't really have a lot of interest in pointing fingers; they just want us to act in a bipartisan fashion to bring these record prices down. But of course that hasn't stopped the oil company executives from pointing fingers, and of course that is what they do. That is all they can do. Anything but let the American people see where the real fault is, with the oil companies.

Last month, nonetheless, Congress acted in a strong bipartisan fashion to pressure the administration to temporarily suspend the filling of the Strategic Petroleum Reserve which experts agree will help drive down gasoline prices. This bipartisan House also overrode the Presidential veto on the new farm bill that makes an historic commitment to more affordable homegrown American biofuel and increased the oversight of commodity futures in order to detect and prevent market manipulation of energy prices.

Mr. Speaker, as this House prepares to debate more energy legislation this week, I hope we can work together to provide some relief at the pump.

ENERGY DEBATE IS NATIONAL SECURITY DEBATE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, our energy policy is tied to our national security. When America is increasingly reliant on foreign sources of energy, we are increasingly influenced by foreign governments who may be hostile to our interests.

Too many Democrats in Congress believe the debate over energy independence is simply about the price at the pump. Some want to try to lower the price by socializing the oil industry or taxing American energy resources, neither of which will lower the price. Meanwhile, House Democrats refuse to expand exploration for American oil and natural gas. They fail to acknowledge that until we find affordable, reliable fuel sources to replace oil, our Nation will be reliant on this form of foreign energy.

When we invest in American resources, we not only add more supply to the market that has seen increased demand, we invest in our national security by ensuring more of our oil and natural resources come from right here at home.

In conclusion, God bless our troops, and we will never forget September 11th.

HOLD THIS ADMINISTRATION ACCOUNTABLE

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. When the leadership of this House said back in October of 2006 that impeachment is off the table, what they did is they set the stage for the administration ignoring the subpoenas of the Congress for information. Once the administration understood that they did not have to comply with the law and that Congress essentially took away the one power that Congress has to compel the administration to respect Congress as a coequal branch of government, once that was taken away, the administration basically just decided it wasn't going to appear in front of Congress to answer questions, they wouldn't produce documents or papers that were relevant to congressional investigations.

Congress is a coequal branch of government. It is urgent that we reestablish our coequality, that we create conditions of a check and balance of administrative abuse of power. This isn't a Republican matter, it is not a Democratic matter, it is a matter for our country. We need to have the Congress be strong. We need to hold this administration accountable.

PUBLIC FEELS REPORTERS ARE BIASED

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, a new survey has found that 68 percent of all voters believe that reporters try to help their favorite candidate win elections. Just 17 percent believe that reporters offer unbiased coverage of election campaigns. And by more than a 3–1 margin, voters believe the media is behind Senator BARACK OBAMA rather than Senator JOHN MCCAIN.

The survey also found that 76 percent of voters believe the media have too much power and too much influence over elections. And skepticism about the media cuts across income, racial, gender, and age demographics.

Americans are right to be skeptical, and should brace themselves for the most one-sided coverage of a Presidential race that we have ever seen. We need to encourage the media to adhere to the highest standards of their profession. Only then can we restore Americans' faith in news reporting.

ENERGY FACTS VERSUS ENERGY FICTION

(Mr. ISRAEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ISRAEL. Mr. Speaker, this morning I inaugurate energy facts versus energy fiction. Today's fact:

In the spring of 2001, Vice President CHENEY met with oil industry executives to develop a national energy policy. Then, before their policy was enacted the average price of a barrel of

oil was about $23. This morning, the price of a barrel of oil is almost $138. The policy did not work.

Then, before their policy was enacted, the average price of a gallon of gas was about $1.46. This morning, at the Commack Mobil station in my district, the price of a gallon of regular gas is almost $4.29, almost tripled. The policy did not work.

I am not saying that anybody is committing wrongdoing. I am just saying that people have pursued policies that have not worked.

Today we will try again to get to the President's desk Congressman BART STUPAK's anti-price gouging bill. Today we present another solution, a different idea, a better way to bring down gas prices. I urge my colleagues to support it on a bipartisan basis, I urge the other body to support it, get it to the President's desk, and let's start protecting pocketbooks rather than oil company profits.

GUANTANAMO HISTORY LESSON

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, in light of last week's Supreme Court decision giving enemy terrorist detainees at Guantanamo habeas corpus rights, I thought I would offer a brief history lesson as described by my friend Gary Bauer.

On June 13, 1942, four armed German spies came ashore on the beaches of Long Island, New York. Four days later, four more spies came ashore at Jacksonville, Florida. All were sent to sabotage American defense sites. All eight were quickly captured, tried by military tribunal, not civilian courts. Less than a month later, their cases began, and by August 4, all were convicted.

Sixty-six years later, almost to the day, the U.S. Supreme Court in a 5–4 decision declared that foreign terrorists captured on foreign soil possess more rights under our Constitution than those Nazi spies sent here to ambush our domestic defenses.

I believe history will no doubt judge that this flawed Supreme Court decision has left the United States less safe as a result.

RECORD HIGH GAS PRICES AT THE PUMP

(Mr. WALZ of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALZ of Minnesota. Mr. Speaker, over the last couple months, House Democrats have been working with real solutions to lower pump prices for the American people, smart legislation that invests in renewable energy and temporarily halted the sending of oil to the Strategic Petroleum Oil Reserve.

This week, we will continue with real solutions to give relief to people across this country. We will consider legislation today to prevent price gouging by unscrupulous companies. Later in the week, we plan to take up a bill that will tighten the Enron loophole that allows speculators in the dark markets in places like Dubai to drive up oil prices without having any oversight. Rampant speculation is estimated by most economists to be driving up oil $30 a barrel.

And on Thursday, the House will consider legislation that tells Big Oil to either use it or lose it. This bill would bar oil companies from this fictionist red herring of saying they need more land. They have 68 million acres of the public land that they are choosing not to drill on even though oil is under it. These bills deserve and need to have bipartisan support to truly help the American people.

NO MORE EXCUSES

(Mr. DAVID DAVIS of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. DAVID DAVIS of Tennessee. Mr. Speaker, I stand to talk to the American people today. The American people are hurting. Young families are hurting, senior adults are hurting, those that are on fixed incomes are hurting, small businesses are hurting, all because we don't have an energy policy that actually includes energy. Let me tell you about one such person.

Over the weekend I met with a young family. The gentleman's name was Vern Long from Jefferson City, Tennessee. Vern told me he makes $8 an hour. He has to drive to work to Knoxville, Tennessee. It costs him $90 a week to drive to work. Vern told me that he may not be able to continue working; he may have to go on welfare, because we don't have an energy policy that has American energy.

This has to stop. It is time for no more excuses. Vern doesn't want to go on welfare. Vern is a United States veteran. He spent time in Iraq. We owe people like Vern Long a better future for he and his family. We need an energy policy that uses American energy now.

No more excuses. It is time for us to pass a policy where we drill for American oil, natural gas, and use clean coal technology. The time is now. No more excuses.

BIG OIL DOES NOT NEED MORE LAND TO LEASE TO DRILL DOMESTICALLY—THEY SHOULD USE IT OR LOSE IT

(Mr. HALL of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of New York. Mr. Speaker, American families and businesses are indeed reeling from record gas prices, the results of 7 years of missed opportunities and a 19th century energy policy this White House has allowed oil companies to write. President Bush's policy is only working for one group, the oil companies themselves.

Rather than looking for new solutions, Washington Republicans say that Big Oil needs access to more land and more water so they can drill for more oil. What my friends across the aisle refuse to acknowledge is that 68 million acres of oil reserves on 10,000 separate leases are already acquired by the oil companies for development and are ready for the drill bit to go into the ground. Permitting has been finished, and the oil companies are holding off.

Why are they holding off drilling on these 68 million acres of reserves? If they are really interested in drilling more at home, let's have them do that first before we give them access to the Alaskan Wildlife Refuge or our Atlantic and Pacific coasts. All they need to do is drill is on these 68 million acres they have already acquired. If they don't, I believe they should use it or lose it.

□ 1015

HIGH GAS PRICES ROUND II

(Mr. ROGERS of Alabama asked and was given permission to address the House for 1 minute.)

Mr. ROGERS of Alabama. Mr. Speaker, I rise today to drive home the fact that the U.S. needs an energy policy now.

In my home State of Alabama, gas prices have risen over 10 cents a gallon in the last 2 weeks. This just can't continue. Not only does this affect how much folks can afford to drive, but it also raises the prices on everyday necessities like food and clothing. Congress needs to act now.

Increased domestic energy exploration is part of the solution, but Congress also must invest heavily in homegrown biofuels and bioenergy.

Imagine pulling up to the service stations of the future, and you can see all sorts of fuels—hydrogen, natural gas, ethanol, and biodiesel. But we won't get there without strong support from Congress now. The same holds true for initiatives like solar and wind power. No one fuel will power our future, but we all know that Congress must do whatever it takes to help get us there now.

So let's act now to make our country energy independent. Let's pass a bill to open ANWR and the Outer Continental Shelf, and let's invest heavily in alternative fuels and new technology to increase efficiency and conservation.

TROOPS AND VETERANS FIRST IN GI BILL

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Mr. Speaker, last weekend marked the 64th anniversary of the signing of the original GI bill by President Franklin Roosevelt, which

honored the service and sacrifice of our World War II veterans and launched millions of families on a course to prosperity.

Last week, this House supported a new GI bill for the 21st century that will provide the same hopes and dreams to our troops fighting in Iraq and Afghanistan.

This bill is long overdue because the current GI bill fails to cover the full cost of a public education. The new GI bill restores the promise of a full 4-year college scholarship for veterans, and at a time when many of our troops are in the midst of multiple redeployments, we must keep our commitment to provide them the very best educational opportunities when their service is completed.

This bill is a promise to our veterans today and tomorrow that their service to this country will continue to be honored.

MOTHER NATURE IS NUMBER ONE OIL POLLUTER

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, the number one polluter of oil off our coast is Mother Nature. Crude oil seeps to the surface, and Mother Nature causes 62 percent of the crude oil pollution off our coast.

So the way we resolve this problem and get even with Mother Nature is we ought to drill where Mother Nature has that oil, take it out from the bottom of the Gulf of Mexico, and use it to take care of America.

But there is a problem with that. We don't drill anywhere except off my native Texas coast, off Louisiana, Mississippi, and part of Alabama. The rest of this, where it is red on this chart, is prohibited.

It is time for Congress to take the handcuffs off of this inaction and allow leasing off these shores.

Now they say that the oil companies have enough leases; why don't they drill there. The problem is when they drill there, they get a dry hole. And common sense says when they get a dry hole, they quit drilling even though they must continue to pay for those leases.

So it is time to let America take care of America. It is time to let our oil go and take care of ourselves, otherwise this red area that we see here will remain off-limits, and it should be drilled for the crude oil to take care of our country.

And that's just the way it is.

NO ROOM FOR RECKLESS TALK

(Ms. HARMAN asked and was given permission to address the House for 1 minute.)

Ms. HARMAN. Mr. Speaker, I have often said that the terrorists won't check our party registration before they blow us up. Security has been my focus since coming to Congress seven terms ago. I have served on almost every security committee here, including 8 years on the Intelligence Committee.

Our security policy must not be partisan, and that is why last week's compromise on FISA was so meaningful. And that is why Charlie Black's comments in an upcoming Fortune magazine interview that another terrorist attack on U.S. soil ''certainly would be a big advantage'' to his candidate and that the Bhutto assassination ''helped us'' were so outrageous.

Yes, he and Senator MCCAIN have apologized; and they should have. Another attack here or the assassination of a democratic political party leader anywhere harms all of us.

Seven years after 9/11, Osama bin Laden is still at large. The Taliban is resurgent in Afghanistan, and young kids still want to be suicide bombers. These are tough challenges, and there is no room for reckless talk.

OIL EVERYWHERE, NOT A DROP TO DRILL

(Mr. DANIEL E. LUNGREN of California asked and was given permission to address the House for 1 minute.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, there is an old saying that goes: Water, water everywhere, but not a drop to drink.

Well, what we have in the United States is oil, oil everywhere, and not a drop to drill. That is the slogan of the Congress led by our friends on the other side of the aisle.

If you look at this map, you will see we have made off-limits some of the most potentially productive oil reserves and natural gas reserves not only in this country but in the world. It makes no sense whatsoever.

This week, instead of us addressing the problem this way, our friends on the other side of the aisle are going to bring us sue, sue, sue laws. That is, we are going to not drill our way out of this problem, we are going to sue our way out of the problem. The American people understand that's not the way to get us going.

Let's use American ingenuity, American creativity and technology to safely drill off our shores here in the United States so that we can become energy independent.

As we are coming up close to July 4, let's strike a blow for independence. Let's do something meaningful.

LEFT OVER THE BARREL

(Mr. OLVER asked and was given permission to address the House for 1 minute.)

Mr. OLVER. Mr. Speaker, the cornerstone of the Bush-McCain plan to lower gas prices is to open every acre of the Outer Continental Shelf between 50 and 200 miles offshore to oil leasing, drilling and production. That plan is a surefire failure.

You can bet your house and your children's college education as well that the most promising areas would be leased for long terms at bargain prices, but there is no guarantee that those new leases would be producing a drop of oil even 10 years from now. That's been the history.

The Minerals Management Service estimates 66 billion barrels of oil are recoverable on already-leasable areas of the continental shelf. Sixty-six billion barrels equals 10 years of America's need without any foreign oil at all. Yet less than a quarter of the area actually leased is in production. The oil companies are simply banking their cheap, long-term leases for future higher prices and profits. And we, the Congress and the country, will really be left over the barrel.

EXPLORE AVAILABLE ENERGY RESOURCES

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute.)

Mr. SHIMKUS. Mr. Speaker, let's talk about being put over a barrel of oil. In 2001, a barrel cost $23. When this majority came in, it was at $58, and now it is over $136. The trend line is bad.

I don't understand why we want to limit our ability to explore all the available energy resources. Why not go after the leases we have. Why not open new leases. Why not go in the Arctic National Wildlife Refuge. Here is the OCS, off-limits by our mandate. We did it. The Congress said we can't go on the west coast. The Congress said we can't go on the east coast, and the Congress said we can't go on the east gulf. That is foolish at today's prices.

Let's use America's natural resource of coal. In Illinois alone, we have as much Btu as Saudi Arabia has in oil. Let's encourage coal-to-liquid technologies. Let's use solar and wind, and all of the above energy sources, man-made energy resources with American energy and U.S. jobs.

TITLE IX IS SLAM DUNK

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, a player dunked in a Sunday night basketball game. Most Americans might not think that's news, but when you tell them the player was the WNBA's Candace Parker, only the second woman to dunk in WNBA history, you get a different reaction.

Parker's slam dunk is just one more sign that title IX is a slam dunk. At its core, title IX is a one-sentence law that bans sex discrimination in Federally funded education programs. Title IX tore down the quotas in law and medical schools that would often limit the enrollment of women to 15 per year.

Today, more women than men are attending college. And in law schools,

women are now the majority. In 1970, only one out of 27 high school girls played varsity sports. Today that figure is two in five, and these girls are reaping the benefits that come from sports: lower rates of substance abuse, unintended pregnancies, breast cancer, and osteoporosis.

Title IX has made it possible for women to pursue any career they want. I am excited to see what today's girls and young women will do with the opportunities title IX will provide for their futures.

CONGRESS NEEDS TO STOP LIMITING OPTIONS

(Mr. SHUSTER asked and was given permission to address the House for 1 minute.)

Mr. SHUSTER. Mr. Speaker, today the average price of gas in the Ninth Congressional District of Pennsylvania is over $4 a gallon. It has had a dramatic impact on families and small businesses across my district and across Pennsylvania.

The American people know that drilling isn't the only answer, which my colleagues on the other side of the aisle continue to say, but they do know it is a huge part of the solution. They also know that it will have the greatest impact in the shortest period of time. It is a real solution.

The American people also know that we can explore and drill in places like ANWR and off the coast of the United States. We can do it in environmentally safe ways and extract tremendous amounts of energy in those parts of the world.

The American people also know that this Congress has done nothing, has done nothing to solve the problem at the pump, has done nothing to help this economy with solving our oil and energy crisis that we face today. This Congress needs to act. We need to stop talking and limiting our options available to us. The American people are crying out for us to solve their problem and help them and help this economy grow.

BIG OIL: USE IT OR LOSE IT

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, the American people are looking for real energy solutions that will bring down prices at the pump. Unfortunately, all they are getting from Washington Republicans are more of the same old policies that are actually responsible for the high gas prices in the first time.

The Republican solution is to open up more of our pristine land and our ocean to oil drilling. They neglect to say that Big Oil already has leases for 68 million acres that, for whatever reason, Big Oil refuses to explore. Experts estimate that these 68 million acres of leased land could produce about 4.8 million barrels of oil which would nearly double our Nation's total production.

Why should we give Big Oil access to more of our land and water when they refuse to drill on 68 million acres they already have? And if drilling is indeed the answer to high gas prices, as my Republican friends always claim, why aren't they demanding that Big Oil start drilling on these lands?

Mr. Speaker, this week House Republicans will have an opportunity to act on their rhetoric by supporting Democratic legislation that tells Big Oil to either use it or lose it.

PROPERTY OWNERS AT RISK

(Mr. SULLIVAN asked and was given permission to address the House for 1 minute.)

Mr. SULLIVAN. Mr. Speaker, yesterday was the third anniversary of the Supreme Court's 2005 decision in the Kelo v. City of New London case.

In that decision, a divided Supreme Court ruled that the government may take people's homes and bulldoze them to make way for strip malls or other private development in order to increase tax revenue.

The negative effects of this far-reaching decision places all private property owners at risk. No property owner is safe if the government decides that their land would serve a better purpose and be an economic gain if something bigger and more taxable were in its place.

To combat these unjust property takings, I introduced H.R. 6219 to protect the rights of the private property owners. With this bill, all Americans now have the tools they need to fight unjust property takings and defend their homes and small businesses.

The government has overstepped its bounds in taking private property from people. It has also done the wrong thing in not allowing us to drill for oil and gas in America. It is very important that we get it in our own backyard. A lot of people on the Democratic side talk about alternative energy sources, and that is good. And we as Republicans believe in that. But also, we believe we need to get energy right here in our own backyard as well as we need to develop these technologies.

□ 1030

HONORING THE LAKE HIGHLANDS EXCHANGE CLUB AND LAKE HIGHLANDS MILITARY MOMS

(Mr. HENSARLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENSARLING. Mr. Speaker, today I recognize the Lake Highlands Exchange Club and Rhonda Russell, founder of the Lake Highlands Military Moms. Rhonda formed Military Moms so that mothers could meet once a month to exchange stories, updates, and photographs of their children serving our Nation in uniform overseas.

Recently, these two groups joined together to ensure that our servicemen and women received the local recognition they deserved for their heroic efforts. For example, they created posters for display throughout the Lake Highlands Community featuring photographs of 54 men and women serving our Nation in uniform. Additionally, they ensure that every returning servicemember is publicly honored at the Exchange Club meetings.

Mr. Speaker, on behalf of the Fifth District of Texas, I'm honored to be able to recognize the Lake Highlands Exchange Club and Lake Highlands Military Moms for their continued efforts in honoring our heroes in uniform.

WHAT IS CONGRESS DOING TO LOWER GAS PRICES?

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, my constituents, almost every single one, want to know what Congress is doing to lower the gas prices. Here is part of a letter from Matthew, a Boy Scout, from Winston-Salem, North Carolina: The problem I'm talking about how the gas prices are so high. If gas prices keep going up, we won't be able to go on vacation, we won't be able to go to the grocery store, we won't be able to go to church.

This is completely unacceptable for my constituents and also unacceptable for the constituents represented by my friends on the other side of the aisle. Unfortunately, it's because of the out-of-touch Democrat leadership that Congress has done nothing to combat record gas prices. Democrats pledged to deliver low gas prices well before they even took control of Congress promising a ''commonsense'' plan to lower gas prices. And here we are with national gas prices at $4 a gallon.

While Democrats only offer more of the same—broken promises in tax increases—House Republicans are committed to pursuing solutions that will help alleviate the pain at the pump and grow the American economy.

MOTION TO ADJOURN

Mr. SULLIVAN. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SULLIVAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 87, nays 299, not voting 48, as follows:

[Roll No. 441]

YEAS—87

Akin	Bachus	Bartlett (MD)
Alexander	Barrett (SC)	Biggert

Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Brady (PA)
Braley (IA)
Broun (GA)
Camp (MI)
Campbell (CA)
Cantor
Carter
Coble
Conyers
Crenshaw
Cubin
Davis, Tom
Doolittle
Duncan
Emerson
English (PA)
Everett
Fallin
Feeney
Flake
Foxx
Franks (AZ)
Gallegly
Garrett (NJ)
Gordon
Granger
Hastings (WA)
Hensarling
Herger
Hobson
Hoekstra
Hunter
Inglis (SC)
Issa
Keller
King (IA)
LaHood
Lamborn
LaTourette
Lewis (KY)
Lucas
Lungren, Daniel E.
Manzullo
McCaul (TX)
McHenry
McHugh
McKeon
McMorris Rodgers
Miller (MI)
Miller, Gary
Miller, George
Musgrave
Myrick
Neugebauer
Petri
Pickering
Pitts
Rehberg
Reichert
Renzi
Rogers (AL)
Roskam
Ryan (WI)
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Sullivan
Upton
Walden (OR)
Westmoreland
Whitfield (KY)
Wilson (SC)

NAYS—299

Ackerman
Aderholt
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Baird
Baldwin
Barrow
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Bono Mack
Boozman
Boren
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Butterfield
Buyer
Calvert
Capito
Capps
Capuano
Carnahan
Carney
Carson
Castle
Castor
Cazayoux
Chabot
Chandler
Childers
Clarke
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Cleaver
Clyburn
Cohen
Cole (OK)
Conaway
Cooper
Costello
Courtney
Cramer
Crowley
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (KY)
Davis, David
Davis, Lincoln
Deal (GA)
DeFazio
DeGette
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Dreier
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emanuel
Etheridge
Farr
Fattah
Ferguson
Filner
Forbes
Fortenberry
Fossella
Foster
Frank (MA)
Frelinghuysen
Gerlach
Giffords
Gilchrest
Gingrey
Gonzalez
Goode
Goodlatte
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hayes
Heller
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
Lampson
Langevin
Larson (CT)
Latham
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney (NY)
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCollum (MN)
McCotter
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (NC)
Mitchell
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Paul
Pearce
Perlmutter
Peterson (MN)
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Rahall
Ramstad
Rangel
Regula
Richardson
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Sherman
Shuler
Simpson
Sires
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Space
Speier
Spratt
Stark
Stearns
Stupak
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thornberry
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Van Hollen
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Walz (MN)
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Wasserman Schultz
Waters
Watson
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Weldon (FL)
Weller
Wexler
Wilson (NM)
Wilson (OH)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (FL)

NOT VOTING—48

Abercrombie
Boswell
Burgess
Burton (IN)
Cannon
Cardoza
Costa
Davis (IL)
Delahunt
Engel
Eshoo
Gillibrand
Gohmert
Hastings (FL)
Herseth Sandlin
Jefferson
Johnson (IL)
Johnson, Sam
Larsen (WA)
Mahoney (FL)
McCrery
McNulty
Melancon
Mollohan
Nunes
Pascrell
Payne
Pence
Peterson (PA)
Pryce (OH)
Radanovich
Reyes
Reynolds
Ross
Rush
Saxton
Shea-Porter
Slaughter
Souder
Sutton
Tancredo
Thompson (MS)
Turner
Udall (CO)
Waxman
Weiner
Welch (VT)
Young (AK)

□ 1058

Messrs. WITTMAN of Virginia, RAMSTAD, DAVID DAVIS of Tennessee, SESTAK, MICA, PERLMUTTER, SCOTT of Georgia, AL GREEN of Texas, HINOJOSA, ELLISON, GRIJALVA, CLAY, SHERMAN, MCNERNEY, HOLT, COHEN, ISRAEL, OBEY, Ms. JACKSON-LEE of Texas, Ms. SPEIER, Ms. SCHAKOWSKY and Mrs. CAPPS changed their vote from ''yea'' to ''nay.''

Messrs. UPTON, PICKERING and WESTMORELAND and Mrs. MCMORRIS RODGERS changed their vote from ''nay'' to ''yea.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Madam Speaker, due to inclement weather and aviation delays some 86 Members, including myself, were unable to be on the House Floor for rollcall votes.

Had I been present I would have voted "yea" on rollcall vote 438—Honoring the life, musical accomplishments, and contributions of Louis Jordan on the 100th anniversary of his birth; "yea" on rollcall vote 439—Supporting the goals and ideals of Black Music Month; "yea" on rollcall vote 440—Congratulating James Madison University in Harrisonburg, Virginia, for 100 years of service and leadership to the United States; and "nay" on rollcall vote 441—a Motion to Adjourn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT OF 2008

Mr. PALLONE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6331) to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6331

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Improvements for Patients and Providers Act of 2008''.

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

Sec. 1. Short title; table of contents.

TITLE I—MEDICARE

Subtitle A—Beneficiary Improvements

PART I—PREVENTION, MENTAL HEALTH, AND MARKETING

Sec. 101. Improvements to coverage of preventive services.
Sec. 102. Elimination of discriminatory copayment rates for Medicare outpatient psychiatric services.
Sec. 103. Prohibitions and limitations on certain sales and marketing activities under Medicare Advantage plans and prescription drug plans.
Sec. 104. Improvements to the Medigap program.

PART II—LOW-INCOME PROGRAMS

Sec. 111. Extension of qualifying individual (QI) program.
Sec. 112. Application of full LIS subsidy assets test under Medicare Savings Program.
Sec. 113. Eliminating barriers to enrollment.
Sec. 114. Elimination of Medicare part D late enrollment penalties paid by subsidy eligible individuals.
Sec. 115. Eliminating application of estate recovery.
Sec. 116. Exemptions from income and resources for determination of eligibility for low-income subsidy.
Sec. 117. Judicial review of decisions of the Commissioner of Social Security under the Medicare part D low-income subsidy program.
Sec. 118. Translation of model form.
Sec. 119. Medicare enrollment assistance.

Subtitle B—Provisions Relating to Part A

Sec. 121. Expansion and extension of the Medicare Rural Hospital Flexibility Program.

Sec. 122. Rebasing for sole community hospitals.
Sec. 123. Demonstration project on community health integration models in certain rural counties.
Sec. 124. Extension of the reclassification of certain hospitals.
Sec. 125. Revocation of unique deeming authority of the Joint Commission.

Subtitle C—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

Sec. 131. Physician payment, efficiency, and quality improvements.
Sec. 132. Incentives for electronic prescribing.
Sec. 133. Expanding access to primary care services.
Sec. 134. Extension of floor on Medicare work geographic adjustment under the Medicare physician fee schedule.
Sec. 135. Imaging provisions.
Sec. 136. Extension of treatment of certain physician pathology services under Medicare.
Sec. 137. Accommodation of physicians ordered to active duty in the Armed Services.
Sec. 138. Adjustment for Medicare mental health services.
Sec. 139. Improvements for Medicare anesthesia teaching programs.

PART II—OTHER PAYMENT AND COVERAGE IMPROVEMENTS

Sec. 141. Extension of exceptions process for Medicare therapy caps.
Sec. 142. Extension of payment rule for brachytherapy and therapeutic radiopharmaceuticals.
Sec. 143. Speech-language pathology services.
Sec. 144. Payment and coverage improvements for patients with chronic obstructive pulmonary disease and other conditions.
Sec. 145. Clinical laboratory tests.
Sec. 146. Improved access to ambulance services.
Sec. 147. Extension and expansion of the Medicare hold harmless provision under the prospective payment system for hospital outpatient department (HOPD) services for certain hospitals.
Sec. 148. Clarification of payment for clinical laboratory tests furnished by critical access hospitals.
Sec. 149. Adding certain entities as originating sites for payment of telehealth services.
Sec. 150. MedPAC study and report on improving chronic care demonstration programs.
Sec. 151. Increase of FQHC payment limits.
Sec. 152. Kidney disease education and awareness provisions.
Sec. 153. Renal dialysis provisions.
Sec. 154. Delay in and reform of Medicare DMEPOS competitive acquisition program.

Subtitle D—Provisions Relating to Part C

Sec. 161. Phase-out of indirect medical education (IME).
Sec. 162. Revisions to requirements for Medicare Advantage private fee-for-service plans.
Sec. 163. Revisions to quality improvement programs.
Sec. 164. Revisions relating to specialized Medicare Advantage plans for special needs individuals.
Sec. 165. Limitation on out-of-pocket costs for dual eligibles and qualified medicare beneficiaries enrolled in a specialized Medicare Advantage plan for special needs individuals.
Sec. 166. Adjustment to the Medicare Advantage stabilization fund.
Sec. 167. Access to Medicare reasonable cost contract plans.
Sec. 168. MedPAC study and report on quality measures.
Sec. 169. MedPAC study and report on Medicare Advantage payments.

Subtitle E—Provisions Relating to Part D

PART I—IMPROVING PHARMACY ACCESS

Sec. 171. Prompt payment by prescription drug plans and MA–PD plans under part D.
Sec. 172. Submission of claims by pharmacies located in or contracting with long-term care facilities.
Sec. 173. Regular update of prescription drug pricing standard.

PART II—OTHER PROVISIONS

Sec. 175. Inclusion of barbiturates and benzodiazepines as covered part D drugs.
Sec. 176. Formulary requirements with respect to certain categories or classes of drugs.

Subtitle F—Other Provisions

Sec. 181. Use of part D data.
Sec. 182. Revision of definition of medically accepted indication for drugs.
Sec. 183. Contract with a consensus-based entity regarding performance measurement.
Sec. 184. Cost-sharing for clinical trials.
Sec. 185. Addressing health care disparities.
Sec. 186. Demonstration to improve care to previously uninsured.
Sec. 187. Office of the Inspector General report on compliance with and enforcement of national standards on culturally and linguistically appropriate services (CLAS) in Medicare.
Sec. 188. Medicare Improvement Funding.
Sec. 189. Inclusion of Medicare providers and suppliers in Federal Payment Levy and Administrative Offset Program.

TITLE II—MEDICAID

Sec. 201. Extension of transitional medical assistance (TMA) and abstinence education program.
Sec. 202. Medicaid DSH extension.
Sec. 203. Pharmacy reimbursement under Medicaid.
Sec. 204. Review of administrative claim determinations.
Sec. 205. County medicaid health insuring organizations.

TITLE III—MISCELLANEOUS

Sec. 301. Extension of TANF supplemental grants.
Sec. 302. 70 percent federal matching for foster care and adoption assistance for the District of Columbia.
Sec. 303. Extension of Special Diabetes Grant Programs.
Sec. 304. IOM reports on best practices for conducting systematic reviews of clinical effectiveness research and for developing clinical protocols.

TITLE I—MEDICARE

Subtitle A—Beneficiary Improvements

PART I—PREVENTION, MENTAL HEALTH, AND MARKETING

SEC. 101. IMPROVEMENTS TO COVERAGE OF PREVENTIVE SERVICES.

(a) COVERAGE OF ADDITIONAL PREVENTIVE SERVICES.—

(1) COVERAGE.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 114 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(A) in subsection (s)(2)—

(i) in subparagraph (Z), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (AA), by adding ''and'' after the semicolon at the end; and

(iii) by adding at the end the following new subparagraph:

''(BB) additional preventive services (described in subsection (ddd)(1));''; and

(B) by adding at the end the following new subsection:

''Additional Preventive Services

''(ddd)(1) The term 'additional preventive services' means services not otherwise described in this title that identify medical conditions or risk factors and that the Secretary determines are—

''(A) reasonable and necessary for the prevention or early detection of an illness or disability;

''(B) recommended with a grade of A or B by the United States Preventive Services Task Force; and

''(C) appropriate for individuals entitled to benefits under part A or enrolled under part B.

''(2) In making determinations under paragraph (1) regarding the coverage of a new service, the Secretary shall use the process for making national coverage determinations (as defined in section 1869(f)(1)(B)) under this title. As part of the use of such process, the Secretary may conduct an assessment of the relation between predicted outcomes and the expenditures for such service and may take into account the results of such assessment in making such determination.''.

(2) PAYMENT AND COINSURANCE FOR ADDITIONAL PREVENTIVE SERVICES.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended—

(A) by striking ''and'' before ''(V)''; and

(B) by inserting before the semicolon at the end the following: '', and (W) with respect to additional preventive services (as defined in section 1861(ddd)(1)), the amount paid shall be (i) in the case of such services which are clinical diagnostic laboratory tests, the amount determined under subparagraph (D), and (ii) in the case of all other such services, 80 percent of the lesser of the actual charge for the service or the amount determined under a fee schedule established by the Secretary for purposes of this subparagraph''.

(3) CONFORMING AMENDMENT REGARDING COVERAGE.—Section 1862(a)(1)(A) of the Social Security Act (42 U.S.C. 1395y(a)(1)(A)) is amended by inserting ''or additional preventive services (as described in section 1861(ddd)(1))'' after ''succeeding subparagraph''.

(4) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this subsection shall be construed to provide coverage under title XVIII of the Social Security Act of items and services for the treatment of a medical condition that is not otherwise covered under such title.

(b) REVISIONS TO INITIAL PREVENTIVE PHYSICAL EXAMINATION.—

(1) IN GENERAL.—Section 1861(ww) of the Social Security Act (42 U.S.C. 1395x(ww)) is amended—

(A) in paragraph (1)—

(i) by inserting ''body mass index,'' after ''weight'';

(ii) by striking '', and an electrocardiogram''; and

(iii) by inserting ''and end-of-life planning (as defined in paragraph (3)) upon the agreement with the individual'' after ''paragraph (2)'';

(B) in paragraph (2), by adding at the end the following new subparagraphs:

''(M) An electrocardiogram.

''(N) Additional preventive services (as defined in subsection (ddd)(1)).''; and

(C) by adding at the end the following new paragraph:

''(3) For purposes of paragraph (1), the term 'end-of-life planning' means verbal or written information regarding—

''(A) an individual's ability to prepare an advance directive in the case that an injury or illness causes the individual to be unable to make health care decisions; and

''(B) whether or not the physician is willing to follow the individual's wishes as expressed in an advance directive.''.

(2) WAIVER OF APPLICATION OF DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended—

(A) by striking ''and'' before ''(8)''; and

(B) by inserting '', and (9) such deductible shall not apply with respect to an initial preventive physical examination (as defined in section 1861(ww))'' before the period at the end.

(3) EXTENSION OF ELIGIBILITY PERIOD FROM SIX MONTHS TO ONE YEAR.—Section 1862(a)(1)(K) of the Social Security Act (42 U.S.C. 1395y(a)(1)(K)) is amended by striking ''6 months'' and inserting ''1 year''.

(4) TECHNICAL CORRECTION.—Section 1862(a)(1)(K) of the Social Security Act (42 U.S.C. 1395y(a)(1)(K)) is amended by striking ''not later'' and inserting ''more''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2009.

SEC. 102. ELIMINATION OF DISCRIMINATORY COPAYMENT RATES FOR MEDICARE OUTPATIENT PSYCHIATRIC SERVICES.

Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended to read as follows:

''(c)(1) Notwithstanding any other provision of this part, with respect to expenses incurred in a calendar year in connection with the treatment of mental, psychoneurotic, and personality disorders of an individual who is not an inpatient of a hospital at the time such expenses are incurred, there shall be considered as incurred expenses for purposes of subsections (a) and (b)—

''(A) for expenses incurred in years prior to 2010, only 62½ percent of such expenses;

''(B) for expenses incurred in 2010 or 2011, only 68¾ percent of such expenses;

''(C) for expenses incurred in 2012, only 75 percent of such expenses;

''(D) for expenses incurred in 2013, only 81¼ percent of such expenses; and

''(E) for expenses incurred in 2014 or any subsequent calendar year, 100 percent of such expenses.

''(2) For purposes of subparagraphs (A) through (D) of paragraph (1), the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of monitoring or changing drug prescriptions used in the treatment of such disorders or partial hospitalization services that are not directly provided by a physician.''.

SEC. 103. PROHIBITIONS AND LIMITATIONS ON CERTAIN SALES AND MARKETING ACTIVITIES UNDER MEDICARE ADVANTAGE PLANS AND PRESCRIPTION DRUG PLANS.

(a) PROHIBITIONS.—

(1) MEDICARE ADVANTAGE PROGRAM.—

(A) IN GENERAL.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(i) in subsection (h)(4)—

(I) in subparagraph (A)—

(aa) by striking ''cash or other monetary rebates'' and inserting '', subject to subsection (j)(2)(C), cash, gifts, prizes, or other monetary rebates''; and

(bb) by striking '', and'' at the end and inserting a semicolon;

(II) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(III) by adding at the end the following new subparagraph:

''(C) shall not permit a Medicare Advantage organization (or the agents, brokers, and other third parties representing such organization) to conduct the prohibited activities described in subsection (j)(1); and''; and

(ii) by adding at the end the following new subsection:

''(j) PROHIBITED ACTIVITIES DESCRIBED AND LIMITATIONS ON THE CONDUCT OF CERTAIN OTHER ACTIVITIES.—

''(1) PROHIBITED ACTIVITIES DESCRIBED.—The following prohibited activities are described in this paragraph:

''(A) UNSOLICITED MEANS OF DIRECT CONTACT.—Any unsolicited means of direct contact of prospective enrollees, including soliciting door-to-door or any outbound telemarketing without the prospective enrollee initiating contact.

''(B) CROSS-SELLING.—The sale of other non-health related products (such as annuities and life insurance) during any sales or marketing activity or presentation conducted with respect to a Medicare Advantage plan.

''(C) MEALS.—The provision of meals of any sort, regardless of value, to prospective enrollees at promotional and sales activities.

''(D) SALES AND MARKETING IN HEALTH CARE SETTINGS AND AT EDUCATIONAL EVENTS.—Sales and marketing activities for the enrollment of individuals in Medicare Advantage plans that are conducted—

''(i) in health care settings in areas where health care is delivered to individuals (such as physician offices and pharmacies), except in the case where such activities are conducted in common areas in health care settings; and

''(ii) at educational events.''.

(2) MEDICARE PRESCRIPTION DRUG PROGRAM.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended by adding at the end the following new subsection:

''(l) REQUIREMENTS WITH RESPECT TO SALES AND MARKETING ACTIVITIES.—The following provisions shall apply to a PDP sponsor (and the agents, brokers, and other third parties representing such sponsor) in the same manner as such provisions apply to a Medicare Advantage organization (and the agents, brokers, and other third parties representing such organization):

''(1) The prohibition under section 1851(h)(4)(C) on conducting activities described in section 1851(j)(1).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning on or after January 1, 2009.

(b) LIMITATIONS.—

(1) MEDICARE ADVANTAGE PROGRAM.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21), as amended by subsection (a)(1), is amended—

(A) in subsection (h)(4), by adding at the end the following new subparagraph:

''(D) shall only permit a Medicare Advantage organization (and the agents, brokers, and other third parties representing such organization) to conduct the activities described in subsection (j)(2) in accordance with the limitations established under such subsection.''; and

(B) in subsection (j), by adding at the end the following new paragraph:

''(2) LIMITATIONS.—The Secretary shall establish limitations with respect to at least the following:

''(A) SCOPE OF MARKETING APPOINTMENTS.—The scope of any appointment with respect to the marketing of a Medicare Advantage plan. Such limitation shall require advance agreement with a prospective enrollee on the scope of the marketing appointment and documentation of such agreement by the Medicare Advantage organization. In the case where the marketing appointment is in person, such documentation shall be in writing.

''(B) CO-BRANDING.—The use of the name or logo of a co-branded network provider on Medicare Advantage plan membership and marketing materials.

''(C) LIMITATION OF GIFTS TO NOMINAL DOLLAR VALUE.—The offering of gifts and other promotional items other than those that are of nominal value (as determined by the Secretary) to prospective enrollees at promotional activities.

''(D) COMPENSATION.—The use of compensation other than as provided under guidelines established by the Secretary. Such guidelines shall ensure that the use of compensation creates incentives for agents and brokers to enroll individuals in the Medicare Advantage plan that is intended to best meet their health care needs.

''(E) REQUIRED TRAINING, ANNUAL RETRAINING, AND TESTING OF AGENTS, BROKERS, AND OTHER THIRD PARTIES.—The use by a Medicare Advantage organization of any individual as an agent, broker, or other third party representing the organization that has not completed an initial training and testing program and does not complete an annual retraining and testing program.''.

(2) MEDICARE PRESCRIPTION DRUG PROGRAM.—Section 1860D–4(l) of the Social Security Act, as added by subsection (a)(2), is amended by adding at the end the following new paragraph:

''(2) The requirement under section 1851(h)(4)(D) to conduct activities described in section 1851(j)(2) in accordance with the limitations established under such subsection.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on a date specified by the Secretary (but in no case later than November 15, 2008).

(c) REQUIRED INCLUSION OF PLAN TYPE IN PLAN NAME.—

(1) MEDICARE ADVANTAGE PROGRAM.—Section 1851(h) of the Social Security Act (42 U.S.C. 1395w–21(h)) is amended by adding at the end following new paragraph:

''(6) REQUIRED INCLUSION OF PLAN TYPE IN PLAN NAME.—For plan years beginning on or after January 1, 2010, a Medicare Advantage organization must ensure that the name of each Medicare Advantage plan offered by the Medicare Advantage organization includes the plan type of the plan (using standard terminology developed by the Secretary).''.

(2) PRESCRIPTION DRUG PLANS.—Section 1860D–4(l) of the Social Security Act, as added by subsection (a)(2) and amended by subsection (b)(2), is amended by adding at the end the following new paragraph:

''(3) The inclusion of the plan type in the plan name under section 1851(h)(6).''.

(d) STRENGTHENING THE ABILITY OF STATES TO ACT IN COLLABORATION WITH THE SECRETARY TO ADDRESS FRAUDULENT OR INAPPROPRIATE MARKETING PRACTICES.—

(1) MEDICARE ADVANTAGE PROGRAM.—Section 1851(h) of the Social Security Act (42 U.S.C. 1395w–21(h), as amended by subsection (c)(1), is amended by adding at the end the following new paragraph:

''(7) STRENGTHENING THE ABILITY OF STATES TO ACT IN COLLABORATION WITH THE SECRETARY TO ADDRESS FRAUDULENT OR INAPPROPRIATE MARKETING PRACTICES.—

''(A) APPOINTMENT OF AGENTS AND BROKERS.—Each Medicare Advantage organization shall—

''(i) only use agents and brokers who have been licensed under State law to sell Medicare Advantage plans offered by the Medicare Advantage organization;

''(ii) in the case where a State has a State appointment law, abide by such law; and

''(iii) report to the applicable State the termination of any such agent or broker, including the reasons for such termination (as required under applicable State law).

''(B) COMPLIANCE WITH STATE INFORMATION REQUESTS.—Each Medicare Advantage organization shall comply in a timely manner with any request by a State for information regarding the performance of a licensed agent, broker, or other third party representing the Medicare Advantage organization as part of an investigation by the State into the conduct of the agent, broker, or other third party.''.

(2) PRESCRIPTION DRUG PLANS.—Section 1860D–4(l) of the Social Security Act, as amended by subsection (c)(2), is amended by adding at the end the following new paragraph:

''(4) The requirements regarding the appointment of agents and brokers and compliance with State information requests under subparagraphs (A) and (B), respectively, of section 1851(h)(7).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning on or after January 1, 2009.

SEC. 104. IMPROVEMENTS TO THE MEDIGAP PROGRAM.

(a) IMPLEMENTATION OF NAIC RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall provide for implementation of the changes in the NAIC model law and regulations approved by the National Association of Insurance Commissioners in its Model #651 (''Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act'') on March 11, 2007, as modified to reflect the changes made under this Act and the Genetic Information Nondiscrimination Act of 2008 (Public Law 110–233).

(2) IMPLEMENTATION DATES.—

(A) IN GENERAL.—The modifications to Model #651 required under paragraph (1) shall be completed by the National Association of Insurance Commissioners not later than October 31, 2008. Except as provided in subparagraph (B), each State shall have 1 year from the date the National Association of Insurance Commissioners adopts the revised NAIC model law and regulations (as changed by Model #651, as so modified) to conform the regulatory program established by the State to such revised NAIC model law and regulations.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State which the Secretary determines requires State legislation in order to conform the regulatory program established by the State to such revised NAIC model law and regulations, the State shall not be regarded as failing to comply with the requirements of this section solely on the basis of its failure to meet such requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

(C) TRANSITION DATES.—No carrier may issue a new or revised medicare supplemental policy or certificate under section 1882 of the Social Security Act (42 U.S.C. 1395ss) that meets the requirements of such revised NAIC model law and regulations for coverage effective prior to June 1, 2010. A carrier may continue to offer or issue a medicare supplemental policy under such section that meets the requirements of the NAIC model law and regulations and State law (as in effect prior to the adoption of such revised NAIC model law and regulations) prior to June 1, 2010. Nothing shall preclude carriers from marketing new or revised medicare supplemental policies or certificates that meet the requirements of such revised NAIC model law and regulations on or after the date on which the State conforms the regulatory program established by the State to such revised NAIC model law and regulations.

(b) REQUIRED OFFERING OF A RANGE OF POLICIES.—Section 1882(o) of the Social Security Act (42 U.S.C. 1395s(o)), as amended by section 104(b)(3) of the Genetic Information Nondiscrimination Act of 2008 (Public Law 110–233), is amended by adding at the end the following new paragraph:

''(5) In addition to the requirement under paragraph (2), the issuer of the policy must make available to the individual at least Medicare supplemental policies with benefit packages classified as 'C' or 'F'.''.

(c) CLARIFICATION.—Any health insurance policy that provides reimbursement for expenses incurred for items and services for which payment may be made under title XVIII of the Social Security Act but which are not reimbursable by reason of the applicability of deductibles, coinsurance, copayments or other limitations imposed by a Medicare Advantage plan (including a Medicare Advantage private fee-for-service plan) under part C of such title shall comply with the requirements of section 1882(o) of the such Act (42 U.S.C. 1395ss(o)).

PART II—LOW-INCOME PROGRAMS

SEC. 111. EXTENSION OF QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking ''June 2008'' and inserting ''December 2009''.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (H);

(B) in subparagraph (I)—

(i) by striking ''June 30'' and inserting ''September 30'';

(ii) by striking ''$200,000,000'' and inserting ''$300,000,000''; and

(iii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(J) for the period that begins on October 1, 2008, and ends on December 31, 2008, the total allocation amount is $100,000,000;

''(K) for the period that begins on January 1, 2009, and ends on September 30, 2009, the total allocation amount is $350,000,000; and

''(L) for the period that begins on October 1, 2009, and ends on December 31, 2009, the total allocation amount is $150,000,000.''; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking ''or (H)'' and inserting ''(H), (J), or (L)''.

SEC. 112. APPLICATION OF FULL LIS SUBSIDY ASSETS TEST UNDER MEDICARE SAVINGS PROGRAM.

Section 1905(p)(1)(C) of such Act (42 U.S.C. 1396d(p)(1)(C)) is amended by inserting before the period at the end the following: ''or, effective beginning with January 1, 2010, whose resources (as so determined) do not exceed the maximum resource level applied for the year under subparagraph (D) of section 1860D–14(a)(3) (determined without regard to the life insurance policy exclusion provided under subparagraph (G) of such section) applicable to an individual or to the individual and the individual's spouse (as the case may be)''.

SEC. 113. ELIMINATING BARRIERS TO ENROLLMENT.

(a) SSA ASSISTANCE WITH MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.—Section 1144 of such Act (42 U.S.C. 1320b–14) is amended by adding at the end the following new subsection:

''(c) ASSISTANCE WITH MEDICARE SAVINGS PROGRAM AND LOW-INCOME SUBSIDY PROGRAM APPLICATIONS.—

''(1) DISTRIBUTION OF APPLICATIONS AND INFORMATION TO INDIVIDUALS WHO ARE POTENTIALLY ELIGIBLE FOR LOW-INCOME SUBSIDY PROGRAM.—For each individual who submits an application for low-income subsidies under section 1860D–14, requests an application for such subsidies, or is otherwise identified as an individual who is potentially eligible for such subsidies, the Commissioner shall do the following:

''(A) Provide information describing the low-income subsidy program under section 1860D–14 and the Medicare Savings Program (as defined in paragraph (7)).

''(B) Provide an application for enrollment under such low-income subsidy program (if not already received by the Commissioner).

''(C) In accordance with paragraph (3), transmit data from such an application for purposes of initiating an application for benefits under the Medicare Savings Program.

''(D) Provide information on how the individual may obtain assistance in completing such application and an application under the Medicare Savings Program, including information on how the individual may contact the State health insurance assistance program (SHIP).

''(E) Make the application described in subparagraph (B) and the information described in subparagraphs (A) and (D) available at local offices of the Social Security Administration.

''(2) TRAINING PERSONNEL IN EXPLAINING BENEFIT PROGRAMS AND ASSISTING IN COMPLETING LIS APPLICATION.—The Commissioner shall provide training to those employees of the Social Security Administration who are involved in receiving applications for benefits described in paragraph (1)(B) in order that they may promote beneficiary understanding of the low-income subsidy program and the Medicare Savings Program in order to increase participation in these programs. Such employees shall provide assistance in completing an application described in paragraph (1)(B) upon request.

''(3) TRANSMITTAL OF DATA TO STATES.—Beginning on January 1, 2010, with the consent of an individual completing an application for benefits described in paragraph (1)(B), the Commissioner shall electronically transmit to the appropriate State Medicaid agency data from such application, as determined by the Commissioner, which transmittal shall initiate an application of the individual for benefits under the Medicare Savings Program with the State Medicaid agency. In order to ensure that such data transmittal provides effective assistance for purposes of State adjudication of applications for benefits under the Medicare Savings Program, the Commissioner shall consult with the Secretary, after the Secretary has consulted with the States, regarding the content, form, frequency, and manner in which data (on a uniform basis for all States) shall be transmitted under this subparagraph.

''(4) COORDINATION WITH OUTREACH.—The Commissioner shall coordinate outreach activities under this subsection in connection with the low-income subsidy program and the Medicare Savings Program.

''(5) REIMBURSEMENT OF SOCIAL SECURITY ADMINISTRATION ADMINISTRATIVE COSTS.—

''(A) INITIAL MEDICARE SAVINGS PROGRAM COSTS; ADDITIONAL LOW-INCOME SUBSIDY COSTS.—

''(i) INITIAL MEDICARE SAVINGS PROGRAM COSTS.—There are hereby appropriated to the Commissioner to carry out this subsection, out of any funds in the Treasury not otherwise appropriated, $24,100,000. The amount appropriated under ths clause shall be available on October 1, 2008, and shall remain available until expended.

''(ii) ADDITIONAL AMOUNT FOR LOW-INCOME SUBSIDY ACTIVITIES.—There are hereby appropriated to the Commissioner, out of any funds in the Treasury not otherwise appropriated, $24,800,000 for fiscal year 2009 to carry out low-income subsidy activities under section 1860D–14 and the Medicare Savings Program (in accordance with this subsection), to remain available until expended. Such funds shall be in addition to the Social Security Administration's Limitation on Administrative Expenditure appropriations for such fiscal year.

''(B) SUBSEQUENT FUNDING UNDER AGREEMENTS.—

''(i) IN GENERAL.—Effective for fiscal years beginning on or after October 1, 2010, the Commissioner and the Secretary shall enter into an agreement which shall provide funding (subject to the amount appropriated under clause (ii)) to cover the administrative costs of the Commissioner's activities under this subsection. Such agreement shall—

''(I) provide funds to the Commissioner for the full cost of the Social Security Administration's work related to the Medicare Savings Program required under this section;

''(II) provide such funding quarterly in advance of the applicable quarter based on estimating methodology agreed to by the Commissioner and the Secretary; and

''(III) require an annual accounting and reconciliation of the actual costs incurred and funds provided under this subsection.

''(ii) APPROPRIATION.—There are hereby appropriated to the Secretary solely for the purpose of providing payments to the Commissioner pursuant to an agreement specified in clause (i) that is in effect, out of any funds in the Treasury not otherwise appropriated, not more than $3,000,000 for fiscal year 2011 and each fiscal year thereafter.

''(C) LIMITATION.—In no case shall funds from the Social Security Administration's Limitation on Administrative Expenses be used to carry out activities related to the Medicare Savings Program. For fiscal years beginning on or after October 1, 2010, no such activities shall be undertaken by the Social Security Administration unless the agreement specified in subparagraph (B) is in effect and full funding has been provided to the Commissioner as specified in such subparagraph.

''(6) GAO ANALYSIS AND REPORT.—

''(A) ANALYSIS.—The Comptroller General of the United States shall prepare an analysis of the impact of this subsection—

''(i) in increasing participation in the Medicare Savings Program, and

''(ii) on States and the Social Security Administration.

''(B) REPORT.—Not later than January 1, 2012, the Comptroller General shall submit to Congress, the Commissioner, and the Secretary a report on the analysis conducted under subparagraph (A).

''(7) MEDICARE SAVINGS PROGRAM DEFINED.—For purposes of this subsection, the term 'Medicare Savings Program' means the program of medical assistance for payment of the cost of medicare cost-sharing under the Medicaid program pursuant to sections 1902(a)(10)(E) and 1933.''.

(b) MEDICAID AGENCY CONSIDERATION OF DATA TRANSMITTAL.—

(1) IN GENERAL.—Section 1935(a) of such Act (42 U.S.C. 1396u–5(a)) is amended by adding at the end the following new paragraph:

''(4) CONSIDERATION OF DATA TRANSMITTED BY THE SOCIAL SECURITY ADMINISTRATION FOR PURPOSES OF MEDICARE SAVINGS PROGRAM.—The State shall accept data transmitted under section 1144(c)(3) and act on such data in the same manner and in accordance with the same deadlines as if the data constituted an initiation of an application for benefits under the Medicare Savings Program (as defined for purposes of such section) that had been submitted directly by the applicant. The date of the individual's application for the low income subsidy program from which the data have been derived shall constitute the date of filing of such application for benefits under the Medicare Savings Program.''.

(2) CONFORMING AMENDMENTS.—Section 1935(a) of such Act (42 U.S.C. 1396u–5(a)) is amended in the subsection heading by striking ''AND'' and by inserting '', AND MEDICARE COST-SHARING'' after ''ASSISTANCE''.

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on January 1, 2010.

SEC. 114. ELIMINATION OF MEDICARE PART D LATE ENROLLMENT PENALTIES PAID BY SUBSIDY ELIGIBLE INDIVIDUALS.

(a) WAIVER OF LATE ENROLLMENT PENALTY.—

(1) IN GENERAL.—Section 1860D–13(b) of the Social Security Act (42 U.S.C. 1395w–113(b)) is amended by adding at the end the following new paragraph:

''(8) WAIVER OF PENALTY FOR SUBSIDY-ELIGIBLE INDIVIDUALS.—In no case shall a part D eligible individual who is determined to be a subsidy eligible individual (as defined in section 1860D–14(a)(3)) be subject to an increase in the monthly beneficiary premium established under subsection (a).''.

(2) CONFORMING AMENDMENT.—Section 1860D–14(a)(1)(A) of the Social Security Act (42 U.S.C. 1395w–114(a)(1)(A)) is amended by striking ''equal to'' and all that follows through the period and inserting ''equal to 100 percent of the amount described in subsection (b)(1), but not to exceed the premium amount specified in subsection (b)(2)(B).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to subsidies for months beginning with January 2009.

SEC. 115. ELIMINATING APPLICATION OF ESTATE RECOVERY.

(a) IN GENERAL.—Section 1917(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1396p(b)(1)(B)(ii)) is amended by inserting ''(but not including medical assistance for medicare cost-sharing or for benefits described in section 1902(a)(10)(E))'' before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of January 1, 2010.

SEC. 116. EXEMPTIONS FROM INCOME AND RESOURCES FOR DETERMINATION OF ELIGIBILITY FOR LOW-INCOME SUBSIDY.

(a) IN GENERAL.—Section 1860D–14(a)(3) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)) is amended—

(1) in subparagraph (C)(i), by inserting ''and except that support and maintenance furnished in kind shall not be counted as income'' after ''section 1902(r)(2)'';

(2) in subparagraph (D), in the matter before clause (i), by inserting ''subject to the life insurance policy exclusion provided under subparagraph (G)'' before '')'';

(3) in subparagraph (E)(i), in the matter before subclause (I), by inserting ''subject to the life insurance policy exclusion provided under subparagraph (G)'' before '')''; and

(4) by adding at the end the following new subparagraph:

''(G) LIFE INSURANCE POLICY EXCLUSION.—In determining the resources of an individual (and the eligible spouse of the individual, if any) under section 1613 for purposes of subparagraphs (D) and (E) no part of the value of any life insurance policy shall be taken into account.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to applications filed on or after January 1, 2010.

SEC. 117. JUDICIAL REVIEW OF DECISIONS OF THE COMMISSIONER OF SOCIAL SECURITY UNDER THE MEDICARE PART D LOW-INCOME SUBSIDY PROGRAM.

(a) IN GENERAL.—Section 1860D–14(a)(3)(B)(iv) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(B)(iv)) is amended—

(1) in subclause (I), by striking ''and'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subclause:

''(III) judicial review of the final decision of the Commissioner made after a hearing shall be available to the same extent, and with the same limitations, as provided in subsections (g) and (h) of section 205.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

SEC. 118. TRANSLATION OF MODEL FORM.

(a) IN GENERAL.—Section 1905(p)(5)(A) of the Social Security Act (42 U.S.C. 1396d(p)(5)(A)) is amended by adding at the end the following: ''The Secretary shall provide for the translation of such application form into at least the 10 languages (other than English) that are most often used by individuals applying for hospital insurance benefits under section 226 or 226A and shall make the translated forms available to the States and to the Commissioner of Social Security.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2010.

SEC. 119. MEDICARE ENROLLMENT ASSISTANCE.

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE ASSISTANCE PROGRAMS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall use amounts made available under subparagraph (B) to make grants to States for State health insurance assistance programs receiving assistance under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $7,500,000 to the Centers for Medicare & Medicaid Services Program Management Account for fiscal year 2009, to remain available until expended.

(2) AMOUNT OF GRANTS.—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be equal to the sum of the amount allocated to the State under paragraph (3)(A) and the amount allocated to the State under subparagraph (3)(B).

(3) ALLOCATION TO STATES.—

(A) ALLOCATION BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES.—The amount allocated to a State under this subparagraph from ⅔ of the total amount made available under paragraph (1) shall be based on the number of individuals who meet the requirement under subsection (a)(3)(A)(ii) of section 1860D–14 of the Social Security Act (42 U.S.C. 1395w–114) but who have not enrolled to receive a subsidy under such section 1860D–14 relative to the total number of individuals who meet the requirement under such subsection (a)(3)(A)(ii) in each State, as estimated by the Secretary.

(B) ALLOCATION BASED ON PERCENTAGE OF RURAL BENEFICIARIES.—The amount allocated to a State under this subparagraph from ⅓ of the total amount made available under paragraph (1) shall be based on the number of part D eligible individuals (as defined in section 1860D–1(a)(3)(A) of such Act (42 U.S.C. 1395w–101(a)(3)(A))) residing in a rural area relative to the total number of such individuals in each State, as estimated by the Secretary.

(4) PORTION OF GRANT BASED ON PERCENTAGE OF LOW-INCOME BENEFICIARIES TO BE USED TO PROVIDE OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.—Each grant awarded under this subsection with respect to amounts allocated under paragraph (3)(A) shall be used to provide outreach to individuals who may be subsidy eligible individuals (as defined in section 1860D–14(a)(3)(A) of the Social Security Act (42 U.S.C. 1395w–114(a)(3)(A)) or eligible for the Medicare Savings Program (as defined in subsection (f)).

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Aging, shall make grants to States for area agencies on aging (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) and Native American programs carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $7,500,000 to the Administration on Aging for fiscal year 2009, to remain available until expended.

(2) AMOUNT OF GRANT AND ALLOCATION TO STATES BASED ON PERCENTAGE OF LOW-INCOME AND RURAL BENEFICIARIES.—The amount of a grant to a State under this subsection from the total amount made available under paragraph (1) shall be determined in the same manner as the amount of a grant to a State under subsection (a), from the total amount made available under paragraph (1) of such subsection, is determined under paragraph (2) and subparagraphs (A) and (B) of paragraph (3) of such subsection.

(3) REQUIRED USE OF FUNDS.—

(A) ALL FUNDS.—Subject to subparagraph (B), each grant awarded under this subsection shall be used to provide outreach to eligible Medicare beneficiaries regarding the benefits available under title XVIII of the Social Security Act.

(B) OUTREACH TO INDIVIDUALS WHO MAY BE SUBSIDY ELIGIBLE INDIVIDUALS OR ELIGIBLE FOR THE MEDICARE SAVINGS PROGRAM.—Subsection (a)(4) shall apply to each grant awarded under this subsection in the same manner as it applies to a grant under subsection (a).

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to Aging and Disability Resource Centers under the Aging and Disability Resource Center grant program that are established centers under such program on the date of the enactment of this Act.

(B) FUNDING.—For purposes of making grants under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $5,000,000 to the Administration on Aging for fiscal year 2009, to remain available until expended.

(2) REQUIRED USE OF FUNDS.—Each grant awarded under this subsection shall be used to provide outreach to individuals regarding the benefits available under the Medicare prescription drug benefit under part D of title XVIII of the Social Security Act and under the Medicare Savings Program.

(d) COORDINATION OF EFFORTS TO INFORM OLDER AMERICANS ABOUT BENEFITS AVAILABLE UNDER FEDERAL AND STATE PROGRAMS.—

(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Aging, in cooperation with related Federal agency partners, shall make a grant to, or enter into a contract with, a qualified, experienced entity under which the entity shall—

(A) maintain and update web-based decision support tools, and integrated, person-centered systems, designed to inform older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)) about the full range of benefits for which the individuals may be eligible under Federal and State programs;

(B) utilize cost-effective strategies to find older individuals with the greatest economic need (as defined in such section 102) and inform the individuals of the programs;

(C) develop and maintain an information clearinghouse on best practices and the most cost-effective methods for finding older individuals with greatest economic need and informing the individuals of the programs; and

(D) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on the most effective outreach, screening, and follow-up strategies for the Federal and State programs.

(2) FUNDING.—For purposes of making a grant or entering into a contract under paragraph (1), the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $5,000,000 to the Administration on Aging for fiscal year 2009, to remain available until expended.

(e) REPROGRAMMING FUNDS FROM MEDICARE, MEDICAID, AND SCHIP EXTENSION ACT OF 2007.—The Secretary shall only use the $5,000,000 in funds allocated to make grants to States for Area Agencies on Aging and Aging Disability and Resource Centers for the period of fiscal years 2008 through 2009 under section 118 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) for the sole purpose of providing outreach to individuals regarding the benefits available under the Medicare prescription drug benefit under part D of title XVIII of the Social Security Act. The Secretary shall republish the request for proposals issued on April 17, 2008, in order to comply with the preceding sentence.

(f) MEDICARE SAVINGS PROGRAM DEFINED.—For purposes of this section, the term ''Medicare Savings Program'' means the program of medical assistance for payment of the cost of medicare cost-sharing under the Medicaid program pursuant to sections 1902(a)(10)(E) and 1933 of the Social Security Act (42 U.S.C. 1396a(a)(10)(E), 1396u–3).

Subtitle B—Provisions Relating to Part A

SEC. 121. EXPANSION AND EXTENSION OF THE MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) IN GENERAL.—Section 1820(g) of the Social Security Act (42 U.S.C. 1395i–4(g)) is amended by adding at the end the following new paragraph:

''(6) PROVIDING MENTAL HEALTH SERVICES AND OTHER HEALTH SERVICES TO VETERANS AND OTHER RESIDENTS OF RURAL AREAS.—

''(A) GRANTS TO STATES.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for increasing the delivery of mental health services or other health care services deemed necessary to meet the needs of veterans of Operation Iraqi Freedom and Operation Enduring Freedom living in rural areas (as defined for purposes of section 1886(d) and including areas that are rural census tracks, as defined by the Administrator of the Health Resources and Services Administration), including for the provision of crisis intervention services and the detection of post-traumatic stress disorder, traumatic brain injury, and other signature injuries of veterans of Operation Iraqi Freedom and Operation Enduring Freedom, and for referral of such veterans to medical facilities operated by the Department of Veterans Affairs, and for the delivery of such services to other residents of such rural areas.

''(B) APPLICATION.—

''(i) IN GENERAL.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii) and (A)(iii) of subsection (b)(1).

''(ii) CONSIDERATION OF REGIONAL APPROACHES, NETWORKS, OR TECHNOLOGY.—The Secretary may, as appropriate in awarding grants to States under subparagraph (A), consider whether the application submitted by a State under this subparagraph includes 1 or more proposals that utilize regional approaches, networks, health information technology, telehealth, or telemedicine to deliver services described in subparagraph (A) to individuals described in that subparagraph. For purposes of this clause, a network may, as the Secretary determines appropriate, include Federally qualified health centers (as defined in section 1861(aa)(4)), rural health clinics (as defined in section 1861(aa)(2)), home health agencies (as defined in section 1861(o)), community mental health centers (as defined in section 1861(ff)(3)(B)) and other providers of mental health services, pharmacists, local government, and other providers deemed necessary to meet the needs of veterans.

''(iii) COORDINATION AT LOCAL LEVEL.—The Secretary shall require, as appropriate, a State to demonstrate consultation with the hospital association of such State, rural hospitals located in such State, providers of mental health services, or other appropriate stakeholders for the provision of services under a grant awarded under this paragraph.

''(iv) SPECIAL CONSIDERATION OF CERTAIN APPLICATIONS.—In awarding grants to States under subparagraph (A), the Secretary shall give special consideration to applications submitted by States in which veterans make up a high percentage (as determined by the Secretary) of the total population of the State. Such consideration shall be given without regard to the number of veterans of Operation Iraqi Freedom and Operation Enduring Freedom living in the areas in which mental health services and other health care services would be delivered under the application.

''(C) COORDINATION WITH VA.—The Secretary shall, as appropriate, consult with the Director of the Office of Rural Health of the Department of Veterans Affairs in awarding and administering grants to States under subparagraph (A).

''(D) USE OF FUNDS.—A State awarded a grant under this paragraph may, as appropriate, use the funds to reimburse providers of services described in subparagraph (A) to individuals described in that subparagraph.

''(E) LIMITATION ON USE OF GRANT FUNDS FOR ADMINISTRATIVE EXPENSES.—A State awarded a grant under this paragraph may not expend more than 15 percent of the amount of the grant for administrative expenses.

''(F) INDEPENDENT EVALUATION AND FINAL REPORT.—The Secretary shall provide for an independent evaluation of the grants awarded under subparagraph (A). Not later than 1 year after the date on which the last grant is awarded to a State under such subparagraph, the Secretary shall submit a report to Congress on such evaluation. Such report shall include an assessment of the impact of such grants on increasing the delivery of mental health services and other health services to veterans of the United States Armed Forces living in rural areas (as so defined and including such areas that are rural census tracks), with particular emphasis on the impact of such grants on the delivery of such services to veterans of Operation Enduring Freedom and Operation Iraqi Freedom, and to other individuals living in such rural areas.''.

(b) USE OF FUNDS FOR FEDERAL ADMINISTRATIVE EXPENSES.—Section 1820(g)(5) of the Social Security Act (42 U.S.C. 1395i–4(g)(5)) is amended—

(1) by striking ''beginning with fiscal year 2005'' and inserting ''for each of fiscal years 2005 through 2008''; and

(2) by inserting ''and, of the total amount appropriated for grants under paragraphs (1), (2), and (6) for a fiscal year (beginning with fiscal year 2009)'' after ''2005)''.

(c) EXTENSION OF AUTHORIZATION FOR FLEX GRANTS.—Section 1820(j) of the Social Security Act (42 U.S.C. 1395i–4(j)) is amended—

(1) by striking ''and for'' and inserting ''for''; and

(2) by inserting '', for making grants to all States under paragraphs (1) and (2) of subsection (g), $55,000,000 in each of fiscal years 2009 and 2010, and for making grants to all States under paragraph (6) of subsection (g), $50,000,000 in each of fiscal years 2009 and 2010, to remain available until expended'' before the period at the end.

(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820(g)(1) of the Social Security Act (42 U.S.C. 1395i–4(g)(1)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(D) providing support for critical access hospitals for quality improvement, quality reporting, performance improvements, and benchmarking.''.

(e) ASSISTANCE TO SMALL CRITICAL ACCESS HOSPITALS TRANSITIONING TO SKILLED NURSING FACILITIES AND ASSISTED LIVING FACILITIES.—Section 1820(g) of the Social Security Act (42 U.S.C. 1395i–4(g)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(7) CRITICAL ACCESS HOSPITALS TRANSITIONING TO SKILLED NURSING FACILITIES AND ASSISTED LIVING FACILITIES.—

''(A) GRANTS.—The Secretary may award grants to eligible critical access hospitals that have submitted applications in accordance with subparagraph (B) for assisting such hospitals in the transition to skilled nursing facilities and assisted living facilities.

''(B) APPLICATION.—An applicable critical access hospital seeking a grant under this paragraph shall submit an application to the Secretary on or before such date and in such form and manner as the Secretary specifies.

''(C) ADDITIONAL REQUIREMENTS.—The Secretary may not award a grant under this paragraph to an eligible critical access hospital unless—

''(i) local organizations or the State in which the hospital is located provides matching funds; and

''(ii) the hospital provides assurances that it will surrender critical access hospital status under this title within 180 days of receiving the grant.

''(D) AMOUNT OF GRANT.—A grant to an eligible critical access hospital under this paragraph may not exceed $1,000,000.

''(E) FUNDING.—There are appropriated from the Federal Hospital Insurance Trust Fund under section 1817 for making grants under this paragraph, $5,000,000 for fiscal year 2008.

''(F) ELIGIBLE CRITICAL ACCESS HOSPITAL DEFINED.—For purposes of this paragraph, the term 'eligible critical access hospital' means a critical access hospital that has an average daily acute census of less than 0.5 and an average daily swing bed census of greater than 10.0.''.

SEC. 122. REBASING FOR SOLE COMMUNITY HOSPITALS.

(a) REBASING PERMITTED.—Section 1886(b)(3) of the Social Security Act (42 U.S.C. 1395ww(b)(3)) is amended by adding at the end the following new subparagraph:

''(L)(i) For cost reporting periods beginning on or after January 1, 2009, in the case of a sole community hospital there shall be substituted for the amount otherwise determined under subsection (d)(5)(D)(i) of this section, if such substitution results in a greater amount of payment under this section for the hospital, the subparagraph (L) rebased target amount.

''(ii) For purposes of this subparagraph, the term 'subparagraph (L) rebased target amount' has the meaning given the term 'target amount' in subparagraph (C), except that—

''(I) there shall be substituted for the base cost reporting period the 12-month cost reporting period beginning during fiscal year 2006;

''(II) any reference in subparagraph (C)(i) to the 'first cost reporting period' described in such subparagraph is deemed a reference to the first cost reporting period beginning on or after January 1, 2009; and

''(III) the applicable percentage increase shall only be applied under subparagraph (C)(iv) for discharges occurring on or after January 1, 2009.''.

(b) CONFORMING AMENDMENTS.—Section 1886(b)(3) of the Social Security Act (42 U.S.C. 1395ww(b)(3)) is amended—

(1) in subparagraph (C), in the matter preceding clause (i), by striking ''subparagraph (I)'' and inserting ''subparagraphs (I) and (L)''; and

(2) in subparagraph (I)(i), in the matter preceding subclause (I), by striking ''For'' and inserting ''Subject to subparagraph (L), for''.

SEC. 123. DEMONSTRATION PROJECT ON COMMUNITY HEALTH INTEGRATION MODELS IN CERTAIN RURAL COUNTIES.

(a) IN GENERAL.—The Secretary shall establish a demonstration project to allow eligible entities to develop and test new models for the delivery of health care services in eligible counties for the purpose of improving access to, and better integrating the delivery of, acute care, extended care, and other essential health care services to Medicare beneficiaries.

(b) PURPOSE.—The purpose of the demonstration project under this section is to—

(1) explore ways to increase access to, and improve the adequacy of, payments for acute care, extended care, and other essential health care services provided under the Medicare and Medicaid programs in eligible counties; and

(2) evaluate regulatory challenges facing such providers and the communities they serve.

(c) REQUIREMENTS.—The following requirements shall apply under the demonstration project:

(1) Health care providers in eligible counties selected to participate in the demonstration project under subsection (d)(3) shall (when determined appropriate by the Secretary), instead of the payment rates otherwise applicable under the Medicare program, be reimbursed at a rate that covers at least the reasonable costs of the provider in furnishing acute care, extended care, and other essential health care services to Medicare beneficiaries.

(2) Methods to coordinate the survey and certification process under the Medicare program and the Medicaid program across all health service categories included in the demonstration project shall be tested with the goal of assuring quality and safety while reducing administrative burdens, as appropriate, related to completing such survey and certification process.

(3) Health care providers in eligible counties selected to participate in the demonstration project under subsection (d)(3) and the Secretary shall work with the State to explore ways to revise reimbursement policies under the Medicaid program to improve access to the range of health care services available in such eligible counties.

(4) The Secretary shall identify regulatory requirements that may be revised appropriately to improve access to care in eligible counties.

(5) Other essential health care services necessary to ensure access to the range of health care services in eligible counties selected to participate in the demonstration project under subsection (d)(3) shall be identified. Ways to ensure adequate funding for such services shall also be explored.

(d) APPLICATION PROCESS.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Eligibility to participate in the demonstration project under this section shall be limited to eligible entities.

(B) ELIGIBLE ENTITY DEFINED.—In this section, the term ''eligible entity'' means an entity that—

(i) is a Rural Hospital Flexibility Program grantee under section 1820(g) of the Social Security Act (42 U.S.C. 1395i–4(g)); and

(ii) is located in a State in which at least 65 percent of the counties in the State are counties that have 6 or less residents per square mile.

(2) APPLICATION.—

(A) IN GENERAL.—An eligible entity seeking to participate in the demonstration project under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) LIMITATION.—The Secretary shall select eligible entities located in not more than 4 States to participate in the demonstration project under this section.

(3) SELECTION OF ELIGIBLE COUNTIES.—An eligible entity selected by the Secretary to participate in the demonstration project under this section shall select not more than 6 eligible counties in the State in which the entity is located in which to conduct the demonstration project.

(4) ELIGIBLE COUNTY DEFINED.—In this section, the term ''eligible county'' means a county that meets the following requirements:

(A) The county has 6 or less residents per square mile.

(B) As of the date of the enactment of this Act, a facility designated as a critical access hospital which meets the following requirements was located in the county:

(i) As of the date of the enactment of this Act, the critical access hospital furnished 1 or more of the following:

(I) Home health services.

(II) Hospice care.

(III) Rural health clinic services.

(ii) As of the date of the enactment of this Act, the critical access hospital has an average daily inpatient census of 5 or less.

(C) As of the date of the enactment of this Act, skilled nursing facility services were available in the county in—

(i) a critical access hospital using swing beds; or

(ii) a local nursing home.

(e) ADMINISTRATION.—

(1) IN GENERAL.—The demonstration project under this section shall be administered jointly by the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration and the Administrator of the Centers for Medicare & Medicaid Services, in accordance with paragraphs (2) and (3).

(2) HRSA DUTIES.—In administering the demonstration project under this section, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration shall—

(A) award grants to the eligible entities selected to participate in the demonstration project; and

(B) work with such entities to provide technical assistance related to the requirements under the project.

(3) CMS DUTIES.—In administering the demonstration project under this section, the Administrator of the Centers for Medicare & Medicaid Services shall determine which provisions of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.) the Secretary should waive under the waiver authority under subsection (i) that are relevant to the development of alternative reimbursement methodologies, which may include, as appropriate, covering at least the reasonable costs of the provider in furnishing acute care, extended care, and other essential health care services to Medicare beneficiaries and coordinating the survey and certification process under the Medicare and Medicaid programs, as appropriate, across all service categories included in the demonstration project.

(f) DURATION.—

(1) IN GENERAL.—The demonstration project under this section shall be conducted for a 3-year period beginning on October 1, 2009.

(2) BEGINNING DATE OF DEMONSTRATION PROJECT.—The demonstration project under this section shall be considered to have begun in a State on the date on which the eligible counties selected to participate in the demonstration project under subsection (d)(3) begin operations in accordance with the requirements under the demonstration project.

(g) FUNDING.—

(1) CMS.—

(A) IN GENERAL.—The Secretary shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of such sums as are necessary for the costs to the Centers for Medicare & Medicaid Services of carrying out its duties under the demonstration project under this section.

(B) BUDGET NEUTRALITY.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary estimates would have been paid if the demonstration project under this section was not implemented.

(2) HRSA.—There are authorized to be appropriated to the Office of Rural Health Policy of the Health Resources and Services Administration $800,000 for each of fiscal years 2010, 2011, and 2012 for the purpose of carrying out the duties of such Office under the demonstration project under this section, to remain available for the duration of the demonstration project.

(h) REPORT.—

(1) INTERIM REPORT.—Not later than the date that is 2 years after the date on which the demonstration project under this section is implemented, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall submit a report to Congress on the status of the demonstration project that includes initial recommendations on ways to improve access to, and the availability of, health care services in eligible counties based on the findings of the demonstration project.

(2) FINAL REPORT.—Not later than 1 year after the completion of the demonstration project, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall submit a report to Congress on such project, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(i) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.) as may be necessary and appropriate for the purpose of carrying out the demonstration project under this section.

(j) DEFINITIONS.—In this section:

(1) EXTENDED CARE SERVICES.—The term ''extended care services'' means the following:

(A) Home health services.

(B) Covered skilled nursing facility services.

(C) Hospice care.

(2) COVERED SKILLED NURSING FACILITY SERVICES.—The term ''covered skilled nursing facility services'' has the meaning given such term in section 1888(e)(2)(A) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)).

(3) CRITICAL ACCESS HOSPITAL.—The term ''critical access hospital'' means a facility designated as a critical access hospital under section 1820(c) of such Act (42 U.S.C. 1395i–4(c)).

(4) HOME HEALTH SERVICES.—The term ''home health services'' has the meaning given such term in section 1861(m) of such Act (42 U.S.C. 1395x(m)).

(5) HOSPICE CARE.—The term ''hospice care'' has the meaning given such term in section 1861(dd) of such Act (42 U.S.C. 1395x(dd)).

(6) MEDICAID PROGRAM.—The term ''Medicaid program'' means the program under title XIX of such Act (42 U.S.C. 1396 et seq.).

(7) MEDICARE PROGRAM.—The term ''Medicare program'' means the program under title XVIII of such Act (42 U.S.C. 1395 et seq.).

(8) OTHER ESSENTIAL HEALTH CARE SERVICES.—The term ''other essential health care services'' means the following:

(A) Ambulance services (as described in section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7))).

(B) Rural health clinic services.

(C) Public health services (as defined by the Secretary).

(D) Other health care services determined appropriate by the Secretary.

(9) RURAL HEALTH CLINIC SERVICES.—The term ''rural health clinic services'' has the meaning given such term in section 1861(aa)(1) of such Act (42 U.S.C. 1395x(aa)(1)).

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 124. EXTENSION OF THE RECLASSIFICATION OF CERTAIN HOSPITALS.

(a) IN GENERAL.—Subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking ''September 30, 2008'' and inserting ''September 30, 2009''.

(b) SPECIAL EXCEPTION RECLASSIFICATIONS.—Section 117(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173)) is amended by striking ''September 30, 2008'' and inserting ''the last date of the extension of reclassifications under section 106(a) of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432)''.

(c) DISREGARDING SECTION 508 HOSPITAL RECLASSIFICATIONS FOR PURPOSES OF GROUP RECLASSIFICATIONS.—Section 508(g) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173, 42 U.S.C. 1395ww note), as added by section 117(b) of the Medicare, Medicaid, and SCHIP Extension Act of 2008 (Public Law 110–173)), is amended by striking ''during fiscal year 2008'' and inserting ''beginning on October 1, 2007, and ending on the last date of the extension of reclassifications under section 106(a) of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109–432)''.

SEC. 125. REVOCATION OF UNIQUE DEEMING AUTHORITY OF THE JOINT COMMISSION.

(a) REVOCATION.—Section 1865 of the Social Security Act (42 U.S.C. 1395bb) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

(b) CONFORMING AMENDMENTS.—(1) Section 1865 of the Social Security Act (42 U.S.C. 1395bb) is amended—

(A) in subsection (a)(1), as redesignated by subsection (a)(2), by striking ''In addition, if'' and inserting ''If'';

(B) in subsection (b), as so redesignated—

(i) by striking ''released to him by the Joint Commission on Accreditation of Hospitals,'' and inserting ''released to the Secretary by''; and

(ii) by striking the comma after ''Association'';

(C) in subsection (c), as so redesignated, by striking ''pursuant to subsection (a) or (b)(1)'' and inserting ''pursuant to subsection (a)(1)''; and

(D) in subsection (d), as so redesignated, by striking ''pursuant to subsection (a) or (b)(1)'' and inserting ''pursuant to subsection (a)(1)''.

(2) Section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)) is amended in the fourth sentence by striking ''and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals'' and inserting ''and (ii) is accredited by a national accreditation body recognized by the Secretary under section 1865(a), or is accredited by or approved by a program of the country in which such institution is located if the Secretary finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of such a national accreditation body.''.

(3) Section 1864(c) of the Social Security Act (42 U.S.C. 1395aa(c)) is amended by striking ''pursuant to subsection (a) or (b)(1) of section 1865'' and inserting ''pursuant to section 1865(a)(1)''.

(4) Section 1875(b) of the Social Security Act (42 U.S.C. 1395ll(b)) is amended by striking ''the Joint Commission on Accreditation of Hospitals,'' and inserting ''national accreditation bodies under section 1865(a)''.

(5) Section 1834(a)(20)(B) of the Social Security Act (42 U.S.C. 1395m(a)(20)(B)) is amended by striking ''section 1865(b)'' and inserting ''section 1865(a)''.

(6) Section 1852(e)(4)(C) of the Social Security Act (42 U.S.C. 1395w–22(e)(4)(C)) is amended by striking ''section 1865(b)(2)'' and inserting ''section 1865(a)(2)''.

(c) AUTHORITY TO RECOGNIZE THE JOINT COMMISSION AS A NATIONAL ACCREDITATION BODY.—The Secretary of Health and Human Services may recognize the Joint Commission as a national accreditation body under section 1865 of the Social Security Act (42 U.S.C. 1395bb), as amended by this section, upon such terms and conditions, and upon submission of such information, as the Secretary may require.

(d) EFFECTIVE DATE; TRANSITION RULE.—(1) Subject to paragraph (2), the amendments made by this section shall apply with respect to accreditations of hospitals granted on or after the date that is 24 months after the date of the enactment of this Act.

(2) For purposes of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), the amendments made by this section shall not effect the accreditation of a hospital by the Joint Commission, or under accreditation or comparable approval standards found to be essentially equivalent to accreditation or approval standards of the Joint Commission, for the period of time applicable under such accreditation.

Subtitle C—Provisions Relating to Part B

PART I—PHYSICIANS' SERVICES

SEC. 131. PHYSICIAN PAYMENT, EFFICIENCY, AND QUALITY IMPROVEMENTS.

(a) IN GENERAL.—

(1) INCREASE IN UPDATE FOR THE SECOND HALF OF 2008 AND FOR 2009.—

(A) FOR THE SECOND HALF OF 2008.—Section 1848(d)(8) of the Social Security Act (42 U.S.C. 1395w–4(d)(8)), as added by section 101 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(i) in the heading, by striking ''A PORTION OF'';

(ii) in subparagraph (A), by striking ''for the period beginning on January 1, 2008, and ending on June 30, 2008,''; and

(iii) in subparagraph (B)—

(I) in the heading, by striking ''THE REMAINING PORTION OF 2008 AND''; and

(II) by striking ''for the period beginning on July 1, 2008, and ending on December 31, 2008, and''.

(B) FOR 2009.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)), as amended by section 101 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by adding at the end the following new paragraph:

''(9) UPDATE FOR 2009.—

''(A) IN GENERAL.—Subject to paragraphs (7)(B) and (8)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2009, the update to the single conversion factor shall be 1.1 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2010 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2010 and subsequent years as if subparagraph (A) had never applied.''.

(3) REVISION OF THE PHYSICIAN ASSISTANCE AND QUALITY INITIATIVE FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(i) in subparagraph (A)—

(I) by striking clause (i)(III); and

(II) by striking clause (ii)(III); and

(ii) in subparagraph (B)—

(I) in clause (i), by adding ''and'' at the end;

(II) in clause (ii), by striking ''; and'' and inserting a period; and

(III) by striking clause (iii).

(B) CONTINGENCY.—If there is enacted, before, on, or after the date of the enactment of this Act, a Supplemental Appropriations Act, 2008 that includes a provision amending section 1848(l) of the Social Security Act, the alternative amendment described in subparagraph (C)—

(i) shall apply instead of the amendments made by subparagraph (A); and

(ii) shall be executed after such provision in such Supplemental Appropriations Act.

(C) ALTERNATIVE AMENDMENT DESCRIBED.—The alternative amendment described in this subparagraph is as follows: Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w–4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) and by the Supplemental Appropriations Act, 2008, is amended—

(i) in subparagraph (A)—

(I) by striking subclauses (III) and (IV) of clause (i); and

(II) by striking subclauses (III) and (IV) of clause (ii); and

(ii) in subparagraph (B)—

(I) in clause (i), by adding ''and'' at the end;

(II) in clause (ii), by striking the semicolon at the end and inserting a period; and

(III) by striking clauses (iii) and (iv).

(b) EXTENSION AND IMPROVEMENT OF THE QUALITY REPORTING SYSTEM.—

(1) SYSTEM.—Section 1848(k)(2) of the Social Security Act (42 U.S.C. 1395w–4(k)(2)), as amended by section 101(b)(1) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by adding at the end the following new subparagraphs:

''(C) FOR 2010 AND SUBSEQUENT YEARS.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of reporting data on quality measures for covered professional services furnished during 2010 and each subsequent year, subject to subsection (m)(3)(C), the quality measures (including electronic prescribing quality measures) specified under this paragraph shall be such measures selected by the Secretary from measures that have been endorsed by the entity with a contract with the Secretary under section 1890(a).

''(ii) EXCEPTION.—In the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a), the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary, such as the AQA alliance.

''(D) OPPORTUNITY TO PROVIDE INPUT ON MEASURES FOR 2009 AND SUBSEQUENT YEARS.—For each quality measure (including an electronic prescribing quality measure) adopted by the Secretary under subparagraph (B) (with respect to 2009) or subparagraph (C), the Secretary shall ensure that eligible professionals have the opportunity to provide input during the development, endorsement, or selection of measures applicable to servvices they furnish.''.

(2) REDESIGNATION OF REPORTING SYSTEM.—Subsection (c) of section 101 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), as amended by section 101(b)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is redesignated as subsection (m) of section 1848 of the Social Security Act.

(3) INCENTIVE PAYMENTS UNDER REPORTING SYSTEM.—Section 1848(m) of the Social Security Act, as redesignated by paragraph (2), is amended—

(A) by amending the heading to read as follows: ''INCENTIVE PAYMENTS FOR QUALITY REPORTING'';

(B) by striking paragraph (1) and inserting the following:

''(1) INCENTIVE PAYMENTS.—

''(A) IN GENERAL.—For 2007 through 2010, with respect to covered professional services furnished during a reporting period by an eligible professional, if—

''(i) there are any quality measures that have been established under the physician reporting system that are applicable to any such services furnished by such professional for such reporting period; and

''(ii) the eligible professional satisfactorily submits (as determined under this subsection) to the Secretary data on such quality measures in accordance with such reporting system for such reporting period,

in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) or, in the case of a group practice under paragraph (3)(C), to the group practice, from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to the applicable quality percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the reporting period) of the allowed charges under this part for all such covered professional services furnished by the eligible professional (or, in the case of a group practice under paragraph (3)(C), by the group practice) during the reporting period.

''(B) APPLICABLE QUALITY PERCENT.—For purposes of subparagraph (A), the term 'applicable quality percent' means—

''(i) for 2007 and 2008, 1.5 percent; and

''(ii) for 2009 and 2010, 2.0 percent.'';

(C) by striking paragraph (3) and redesignating paragraph (2) as paragraph (3);

(D) in paragraph (3), as so redesignated—

(i) in the matter preceding subparagraph (A), by striking ''For purposes'' and inserting the following:

''(A) IN GENERAL.—For purposes'';

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

(iii) in subparagraph (A), as added by clause (i), by adding at the end the following flush sentence:

''For years after 2008, quality measures for purposes of this subparagraph shall not include electronic prescribing quality measures.''; and

(iv) by adding at the end the following new subparagraphs:

''(C) SATISFACTORY REPORTING MEASURES FOR GROUP PRACTICES.—

''(i) IN GENERAL.—By January 1, 2010, the Secretary shall establish and have in place a process under which eligible professionals in a group practice (as defined by the Secretary) shall be treated as satisfactorily submitting data on quality measures under subparagraph (A) and as meeting the requirement described in subparagraph (B)(ii) for covered professional services for a reporting period (or, for purposes of subsection (a)(5), for a reporting period for a year) if, in lieu of reporting measures under subsection (k)(2)(C), the group practice reports measures determined appropriate by the Secretary, such as measures that target high-cost chronic conditions and preventive care, in a form and manner, and at a time, specified by the Secretary.

''(ii) STATISTICAL SAMPLING MODEL.—The process under clause (i) shall provide for the use of a statistical sampling model to submit data on measures, such as the model used under the Physician Group Practice demonstration project under section 1866A.

''(iii) NO DOUBLE PAYMENTS.—Payments to a group practice under this subsection by reason of the process under clause (i) shall be in lieu of the payments that would otherwise be made under this subsection to eligible professionals in the group practice for satisfactorily submitting data on quality measures.

''(D) AUTHORITY TO REVISE SATISFACTORILY REPORTING DATA.—For years after 2009, the Secretary, in consultation with stakeholders and experts, may revise the criteria under this subsection for satisfactorily submitting data on quality measures under subparagraph (A) and the criteria for submitting data on electronic prescribing quality measures under subparagraph (B)(ii).'';

(E) in paragraph (5)—

(i) in subparagraph (C), by inserting ''for 2007, 2008, and 2009,'' after ''provision of law,'';

(ii) in subparagraph (D)—

(I) in clause (i)—

(aa) by inserting ''for 2007 and 2008'' after ''under this subsection''; and

(bb) by striking ''paragraph (2)'' and inserting ''this subsection'';

(II) in clause (ii), by striking ''shall'' and inserting ''may establish procedures to''; and

(III) in clause (iii)—

(aa) by inserting ''(or, in the case of a group practice under paragraph (3)(C), the group practice)'' after ''an eligible professional'';

(bb) by striking ''bonus incentive payment'' and inserting ''incentive payment under this subsection''; and

(cc) by adding at the end the following new sentence: ''If such payments for such period have already been made, the Secretary shall recoup such payments from the eligible professional (or the group practice).'';

(iii) in subparagraph (E)—

(I) by striking ''(I) IN GENERAL.—'';

(II) by striking clause (ii);

(III) by redesignating subclauses (I) through (IV) as clauses (i) through (iv), respectively, and moving the indentation of such clauses 2 ems to the left;

(IV) in clause (ii), as so redesignated, by striking ''paragraph (2)'' and inserting ''this subsection''; and

(V) in clause (iv), as so redesignated—

(aa) by striking ''the bonus'' and inserting ''any''; and

(bb) by inserting ''and the payment adjustment under subsection (a)(5)(A)'' before the period at the end;

(iv) in subparagraph (F)—

(I) by striking ''2009, paragraph (3) shall not apply, and'' and inserting ''subsequent years,''; and

(II) by striking ''paragraph (2)'' and inserting ''this subsection''; and

(v) by adding at the end the following new subparagraph:

''(G) POSTING ON WEBSITE.—The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services, in an easily understandable format, a list of the names of the following:

''(i) The eligible professionals (or, in the case of reporting under paragraph (3)(C), the group practices) who satisfactorily submitted data on quality measures under this subsection.

''(ii) The eligible professionals (or, in the case of reporting under paragraph (3)(C), the group practices) who are successful electronic prescribers.''; and

(F) in paragraph (6), by striking subparagraph (C) and inserting the following:

''(C) REPORTING PERIOD.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the term 'reporting period' means—

''(I) for 2007, the period beginning on July 1, 2007, and ending on December 31, 2007; and

''(II) for 2008, 2009, 2010, and 2011, the entire year.

''(ii) AUTHORITY TO REVISE REPORTING PERIOD.—For years after 2009, the Secretary may revise the reporting period under clause (i) if the Secretary determines such revision is appropriate, produces valid results on measures reported, and is consistent with the goals of maximizing scientific validity and reducing administrative burden. If the Secretary revises such period pursuant to the preceding sentence, the term 'reporting period' shall mean such revised period.

''(iii) REFERENCE.—Any reference in this subsection to a reporting period with respect to the application of subsection (a)(5) shall be deemed a reference to the reporting period under subparagraph (D)(iii) of such subsection.''.

(4) INCLUSION OF QUALIFIED AUDIOLOGISTS AS ELIGIBLE PROFESSIONALS.—

(A) IN GENERAL.—Section 1848(k)(3)(B) of the Social Security Act (42 U.S.C. 1395w–4(k)(3)(B)), is amended by adding at the end the following new clause:

''(iv) Beginning with 2009, a qualified audiologist (as defined in section 1861(ll)(3)(B)).''.

(B) NO CHANGE IN BILLING.—Nothing in the amendment made by subparagraph (A) shall be construed to change the way in which billing for audiology services (as defined in section 1861(ll)(2) of the Social Security Act (42 U.S.C. 1395x(ll)(2))) occurs under title XVIII of such Act as of July 1, 2008.

(5) CONFORMING AMENDMENTS.—Section 1848(m) of the Social Security Act, as added and amended by paragraphs (2) and (3), is amended—

(A) in paragraph (5)—

(i) in subparagraph (A)—

(I) by striking ''section 1848(k) of the Social Security Act, as added by subsection (b),'' and inserting ''subsection (k)''; and

(II) by striking ''such section'' and inserting ''such subsection'';

(ii) in subparagraph (B), by striking ''of the Social Security Act (42 U.S.C. 1395l)'';

(iii) in subparagraph (E), in the matter preceding clause (i), by striking ''1869 or 1878 of the Social Security Act or otherwise'' and inserting ''1869, section 1878, or otherwise''; and

(iv) in subparagraph (F)—

(I) by striking ''paragraph (2)(B) of section 1848(k) of the Social Security Act (42 U.S.C. 1395w–4(k))'' and inserting ''subsection (k)(2)(B)''; and

(II) by striking ''paragraph (4) of such section'' and inserting ''subsection (k)(4)'';

(B) in paragraph (6)—

(i) in subparagraph (A), by striking ''section 1848(k)(3) of the Social Security Act, as added by subsection (b)'' and inserting ''subsection (k)(3)''; and

(ii) in subparagraph (B), by striking ''section 1848(k) of the Social Security Act, as added by subsection (b)'' and inserting ''subsection (k)''; and

(C) by striking paragraph (6)(D).

(6) NO AFFECT ON INCENTIVE PAYMENTS FOR 2007 OR 2008.—Nothing in the amendments made by this subsection or section 132 shall affect the operation of the provisions of section 1848(m) of the Social Security Act, as redesignated and amended by such subsection and section, with respect to 2007 or 2008.

(c) PHYSICIAN FEEDBACK PROGRAM TO IMPROVE EFFICIENCY AND CONTROL COSTS.—

(1) IN GENERAL.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4), as amended by subsection (b), is amended by adding at the end the following new subsection:

''(n) PHYSICIAN FEEDBACK PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary shall establish a Physician Feedback Program (in this subsection referred to as the 'Program') under which the Secretary shall use claims data under this title (and may use other data) to provide confidential reports to physicians (and, as determined appropriate by the Secretary, to groups of physicians) that measure the resources involved in furnishing care to individuals under this title. If determined appropriate by the Secretary, the Secretary may include information on the quality of care furnished to individuals under this title by the physician (or group of physicians) in such reports.

''(B) RESOURCE USE.—The resources described in subparagraph (A) may be measured—

''(i) on an episode basis;

''(ii) on a per capita basis; or

''(iii) on both an episode and a per capita basis.

''(2) IMPLEMENTATION.—The Secretary shall implement the Program by not later than January 1, 2009.

''(3) DATA FOR REPORTS.—To the extent practicable, reports under the Program shall be based on the most recent data available.

''(4) AUTHORITY TO FOCUS APPLICATION.—The Secretary may focus the application of the Program as appropriate, such as focusing the Program on—

''(A) physician specialties that account for a certain percentage of all spending for physicians' services under this title;

''(B) physicians who treat conditions that have a high cost or a high volume, or both, under this title;

''(C) physicians who use a high amount of resources compared to other physicians;

''(D) physicians practicing in certain geographic areas; or

''(E) physicians who treat a minimum number of individuals under this title.

''(5) AUTHORITY TO EXCLUDE CERTAIN INFORMATION IF INSUFFICIENT INFORMATION.—The

Secretary may exclude certain information regarding a service from a report under the Program with respect to a physician (or group of physicians) if the Secretary determines that there is insufficient information relating to that service to provide a valid report on that service.

''(6) ADJUSTMENT OF DATA.—To the extent practicable, the Secretary shall make appropriate adjustments to the data used in preparing reports under the Program, such as adjustments to take into account variations in health status and other patient characteristics.

''(7) EDUCATION AND OUTREACH.—The Secretary shall provide for education and outreach activities to physicians on the operation of, and methodologies employed under, the Program.

''(8) DISCLOSURE EXEMPTION.—Reports under the Program shall be exempt from disclosure under section 552 of title 5, United States Code.''.

(2) GAO STUDY AND REPORT ON THE PHYSICIAN FEEDBACK PROGRAM.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the Physician Feedback Program conducted under section 1848(n) of the Social Security Act, as added by paragraph (1), including the implementation of the Program.

(B) REPORT.—Not later than March 1, 2011, the Comptroller General of the United States shall submit a report to Congress containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

(d) PLAN FOR TRANSITION TO VALUE-BASED PURCHASING PROGRAM FOR PHYSICIANS AND OTHER PRACTITIONERS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop a plan to transition to a value-based purchasing program for payment under the Medicare program for covered professional services (as defined in section 1848(k)(3)(A) of the Social Security Act (42 U.S.C. 1395w–4(k)(3)(A))).

(2) REPORT.—Not later than May 1, 2010, the Secretary of Health and Human Services shall submit a report to Congress containing the plan developed under paragraph (1), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

SEC. 132. INCENTIVES FOR ELECTRONIC PRESCRIBING.

(a) INCENTIVE PAYMENTS.—Section 1848(m) of the Social Security Act, as added and amended by section 131(b), is amended—

(1) by inserting after paragraph (1), the following new paragraph:

''(2) INCENTIVE PAYMENTS FOR ELECTRONIC PRESCRIBING.—

''(A) IN GENERAL.—For 2009 through 2013, with respect to covered professional services furnished during a reporting period by an eligible professional, if the eligible professional is a successful electronic prescriber for such reporting period, in addition to the amount otherwise paid under this part, there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6)) or, in the case of a group practice under paragraph (3)(C), to the group practice, from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 an amount equal to the applicable electronic prescribing percent of the Secretary's estimate (based on claims submitted not later than 2 months after the end of the reporting period) of the allowed charges under this part for all such covered professional services furnished by the eligible professional (or, in the case of a group practice under paragraph (3)(C), by the group practice) during the reporting period.

''(B) LIMITATION WITH RESPECT TO ELECTRONIC PRESCRIBING QUALITY MEASURES.—The provisions of this paragraph and subsection (a)(5) shall not apply to an eligible professional (or, in the case of a group practice under paragraph (3)(C), to the group practice) if, for the reporting period (or, for purposes of subsection (a)(5), for the reporting period for a year)—

''(i) the allowed charges under this part for all covered professional services furnished by the eligible professional (or group, as applicable) for the codes to which the electronic prescribing quality measure applies (as identified by the Secretary and published on the Internet website of the Centers for Medicare & Medicaid Services as of January 1, 2008, and as subsequently modified by the Secretary) are less than 10 percent of the total of the allowed charges under this part for all such covered professional services furnished by the eligible professional (or the group, as applicable); or

''(ii) if determined appropriate by the Secretary, the eligible professional does not submit (including both electronically and non-electronically) a sufficient number (as determined by the Secretary) of prescriptions under part D.

If the Secretary makes the determination to apply clause (ii) for a period, then clause (i) shall not apply for such period.

''(C) APPLICABLE ELECTRONIC PRESCRIBING PERCENT.—For purposes of subparagraph (A), the term 'applicable electronic prescribing percent' means—

''(i) for 2009 and 2010, 2.0 percent;

''(ii) for 2011 and 2012, 1.0 percent; and

''(iii) for 2013, 0.5 percent.'';

(2) in paragraph (3), as redesignated by section 131(b)—

(A) in the heading, by inserting ''AND SUCCESSFUL ELECTRONIC PRESCRIBER'' after ''REPORTING''; and

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) SUCCESSFUL ELECTRONIC PRESCRIBER.—

''(i) IN GENERAL.—For purposes of paragraph (2) and subsection (a)(5), an eligible professional shall be treated as a successful electronic prescriber for a reporting period (or, for purposes of subsection (a)(5), for the reporting period for a year) if the eligible professional meets the requirement described in clause (ii), or, if the Secretary determines appropriate, the requirement described in clause (iii). If the Secretary makes the determination under the preceding sentence to apply the requirement described in clause (iii) for a period, then the requirement described in clause (ii) shall not apply for such period.

''(ii) REQUIREMENT FOR SUBMITTING DATA ON ELECTRONIC PRESCRIBING QUALITY MEASURES.—The requirement described in this clause is that, with respect to covered professional services furnished by an eligible professional during a reporting period (or, for purposes of subsection (a)(5), for the reporting period for a year), if there are any electronic prescribing quality measures that have been established under the physician reporting system and are applicable to any such services furnished by such professional for the period, such professional reported each such measure under such system in at least 50 percent of the cases in which such measure is reportable by such professional under such system.

''(iii) REQUIREMENT FOR ELECTRONICALLY PRESCRIBING UNDER PART D.—The requirement described in this clause is that the eligible professional electronically submitted a sufficient number (as determined by the Secretary) of prescriptions under part D during the reporting period (or, for purposes of subsection (a)(5), for the reporting period for a year).

''(iv) USE OF PART D DATA.—Notwithstanding sections 1860D-15(d)(2)(B) and 1860D-15(f)(2), the Secretary may use data regarding drug claims submitted for purposes of section 1860D-15 that are necessary for purposes of clause (iii), paragraph (2)(B)(ii), and paragraph (5)(G).

''(v) STANDARDS FOR ELECTRONIC PRESCRIBING.—To the extent practicable, in determining whether eligible professionals meet the requirements under clauses (ii) and (iii) for purposes of clause (i), the Secretary shall ensure that eligible professionals utilize electronic prescribing systems in compliance with standards established for such systems pursuant to the Part D Electronic Prescribing Program under section 1860D–4(e).''; and

(3) in paragraph (5)(E), by striking clause (iii) and inserting the following new clause:

''(iii) the determination of a successful electronic prescriber under paragraph (3), the limitation under paragraph (2)(B), and the exception under subsection (a)(5)(B); and''.

(b) INCENTIVE PAYMENT ADJUSTMENT.—Section 1848(a) of the Social Security Act (42 U.S.C. 1395w–4(a)) is amended by adding at the end the following new paragraph:

''(5) INCENTIVES FOR ELECTRONIC PRESCRIBING.—

''(A) ADJUSTMENT.—

''(i) IN GENERAL.—Subject to subparagraph (B) and subsection (m)(2)(B), with respect to covered professional services furnished by an eligible professional during 2012 or any subsequent year, if the eligible professional is not a successful electronic prescriber for the reporting period for the year (as determined under subsection (m)(3)(B)), the fee schedule amount for such services furnished by such professional during the year (including the fee schedule amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the fee schedule amount that would otherwise apply to such services under this subsection (determined after application of paragraph (3) but without regard to this paragraph).

''(ii) APPLICABLE PERCENT.—For purposes of clause (i), the term 'applicable percent' means—

''(I) for 2012, 99 percent;

''(II) for 2013, 98.5 percent; and

''(III) for 2014 and each subsequent year, 98 percent.

''(B) SIGNIFICANT HARDSHIP EXCEPTION.—The Secretary may, on a case-by-case basis, exempt an eligible professional from the application of the payment adjustment under subparagraph (A) if the Secretary determines, subject to annual renewal, that compliance with the requirement for being a successful electronic prescriber would result in a significant hardship, such as in the case of an eligible professional who practices in a rural area without sufficient Internet access.

''(C) APPLICATION.—

''(i) PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of subsection (k) shall apply for purposes of this paragraph in the same manner as they apply for purposes of such subsection.

''(ii) INCENTIVE PAYMENT VALIDATION RULES.—Clauses (ii) and (iii) of subsection (m)(5)(D) shall apply for purposes of this paragraph in a similar manner as they apply for purposes of such subsection.

''(D) DEFINITIONS.—For purposes of this paragraph:

''(i) ELIGIBLE PROFESSIONAL; COVERED PROFESSIONAL SERVICES.—The terms 'eligible professional' and 'covered professional services' have the meanings given such terms in subsection (k)(3).

''(ii) PHYSICIAN REPORTING SYSTEM.—The term 'physician reporting system' means the system established under subsection (k).

''(iii) REPORTING PERIOD.—The term 'reporting period' means, with respect to a year, a period specified by the Secretary.''.

(c) GAO REPORT ON ELECTRONIC PRESCRIBING.—Not later than September 1, 2012, the Comptroller General of the United States shall submit to Congress a report on the implementation of the incentives for electronic prescribing established under the provisions of, and amendments made by, this section. Such report shall include information regarding the following:

(1) The percentage of eligible professionals (as defined in section 1848(k)(3) of the Social Security Act (42 U.S.C. 1395w–4(k)(3)) that are using electronic prescribing systems, including a determination of whether less than 50 percent of eligible professionals are using electronic prescribing systems.

(2) If less than 50 percent of eligible professionals are using electronic prescribing systems, recommendations for increasing the use of electronic prescribing systems by eligible professionals, such as changes to the incentive payment adjustments established under section 1848(a)(5) of such Act, as added by subsection (b).

(3) The estimated savings to the Medicare program under title XVIII of such Act resulting from the use of electronic prescribing systems.

(4) Reductions in avoidable medical errors resulting from the use of electronic prescribing systems.

(5) The extent to which the privacy and security of the personal health information of Medicare beneficiaries is protected when such beneficiaries' prescription drug data and usage information is used for purposes other than their direct clinical care, including—

(A) whether information identifying the beneficiary is, and remains, removed from data regarding the beneficiary's prescription drug utilization; and

(B) the extent to which current law requires sufficient and appropriate oversight and audit capabilities to monitor the practice of prescription drug data mining.

(6) Such other recommendations and administrative action as the Comptroller General determines to be appropriate.

SEC. 133. EXPANDING ACCESS TO PRIMARY CARE SERVICES.

(a) REVISIONS TO THE MEDICARE MEDICAL HOME DEMONSTRATION PROJECT.—

(1) AUTHORITY TO EXPAND.—Section 204(b) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395b–1 note) is amended—

(A) in paragraph (1), by striking ''The project'' and inserting ''Subject to paragraph (3), the project''; and

(B) by adding at the end the following new paragraph:

''(3) EXPANSION.—The Secretary may expand the duration and the scope of the project under paragraph (1), to an extent determined appropriate by the Secretary, if the Secretary determines that such expansion will result in any of the following conditions being met:

''(A) The expansion of the project is expected to improve the quality of patient care without increasing spending under the Medicare program (not taking into account amounts available under subsection (g)).

''(B) The expansion of the project is expected to reduce spending under the Medicare program (not taking into account amounts available under subsection (g)) without reducing the quality of patient care.''.

(2) FUNDING AND APPLICATION.—Section 204 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395b–1 note) is amended by adding at the end the following new subsections:

''(g) FUNDING FROM SMI TRUST FUND.—There shall be available, from the Federal Supplementary Medical Insurance Trust Fund (under section 1841 of the Social Security Act (42 U.S.C. 1395t)), the amount of $100,000,000 to carry out the project.

''(h) APPLICATION.—Chapter 35 of title 44, United States Code, shall not apply to the conduct of the project.''.

(b) APPLICATION OF BUDGET-NEUTRALITY ADJUSTOR TO CONVERSION FACTOR.—Section 1848(c)(2)(B) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)) is amended by adding at the end the following new clause:

''(vi) ALTERNATIVE APPLICATION OF BUDGET-NEUTRALITY ADJUSTMENT.—Notwithstanding subsection (d)(9)(A), effective for fee schedules established beginning with 2009, with respect to the 5-year review of work relative value units used in fee schedules for 2007 and 2008, in lieu of continuing to apply budget-neutrality adjustments required under clause (ii) for 2007 and 2008 to work relative value units, the Secretary shall apply such budget-neutrality adjustments to the conversion factor otherwise determined for years beginning with 2009.''.

SEC. 134. EXTENSION OF FLOOR ON MEDICARE WORK GEOGRAPHIC ADJUSTMENT UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)), as amended by section 103 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking ''before July 1, 2008'' and inserting ''before January 1, 2010''.

(b) TREATMENT OF PHYSICIANS' SERVICES FURNISHED IN CERTAIN AREAS.—Section 1848(e)(1)(G) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(G)) is amended by adding at the end the following new sentence: ''For purposes of payment for services furnished in the State described in the preceding sentence on or after January 1, 2009, after calculating the work geographic index in subparagraph (A)(iii), the Secretary shall increase the work geographic index to 1.5 if such index would otherwise be less than 1.5''.

(c) TECHNICAL CORRECTION.—Section 602(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2301) is amended to read as follows:

''(1) in subparagraph (A), by striking 'subparagraphs (B), (C), and (E)' and inserting 'subparagraphs (B), (C), (E), and (G)'; and''.

SEC. 135. IMAGING PROVISIONS.

(a) ACCREDITATION REQUIREMENT.—

(1) ACCREDITATION REQUIREMENT.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by inserting after subsection (d) the following new subsection:

''(e) ACCREDITATION REQUIREMENT FOR ADVANCED DIAGNOSTIC IMAGING SERVICES.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—Beginning with January 1, 2012, with respect to the technical component of advanced diagnostic imaging services for which payment is made under the fee schedule established under section 1848(b) and that are furnished by a supplier, payment may only be made if such supplier is accredited by an accreditation organization designated by the Secretary under paragraph (2)(B)(i).

''(B) ADVANCED DIAGNOSTIC IMAGING SERVICES DEFINED.—In this subsection, the term 'advanced diagnostic imaging services' includes—

''(i) diagnostic magnetic resonance imaging, computed tomography, and nuclear medicine (including positron emission tomography); and

''(ii) such other diagnostic imaging services, including services described in section 1848(b)(4)(B) (excluding X-ray, ultrasound, and fluoroscopy), as specified by the Secretary in consultation with physician specialty organizations and other stakeholders.

''(C) SUPPLIER DEFINED.—In this subsection, the term 'supplier' has the meaning given such term in section 1861(d).

''(2) ACCREDITATION ORGANIZATIONS.—

''(A) FACTORS FOR DESIGNATION OF ACCREDITATION ORGANIZATIONS.—The Secretary shall consider the following factors in designating accreditation organizations under subparagraph (B)(i) and in reviewing and modifying the list of accreditation organizations designated pursuant to subparagraph (C):

''(i) The ability of the organization to conduct timely reviews of accreditation applications.

''(ii) Whether the organization has established a process for the timely integration of new advanced diagnostic imaging services into the organization's accreditation program.

''(iii) Whether the organization uses random site visits, site audits, or other strategies for ensuring accredited suppliers maintain adherence to the criteria described in paragraph (3).

''(iv) The ability of the organization to take into account the capacities of suppliers located in a rural area (as defined in section 1886(d)(2)(D)).

''(v) Whether the organization has established reasonable fees to be charged to suppliers applying for accreditation.

''(vi) Such other factors as the Secretary determines appropriate.

''(B) DESIGNATION.—Not later than January 1, 2010, the Secretary shall designate organizations to accredit suppliers furnishing the technical component of advanced diagnostic imaging services. The list of accreditation organizations so designated may be modified pursuant to subparagraph (C).

''(C) REVIEW AND MODIFICATION OF LIST OF ACCREDITATION ORGANIZATIONS.—

''(i) IN GENERAL.—The Secretary shall review the list of accreditation organizations designated under subparagraph (B) taking into account the factors under subparagraph (A). Taking into account the results of such review, the Secretary may, by regulation, modify the list of accreditation organizations designated under subparagraph (B).

''(ii) SPECIAL RULE FOR ACCREDITATIONS DONE PRIOR TO REMOVAL FROM LIST OF DESIGNATED ACCREDITATION ORGANIZATIONS.—In the case where the Secretary removes an organization from the list of accreditation organizations designated under subparagraph (B), any supplier that is accredited by the organization during the period beginning on the date on which the organization is designated as an accreditation organization under subparagraph (B) and ending on the date on which the organization is removed from such list shall be considered to have been accredited by an organization designated by the Secretary under subparagraph (B) for the remaining period such accreditation is in effect.

''(3) CRITERIA FOR ACCREDITATION.—The Secretary shall establish procedures to ensure that the criteria used by an accreditation organization designated under paragraph (2)(B) to evaluate a supplier that furnishes the technical component of advanced diagnostic imaging services for the purpose of accreditation of such supplier is specific to each imaging modality. Such criteria shall include—

''(A) standards for qualifications of medical personnel who are not physicians and who furnish the technical component of advanced diagnostic imaging services;

''(B) standards for qualifications and responsibilities of medical directors and supervising physicians, including standards that recognize the considerations described in paragraph (4);

''(C) procedures to ensure that equipment used in furnishing the technical component of advanced diagnostic imaging services meets performance specifications;

''(D) standards that require the supplier have procedures in place to ensure the safety of persons who furnish the technical component of advanced diagnostic imaging services and individuals to whom such services are furnished;

''(E) standards that require the establishment and maintenance of a quality assurance and quality control program by the supplier that is adequate and appropriate to ensure the reliability, clarity, and accuracy of the technical quality of diagnostic images produced by such supplier; and

''(F) any other standards or procedures the Secretary determines appropriate.

''(4) RECOGNITION IN STANDARDS FOR THE EVALUATION OF MEDICAL DIRECTORS AND SUPERVISING PHYSICIANS.—The standards described in paragraph (3)(B) shall recognize whether a medical director or supervising physician—

''(A) in a particular specialty receives training in advanced diagnostic imaging services in a residency program;

''(B) has attained, through experience, the necessary expertise to be a medical director or a supervising physician;

''(C) has completed any continuing medical education courses relating to such services; or

''(D) has met such other standards as the Secretary determines appropriate.

''(5) RULE FOR ACCREDITATIONS MADE PRIOR TO DESIGNATION.—In the case of a supplier that is accredited before January 1, 2010, by an accreditation organization designated by the Secretary under paragraph (2)(B) as of January 1, 2010, such supplier shall be considered to have been accredited by an organization designated by the Secretary under such paragraph as of January 1, 2012, for the remaining period such accreditation is in effect.''.

(2) CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (21), by striking ''or'' at the end;

(ii) in paragraph (22), by striking the period at the end and inserting ''; or''; and

(iii) by inserting after paragraph (22) the following new paragraph:

''(23) which are the technical component of advanced diagnostic imaging services described in section 1834(e)(1)(B) for which payment is made under the fee schedule established under section 1848(b) and that are furnished by a supplier (as defined in section 1861(d)), if such supplier is not accredited by an accreditation organization designated by the Secretary under section 1834(e)(2)(B).''.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to advanced diagnostic imaging services furnished on or after January 1, 2012.

(b) DEMONSTRATION PROJECT TO ASSESS THE APPROPRIATE USE OF IMAGING SERVICES.—

(1) CONDUCT OF DEMONSTRATION PROJECT.—

(A) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct a demonstration project using the models described in paragraph (2)(E) to collect data regarding physician compliance with appropriateness criteria selected under paragraph (2)(D) in order to determine the appropriateness of advanced diagnostic imaging services furnished to Medicare beneficiaries.

(B) ADVANCED DIAGNOSTIC IMAGING SERVICES.—In this subsection, the term ''advanced diagnostic imaging services'' has the meaning given such term in section 1834(e)(1)(B) of the Social Security Act, as added by subsection (a).

(C) AUTHORITY TO FOCUS DEMONSTRATION PROJECT.—The Secretary may focus the demonstration project with respect to certain advanced diagnostic imaging services, such as services that account for a large amount of expenditures under the Medicare program, services that have recently experienced a high rate of growth, or services for which appropriateness criteria exists.

(2) IMPLEMENTATION AND DESIGN OF DEMONSTRATION PROJECT.—

(A) IMPLEMENTATION AND DURATION.—

(i) IMPLEMENTATION.—The Secretary shall implement the demonstration project under this subsection not later than January 1, 2010.

(ii) DURATION.—The Secretary shall conduct the demonstration project under this subsection for a 2-year period.

(B) APPLICATION AND SELECTION OF PARTICIPATING PHYSICIANS.—

(i) APPLICATION.—Each physician that desires to participate in the demonstration project under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(ii) SELECTION.—The Secretary shall select physicians to participate in the demonstration project under this subsection from among physicians submitting applications under clause (i). The Secretary shall ensure that the physicians selected—

(I) represent a wide range of geographic areas, demographic characteristics (such as urban, rural, and suburban), and practice settings (such as private and academic practices); and

(II) have the capability to submit data to the Secretary (or an entity under a subcontract with the Secretary) in an electronic format in accordance with standards established by the Secretary.

(C) ADMINISTRATIVE COSTS AND INCENTIVES.—The Secretary shall—

(i) reimburse physicians for reasonable administrative costs incurred in participating in the demonstration project under this subsection; and

(ii) provide reasonable incentives to physicians to encourage participation in the demonstration project under this subsection.

(D) USE OF APPROPRIATENESS CRITERIA.—

(i) IN GENERAL.—The Secretary, in consultation with medical specialty societies and other stakeholders, shall select criteria with respect to the clinical appropriateness of advanced diagnostic imaging services for use in the demonstration project under this subsection.

(ii) CRITERIA SELECTED.—Any criteria selected under clause (i) shall—

(I) be developed or endorsed by a medical specialty society; and

(II) be developed in adherence to appropriateness principles developed by a consensus organization, such as the AQA alliance.

(E) MODELS FOR COLLECTING DATA REGARDING PHYSICIAN COMPLIANCE WITH SELECTED CRITERIA.—Subject to subparagraph (H), in carrying out the demonstration project under this subsection, the Secretary shall use each of the following models for collecting data regarding physician compliance with appropriateness criteria selected under subparagraph (D):

(i) A model described in subparagraph (F).

(ii) A model described in subparagraph (G).

(iii) Any other model that the Secretary determines to be useful in evaluating the use of appropriateness criteria for advanced diagnostic imaging services.

(F) POINT OF SERVICE MODEL DESCRIBED.—A model described in this subparagraph is a model that—

(i) uses an electronic or paper intake form that—

(I) contains a certification by the physician furnishing the imaging service that the data on the intake form was confirmed with the Medicare beneficiary before the service was furnished;

(II) contains standardized data elements for diagnosis, service ordered, service furnished, and such other information determined by the Secretary, in consultation with medical specialty societies and other stakeholders, to be germane to evaluating the effectiveness of the use of appropriateness criteria selected under subparagraph (D); and

(III) is accessible to physicians participating in the demonstration project under this subsection in a format that allows for the electronic submission of such form; and

(ii) provides for feedback reports in accordance with paragraph (3)(B).

(G) POINT OF ORDER MODEL DESCRIBED.—A model described in this subparagraph is a model that—

(i) uses a computerized order-entry system that requires the transmittal of relevant supporting information at the time of referral for advanced diagnostic imaging services and provides automated decision-support feedback to the referring physician regarding the appropriateness of furnishing such imaging services; and

(ii) provides for feedback reports in accordance with paragraph (3)(B).

(H) LIMITATION.—In no case may the Secretary use prior authorization—

(i) as a model for collecting data regarding physician compliance with appropriateness criteria selected under subparagraph (D) under the demonstration project under this subsection; or

(ii) under any model used for collecting such data under the demonstration project.

(I) REQUIRED CONTRACTS AND PERFORMANCE STANDARDS FOR CERTAIN ENTITIES.—

(i) IN GENERAL.—The Secretary shall enter into contracts with entities to carry out the model described in subparagraph (G).

(ii) PERFORMANCE STANDARDS.—The Secretary shall establish and enforce performance standards for such entities under the contracts entered into under clause (i), including performance standards with respect to—

(I) the satisfaction of Medicare beneficiaries who are furnished advanced diagnostic imaging services by a physician participating in the demonstration project;

(II) the satisfaction of physicians participating in the demonstration project;

(III) if applicable, timelines for the provision of feedback reports under paragraph (3)(B); and

(IV) any other areas determined appropriate by the Secretary.

(3) COMPARISON OF UTILIZATION OF ADVANCED DIAGNOSTIC IMAGING SERVICES AND FEEDBACK REPORTS.—

(A) COMPARISON OF UTILIZATION OF ADVANCED DIAGNOSTIC IMAGING SERVICES.—The Secretary shall consult with medical specialty societies and other stakeholders to develop mechanisms for comparing the utilization of advanced diagnostic imaging services by physicians participating in the demonstration project under this subsection against—

(i) the appropriateness criteria selected under paragraph (2)(D); and

(ii) to the extent feasible, the utilization of such services by physicians not participating in the demonstration project.

(B) FEEDBACK REPORTS.—The Secretary shall, in consultation with medical specialty societies and other stakeholders, develop mechanisms to provide feedback reports to physicians participating in the demonstration project under this subsection. Such feedback reports shall include—

(i) a profile of the rate of compliance by the physician with appropriateness criteria selected under paragraph (2)(D), including a comparison of—

(I) the rate of compliance by the physician with such criteria; and

(II) the rate of compliance by the physician's peers (as defined by the Secretary) with such criteria; and

(ii) to the extent feasible, a comparison of—

(I) the rate of utilization of advanced diagnostic imaging services by the physician; and

(II) the rate of utilization of such services by the physician's peers (as defined by the Secretary) who are not participating in the demonstration project.

(4) CONDUCT OF DEMONSTRATION PROJECT AND WAIVER.—

(A) CONDUCT OF DEMONSTRATION PROJECT.—Chapter 35 of title 44, United States Code, shall not apply to the conduct of the demonstration project under this subsection.

(B) WAIVER.—The Secretary may waive such provisions of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.) as may be necessary to carry out the demonstration project under this subsection.

(5) EVALUATION AND REPORT.—

(A) EVALUATION.—The Secretary shall evaluate the demonstration project under this subsection to—

(i) assess the timeliness and efficacy of the demonstration project;

(ii) assess the performance of entities under a contract entered into under paragraph (2)(I)(i);

(iii) analyze data—

(I) on the rates of appropriate, uncertain, and inappropriate advanced diagnostic imaging services furnished by physicians participating in the demonstration project;

(II) on patterns and trends in the appropriateness and inappropriateness of such services furnished by such physicians;

(III) on patterns and trends in national and regional variations of care with respect to the furnishing of such services; and

(IV) on the correlation between the appropriateness of the services furnished and image results; and

(iv) address—

(I) the thresholds used under the demonstration project to identify acceptable and outlier levels of performance with respect to the appropriateness of advanced diagnostic imaging services furnished;

(II) whether prospective use of appropriateness criteria could have an effect on the volume of such services furnished;

(III) whether expansion of the use of appropriateness criteria with respect to such services to a broader population of Medicare beneficiaries would be advisable;

(IV) whether, under such an expansion, physicians who demonstrate consistent compliance with such appropriateness criteria should be exempted from certain requirements;

(V) the use of incident-specific versus practice-specific outlier information in formulating future recommendations with respect to the use of appropriateness criteria for such services under the Medicare program; and

(VI) the potential for using methods (including financial incentives), in addition to those used under the models under the demonstration project, to ensure compliance with such criteria.

(B) REPORT.—Not later than 1 year after the completion of the demonstration project under this subsection, the Secretary shall submit to Congress a report containing the results of the evaluation of the demonstration project conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

(6) FUNDING.—The Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) of $10,000,000, for carrying out the demonstration project under this subsection (including costs associated with administering the demonstration project, reimbursing physicians for administrative costs and providing incentives to encourage participation under paragraph (2)(C), entering into contracts under paragraph (2)(I), and evaluating the demonstration project under paragraph (5)).

(c) GAO STUDY AND REPORTS ON ACCREDITATION REQUIREMENT FOR ADVANCED DIAGNOSTIC IMAGING SERVICES.—

(1) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States (in this subsection referred to as the ''Comptroller General'') shall conduct a study, by imaging modality, on—

(i) the effect of the accreditation requirement under section 1834(e) of the Social Security Act, as added by subsection (a); and

(ii) any other relevant questions involving access to, and the value of, advanced diagnostic imaging services for Medicare beneficiaries.

(B) ISSUES.—The study conducted under subparagraph (A) shall examine the following:

(i) The impact of such accreditation requirement on the number, type, and quality of imaging services furnished to Medicare beneficiaries.

(ii) The cost of such accreditation requirement, including costs to facilities of compliance with such requirement and costs to the Secretary of administering such requirement.

(iii) Access to imaging services by Medicare beneficiaries, especially in rural areas, before and after implementation of such accreditation requirement.

(iv) Such other issues as the Secretary determines appropriate.

(2) REPORTS.—

(A) PRELIMINARY REPORT.—Not later than March 1, 2013, the Comptroller General shall submit a preliminary report to Congress on the study conducted under paragraph (1).

(B) FINAL REPORT.—Not later than March 1, 2014, the Comptroller General shall submit a final report to Congress on the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 136. EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), and section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking ''2007, and the first 6 months of 2008'' and inserting ''2007, 2008, and 2009''.

SEC. 137. ACCOMMODATION OF PHYSICIANS ORDERED TO ACTIVE DUTY IN THE ARMED SERVICES.

Section 1842(b)(6)(D)(iii) of the Social Security Act (42 U.S.C. 1395u(b)(6)(D)(iii)), as amended by section 116 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking ''(before July 1, 2008)''.

SEC. 138. ADJUSTMENT FOR MEDICARE MENTAL HEALTH SERVICES.

(a) PAYMENT ADJUSTMENT.—

(1) IN GENERAL.—For purposes of payment for services furnished under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) during the period beginning on July 1, 2008, and ending on December 31, 2009, the Secretary of Health and Human Services shall increase the fee schedule otherwise applicable for specified services by 5 percent.

(2) NONAPPLICATION OF BUDGET-NEUTRALITY.—The budget-neutrality provision of section 1848(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–4(c)(2)(B)(ii)) shall not apply to the adjustments described in paragraph (1).

(b) DEFINITION OF SPECIFIED SERVICES.—In this section, the term ''specified services'' means procedure codes for services in the categories of the Health Care Common Procedure Coding System, established by the Secretary of Health and Human Services under section 1848(c)(5) of the Social Security Act (42 U.S.C. 1395w–4(c)(5)), as of July 1, 2007, and as subsequently modified by the Secretary, consisting of psychiatric therapeutic procedures furnished in office or other outpatient facility settings or in inpatient hospital, partial hospital, or residential care facility settings, but only with respect to such services in such categories that are in the subcategories of services which are—

(1) insight oriented, behavior modifying, or supportive psychotherapy; or

(2) interactive psychotherapy.

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this section by program instruction or otherwise.

SEC. 139. IMPROVEMENTS FOR MEDICARE ANESTHESIA TEACHING PROGRAMS.

(a) SPECIAL PAYMENT RULE FOR TEACHING ANESTHESIOLOGISTS.—Section 1848(a) of the Social Security Act (42 U.S.C. 1395w–4(a)), as amended by section 132(b), is amended—

(1) in paragraph (4)(A), by inserting ''except as provided in paragraph (5),'' after ''anesthesia cases,''; and

(2) by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR TEACHING ANESTHESIOLOGISTS.—With respect to physicians' services furnished on or after January 1, 2010, in the case of teaching anesthesiologists involved in the training of physician residents in a single anesthesia case or two concurrent anesthesia cases, the fee schedule amount to be applied shall be 100 percent of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the teaching anesthesiologist alone and paragraph (4) shall not apply if—

''(A) the teaching anesthesiologist is present during all critical or key portions of the anesthesia service or procedure involved; and

''(B) the teaching anesthesiologist (or another anesthesiologist with whom the teaching anesthesiologist has entered into an arrangement) is immediately available to furnish anesthesia services during the entire procedure.''.

(b) TREATMENT OF CERTIFIED REGISTERED NURSE ANESTHETISTS.—With respect to items and services furnished on or after January 1, 2010, the Secretary of Health and Human

Services shall make appropriate adjustments to payments under the Medicare program under title XVIII of the Social Security Act for teaching certified registered nurse anesthetists to implement a policy with respect to teaching certified registered nurse anesthetists that—

(1) is consistent with the adjustments made by the special rule for teaching anesthesiologists under section 1848(a)(6) of the Social Security Act, as added by subsection (a); and

(2) maintains the existing payment differences between teaching anesthesiologists and teaching certified registered nurse anesthetists.

PART II—OTHER PAYMENT AND COVERAGE IMPROVEMENTS

SEC. 141. EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)), as amended by section 105 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking ''June 30, 2008'' and inserting ''December 31, 2009''.

SEC. 142. EXTENSION OF PAYMENT RULE FOR BRACHYTHERAPY AND THERAPEUTIC RADIOPHARMACEUTICALS.

Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C. 1395l(t)(16)(C)), as amended by section 106 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking ''July 1, 2008'' each place it appears and inserting ''January 1, 2010''.

SEC. 143. SPEECH-LANGUAGE PATHOLOGY SERVICES.

(a) IN GENERAL.—Section 1861(ll) of the Social Security Act (42 U.S.C. 1395x(ll)) is amended—

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

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

''(2) The term 'outpatient speech-language pathology services' has the meaning given the term 'outpatient physical therapy services' in subsection (p), except that in applying such subsection—

''(A) 'speech-language pathology' shall be substituted for 'physical therapy' each place it appears; and

''(B) 'speech-language pathologist' shall be substituted for 'physical therapist' each place it appears.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1832(a)(2)(C) of the Social Security Act (42 U.S.C. 1395k(a)(2)(C)) is amended—

(A) by striking ''and outpatient'' and inserting '', outpatient''; and

(B) by inserting before the semicolon at the end the following: '', and outpatient speech-language pathology services (other than services to which the second sentence of section 1861(p) applies through the application of section 1861(ll)(2))''.

(2) Subparagraphs (A) and (B) of section 1833(a)(8) of the Social Security Act (42 U.S.C. 1395l(a)(8)) are each amended by striking ''(which includes outpatient speech-language pathology services)'' and inserting '', outpatient speech-language pathology services,''.

(3) Section 1833(g)(1) of the Social Security Act (42 U.S.C. 1395l(g)(1)) is amended—

(A) by inserting ''and speech-language pathology services of the type described in such section through the application of section 1861(ll)(2)'' after ''1861(p)''; and

(B) by inserting ''and speech-language pathology services'' after ''and physical therapy services''.

(4) The second sentence of section 1835(a) of the Social Security Act (42 U.S.C. 1395n(a)) is amended—

(A) by striking ''section 1861(g)'' and inserting ''subsection (g) or (ll)(2) of section 1861'' each place it appears; and

(B) by inserting ''or outpatient speech-language pathology services, respectively'' after ''occupational therapy services''.

(5) Section 1861(p) of the Social Security Act (42 U.S.C. 1395x(p)) is amended by striking the fourth sentence.

(6) Section 1861(s)(2)(D) of the Social Security Act (42 U.S.C. 1395x(s)(2)(D)) is amended by inserting '', outpatient speech-language pathology services,'' after ''physical therapy services''.

(7) Section 1862(a)(20) of the Social Security Act (42 U.S.C. 1395y(a)(20)) is amended—

(A) by striking ''outpatient occupational therapy services or outpatient physical therapy services'' and inserting ''outpatient physical therapy services, outpatient speech-language pathology services, or outpatient occupational therapy services''; and

(B) by striking ''section 1861(g)'' and inserting ''subsection (g) or (ll)(2) of section 1861''.

(8) Section 1866(e)(1) of the Social Security Act (42 U.S.C. 1395cc(e)(1)) is amended—

(A) by striking ''section 1861(g)'' and inserting ''subsection (g) or (ll)(2) of section 1861'' the first two places it appears;

(B) by striking ''defined) or'' and inserting ''defined),''; and

(C) by inserting before the semicolon at the end the following: '', or (through the operation of section 1861(ll)(2)) with respect to the furnishing of outpatient speech-language pathology''.

(9) Section 1877(h)(6) of the Social Security Act (42 U.S.C. 1395nn(h)(6)) is amended by adding at the end the following new subparagraph:

''(L) Outpatient speech-language pathology services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after July 1, 2009.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect existing regulations and policies of the Centers for Medicare & Medicaid Services that require physician oversight of care as a condition of payment for speech-language pathology services under part B of the Medicare program.

SEC. 144. PAYMENT AND COVERAGE IMPROVEMENTS FOR PATIENTS WITH CHRONIC OBSTRUCTIVE PULMONARY DISEASE AND OTHER CONDITIONS.

(a) COVERAGE OF PULMONARY AND CARDIAC REHABILITATION.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 101(a), is amended—

(A) in subsection (s)(2)—

(i) in subparagraph (AA), by striking ''and'' at the end;

(ii) by adding at the end the following new subparagraphs:

''(CC) items and services furnished under a cardiac rehabilitation program (as defined in subsection (eee)(1)) or under a pulmonary rehabilitation program (as defined in subsection (fff)(1)); and

''(DD) items and services furnished under an intensive cardiac rehabilitation program (as defined in subsection (eee)(4));''; and

(B) by adding at the end the following new subsections:

''Cardiac Rehabilitation Program; Intensive Cardiac Rehabilitation Program

''(eee)(1) The term 'cardiac rehabilitation program' means a physician-supervised program (as described in paragraph (2)) that furnishes the items and services described in paragraph (3).

''(2) A program described in this paragraph is a program under which—

''(A) items and services under the program are delivered—

''(i) in a physician's office;

''(ii) in a hospital on an outpatient basis; or

''(iii) in other settings determined appropriate by the Secretary.

''(B) a physician is immediately available and accessible for medical consultation and medical emergencies at all times items and services are being furnished under the program, except that, in the case of items and services furnished under such a program in a hospital, such availability shall be presumed; and

''(C) individualized treatment is furnished under a written plan established, reviewed, and signed by a physician every 30 days that describes—

''(i) the individual's diagnosis;

''(ii) the type, amount, frequency, and duration of the items and services furnished under the plan; and

''(iii) the goals set for the individual under the plan.

''(3) The items and services described in this paragraph are—

''(A) physician-prescribed exercise;

''(B) cardiac risk factor modification, including education, counseling, and behavioral intervention (to the extent such education, counseling, and behavioral intervention is closely related to the individual's care and treatment and is tailored to the individual's needs);

''(C) psychosocial assessment;

''(D) outcomes assessment; and

''(E) such other items and services as the Secretary may determine, but only if such items and services are—

''(i) reasonable and necessary for the diagnosis or active treatment of the individual's condition;

''(ii) reasonably expected to improve or maintain the individual's condition and functional level; and

''(iii) furnished under such guidelines relating to the frequency and duration of such items and services as the Secretary shall establish, taking into account accepted norms of medical practice and the reasonable expectation of improvement of the individual.

''(4)(A) The term 'intensive cardiac rehabilitation program' means a physician-supervised program (as described in paragraph (2)) that furnishes the items and services described in paragraph (3) and has shown, in peer-reviewed published research, that it accomplished—

''(i) one or more of the following:

''(I) positively affected the progression of coronary heart disease; or

''(II) reduced the need for coronary bypass surgery; or

''(III) reduced the need for percutaneous coronary interventions; and

''(ii) a statistically significant reduction in 5 or more of the following measures from their level before receipt of cardiac rehabilitation services to their level after receipt of such services:

''(I) low density lipoprotein;

''(II) triglycerides;

''(III) body mass index;

''(IV) systolic blood pressure;

''(V) diastolic blood pressure; or

''(VI) the need for cholesterol, blood pressure, and diabetes medications.

''(B) To be eligible for an intensive cardiac rehabilitation program, an individual must have—

''(i) had an acute myocardial infarction within the preceding 12 months;

''(ii) had coronary bypass surgery;

''(iii) stable angina pectoris;

''(iv) had heart valve repair or replacement;

''(v) had percutaneous transluminal coronary angioplasty (PTCA) or coronary stenting; or

''(vi) had a heart or heart-lung transplant.

''(C) An intensive cardiac rehabilitation program may be provided in a series of 72 one-hour sessions (as defined in section 1848(b)(5)), up to 6 sessions per day, over a period of up to 18 weeks.

''(5) The Secretary shall establish standards to ensure that a physician with expertise in the management of individuals with cardiac pathophysiology who is licensed to practice medicine in the State in which a cardiac rehabilitation program (or the intensive cardiac rehabilitation program, as the case may be) is offered—

''(A) is responsible for such program; and

''(B) in consultation with appropriate staff, is involved substantially in directing the progress of individual in the program.

''Pulmonary Rehabilitation Program

''(fff)(1) The term 'pulmonary rehabilitation program' means a physician-supervised program (as described in subsection (eee)(2) with respect to a program under this subsection) that furnishes the items and services described in paragraph (2).

''(2) The items and services described in this paragraph are—

''(A) physician-prescribed exercise;

''(B) education or training (to the extent the education or training is closely and clearly related to the individual's care and treatment and is tailored to such individual's needs);

''(C) psychosocial assessment;

''(D) outcomes assessment; and

''(E) such other items and services as the Secretary may determine, but only if such items and services are—

''(i) reasonable and necessary for the diagnosis or active treatment of the individual's condition;

''(ii) reasonably expected to improve or maintain the individual's condition and functional level; and

''(iii) furnished under such guidelines relating to the frequency and duration of such items and services as the Secretary shall establish, taking into account accepted norms of medical practice and the reasonable expectation of improvement of the individual.

''(3) The Secretary shall establish standards to ensure that a physician with expertise in the management of individuals with respiratory pathophysiology who is licensed to practice medicine in the State in which a pulmonary rehabilitation program is offered—

''(A) is responsible for such program; and

''(B) in consultation with appropriate staff, is involved substantially in directing the progress of individual in the program.''.

(2) PAYMENT FOR INTENSIVE CARDIAC REHABILITATION PROGRAMS.—

(A) INCLUSION IN PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(DD),'' after ''(2)(AA),''.

(B) CONFORMING AMENDMENT.—Section 1848(b) of the Social Security Act (42 U.S.C. 1395w–4(b)) is amended by adding at the end the following new paragraph:

''(5) TREATMENT OF INTENSIVE CARDIAC REHABILITATION PROGRAM.—

''(A) IN GENERAL.—In the case of an intensive cardiac rehabilitation program described in section 1861(eee)(4), the Secretary shall substitute the Medicare OPD fee schedule amount established under the prospective payment system for hospital outpatient department service under paragraph (3)(D) of section 1833(t) for cardiac rehabilitation (under HCPCS codes 93797 and 93798 for calendar year 2007, or any succeeding HCPCS codes for cardiac rehabilitation).

''(B) DEFINITION OF SESSION.—Each of the services described in subparagraphs (A) through (E) of section 1861(eee)(3), when furnished for one hour, is a separate session of intensive cardiac rehabilitation.

''(C) MULTIPLE SESSIONS PER DAY.—Payment may be made for up to 6 sessions per day of the series of 72 one-hour sessions of intensive cardiac rehabilitation services described in section 1861(eee)(4)(B).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after January 1, 2010.

(b) REPEAL OF TRANSFER OF OWNERSHIP OF OXYGEN EQUIPMENT.—

(1) IN GENERAL.—Section 1834(a)(5)(F) of the Social Security Act (42 U.S.C. 1395m(a)(5)(F)) is amended—

(A) in the heading, by striking ''OWNERSHIP OF EQUIPMENT'' and inserting ''RENTAL CAP''; and

(B) by striking clause (ii) and inserting the following:

''(ii) PAYMENTS AND RULES AFTER RENTAL CAP.—After the 36th continuous month during which payment is made for the equipment under this paragraph—

''(I) the supplier furnishing such equipment under this subsection shall continue to furnish the equipment during any period of medical need for the remainder of the reasonable useful lifetime of the equipment, as determined by the Secretary;

''(II) payments for oxygen shall continue to be made in the amount recognized for oxygen under paragraph (9) for the period of medical need; and

''(III) maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the equipment), and such payments shall be in an amount determined to be appropriate by the Secretary.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2009.

SEC. 145. CLINICAL LABORATORY TESTS.

(a) REPEAL OF MEDICARE COMPETITIVE BIDDING DEMONSTRATION PROJECT FOR CLINICAL LABORATORY SERVICES.—

(1) IN GENERAL.—Section 1847 of the Social Security Act (42 U.S.C. 1395w–3) is amended by striking subsection (e).

(2) CONFORMING AMENDMENTS.—Section 1833(a)(1)(D) of the Social Security Act (42 U.S.C. 1395l(a)(1)(D)) is amended—

(A) by inserting ''or'' before ''(ii)''; and

(B) by striking ''or (iii) on the basis'' and all that follows before the comma at the end.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) CLINICAL LABORATORY TEST FEE SCHEDULE UPDATE ADJUSTMENT.—Section 1833(h)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)(ii)) is amended by inserting ''minus, for each of the years 2009 through 2013, 0.5 percentage points'' after ''city average)''.

SEC. 146. IMPROVED ACCESS TO AMBULANCE SERVICES.

(a) EXTENSION OF INCREASED MEDICARE PAYMENTS FOR GROUND AMBULANCE SERVICES.—Section 1834(l)(13) of the Social Security Act (42 U.S.C. 1395m(l)(13)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting ''and for such services furnished on or after July 1, 2008, and before January 1, 2010'' after ''2007,'';

(B) in clause (i), by inserting ''(or 3 percent if such service is furnished on or after July 1, 2008, and before January 1, 2010)'' after ''2 percent''; and

(C) in clause (ii), by inserting ''(or 2 percent if such service is furnished on or after July 1, 2008, and before January 1, 2010)'' after ''1 percent''; and

(2) in subparagraph (B)—

(A) in the heading, by striking ''2006'' and inserting ''APPLICABLE PERIOD''; and

(B) by inserting ''applicable'' before ''period''.

(b) AIR AMBULANCE PAYMENT IMPROVEMENTS.—

(1) TREATMENT OF CERTAIN AREAS FOR PAYMENT FOR AIR AMBULANCE SERVICES UNDER THE AMBULANCE FEE SCHEDULE.—Notwithstanding any other provision of law, for purposes of making payments under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) for air ambulance services furnished during the period beginning on July 1, 2008, and ending on December 31, 2009, any area that was designated as a rural area for purposes of making payments under such section for air ambulance services furnished on December 31, 2006, shall be treated as a rural area for purposes of making payments under such section for air ambulance services furnished during such period.

(2) CLARIFICATION REGARDING SATISFACTION OF REQUIREMENT OF MEDICALLY NECESSARY.—

(A) IN GENERAL.—Section 1834(l)(14)(B)(i) of the Social Security Act (42 U.S.C. 1395m(l)(14)(B)(i)) is amended by striking ''reasonably determines or certifies'' and inserting ''certifies or reasonably determines''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 147. EXTENSION AND EXPANSION OF THE MEDICARE HOLD HARMLESS PROVISION UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT (HOPD) SERVICES FOR CERTAIN HOSPITALS.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''2009'' and inserting ''2010''; and

(B) by striking the second sentence and inserting the following new sentence: ''For purposes of the preceding sentence, the applicable percentage shall be 95 percent with respect to covered OPD services furnished in 2006, 90 percent with respect to such services furnished in 2007, and 85 percent with respect to such services furnished in 2008 or 2009.''; and

(2) by adding at the end the following new subclause:

''(III) In the case of a sole community hospital (as defined in section 1886(d)(5)(D)(iii)) that has not more than 100 beds, for covered OPD services furnished on or after January 1, 2009, and before January 1, 2010, for which the PPS amount is less than the pre-BBA amount, the amount of payment under this subsection shall be increased by 85 percent of the amount of such difference.''.

SEC. 148. CLARIFICATION OF PAYMENT FOR CLINICAL LABORATORY TESTS FURNISHED BY CRITICAL ACCESS HOSPITALS.

(a) IN GENERAL.—Section 1834(g)(4) of the Social Security Act (42 U.S.C. 1395m(g)(4)) is amended—

(1) in the heading, by striking ''NO BENEFICIARY COST-SHARING FOR'' and inserting ''TREATMENT OF''; and

(2) by adding at the end the following new sentence: ''For purposes of the preceding sentence and section 1861(mm)(3), clinical diagnostic laboratory services furnished by a critical access hospital shall be treated as being furnished as part of outpatient critical access services without regard to whether the individual with respect to whom such services are furnished is physically present in the critical access hospital, or in a skilled

nursing facility or a clinic (including a rural health clinic) that is operated by a critical access hospital, at the time the specimen is collected.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after July 1, 2009.

SEC. 149. ADDING CERTAIN ENTITIES AS ORIGINATING SITES FOR PAYMENT OF TELEHEALTH SERVICES.

(a) IN GENERAL.—Section 1834(m)(4)(C)(ii) of the Social Security Act (42 U.S.C. 1395m(m)(4)(C)(ii)) is amended by adding at the end the following new subclauses:

''(VI) A hospital-based or critical access hospital-based renal dialysis center (including satellites).

''(VII) A skilled nursing facility (as defined in section 1819(a)).

''(VIII) A community mental health center (as defined in section 1861(ff)(3)(B)).''.

(b) CONFORMING AMENDMENT.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting ''telehealth services furnished under section 1834(m)(4)(C)(ii)(VII),'' after ''section 1861(s)(2),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2009.

SEC. 150. MEDPAC STUDY AND REPORT ON IMPROVING CHRONIC CARE DEMONSTRATION PROGRAMS.

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the ''Commission'') shall conduct a study on the feasability and advisability of establishing a Medicare Chronic Care Practice Research Network that would serve as a standing network of providers testing new models of care coordination and other care approaches for chronically ill beneficiaries, including the initiation, operation, evaluation, and, if appropriate, expansion of such models to the broader Medicare patient population. In conducting such study, the Commission shall take into account the structure, implementation, and results of prior and existing care coordination and disease management demonstrations and pilots, including the Medicare Coordinated Care Demonstration Project under section 4016 of the Balanced Budget Act of 1997 (42 U.S.C. 1395b–1 note) and the chronic care improvement programs under section 1807 of the Social Security Act (42 U.S.C. 1395b–8), commonly known to as ''Medicare Health Support''.

(b) REPORT.—Not later than June 15, 2009, the Commission shall submit to Congress a report containing the results of the study conducted under subsection (a).

SEC. 151. INCREASE OF FQHC PAYMENT LIMITS.

(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

''(v) INCREASE OF FQHC PAYMENT LIMITS.—In the case of services furnished by Federally qualified health centers (as defined in section 1861(aa)(4)), the Secretary shall establish payment limits with respect to such services under this part for services furnished—

''(1) in 2010, at the limits otherwise established under this part for such year increased by $5; and

''(2) in a subsequent year, at the limits established under this subsection for the previous year increased by the percentage increase in the MEI (as defined in section 1842(i)(3)) for such subsequent year.''.

(b) STUDY AND REPORT ON THE EFFECTS AND ADEQUACY OF THE MEDICARE FEDERALLY QUALIFIED HEALTH CENTER PAYMENT STRUCTURE.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether the structure for payments for services furnished by Federally qualified health centers (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4)) under part B of title XVIII of the Social Security Act (42 U.S.C. 1395j et seq.) adequately reimburses Federally qualified health centers for the care furnished to Medicare beneficiaries. In conducting such study, the Comptroller General shall—

(A) use the most current cost report data available;

(B) examine the effects of the payment limits established with respect to such services under such part B on the ability of Federally qualified health centers to furnish care to Medicare beneficiaries; and

(C) examine the cost of furnishing services covered under the Medicare program as of the date of the enactment of this Act that were not covered under such program as of the date on which the Secretary determined the payment rate for Federally qualified health centers in 1991.

(2) REPORT.—Not later than 15 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1), together with recommendations for such legislation and administrative action the Comptroller General determines appropriate, taking into consideration the structure and adequacy of the prospective payment methodology used to make payments to Federally qualified health centers under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

SEC. 152. KIDNEY DISEASE EDUCATION AND AWARENESS PROVISIONS.

(a) CHRONIC KIDNEY DISEASE INITIATIVES.—Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following new section:

''SEC. 399R. CHRONIC KIDNEY DISEASE INITIATIVES.

''(a) IN GENERAL.—The Secretary shall establish pilot projects to—

''(1) increase public and medical community awareness (particularly of those who treat patients with diabetes and hypertension) regarding chronic kidney disease, focusing on prevention;

''(2) increase screening for chronic kidney disease, focusing on Medicare beneficiaries at risk of chronic kidney disease; and

''(3) enhance surveillance systems to better assess the prevalence and incidence of chronic kidney disease.

''(b) SCOPE AND DURATION.—

''(1) SCOPE.—The Secretary shall select at least 3 States in which to conduct pilot projects under this section.

''(2) DURATION.—The pilot projects under this section shall be conducted for a period that is not longer than 5 years and shall begin on January 1, 2009.

''(c) EVALUATION AND REPORT.—The Comptroller General of the United States shall conduct an evaluation of the pilot projects conducted under this section. Not later than 12 months after the date on which the pilot projects are completed, the Comptroller General shall submit to Congress a report on the evaluation.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out this section.''.

(b) MEDICARE COVERAGE OF KIDNEY DISEASE PATIENT EDUCATION SERVICES.—

(1) COVERAGE OF KIDNEY DISEASE EDUCATION SERVICES.—

(A) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 144(a), is amended—

(i) in subparagraph (CC), by striking ''and'' after the semicolon at the end;

(ii) in subparagraph (DD), by adding ''and'' after the semicolon at the end; and

(iii) by adding at the end the following new subparagraph:

''(EE) kidney disease education services (as defined in subsection (ggg));''.

(B) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 144(a), is amended by adding at the end the following new subsection:

''Kidney Disease Education Services

''(ggg)(1) The term 'kidney disease education services' means educational services that are—

''(A) furnished to an individual with stage IV chronic kidney disease who, according to accepted clinical guidelines identified by the Secretary, will require dialysis or a kidney transplant;

''(B) furnished, upon the referral of the physician managing the individual's kidney condition, by a qualified person (as defined in paragraph (2)); and

''(C) designed—

''(i) to provide comprehensive information (consistent with the standards set under paragraph (3)) regarding—

''(I) the management of comorbidities, including for purposes of delaying the need for dialysis;

''(II) the prevention of uremic complications; and

''(III) each option for renal replacement therapy (including hemodialysis and peritoneal dialysis at home and in-center as well as vascular access options and transplantation);

''(ii) to ensure that the individual has the opportunity to actively participate in the choice of therapy; and

''(iii) to be tailored to meet the needs of the individual involved.

''(2)(A) The term 'qualified person' means—

''(i) a physician (as defined in section 1861(r)(1)) or a physician assistant, nurse practitioner, or clinical nurse specialist (as defined in section 1861(aa)(5)), who furnishes services for which payment may be made under the fee schedule established under section 1848; and

''(ii) a provider of services located in a rural area (as defined in section 1886(d)(2)(D)).

''(B) Such term does not include a provider of services (other than a provider of services described in subparagraph (A)(ii)) or a renal dialysis facility.

''(3) The Secretary shall set standards for the content of such information to be provided under paragraph (1)(C)(i) after consulting with physicians, other health professionals, health educators, professional organizations, accrediting organizations, kidney patient organizations, dialysis facilities, transplant centers, network organizations described in section 1881(c)(2), and other knowledgeable persons. To the extent possible the Secretary shall consult with persons or entities described in the previous sentence, other than a dialysis facility, that has not received industry funding from a drug or biological manufacturer or dialysis facility.

''(4) No individual shall be furnished more than 6 sessions of kidney disease education services under this title.''.

(C) PAYMENT UNDER THE PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)), as amended by section 144(b), is amended by inserting ''(2)(EE),'' after ''(2)(DD),''.

(D) LIMITATION ON NUMBER OF SESSIONS.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(i) in subparagraph (M), by striking ''and'' at the end;

(ii) in subparagraph (N), by striking the semicolon at the end and inserting '', and''; and

(iii) by adding at the end the following new subparagraph:

''(O) in the case of kidney disease education services (as defined in paragraph (1) of section 1861(ggg)), which are furnished in excess of the number of sessions covered under paragraph (4) of such section;''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 2010.

SEC. 153. RENAL DIALYSIS PROVISIONS.

(a) COMPOSITE RATE.—

(1) UPDATE.—Section 1881(b)(12)(G) of the Social Security Act (42 U.S.C. 1395rr(b)(12)(G)) is amended—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii)—

(i) by inserting ''and before January 1, 2009,'' after ''April 1, 2007,''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new clauses:

''(iii) furnished on or after January 1, 2009, and before January 1, 2010, by 1.0 percent above the amount of such composite rate component for such services furnished on December 31, 2008; and

''(iv) furnished on or after January 1, 2010, by 1.0 percent above the amount of such composite rate component for such services furnished on December 31, 2009.''.

(2) SITE NEUTRAL COMPOSITE RATE.—Section 1881(b)(12)(A) of the Social Security Act (42 U.S.C. 1395rr(b)(12)(A)) is amended by adding at the end the following new sentence: ''Under such system, the payment rate for dialysis services furnished on or after January 1, 2009, by providers of services shall be the same as the payment rate (computed without regard to this sentence) for such services furnished by renal dialysis facilities, and in applying the geographic index under subparagraph (D) to providers of services, the labor share shall be based on the labor share otherwise applied for renal dialysis facilities.''.

(b) DEVELOPMENT OF ESRD BUNDLED PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended by adding at the end the following new paragraph:

''(14)(A)(i) Subject to subparagraph (E), for services furnished on or after January 1, 2011, the Secretary shall implement a payment system under which a single payment is made under this title to a provider of services or a renal dialysis facility for renal dialysis services (as defined in subparagraph (B)) in lieu of any other payment (including a payment adjustment under paragraph (12)(B)(ii)) and for such services and items furnished pursuant to paragraph (4).

''(ii) In implementing the system under this paragraph the Secretary shall ensure that the estimated total amount of payments under this title for 2011 for renal dialysis services shall equal 98 percent of the estimated total amount of payments for renal dialysis services, including payments under paragraph (12)(B)(ii), that would have been made under this title with respect to services furnished in 2011 if such system had not been implemented. In making the estimation under subclause (I), the Secretary shall use per patient utilization data from 2007, 2008, or 2009, whichever has the lowest per patient utilization.

''(B) For purposes of this paragraph, the term 'renal dialysis services' includes—

''(i) items and services included in the composite rate for renal dialysis services as of December 31, 2010;

''(ii) erythropoiesis stimulating agents and any oral form of such agents that are furnished to individuals for the treatment of end stage renal disease;

''(iii) other drugs and biologicals that are furnished to individuals for the treatment of end stage renal disease and for which payment was (before the application of this paragraph) made separately under this title, and any oral equivalent form of such drug or biological; and

''(iv) diagnostic laboratory tests and other items and services not described in clause (i) that are furnished to individuals for the treatment of end stage renal disease.

Such term does not include vaccines.

''(C) The system under this paragraph may provide for payment on the basis of services furnished during a week or month or such other appropriate unit of payment as the Secretary specifies.

''(D) Such system—

''(i) shall include a payment adjustment based on case mix that may take into account patient weight, body mass index, comorbidities, length of time on dialysis, age, race, ethnicity, and other appropriate factors;

''(ii) shall include a payment adjustment for high cost outliers due to unusual variations in the type or amount of medically necessary care, including variations in the amount of erythropoiesis stimulating agents necessary for anemia management;

''(iii) shall include a payment adjustment that reflects the extent to which costs incurred by low-volume facilities (as defined by the Secretary) in furnishing renal dialysis services exceed the costs incurred by other facilities in furnishing such services, and for payment for renal dialysis services furnished on or after January 1, 2011, and before January 1, 2014, such payment adjustment shall not be less than 10 percent; and

''(iv) may include such other payment adjustments as the Secretary determines appropriate, such as a payment adjustment—

''(I) for pediatric providers of services and renal dialysis facilities;

''(II) by a geographic index, such as the index referred to in paragraph (12)(D), as the Secretary determines to be appropriate; and

''(III) for providers of services or renal dialysis facilities located in rural areas.

The Secretary shall take into consideration the unique treatment needs of children and young adults in establishing such system.

''(E)(i) The Secretary shall provide for a four-year phase-in (in equal increments) of the payment amount under the payment system under this paragraph, with such payment amount being fully implemented for renal dialysis services furnished on or after January 1, 2014.

''(ii) A provider of services or renal dialysis facility may make a one-time election to be excluded from the phase-in under clause (i) and be paid entirely based on the payment amount under the payment system under this paragraph. Such an election shall be made prior to January 1, 2011, in a form and manner specified by the Secretary, and is final and may not be rescinded.

''(iii) The Secretary shall make an adjustment to the payments under this paragraph for years during which the phase-in under clause (i) is applicable so that the estimated total amount of payments under this paragraph, including payments under this subparagraph, shall equal the estimated total amount of payments that would otherwise occur under this paragraph without such phase-in.

''(F)(i) Subject to clause (ii), beginning in 2012, the Secretary shall annually increase payment amounts established under this paragraph by an ESRD market basket percentage increase factor for a bundled payment system for renal dialysis services that reflects changes over time in the prices of an appropriate mix of goods and services included in renal dialysis services minus 1.0 percentage point.

''(ii) For years during which a phase-in of the payment system pursuant to subparagraph (E) is applicable, the following rules shall apply to the portion of the payment under the system that is based on the payment of the composite rate that would otherwise apply if the system under this paragraph had not been enacted:

''(I) The update under clause (i) shall not apply.

''(II) The Secretary shall annually increase such composite rate by the ESRD market basket percentage increase factor described in clause (i) minus 1.0 percentage point.

''(G) There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the determination of payment amounts under subparagraph (A), the establishment of an appropriate unit of payment under subparagraph (C), the identification of renal dialysis services included in the bundled payment, the adjustments under subparagraph (D), the application of the phase-in under subparagraph (E), and the establishment of the market basket percentage increase factors under subparagraph (F).

''(H) Erythropoiesis stimulating agents and other drugs and biologicals shall be treated as prescribed and dispensed or administered and available only under part B if they are—

''(i) furnished to an individual for the treatment of end stage renal disease; and

''(ii) included in subparagraph (B) for purposes of payment under this paragraph.''.

(2) PROHIBITION OF UNBUNDLING.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)), as amended by section 135(a)(2), is amended—

(A) in paragraph (22), by striking ''or'' at the end;

(B) in paragraph (23), by striking the period at the end and inserting ''; or''; and

(C) by inserting after paragraph (23) the following new paragraph:

''(24) where such expenses are for renal dialysis services (as defined in subparagraph (B) of section 1881(b)(14)) for which payment is made under such section unless such payment is made under such section to a provider of services or a renal dialysis facility for such services.''.

(3) CONFORMING AMENDMENTS.—(A) Section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended—

(i) in paragraph (12)(A), by striking ''In lieu of payment'' and inserting ''Subject to paragraph (14), in lieu of payment'';

(ii) in the second sentence of paragraph (12)(F)—

(I) by inserting ''or paragraph (14)'' after ''this paragraph''; and

(II) by inserting ''or under the system under paragraph (14)'' after ''subparagraph (B)''; and

(iii) in paragraph (13)—

(I) in subparagraph (A), in the matter preceding clause (i), by striking ''The payment amounts'' and inserting ''Subject to paragraph (14), the payment amounts''; and

(II) in subparagraph (B)—

(aa) in clause (i), by striking ''(i)'' after ''(B)'' and by inserting '', subject to paragraph (14)'' before the period at the end; and

(bb) by striking clause (ii).

(B) Section 1861(s)(2)(F) of the Social Security Act (42 U.S.C. 1395x(s)(2)(F)) is amended by inserting '', and, for items and services furnished on or after January 1, 2011, renal dialysis services (as defined in section

1881(b)(14)(B))'' before the semicolon at the end.

(C) Section 623(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395rr note) is repealed.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection or the amendments made by this subsection shall be construed as authorizing or requiring the Secretary of Health and Human Services to make payments under the payment system implemented under paragraph (14)(A)(i) of section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b)), as added by paragraph (1), for any unrecovered amount for any bad debt attributable to deductible and coinsurance on items and services not included in the basic case-mix adjusted composite rate under paragraph (12) of such section as in effect before the date of the enactment of this Act.

(c) QUALITY INCENTIVES IN THE END-STAGE RENAL DISEASE PROGRAM.—Section 1881 of the Social Security Act (42 U.S.C. 1395rr) is amended by adding at the end the following new subsection:

''(h) QUALITY INCENTIVES IN THE END-STAGE RENAL DISEASE PROGRAM.—

''(1) QUALITY INCENTIVES.—

''(A) IN GENERAL.—With respect to renal dialysis services (as defined in subsection (b)(14)(B)) furnished on or after January 1, 2012, in the case of a provider of services or a renal dialysis facility that does not meet the requirement described in subparagraph (B) with respect to the year, payments otherwise made to such provider or facility under the system under subsection (b)(14) for such services shall be reduced by up to 2.0 percent, as determined appropriate by the Secretary.

''(B) REQUIREMENT.—The requirement described in this subparagraph is that the provider or facility meets (or exceeds) the total performance score under paragraph (3) with respect to performance standards established by the Secretary with respect to measures specified in paragraph (2).

''(C) NO EFFECT IN SUBSEQUENT YEARS.—The reduction under subparagraph (A) shall apply only with respect to the year involved, and the Secretary shall not take into account such reduction in computing the single payment amount under the system under paragraph (14) in a subsequent year.

''(2) MEASURES.—

''(A) IN GENERAL.—The measures specified under this paragraph with respect to the year involved shall include—

''(i) measures on anemia management that reflect the labeling approved by the Food and Drug Administration for such management and measures on dialysis adequacy;

''(ii) to the extent feasible, such measure (or measures) of patient satisfaction as the Secretary shall specify; and

''(iii) such other measures as the Secretary specifies, including, to the extent feasible, measures on—

''(I) iron management;

''(II) bone mineral metabolism; and

''(III) vascular access, including for maximizing the placement of arterial venous fistula.

''(B) USE OF ENDORSED MEASURES.—

''(i) IN GENERAL.—Subject to clause (ii), any measure specified by the Secretary under subparagraph (A)(iii) must have been endorsed by the entity with a contract under section 1890(a).

''(ii) EXCEPTION.—In the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1890(a), the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary.

''(C) UPDATING MEASURES.—The Secretary shall establish a process for updating the measures specified under subparagraph (A) in consultation with interested parties.

''(D) CONSIDERATION.—In specifying measures under subparagraph (A), the Secretary shall consider the availability of measures that address the unique treatment needs of children and young adults with kidney failure.

''(3) PERFORMANCE SCORES.—

''(A) TOTAL PERFORMANCE SCORE.—

''(i) IN GENERAL.—Subject to clause (ii), the Secretary shall develop a methodology for assessing the total performance of each provider of services and renal dialysis facility based on performance standards with respect to the measures selected under paragraph (2) for a performance period established under paragraph (4)(D) (in this subsection referred to as the 'total performance score').

''(ii) APPLICATION.—For providers of services and renal dialysis facilities that do not meet (or exceed) the total performance score established by the Secretary, the Secretary shall ensure that the application of the methodology developed under clause (i) results in an appropriate distribution of reductions in payment under paragraph (1) among providers and facilities achieving different levels of total performance scores, with providers and facilities achieving the lowest total performance scores receiving the largest reduction in payment under paragraph (1)(A).

''(iii) WEIGHTING OF MEASURES.—In calculating the total performance score, the Secretary shall weight the scores with respect to individual measures calculated under subparagraph (B) to reflect priorities for quality improvement, such as weighting scores to ensure that providers of services and renal dialysis facilities have strong incentives to meet or exceed anemia management and dialysis adequacy performance standards, as determined appropriate by the Secretary.

''(B) PERFORMANCE SCORE WITH RESPECT TO INDIVIDUAL MEASURES.—The Secretary shall also calculate separate performance scores for each measure, including for dialysis adequacy and anemia management.

''(4) PERFORMANCE STANDARDS.—

''(A) ESTABLISHMENT.—Subject to subparagraph (E), the Secretary shall establish performance standards with respect to measures selected under paragraph (2) for a performance period with respect to a year (as established under subparagraph (D)).

''(B) ACHIEVEMENT AND IMPROVEMENT.—The performance standards established under subparagraph (A) shall include levels of achievement and improvement, as determined appropriate by the Secretary.

''(C) TIMING.—The Secretary shall establish the performance standards under subparagraph (A) prior to the beginning of the performance period for the year involved.

''(D) PERFORMANCE PERIOD.—The Secretary shall establish the performance period with respect to a year. Such performance period shall occur prior to the beginning of such year.

''(E) SPECIAL RULE.—The Secretary shall initially use as the performance standard for the measures specified under paragraph (2)(A)(i) for a provider of services or a renal dialysis facility the lesser of—

''(i) the performance of such provider or facility for such measures in the year selected by the Secretary under the second sentence of subsection (b)(14)(A)(ii); or

''(ii) a performance standard based on the national performance rates for such measures in a period determined by the Secretary.

''(5) LIMITATION ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise of the following:

''(A) The determination of the amount of the payment reduction under paragraph (1).

''(B) The establishment of the performance standards and the performance period under paragraph (4).

''(C) The specification of measures under paragraph (2).

''(D) The methodology developed under paragraph (3) that is used to calculate total performance scores and performance scores for individual measures.

''(6) PUBLIC REPORTING.—

''(A) IN GENERAL.—The Secretary shall establish procedures for making information regarding performance under this subsection available to the public, including—

''(i) the total performance score achieved by the provider of services or renal dialysis facility under paragraph (3) and appropriate comparisons of providers of services and renal dialysis facilities to the national average with respect to such scores; and

''(ii) the performance score achieved by the provider or facility with respect to individual measures.

''(B) OPPORTUNITY TO REVIEW.—The procedures established under subparagraph (A) shall ensure that a provider of services and a renal dialysis facility has the opportunity to review the information that is to be made public with respect to the provider or facility prior to such data being made public.

''(C) CERTIFICATES.—

''(i) IN GENERAL.—The Secretary shall provide certificates to providers of services and renal dialysis facilities who furnish renal dialysis services under this section to display in patient areas. The certificate shall indicate the total performance score achieved by the provider or facility under paragraph (3).

''(ii) DISPLAY.—Each facility or provider receiving a certificate under clause (i) shall prominently display the certificate at the provider or facility.

''(D) WEB-BASED LIST.—The Secretary shall establish a list of providers of services and renal dialysis facilities who furnish renal dialysis services under this section that indicates the total performance score and the performance score for individual measures achieved by the provider and facility under paragraph (3). Such information shall be posted on the Internet website of the Centers for Medicare & Medicaid Services in an easily understandable format.''.

(d) GAO REPORT ON ESRD BUNDLING SYSTEM AND QUALITY INITIATIVE.—Not later than March 1, 2013, the Comptroller General of the United States shall submit to Congress a report on the implementation of the payment system under subsection (b)(14) of section 1881 of the Social Security Act (as added by subsection (b)) for renal dialysis services and related services (defined in subparagraph (B) of such subsection (b)(14)) and the quality initiative under subsection (h) of such section 1881 (as added by subsection (b)). Such report shall include the following information:

(1) The changes in utilization rates for erythropoiesis stimulating agents.

(2) The mode of administering such agents, including information on the proportion of individuals receiving such agents intravenously as compared to subcutaneously.

(3) An analysis of the payment adjustment under subparagraph (D)(iii) of such subsection (b)(14), including an examination of the extent to which costs incurred by rural, low-volume providers and facilities (as defined by the Secretary) in furnishing renal dialysis services exceed the costs incurred by other providers and facilities in furnishing such services, and a recommendation regarding the appropriateness of such adjustment.

(4) The changes, if any, in utilization rates of drugs and biologicals that the Secretary identifies under subparagraph (B)(iii) of such subsection (b)(14), and any oral equivalent or oral substitutable forms of such drugs and biologicals or of drugs and biologicals described in clause (ii), that have occurred after implementation of the payment system under such subsection (b)(14).

(5) Any other information or recommendations for legislative and administrative actions determined appropriate by the Comptroller General.

SEC. 154. DELAY IN AND REFORM OF MEDICARE DMEPOS COMPETITIVE ACQUISITION PROGRAM.

(a) TEMPORARY DELAY AND REFORM.—

(1) IN GENERAL.—Section 1847(a)(1) of the Social Security Act (42 U.S.C. 1395w–3(a)(1)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (B)(i), in the matter before subclause (I), by inserting ''consistent with subparagraph (D)'' after ''in a manner'';

(ii) in subparagraph (B)(i)(II), by striking ''80'' and ''in 2009'' and inserting ''an additional 70'' and ''in 2011'', respectively;

(iii) in subparagraph (B)(i)(III), by striking ''after 2009'' and inserting ''after 2011 (or, in the case of national mail order for items and services, after 2010)''; and

(iv) by adding at the end the following new subparagraphs:

''(D) CHANGES IN COMPETITIVE ACQUISITION PROGRAMS.—

''(i) ROUND 1 OF COMPETITIVE ACQUISITION PROGRAM.—Notwithstanding subparagraph (B)(i)(I) and in implementing the first round of the competitive acquisition programs under this section—

''(I) the contracts awarded under this section before the date of the enactment of this subparagraph are terminated, no payment shall be made under this title on or after the date of the enactment of this subparagraph based on such a contract, and, to the extent that any damages may be applicable as a result of the termination of such contracts, such damages shall be payable from the Federal Supplementary Medical Insurance Trust Fund under section 1841;

''(II) the Secretary shall conduct the competition for such round in a manner so that it occurs in 2009 with respect to the same items and services and the same areas, except as provided in subclauses (III) and (IV);

''(III) the Secretary shall exclude Puerto Rico so that such round of competition covers 9, instead of 10, of the largest metropolitan statistical areas; and

''(IV) there shall be excluded negative pressure wound therapy items and services.

Nothing in subclause (I) shall be construed to provide an independent cause of action or right to administrative or judicial review with regard to the termination provided under such subclause.

''(ii) ROUND 2 OF COMPETITIVE ACQUISITION PROGRAM.—In implementing the second round of the competitive acquisition programs under this section described in subparagraph (B)(i)(II)—

''(I) the metropolitan statistical areas to be included shall be those metropolitan statistical areas selected by the Secretary for such round as of June 1, 2008; and

''(II) the Secretary may subdivide metropolitan statistical areas with populations (based upon the most recent data from the Census Bureau) of at least 8,000,000 into separate areas for competitive acquisition purposes.

''(iii) EXCLUSION OF CERTAIN AREAS IN SUBSEQUENT ROUNDS OF COMPETITIVE ACQUISITION PROGRAMS.—In implementing subsequent rounds of the competitive acquisition programs under this section, including under subparagraph (B)(i)(III), for competitions occurring before 2015, the Secretary shall exempt from the competitive acquisition program (other than national mail order) the following:

''(I) Rural areas.

''(II) Metropolitan statistical areas not selected under round 1 or round 2 with a population of less than 250,000.

''(III) Areas with a low population density within a metropolitan statistical area that is otherwise selected, as determined for purposes of paragraph (3)(A).

''(E) VERIFICATION BY OIG.—The Inspector General of the Department of Health and Human Services shall, through post-award audit, survey, or otherwise, assess the process used by the Centers for Medicare & Medicaid Services to conduct competitive bidding and subsequent pricing determinations under this section that are the basis for pivotal bid amounts and single payment amounts for items and services in competitive bidding areas under rounds 1 and 2 of the competitive acquisition programs under this section and may continue to verify such calculations for subsequent rounds of such programs.

''(F) SUPPLIER FEEDBACK ON MISSING FINANCIAL DOCUMENTATION.—

''(i) IN GENERAL.—In the case of a bid where one or more covered documents in connection with such bid have been submitted not later than the covered document review date specified in clause (ii), the Secretary—

''(I) shall provide, by not later than 45 days (in the case of the first round of the competitive acquisition programs as described in subparagraph (B)(i)(I)) or 90 days (in the case of a subsequent round of such programs) after the covered document review date, for notice to the bidder of all such documents that are missing as of the covered document review date; and

''(II) may not reject the bid on the basis that any covered document is missing or has not been submitted on a timely basis, if all such missing documents identified in the notice provided to the bidder under subclause (I) are submitted to the Secretary not later than 10 business days after the date of such notice.

''(ii) COVERED DOCUMENT REVIEW DATE.—The covered document review date specified in this clause with respect to a competitive acquisition program is the later of—

''(I) the date that is 30 days before the final date specified by the Secretary for submission of bids under such program; or

''(II) the date that is 30 days after the first date specified by the Secretary for submission of bids under such program.

''(iii) LIMITATIONS OF PROCESS.—The process provided under this subparagraph—

''(I) applies only to the timely submission of covered documents;

''(II) does not apply to any determination as to the accuracy or completeness of covered documents submitted or whether such documents meet applicable requirements;

''(III) shall not prevent the Secretary from rejecting a bid based on any basis not described in clause (i)(II); and

''(IV) shall not be construed as permitting a bidder to change bidding amounts or to make other changes in a bid submission.

''(iv) COVERED DOCUMENT DEFINED.—In this subparagraph, the term 'covered document' means a financial, tax, or other document required to be submitted by a bidder as part of an original bid submission under a competitive acquisition program in order to meet required financial standards. Such term does not include other documents, such as the bid itself or accreditation documentation.''; and

(B) in paragraph (2)(A), by inserting before the period at the end the following: ''and excluding certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related accessories when furnished in connection with such wheelchairs)''.

(2) BUDGET NEUTRAL OFFSET.—

(A) IN GENERAL.—Section 1834(a)(14) of such Act (42 U.S.C. 1395m(a)(14)) is amended—

(i) by striking ''and'' at the end of subparagraphs (H) and (I);

(ii) by redesignating subparagraph (J) as subparagraph (M); and

(iii) by inserting after subparagraph (I) the following new subparagraphs:

''(J) for 2009—

''(i) in the case of items and services furnished in any geographic area, if such items or services were selected for competitive acquisition in any area under the competitive acquisition program under section 1847(a)(1)(B)(i)(I) before July 1, 2008, including related accessories but only if furnished with such items and services selected for such competition and diabetic supplies but only if furnished through mail order, - 9.5 percent; or

''(ii) in the case of other items and services, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June 2008;

''(K) for 2010, 2011, 2012, and 2013, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the previous year;

''(L) for 2014—

''(i) in the case of items and services described in subparagraph (J)(i) for which a payment adjustment has not been made under subsection (a)(1)(F)(ii) in any previous year, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June 2013, plus 2.0 percentage points; or

''(ii) in the case of other items and services, the percentage increase in the consumer price index for all urban consumers (U.S. urban average) for the 12-month period ending with June 2013; and''.

(B) CONFORMING TREATMENT FOR CERTAIN ITEMS AND SERVICES.—The second sentence of section 1842(s)(1) of such Act (42 U.S.C. 1395u(s)(1)) is amended by striking ''except that'' and all that follows and inserting the following: ''except that for items and services described in paragraph (2)(D)—

''(A) for 2009 section 1834(a)(14)(J)(i) shall apply under this paragraph instead of the percentage increase otherwise applicable; and

''(B) for 2014, if subparagraph (A) is applied to the items and services and there has not been a payment adjustment under paragraph (3)(B) for the items and services for any previous year, the percentage increase computed under section 1834(a)(14)(L)(i) shall apply instead of the percentage increase otherwise applicable.''.

(3) CONFORMING DELAY.—Subsections (a)(1)(F) and (h)(1)(H) of section 1834 of the Social Security Act (42 U.S.C. 1395m) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2011''.

(4) CONSIDERATIONS IN APPLICATION.—Section 1834 of such Act (42 U.S.C. 1395m) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (F), by inserting ''subject to subparagraph (G),'' before ''that are included''; and

(ii) by adding at the end the following new subparagraph:

''(G) USE OF INFORMATION ON COMPETITIVE BID RATES.—The Secretary shall specify by regulation the methodology to be used in applying the provisions of subparagraph (F)(ii) and subsection (h)(1)(H)(ii). In promulgating such regulation, the Secretary shall consider

the costs of items and services in areas in which such provisions would be applied compared to the payment rates for such items and services in competitive acquisition areas.''; and

(B) in subsection (h)(1)(H), by inserting ''subject to subsection (a)(1)(G),'' before ''that are included''.

(b) QUALITY STANDARDS.—

(1) APPLICATION OF ACCREDITATION REQUIREMENT.—

(A) IN GENERAL.—Section 1834(a)(20) of the Social Security Act (42 U.S.C. 1395m(a)(20)) is amended—

(i) in subparagraph (E), by inserting ''including subparagraph (F),'' after ''under this paragraph,''; and

(ii) by adding at the end the following new subparagraph:

''(F) APPLICATION OF ACCREDITATION REQUIREMENT.—In implementing quality standards under this paragraph—

''(i) subject to clause (ii), the Secretary shall require suppliers furnishing items and services described in subparagraph (D) on or after October 1, 2009, directly or as a subcontractor for another entity, to have submitted to the Secretary evidence of accreditation by an accreditation organization designated under subparagraph (B) as meeting applicable quality standards; and

''(ii) in applying such standards and the accreditation requirement of clause (i) with respect to eligible professionals (as defined in section 1848(k)(3)(B)), and including such other persons, such as orthotists and prosthetists, as specified by the Secretary, furnishing such items and services—

''(I) such standards and accreditation requirement shall not apply to such professionals and persons unless the Secretary determines that the standards being applied are designed specifically to be applied to such professionals and persons; and

''(II) the Secretary may exempt such professionals and persons from such standards and requirement if the Secretary determines that licensing, accreditation, or other mandatory quality requirements apply to such professionals and persons with respect to the furnishing of such items and services.''.

(B) CONSTRUCTION.—Section 1834(a)(20)(F)(ii) of the Social Security Act, as added by subparagraph (A), shall not be construed as preventing the Secretary of Health and Human Services from implementing the first round of competition under section 1847 of such Act on a timely basis.

(2) DISCLOSURE OF SUBCONTRACTORS UNDER COMPETITIVE ACQUISITION PROGRAM.—Section 1847(b)(3) of such Act (42 U.S.C. 1395w–3(b)(3)) is amended by adding at the end the following new subparagraph:

''(C) DISCLOSURE OF SUBCONTRACTORS.—

''(i) INITIAL DISCLOSURE.—Not later than 10 days after the date a supplier enters into a contract with the Secretary under this section, such supplier shall disclose to the Secretary, in a form and manner specified by the Secretary, the information on—

''(I) each subcontracting relationship that such supplier has in furnishing items and services under the contract; and

''(II) whether each such subcontractor meets the requirement of section 1834(a)(20)(F)(i), if applicable to such subcontractor.

''(ii) SUBSEQUENT DISCLOSURE.—Not later than 10 days after such a supplier subsequently enters into a subcontracting relationship described in clause (i)(II), such supplier shall disclose to the Secretary, in such form and manner, the information described in subclauses (I) and (II) of clause (i).''.

(3) COMPETITIVE ACQUISITION OMBUDSMAN.—Such section is further amended by adding at the end the following new subsection:

''(f) COMPETITIVE ACQUISITION OMBUDSMAN.—The Secretary shall provide for a competitive acquisition ombudsman within the Centers for Medicare & Medicaid Services in order to respond to complaints and inquiries made by suppliers and individuals relating to the application of the competitive acquisition program under this section. The ombudsman may be within the office of the Medicare Beneficiary Ombudsman appointed under section 1808(c). The ombudsman shall submit to Congress an annual report on the activities under this subsection, which report shall be coordinated with the report provided under section 1808(c)(2)(C).''.

(c) CHANGE IN REPORTS AND DEADLINES.—

(1) GAO REPORT.—Section 302(b)(3) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) is amended—

(A) in subparagraph (A)—

(i) by inserting ''and as amended by section 2 of the Medicare DMEPOS Competitive Acquisition Reform Act of 2008'' after ''as amended by paragraph (1)''; and

(ii) by inserting before the period at the end the following: ''and the topics specified in subparagraph (C)'';

(B) in subparagraph (B), by striking ''Not later than January 1, 2009,'' and inserting ''Not later than 1 year after the first date that payments are made under section 1847 of the Social Security Act,''; and

(C) by adding at the end the following new subparagraph:

''(C) TOPICS.—The topics specified in this subparagraph, for the study under subparagraph (A) concerning the competitive acquisition program, are the following:

''(i) Beneficiary access to items and services under the program, including the impact on such access of awarding contracts to bidders that—

''(I) did not have a physical presence in an area where they received a contract; or

''(II) had no previous experience providing the product category they were contracted to provide.

''(ii) Beneficiary satisfaction with the program and cost savings to beneficiaries under the program.

''(iii) Costs to suppliers of participating in the program and recommendations about ways to reduce those costs without compromising quality standards or savings to the Medicare program.

''(iv) Impact of the program on small business suppliers.

''(v) Analysis of the impact on utilization of different items and services paid within the same Healthcare Common Procedure Coding System (HCPCS) code.

''(vi) Costs to the Centers for Medicare & Medicaid Services, including payments made to contractors, for administering the program compared with administration of a fee schedule, in comparison with the relative savings of the program.

''(vii) Impact on access, Medicare spending, and beneficiary spending of any difference in treatment for diabetic testing supplies depending on how such supplies are furnished.

''(viii) Such other topics as the Comptroller General determines to be appropriate.''.

(2) DELAY IN OTHER DEADLINES.—

(A) PROGRAM ADVISORY AND OVERSIGHT COMMITTEE.—Section 1847(c)(5) of the Social Security Act (42 U.S.C. 1395w–3(c)(5)) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2011''.

(B) SECRETARIAL REPORT.—Section 1847(d) of such Act (42 U.S.C. 1395w–3(d)) is amended by striking ''July 1, 2009'' and inserting ''July 1, 2011''.

(C) IG REPORT.—Section 302(e) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) is amended by striking ''July 1, 2009'' and inserting ''July 1, 2011''.

(3) EVALUATION OF CERTAIN CODE.—The Secretary of Health and Human Services shall evaluate the existing Health Care Common Procedure Coding System (HCPCS) codes for negative pressure wound therapy to ensure accurate reporting and billing for items and services under such codes. In carrying out such evaluation, the Secretary shall use an existing process, administered by the Durable Medical Equipment Medicare Administrative Contractors, for the consideration of coding changes and consider all relevant studies and information furnished pursuant to such process.

(d) OTHER PROVISIONS.—

(1) EXEMPTION FROM COMPETITIVE ACQUISITION FOR CERTAIN OFF-THE-SHELF ORTHOTICS.—Section 1847(a) of the Social Security Act (42 U.S.C. 1395w–3(a)) is amended by adding at the end the following new paragraph:

''(7) EXEMPTION FROM COMPETITIVE ACQUISITION.—The programs under this section shall not apply to the following:

''(A) CERTAIN OFF-THE-SHELF ORTHOTICS.—Items and services described in paragraph (2)(C) if furnished—

''(i) by a physician or other practitioner (as defined by the Secretary) to the physician's or practitioner's own patients as part of the physician's or practitioner's professional service; or

''(ii) by a hospital to the hospital's own patients during an admission or on the date of discharge.

''(B) CERTAIN DURABLE MEDICAL EQUIPMENT.—Those items and services described in paragraph (2)(A)—

''(i) that are furnished by a hospital to the hospital's own patients during an admission or on the date of discharge; and

''(ii) to which such programs would not apply, as specified by the Secretary, if furnished by a physician to the physician's own patients as part of the physician's professional service.''.

(2) CORRECTION IN FACE-TO-FACE EXAMINATION REQUIREMENT.—Section 1834(a)(1)(E)(ii) of such Act (42 U.S.C. 1395m(a)(1)(E)(ii)) is amended by striking ''1861(r)(1)'' and inserting ''1861(r)''.

(3) SPECIAL RULE IN CASE OF NATIONAL MAIL-ORDER COMPETITION FOR DIABETIC TESTING STRIPS.—Section 1847(b) of such Act (42 U.S.C. 1395w–3(b)) is amended—

(A) by redesignating paragraph (10) as paragraph (11); and

(B) by inserting after paragraph (9) the following new paragraph:

''(10) SPECIAL RULE IN CASE OF COMPETITION FOR DIABETIC TESTING STRIPS.—

''(A) IN GENERAL.—With respect to the competitive acquisition program for diabetic testing strips conducted after the first round of the competitive acquisition programs, if an entity does not demonstrate to the Secretary that its bid covers types of diabetic testing strip products that, in the aggregate and taking into account volume for the different products, cover 50 percent (or such higher percentage as the Secretary may specify) of all such types of products, the Secretary shall reject such bid. The volume for such types of products may be determined in accordance with such data (which may be market based data) as the Secretary recognizes.

''(B) STUDY OF TYPES OF TESTING STRIP PRODUCTS.—Before 2011, the Inspector General of the Department of Health and Human Services shall conduct a study to determine the types of diabetic testing strip products by volume that could be used to make determinations pursuant to subparagraph (A) for the first competition under the competitive

acquisition program described in such subparagraph and submit to the Secretary a report on the results of the study. The Inspector General shall also conduct such a study and submit such a report before the Secretary conducts a subsequent competitive acquistion program described in subparagraph (A).''.

(4) OTHER CONFORMING AMENDMENTS.—Section 1847(b)(11) of such Act, as redesignated by paragraph (3), is amended—

(A) in subparagraph (C), by inserting ''and the identification of areas under subsection (a)(1)(D)(iii)'' after ''(a)(1)(A)'';

(B) in subparagraph (D), by inserting ''and implementation of subsection (a)(1)(D)'' after ''(a)(1)(B)'';

(C) in subparagraph (E), by striking ''or'' at the end;

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

(E) by adding at the end the following new subparagraph:

''(G) the implementation of the special rule described in paragraph (10).''.

(5) FUNDING FOR IMPLEMENTATION.—In addition to funds otherwise available, for purposes of implementing the provisions of, and amendments made by, this section, other than the amendment made by subsection (c)(1) and other than section 1847(a)(1)(E) of the Social Security Act, the Secretary of Health and Human Services shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) to the Centers for Medicare & Medicaid Services Program Management Account of $20,000,000 for fiscal year 2008, and $25,000,000 for each of fiscal years 2009 through 2012. Amounts transferred under this paragraph for a fiscal year shall be available until expended.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of June 30, 2008.

Subtitle D—Provisions Relating to Part C

SEC. 161. PHASE-OUT OF INDIRECT MEDICAL EDUCATION (IME).

(a) IN GENERAL.—Section 1853(k) of the Social Security Act (42 U.S.C. 1395w–23(k)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''; and

(2) by adding at the end the following new paragraph:

''(4) PHASE-OUT OF THE INDIRECT COSTS OF MEDICAL EDUCATION FROM CAPITATION RATES.—

''(A) IN GENERAL.—After determining the applicable amount for an area for a year under paragraph (1) (beginning with 2010), the Secretary shall adjust such applicable amount to exclude from such applicable amount the phase-in percentage (as defined in subparagraph (B)(i)) for the year of the Secretary's estimate of the standardized costs for payments under section 1886(d)(5)(B) in the area for the year. Any adjustment under the preceding sentence shall be made prior to the application of paragraph (2).

''(B) PERCENTAGES DEFINED.—For purposes of this paragraph:

''(i) PHASE-IN PERCENTAGE.—The term 'phase-in percentage' means, for an area for a year, the ratio (expressed as a percentage, but in no case greater than 100 percent) of—

''(I) the maximum cumulative adjustment percentage for the year (as defined in clause (ii)); to

''(II) the standardized IME cost percentage (as defined in clause (iii)) for the area and year.

''(ii) MAXIMUM CUMULATIVE ADJUSTMENT PERCENTAGE.—The term 'maximum cumulative adjustment percentage' means, for—

''(I) 2010, 0.60 percent; and

''(II) a subsequent year, the maximum cumulative adjustment percentage for the previous year increased by 0.60 percentage points.

''(iii) STANDARDIZED IME COST PERCENTAGE.—The term 'standardized IME cost percentage' means, for an area for a year, the per capita costs for payments under section 1886(d)(5)(B) (expressed as a percentage of the fee-for-service amount specified in subparagraph (C)) for the area and the year.

''(C) FEE-FOR-SERVICE AMOUNT.—The fee-for-service amount specified in this subparagraph for an area for a year is the amount specified under subsection (c)(1)(D) for the area and the year.''.

(b) EXCLUDING ADJUSTMENT FROM THE UPDATE.—Section 1853(k)(1)(B)(i) of the Social Security Act (42 U.S.C. 1395w–23(k)(1)(B)(i)) is amended by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''.

(c) HOLD HARMLESS FOR PACE PROGRAM PAYMENTS.—Section 1894(d) of the Social Security Act (42 U.S.C. 1395eee(d)) is amended by adding at the end the following new paragraph:

''(3) CAPITATION RATES DETERMINED WITHOUT REGARD TO THE PHASE-OUT OF THE INDIRECT COSTS OF MEDICAL EDUCATION FROM THE ANNUAL MEDICARE ADVANTAGE CAPITATION RATE.—Capitation amounts under this subsection shall be determined without regard to the application of section 1853(k)(4).''.

SEC. 162. REVISIONS TO REQUIREMENTS FOR MEDICARE ADVANTAGE PRIVATE FEE-FOR-SERVICE PLANS.

(a) REQUIREMENTS TO ASSURE ACCESS TO NETWORK COVERAGE.—

(1) INDIVIDUAL MARKET.—Section 1852(d) of the Social Security Act (42 U.S.C. 1395w–22(d)) is amended—

(A) in paragraph (4), in the second sentence, by striking ''The Secretary'' and inserting ''Subject to paragraph (5), the Secretary''; and

(B) by adding at the end the following new paragraph:

''(5) REQUIREMENT OF CERTAIN NON-EMPLOYER MEDICARE ADVANTAGE PRIVATE FEE-FOR-SERVICE PLANS TO USE CONTRACTS WITH PROVIDERS.—

''(A) IN GENERAL.—For plan year 2011 and subsequent plan years, in the case of a Medicare Advantage private fee-for-service plan not described in paragraph (1) or (2) of section 1857(i) operating in a network area (as defined in subparagraph (B)), the plan shall meet the access standards under paragraph (4) in that area only through entering into written contracts as provided for under subparagraph (B) of such paragraph and not, in whole or in part, through the establishment of payment rates meeting the requirements under subparagraph (A) of such paragraph.

''(B) NETWORK AREA DEFINED.—For purposes of subparagraph (A), the term 'network area' means, for a plan year, an area which the Secretary identifies (in the Secretary's announcement of the proposed payment rates for the previous plan year under section 1853(b)(1)(B)) as having at least 2 network-based plans (as defined in subparagraph (C)) with enrollment under this part as of the first day of the year in which such announcement is made.

''(C) NETWORK-BASED PLAN DEFINED.—

''(i) IN GENERAL.—For purposes of subparagraph (B), the term 'network-based plan' means—

''(I) except as provided in clause (ii), a Medicare Advantage plan that is a coordinated care plan described in section 1851(a)(2)(A)(i);

''(II) a network-based MSA plan; and

''(III) a reasonable cost reimbursement plan under section 1876.

''(ii) EXCLUSION OF NON-NETWORK REGIONAL PPOS.—The term 'network-based plan' shall not include an MA regional plan that, with respect to the area, meets access adequacy standards under this part substantially through the authority of section 422.112(a)(1)(ii) of title 42, Code of Federal Regulations, rather than through written contracts.''.

(2) EMPLOYER PLANS.—Section 1852(d) of the Social Security Act (42 U.S.C. 1395w–22(d)), as amended by paragraph (1), is amended—

(A) in paragraph (4), in the second sentence, by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (6)''; and

(B) by adding at the end the following new paragraph:

''(6) REQUIREMENT OF ALL EMPLOYER MEDICARE ADVANTAGE PRIVATE FEE-FOR-SERVICE PLANS TO USE CONTRACTS WITH PROVIDERS.—For plan year 2011 and subsequent plan years, in the case of a Medicare Advantage private fee-for-service plan that is described in paragraph (1) or (2) of section 1857(i), the plan shall meet the access standards under paragraph (4) only through entering into written contracts as provided for under subparagraph (B) of such paragraph and not, in whole or in part, through the establishment of payment rates meeting the requirements under subparagraph (A) of such paragraph.''.

(3) ACCESS REQUIREMENTS.—

(A) IN GENERAL.—Section 1852(d)(4)(B) of the Social Security Act (42 U.S.C. 1395w–22(d)(4)(B)) is amended by striking ''a sufficient number'' through ''terms of the plan'' and inserting ''a sufficient number and range of providers within such category to meet the access standards in subparagraphs (A) through (E) of paragraph (1)''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to plan year 2010 and subsequent plan years.

(b) CLARIFICATION REGARDING UTILIZATION.—Section 1859(b)(2) of the Social Security Act (42 U.S.C. 1395w–28(b)(2)) is amended by adding at the end the following flush sentence:

''Nothing in subparagraph (B) shall be construed to preclude a plan from varying rates for such a provider based on the specialty of the provider, the location of the provider, or other factors related to such provider that are not related to utilization, or to preclude a plan from increasing rates for such a provider based on increased utilization of specified preventive or screening services.''.

SEC. 163. REVISIONS TO QUALITY IMPROVEMENT PROGRAMS.

(a) REQUIREMENT FOR MA PRIVATE FEE-FOR-SERVICE AND MSA PLANS TO HAVE A QUALITY IMPROVEMENT PROGRAM.—Section 1852(e)(1) of the Social Security Act (42 U.S.C. 1395w–22(e)(1)) is amended by striking ''(other than an MA private fee-for-service plan or an MSA plan)''.

(b) DATA COLLECTION REQUIREMENTS FOR MA REGIONAL PLANS, MA PRIVATE FEE-FOR-SERVICE PLANS, AND MSA PLANS.—Section 1852(e)(3)(A) of the Social Security Act (42 U.S.C. 1395w–22(e)(3)(A)) is amended—

(1) in clause (i), by adding at the end the following new sentence: ''With respect to MA private fee-for-service plans and MSA plans, the requirements under the preceding sentence may not exceed the requirements under this subparagraph with respect to MA local plans that are preferred provider organization plans, except that, for plan year 2010, the limitation under clause (iii) shall not apply and such requirements shall apply only with respect to administrative claims data.''

(2) by striking clause (ii); and

(3) in clause (iii)—

(A) in the heading—

(i) by inserting ''LOCAL'' after ''TO''; and

(ii) by inserting ''AND MA REGIONAL PLANS'' after ''ORGANIZATIONS''; and

(B) by inserting ''and to MA regional plans'' after ''organization plans''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2010.

SEC. 164. REVISIONS RELATING TO SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.

(a) EXTENSION OF AUTHORITY TO RESTRICT ENROLLMENT.—Section 1859(f) of the Social Security Act (42 U.S.C. 1395w–28(f)), as amended by section 108(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended by striking ''2010'' and inserting ''2011''.

(b) MORATORIUM ON AUTHORITY TO DESIGNATE OTHER PLANS AS SPECIALIZED MA PLANS.—During the period beginning on January 1, 2010, and ending on December 31, 2010, the Secretary of Health and Human Services may not exercise the authority provided under section 231(d) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–21 note) to designate other plans as specialized MA plans for special needs individuals.

(c) REQUIREMENTS FOR ENROLLMENT.—

(1) IN GENERAL.—Section 1859 of the Social Security Act (42 U.S.C. 1395w–28) is amended—

(A) in subsection (b)(6)(A), by inserting ''and that, as of January 1, 2010, meets the applicable requirements of paragraph (2), (3), or (4) of subsection (f), as the case may be'' before the period at the end; and

(B) in subsection (f)—

(i) by amending the heading to read as follows: ''REQUIREMENTS REGARDING ENROLLMENT IN SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS'';

(ii) by designating the sentence beginning ''In the case of'' as paragraph (1) with the heading ''REQUIREMENTS FOR ENROLLMENT.—'' and with appropriate indentation; and

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

''(2) ADDITIONAL REQUIREMENTS FOR INSTITUTIONAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(i), the applicable requirements described in this paragraph are as follows:

''(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individuals described in subsection (b)(6)(B)(i). In the case of an individual who is living in the community but requires an institutional level of care, such individual shall not be considered a special needs individual described in subsection (b)(6)(B)(i) unless the determination that the individual requires an institutional level of care was made—

''(i) using a State assessment tool of the State in which the individual resides; and

''(ii) by an entity other than the organization offering the plan.

''(B) The plan meets the requirements described in paragraph (5).

''(3) ADDITIONAL REQUIREMENTS FOR DUAL SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(ii), the applicable requirements described in this paragraph are as follows:

''(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individuals described in subsection (b)(6)(B)(ii).

''(B) The plan meets the requirements described in paragraph (5).

''(C) The plan provides each prospective enrollee, prior to enrollment, with a comprehensive written statement (using standardized content and format established by the Secretary) that describes—

''(i) the benefits and cost-sharing protections that the individual is entitled to under the State Medicaid program under title XIX; and

''(ii) which of such benefits and cost-sharing protections are covered under the plan.

Such statement shall be included with any description of benefits offered by the plan.

''(D) The plan has a contract with the State Medicaid agency to provide benefits, or arrange for benefits to be provided, for which such individual is entitled to receive as medical assistance under title XIX. Such benefits may include long-term care services consistent with State policy.

''(4) ADDITIONAL REQUIREMENTS FOR SEVERE OR DISABLING CHRONIC CONDITION SNPS.—In the case of a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(iii), the applicable requirements described in this paragraph are as follows:

''(A) Each individual that enrolls in the plan on or after January 1, 2010, is a special needs individual described in subsection (b)(6)(B)(iii).

''(B) The plan meets the requirements described in paragraph (5).''.

(2) AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SNPS THAT DO NOT MEET CERTAIN REQUIREMENTS.—Notwithstanding subsection (f) of section 1859 of the Social Security Act (42 U.S.C. 1395w–28), during the period beginning on January 1, 2010, and ending on December 31, 2010, in the case of a specialized Medicare Advantage plan for special needs individuals described in subsection (b)(6)(B)(ii) of such section, as amended by this section, that does not meet the requirement described in subsection (f)(3)(D) of such section, the Secretary of Health and Human Services—

(A) shall permit such plan to be offered under part C of title XVIII of such Act; and

(B) shall not permit an expansion of the service area of the plan under such part C.

(3) RESOURCES FOR STATE MEDICAID AGENCIES.—The Secretary of Health and Human Services shall provide for the designation of appropriate staff and resources that can address State inquiries with respect to the coordination of State and Federal policies for specialized MA plans for special needs individuals described in section 1859(b)(6)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)(B)(ii)), as amended by this section.

(4) NO REQUIREMENT FOR CONTRACT.—Nothing in the provisions of, or amendments made by, this subsection shall require a State to enter into a contract with a Medicare Advantage organization with respect to a specialized MA plan for special needs individuals described in section 1859(b)(6)(B)(ii) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)(B)(ii)), as amended by this section.

(d) CARE MANAGEMENT REQUIREMENTS FOR ALL SNPS.—

(1) REQUIREMENTS.—Section 1859(f) of the Social Security Act (42 U.S.C. 1395w–28(f)), as amended by subsection (c)(1), is amended by adding at the end the following new paragraph:

''(5) CARE MANAGEMENT REQUIREMENTS FOR ALL SNPS.—The requirements described in this paragraph are that the organization offering a specialized MA plan for special needs individuals described in subsection (b)(6)(B)(i)—

''(A) have in place an evidenced-based model of care with appropriate networks of providers and specialists; and

''(B) with respect to each individual enrolled in the plan—

''(i) conduct an initial assessment and an annual reassessment of the individual's physical, psychosocial, and functional needs;

''(ii) develop a plan, in consultation with the individual as feasible, that identifies goals and objectives, including measurable outcomes as well as specific services and benefits to be provided; and

''(iii) use an interdisciplinary team in the management of care.''.

(2) REVIEW TO ENSURE COMPLIANCE WITH CARE MANAGEMENT REQUIREMENTS.—Section 1857(d) of the Social Security Act (42 U.S.C. 1395w–27(d)) is amended by adding at the end the following new paragraph:

''(6) REVIEW TO ENSURE COMPLIANCE WITH CARE MANAGEMENT REQUIREMENTS FOR SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.—In conjunction with the periodic audit of a specialized Medicare Advantage plan for special needs individuals under paragraph (1), the Secretary shall conduct a review to ensure that such organization offering the plan meets the requirements described in section 1859(f)(5).''.

(e) CLARIFICATION OF THE DEFINITION OF A SEVERE OR DISABLING CHRONIC CONDITIONS SPECIALIZED NEEDS INDIVIDUAL.—

(1) IN GENERAL.—Section 1859(b)(6)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)(B)(iii)) is amended by inserting ''who have one or more comorbid and medically complex chronic conditions that are substantially disabling or life threatening, have a high risk of hospitalization or other significant adverse health outcomes, and require specialized delivery systems across domains of care'' before the period at the end.

(2) PANEL.—The Secretary of Health and Human Services shall convene a panel of clinical advisors to determine the conditions that meet the definition of severe and disabling chronic conditions under section 1859(b)(6)(B)(iii) of the Social Security Act (42 U.S.C. 1395w–28(b)(6)(B)(iii)), as amended by paragraph (1). The panel shall include the Director of the Agency for Healthcare Research and Quality (or the Director's designee).

(f) SPECIAL REQUIREMENTS REGARDING QUALITY REPORTING FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.—

(1) IN GENERAL.—Section 1852(e)(3)(A) of the Social Security Act (42 U.S.C. 1395w–22(e)(3)(A)), as amended by section 163, is amended by inserting after clause (i) the following new clause:

''(ii) SPECIAL REQUIREMENTS FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.—In addition to the data required to be collected, analyzed, and reported under clause (i) and notwithstanding the limitations under subparagraph (B), as part of the quality improvement program under paragraph (1), each MA organization offering a specialized Medicare Advantage plan for special needs individuals shall provide for the collection, analysis, and reporting of data that permits the measurement of health outcomes and other indices of quality with respect to the requirements described in paragraphs (2) through (5) of subsection (f). Such data may be based on claims data and shall be at the plan level.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on a date specified by the Secretary of Health and Human Services (but in no case later than January 1, 2010), and shall apply to all specialized Medicare Advantage plans for special needs individuals regardless of when the plan first entered the Medicare Advantage program under part C of title XVIII of the Social Security Act.

(g) EFFECTIVE DATE AND APPLICATION.—The amendments made by subsections (c)(1), (d), and (e)(1) shall apply to plan years beginning on or after January 1, 2010, and shall apply to all specialized Medicare Advantage plans for special needs individuals regardless of when

the plan first entered the Medicare Advantage program under part C of title XVIII of the Social Security Act.

(h) NO AFFECT ON MEDICAID BENEFITS FOR DUALS.—Nothing in the provisions of, or amendments made by, this section shall affect the benefits available under the Medicaid program under title XIX of the Social Security Act for special needs individuals described in section 1859(b)(6)(B)(ii) of such Act (42 U.S.C. 1395w–28(b)(6)(B)(ii)).

SEC. 165. LIMITATION ON OUT-OF-POCKET COSTS FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES ENROLLED IN A SPECIALIZED MEDICARE ADVANTAGE PLAN FOR SPECIAL NEEDS INDIVIDUALS.

(a) IN GENERAL.—Section 1852(a) of the Social Security Act (42 U.S.C. 1395w–22(a)) is amended by adding at the end the following new paragraph:

''(7) LIMITATION ON COST-SHARING FOR DUAL ELIGIBLES AND QUALIFIED MEDICARE BENEFICIARIES.—In the case of an individual who is a full-benefit dual eligible individual (as defined in section 1935(c)(6)) or a qualified medicare beneficiary (as defined in section 1905(p)(1)) and who is enrolled in a specialized Medicare Advantage plan for special needs individuals described in section 1859(b)(6)(B)(ii), the plan may not impose cost-sharing that exceeds the amount of cost-sharing that would be permitted with respect to the individual under title XIX if the individual were not enrolled in such plan.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning on or after January 1, 2010.

SEC. 166. ADJUSTMENT TO THE MEDICARE ADVANTAGE STABILIZATION FUND.

Section 1858(e)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395w–27a(e)(2)(A)(i)), as amended by section 110 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended—

(1) by striking ''2013'' and inserting ''2014''; and

(2) by striking ''$1,790,000,000'' and inserting ''$1''.

SEC. 167. ACCESS TO MEDICARE REASONABLE COST CONTRACT PLANS.

(a) EXTENSION OF REASONABLE COST CONTRACTS.—Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)), as amended by section 109 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010'' in the matter preceding subclause (I).

(b) REQUIREMENT FOR AT LEAST TWO MEDICARE ADVANTAGE ORGANIZATIONS TO BE OFFERING A PLAN IN AN AREA FOR THE PROHIBITION TO BE APPLICABLE.—Subclauses (I) and (II) of section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) are each amended by inserting '', provided that all such plans are not offered by the same Medicare Advantage organization'' after ''clause (iii)''.

(c) REVISION OF REQUIREMENTS FOR A PLAN THAT ARE USED TO DETERMINE IF PROHIBITION IS APPLICABLE.—

(1) IN GENERAL.—Section 1876(h)(5)(C)(iii)(I) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(iii)(I)) is amended by inserting ''that are not in another Metropolitan Statistical Area with a population of more than 250,000'' after ''such Metropolitan Statistical Area''.

(2) CLARIFICATION.—Section 1876(h)(5)(C)(iii)(I) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(iii)(I)) is amended by adding at the end the following new sentence: ''If the service area includes a portion in more than 1 Metropolitan Statistical Area with a population of more than 250,000, the minimum enrollment determination under the preceding sentence shall be made with respect to each such Metropolitan Statistical Area (and such applicable contiguous counties to such Metropolitan Statistical Area).''.

(d) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the reasons (if any) why reasonable cost contracts under section 1876(h) of the Social Security Act (42 U.S.C. 1395mm(h)) are unable to become Medicare Advantage plans under part C of title XVIII of such Act.

(2) REPORT.—Not later than December 31, 2009, the Comptroller General of the United States shall submit to Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 168. MEDPAC STUDY AND REPORT ON QUALITY MEASURES.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study on how comparable measures of performance and patient experience can be collected and reported by 2011 for the Medicare Advantage program under part C of title XVIII of the Social Security Act and the original Medicare fee-for-service program under parts A and B of such title. Such study shall address technical issues, such as data requirements, in addition to issues relating to appropriate quality benchmarks that—

(1) compare the quality of care Medicare beneficiaries receive across Medicare Advantage plans; and

(2) compare the quality of care Medicare beneficiaries receive under Medicare Advantage plans and under the original Medicare fee-for-service program.

(b) REPORT.—Not later than March 31, 2010, the Medicare Payment Advisory Commission shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Medicare Payment Advisory Commission determines appropriate.

SEC. 169. MEDPAC STUDY AND REPORT ON MEDICARE ADVANTAGE PAYMENTS.

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the ''Commission'') shall conduct a study of the following:

(1) The correlation between—

(A) the costs that Medicare Advantage organizations with respect to Medicare Advantage plans incur in providing coverage under the plan for items and services covered under the original Medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act, as reflected in plan bids; and

(B) county-level spending under such original Medicare fee-for-service program on a per capita basis, as calculated by the Chief Actuary of the Centers for Medicare & Medicaid Services.

The study with respect to the issue described in the preceding sentence shall include differences in correlation statistics by plan type and geographic area.

(2) Based on these results of the study with respect to the issue described in paragraph (1), and other data the Commission determines appropriate—

(A) alternate approaches to payment with respect to a Medicare beneficiary enrolled in a Medicare Advantage plan other than through county-level payment area equivalents.

(B) the accuracy and completeness of county-level estimates of per capita spending under such original Medicare fee-for-service program (including counties in Puerto Rico), as used to determine the annual Medicare Advantage capitation rate under section 1853 of the Social Security Act (42 U.S.C. 1395w–23), and whether such estimates include—

(i) expenditures with respect to Medicare beneficiaries at facilities of the Department of Veterans Affairs; and

(ii) all appropriate administrative expenses, including claims processing.

(3) Ways to improve the accuracy and completeness of county-level estimates of per capita spending described in paragraph (2)(B).

(b) REPORT.—Not later than March 31, 2010, the Commission shall submit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations for such legislation and administrative action as the Commission determines appropriate.

Subtitle E—Provisions Relating to Part D

PART I—IMPROVING PHARMACY ACCESS

SEC. 171. PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS AND MA–PD PLANS UNDER PART D.

(a) PROMPT PAYMENT BY PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)) is amended by adding at the end the following new paragraph:

''(4) PROMPT PAYMENT OF CLEAN CLAIMS.—

''(A) PROMPT PAYMENT.—

''(i) IN GENERAL.—Each contract entered into with a PDP sponsor under this part with respect to a prescription drug plan offered by such sponsor shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to all clean claims submitted by pharmacies (other than pharmacies that dispense drugs by mail order only or are located in, or contract with, a long-term care facility) under this part within the applicable number of calendar days after the date on which the claim is received.

''(ii) CLEAN CLAIM DEFINED.—In this paragraph, the term 'clean claim' means a claim that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this part.

''(iii) DATE OF RECEIPT OF CLAIM.—In this paragraph, a claim is considered to have been received—

''(I) with respect to claims submitted electronically, on the date on which the claim is transferred; and

''(II) with respect to claims submitted otherwise, on the 5th day after the postmark date of the claim or the date specified in the time stamp of the transmission.

''(B) APPLICABLE NUMBER OF CALENDAR DAYS DEFINED.—In this paragraph, the term 'applicable number of calendar days' means—

''(i) with respect to claims submitted electronically, 14 days; and

''(ii) with respect to claims submitted otherwise, 30 days.

''(C) INTEREST PAYMENT.—

''(i) IN GENERAL.—Subject to clause (ii), if payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in subparagraph (B)) after a clean claim is received, the PDP sponsor shall pay interest to the pharmacy that submitted the claim at a rate equal to the weighted average of interest on 3-month marketable Treasury securities determined for such period, increased by 0.1 percentage point for the period beginning on the day after the required payment date and ending on the date on which payment is made (as determined under subparagraph (D)(iv)). Interest amounts paid under this subparagraph

shall not be counted against the administrative costs of a prescription drug plan or treated as allowable risk corridor costs under section 1860D–15(e).

''(ii) AUTHORITY NOT TO CHARGE INTEREST.—The Secretary may provide that a PDP sponsor is not charged interest under clause (i) in the case where there are exigent circumstances, including natural disasters and other unique and unexpected events, that prevent the timely processing of claims.

''(D) PROCEDURES INVOLVING CLAIMS.—

''(i) CLAIM DEEMED TO BE CLEAN.—A claim is deemed to be a clean claim if the PDP sponsor involved does not provide notice to the claimant of any deficiency in the claim—

''(I) with respect to claims submitted electronically, within 10 days after the date on which the claim is received; and

''(II) with respect to claims submitted otherwise, within 15 days after the date on which the claim is received.

''(ii) CLAIM DETERMINED TO NOT BE A CLEAN CLAIM.—

''(I) IN GENERAL.—If a PDP sponsor determines that a submitted claim is not a clean claim, the PDP sponsor shall, not later than the end of the period described in clause (i), notify the claimant of such determination. Such notification shall specify all defects or improprieties in the claim and shall list all additional information or documents necessary for the proper processing and payment of the claim.

''(II) DETERMINATION AFTER SUBMISSION OF ADDITIONAL INFORMATION.—A claim is deemed to be a clean claim under this paragraph if the PDP sponsor involved does not provide notice to the claimant of any defect or impropriety in the claim within 10 days of the date on which additional information is received under subclause (I).

''(iii) OBLIGATION TO PAY.—A claim submitted to a PDP sponsor that is not paid or contested by the sponsor within the applicable number of days (as defined in subparagraph (B)) after the date on which the claim is received shall be deemed to be a clean claim and shall be paid by the PDP sponsor in accordance with subparagraph (A).

''(iv) DATE OF PAYMENT OF CLAIM.—Payment of a clean claim under such subparagraph is considered to have been made on the date on which—

''(I) with respect to claims paid electronically, the payment is transferred; and

''(II) with respect to claims paid otherwise, the payment is submitted to the United States Postal Service or common carrier for delivery.

''(E) ELECTRONIC TRANSFER OF FUNDS.—A PDP sponsor shall pay all clean claims submitted electronically by electronic transfer of funds if the pharmacy so requests or has so requested previously. In the case where such payment is made electronically, remittance may be made by the PDP sponsor electronically as well.

''(F) PROTECTING THE RIGHTS OF CLAIMANTS.—

''(i) IN GENERAL.—Nothing in this paragraph shall be construed to prohibit or limit a claim or action not covered by the subject matter of this section that any individual or organization has against a provider or a PDP sponsor.

''(ii) ANTI-RETALIATION.—Consistent with applicable Federal or State law, a PDP sponsor shall not retaliate against an individual or provider for exercising a right of action under this subparagraph.

''(G) RULE OF CONSTRUCTION.—A determination under this paragraph that a claim submitted by a pharmacy is a clean claim shall not be construed as a positive determination regarding eligibility for payment under this title, nor is it an indication of government approval of, or acquiescence regarding, the claim submitted. The determination shall not relieve any party of civil or criminal liability with respect to the claim, nor does it offer a defense to any administrative, civil, or criminal action with respect to the claim.''.

(b) PROMPT PAYMENT BY MA–PD PLANS.—Section 1857(f) of the Social Security Act (42 U.S.C. 1395w–27) is amended by adding at the end the following new paragraph:

''(3) INCORPORATION OF CERTAIN PRESCRIPTION DRUG PLAN CONTRACT REQUIREMENTS.—The following provisions shall apply to contracts with a Medicare Advantage organization offering an MA–PD plan in the same manner as they apply to contracts with a PDP sponsor offering a prescription drug plan under part D:

''(A) PROMPT PAYMENT.—Section 1860D–12(b)(4).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2010.

SEC. 172. SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.

(a) SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.—

(1) SUBMISSION OF CLAIMS TO PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)), as amended by section 171(a), is amended by adding at the end the following new paragraph:

''(5) SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.—Each contract entered into with a PDP sponsor under this part with respect to a prescription drug plan offered by such sponsor shall provide that a pharmacy located in, or having a contract with, a long-term care facility shall have not less than 30 days (but not more than 90 days) to submit claims to the sponsor for reimbursement under the plan.''.

(2) SUBMISSION OF CLAIMS TO MA–PD PLANS.—Section 1857(f)(3) of the Social Security Act, as added by section 171(b), is amended by adding at the end the following new subparagraph:

''(B) SUBMISSION OF CLAIMS BY PHARMACIES LOCATED IN OR CONTRACTING WITH LONG-TERM CARE FACILITIES.—Section 1860D–12(b)(5).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2010.

SEC. 173. REGULAR UPDATE OF PRESCRIPTION DRUG PRICING STANDARD.

(a) REQUIREMENT FOR PRESCRIPTION DRUG PLANS.—Section 1860D–12(b) of the Social Security Act (42 U.S.C. 1395w–112(b)), as amended by section 172(a)(1), is amended by adding at the end the following new paragraph:

''(6) REGULAR UPDATE OF PRESCRIPTION DRUG PRICING STANDARD.—If the PDP sponsor of a prescription drug plan uses a standard for reimbursement of pharmacies based on the cost of a drug, each contract entered into with such sponsor under this part with respect to the plan shall provide that the sponsor shall update such standard not less frequently than once every 7 days, beginning with an initial update on January 1 of each year, to accurately reflect the market price of acquiring the drug.''.

(b) REQUIREMENT FOR MA–PD PLANS.—Section 1857(f)(3) of the Social Security Act, as amended by section 172(a)(2), is amended by adding at the end the following new subparagraph:

''(C) REGULAR UPDATE OF PRESCRIPTION DRUG PRICING STANDARD.—Section 1860D–12(b)(6).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 2009.

PART II—OTHER PROVISIONS

SEC. 175. INCLUSION OF BARBITURATES AND BENZODIAZEPINES AS COVERED PART D DRUGS.

(a) IN GENERAL.—Section 1860D–2(e)(2)(A) of the Social Security Act (42 U.S.C. 1395w–102(e)(2)(A)) is amended by inserting after ''agents),'' the following ''other than subparagraph (I) of such section (relating to barbiturates) if the barbiturate is used in the treatment of epilepsy, cancer, or a chronic mental health disorder, and other than subparagraph (J) of such section (relating to benzodiazepines),''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to prescriptions dispensed on or after January 1, 2013.

SEC. 176. FORMULARY REQUIREMENTS WITH RESPECT TO CERTAIN CATEGORIES OR CLASSES OF DRUGS.

Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)) is amended—

(1) in subparagraph (C)(i), by striking ''The formulary'' and inserting ''Subject to subparagraph (G), the formulary''; and

(2) by inserting after subparagraph (F) the following new subparagraph:

''(G) REQUIRED INCLUSION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

''(i) IDENTIFICATION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—Beginning with plan year 2010, the Secretary shall identify, as appropriate, categories and classes of drugs for which both of the following criteria are met:

''(I) Restricted access to drugs in the category or class would have major or life threatening clinical consequences for individuals who have a disease or disorder treated by the drugs in such category or class.

''(II) There is significant clinical need for such individuals to have access to multiple drugs within a category or class due to unique chemical actions and pharmacological effects of the drugs within the category or class, such as drugs used in the treatment of cancer.

''(ii) FORMULARY REQUIREMENTS.—Subject to clause (iii), PDP sponsors offering prescription drug plans shall be required to include all covered part D drugs in the categories and classes identified by the Secretary under clause (i).

''(iii) EXCEPTIONS.—The Secretary may establish exceptions that permits a PDP sponsor of a prescription drug plan to exclude from its formulary a particular covered part D drug in a category or class that is otherwise required to be included in the formulary under clause (ii) (or to otherwise limit access to such a drug, including through prior authorization or utilization management). Any exceptions established under the preceding sentence shall be provided under a process that—

''(I) ensures that any exception to such requirement is based upon scientific evidence and medical standards of practice (and, in the case of antiretroviral medications, is consistent with the Department of Health and Human Services Guidelines for the Use of Antiretroviral Agents in HIV-1-Infected Adults and Adolescents); and

''(II) includes a public notice and comment period.''.

Subtitle F—Other Provisions

SEC. 181. USE OF PART D DATA.

Section 1860D–12(b)(3)(D) of the Social Security Act (42 U.S.C. 1395w–112(b)(3)(D)) is amended by adding at the end the following sentence: ''Notwithstanding any other provision of law, information provided to the Secretary under the application of section 1857(e)(1) to contracts under this section under the preceding sentence—

''(i) may be used for the purposes of carrying out this part, improving public health

through research on the utilization, safety, effectiveness, quality, and efficiency of health care services (as the Secretary determines appropriate); and

''(ii) shall be made available to Congressional support agencies (in accordance with their obligations to support Congress as set out in their authorizing statutes) for the purposes of conducting Congressional oversight, monitoring, making recommendations, and analysis of the program under this title.''.

SEC. 182. REVISION OF DEFINITION OF MEDICALLY ACCEPTED INDICATION FOR DRUGS.

(a) REVISION OF DEFINITION FOR PART D DRUGS.—

(1) IN GENERAL.—Section 1860D–2(e)(1) of the Social Security Act (42 U.S.C. 1395w–102(e)(1)) is amended, in the matter following subparagraph (B)—

(A) by striking ''(as defined in section 1927(k)(6))'' and inserting ''(as defined in paragraph (4))''; and

(B) by adding at the end the following new paragraph:

''(4) MEDICALLY ACCEPTED INDICATION DEFINED.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'medically accepted indication' has the meaning given that term—

''(i) in the case of a covered part D drug used in an anticancer chemotherapeutic regimen, in section 1861(t)(2)(B), except that in applying such section—

''(I) 'prescription drug plan or MA–PD plan' shall be substituted for 'carrier' each place it appears; and

''(II) subject to subparagraph (B), the compendia described in section 1927(g)(1)(B)(i)(III) shall be included in the list of compendia described in clause (ii)(I) section 1861(t)(2)(B); and

''(ii) in the case of any other covered part D drug, in section 1927(k)(6).

''(B) CONFLICT OF INTEREST.—On and after January 1, 2010, subparagraph (A)(i)(II) shall not apply unless the compendia described in section 1927(g)(1)(B)(i)(III) meets the requirement in the third sentence of section 1861(t)(2)(B).

''(C) UPDATE.—For purposes of applying subparagraph (A)(ii), the Secretary shall revise the list of compendia described in section 1927(g)(1)(B)(i) as is appropriate for identifying medically accepted indications for drugs. Any such revision shall be done in a manner consistent with the process for revising compendia under section 1861(t)(2)(B).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning on or after January 1, 2009.

(b) CONFLICTS OF INTEREST.—Section 1861(t)(2)(B) of the Social Security Act (42 U.S.C. 1395x(t)(2)(B)) is amended by adding at the end the following new sentence: ''On and after January 1, 2010, no compendia may be included on the list of compendia under this subparagraph unless the compendia has a publicly transparent process for evaluating therapies and for identifying potential conflicts of interests.''.

SEC. 183. CONTRACT WITH A CONSENSUS-BASED ENTITY REGARDING PERFORMANCE MEASUREMENT.

(a) CONTRACT.—

(1) IN GENERAL.—Part E of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by inserting after section 1889 the following new section:

''CONTRACT WITH A CONSENSUS-BASED ENTITY REGARDING PERFORMANCE MEASUREMENT

''SEC. 1890. (a) CONTRACT.—

''(1) IN GENERAL.—For purposes of activities conducted under this Act, the Secretary shall identify and have in effect a contract with a consensus-based entity, such as the National Quality Forum, that meets the requirements described in subsection (c). Such contract shall provide that the entity will perform the duties described in subsection (b).

''(2) TIMING FOR FIRST CONTRACT.—As soon as practicable after the date of the enactment of this subsection, the Secretary shall enter into the first contract under paragraph (1).

''(3) PERIOD OF CONTRACT.—A contract under paragraph (1) shall be for a period of 4 years (except as may be renewed after a subsequent bidding process).

''(4) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into a contract under paragraph (1).

''(b) DUTIES.—The duties described in this subsection are the following:

''(1) PRIORITY SETTING PROCESS.—The entity shall synthesize evidence and convene key stakeholders to make recommendations, with respect to activities conducted under this Act, on an integrated national strategy and priorities for health care performance measurement in all applicable settings. In making such recommendations, the entity shall—

''(A) ensure that priority is given to measures—

''(i) that address the health care provided to patients with prevalent, high-cost chronic diseases;

''(ii) with the greatest potential for improving the quality, efficiency, and patient-centeredness of health care; and

''(iii) that may be implemented rapidly due to existing evidence, standards of care, or other reasons; and

''(B) take into account measures that—

''(i) may assist consumers and patients in making informed health care decisions;

''(ii) address health disparities across groups and areas; and

''(iii) address the continuum of care a patient receives, including services furnished by multiple health care providers or practitioners and across multiple settings.

''(2) ENDORSEMENT OF MEASURES.—The entity shall provide for the endorsement of standardized health care performance measures. The endorsement process under the preceding sentence shall consider whether a measure—

''(A) is evidence-based, reliable, valid, verifiable, relevant to enhanced health outcomes, actionable at the caregiver level, feasible to collect and report, and responsive to variations in patient characteristics, such as health status, language capabilities, race or ethnicity, and income level; and

''(B) is consistent across types of health care providers, including hospitals and physicians.

''(3) MAINTENANCE OF MEASURES.—The entity shall establish and implement a process to ensure that measures endorsed under paragraph (2) are updated (or retired if obsolete) as new evidence is developed.

''(4) PROMOTION OF THE DEVELOPMENT OF ELECTRONIC HEALTH RECORDS.—The entity shall promote the development and use of electronic health records that contain the functionality for automated collection, aggregation, and transmission of performance measurement information.

''(5) ANNUAL REPORT TO CONGRESS AND THE SECRETARY; SECRETARIAL PUBLICATION AND COMMENT.—

''(A) ANNUAL REPORT.—By not later than March 1 of each year (beginning with 2009), the entity shall submit to Congress and the Secretary a report containing a description of—

''(i) the implementation of quality measurement initiatives under this Act and the coordination of such initiatives with quality initiatives implemented by other payers;

''(ii) the recommendations made under paragraph (1); and

''(iii) the performance by the entity of the duties required under the contract entered into with the Secretary under subsection (a).

''(B) SECRETARIAL REVIEW AND PUBLICATION OF ANNUAL REPORT.—Not later than 6 months after receiving a report under subparagraph (A) for a year, the Secretary shall—

''(i) review such report; and

''(ii) publish such report in the Federal Register, together with any comments of the Secretary on such report.

''(c) REQUIREMENTS DESCRIBED.—The requirements described in this subsection are the following:

''(1) PRIVATE NONPROFIT.—The entity is a private nonprofit entity governed by a board.

''(2) BOARD MEMBERSHIP.—The members of the board of the entity include—

''(A) representatives of health plans and health care providers and practitioners or representatives of groups representing such health plans and health care providers and practitioners;

''(B) health care consumers or representatives of groups representing health care consumers; and

''(C) representatives of purchasers and employers or representatives of groups representing purchasers or employers.

''(3) ENTITY MEMBERSHIP.—The membership of the entity includes persons who have experience with—

''(A) urban health care issues;

''(B) safety net health care issues;

''(C) rural and frontier health care issues; and

''(D) health care quality and safety issues.

''(4) OPEN AND TRANSPARENT.—With respect to matters related to the contract with the Secretary under subsection (a), the entity conducts its business in an open and transparent manner and provides the opportunity for public comment on its activities.

''(5) VOLUNTARY CONSENSUS STANDARDS SETTING ORGANIZATION.—The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) and Office of Management and Budget Revised Circular A–119 (published in the Federal Register on February 10, 1998).

''(6) EXPERIENCE.—The entity has at least 4 years of experience in establishing national consensus standards.

''(7) MEMBERSHIP FEES.—If the entity requires a membership fee for participation in the functions of the entity, such fees shall be reasonable and adjusted based on the capacity of the potential member to pay the fee. In no case shall membership fees pose a barrier to the participation of individuals or groups with low or nominal resources to participate in the functions of the entity.

''(d) FUNDING.—For purposes of carrying out this section, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1817 and the Federal Supplementary Medical Insurance Trust Fund under section 1841 (in such proportion as the Secretary determines appropriate), of $10,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for each of fiscal years 2009 through 2012.''.

(2) SENSE OF THE SENATE.—It is the Sense of the Senate that the selection by the Secretary of Health and Human Services of an entity to contract with under section 1890(a) of the Social Security Act, as added by paragraph (1), should not be construed as diminishing the significant contributions of the Boards of Medicine, the quality alliances, and other clinical and technical experts to

efforts to measure and improve the quality of health care services.

(b) GAO STUDY AND REPORTS ON THE PERFORMANCE AND COSTS OF THE CONSENSUS-BASED ENTITY UNDER THE CONTRACT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on—

(A) the performance of the entity with a contract with the Secretary of Health and Human Services under section 1890(a) of the Social Security Act, as added by subsection (a), of its duties under such contract; and

(B) the costs incurred by such entity in performing such duties.

(2) REPORTS.—Not later than 18 months and 36 months after the effective date of the first contract entered into under such section 1890(a), the Comptroller General of the United States shall submit to Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

SEC. 184. COST-SHARING FOR CLINICAL TRIALS.

Section 1833 of the Social Security Act (42 U.S.C. 1395l), as amended by section 151(a), is amended by adding at the end the following new subsection:

''(w) METHODS OF PAYMENT.—The Secretary may develop alternative methods of payment for items and services provided under clinical trials and comparative effectiveness studies sponsored or supported by an agency of the Department of Health and Human Services, as determined by the Secretary, to those that would otherwise apply under this section, to the extent such alternative methods are necessary to preserve the scientific validity of such trials or studies, such as in the case where masking the identity of interventions from patients and investigators is necessary to comply with the particular trial or study design.''.

SEC. 185. ADDRESSING HEALTH CARE DISPARITIES.

Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by inserting after section 1808 the following new section:

''ADDRESSING HEALTH CARE DISPARITIES

''SEC. 1809. (a) EVALUATING DATA COLLECTION APPROACHES.—The Secretary shall evaluate approaches for the collection of data under this title, to be performed in conjunction with existing quality reporting requirements and programs under this title, that allow for the ongoing, accurate, and timely collection and evaluation of data on disparities in health care services and performance on the basis of race, ethnicity, and gender. In conducting such evaluation, the Secretary shall consider the following objectives:

''(1) Protecting patient privacy.

''(2) Minimizing the administrative burdens of data collection and reporting on providers and health plans participating under this title.

''(3) Improving Medicare program data on race, ethnicity, and gender.

''(b) REPORTS TO CONGRESS.—

''(1) REPORT ON EVALUATION.—Not later than 18 months after the date of the enactment of this section, the Secretary shall submit to Congress a report on the evaluation conducted under subsection (a). Such report shall, taking into consideration the results of such evaluation—

''(A) identify approaches (including defining methodologies) for identifying and collecting and evaluating data on health care disparities on the basis of race, ethnicity, and gender for the original Medicare fee-for-service program under parts A and B, the Medicare Advantage program under part C, and the Medicare prescription drug program under part D; and

''(B) include recommendations on the most effective strategies and approaches to reporting HEDIS quality measures as required under section 1852(e)(3) and other nationally recognized quality performance measures, as appropriate, on the basis of race, ethnicity, and gender.

''(2) REPORTS ON DATA ANALYSES.—Not later than 4 years after the date of the enactment of this section, and 4 years thereafter, the Secretary shall submit to Congress a report that includes recommendations for improving the identification of health care disparities for Medicare beneficiaries based on analyses of the data collected under subsection (c).

''(c) IMPLEMENTING EFFECTIVE APPROACHES.—Not later than 24 months after the date of the enactment of this section, the Secretary shall implement the approaches identified in the report submitted under subsection (b)(1) for the ongoing, accurate, and timely collection and evaluation of data on health care disparities on the basis of race, ethnicity, and gender.''.

SEC. 186. DEMONSTRATION TO IMPROVE CARE TO PREVIOUSLY UNINSURED.

(a) ESTABLISHMENT.—Within one year after the date of the enactment of this Act, the Secretary (in this section referred to as the ''Secretary'') shall establish a demonstration project to determine the greatest needs and most effective methods of outreach to medicare beneficiaries who were previously uninsured.

(b) SCOPE.—The demonstration shall be in no fewer than 10 sites, and shall include state health insurance assistance programs, community health centers, community-based organizations, community health workers, and other service providers under parts A, B, and C of title XVIII of the Social Security Act. Grantees that are plans operating under part C shall document that enrollees who were previously uninsured receive the ''Welcome to Medicare'' physical exam.

(c) DURATION.—The Secretary shall conduct the demonstration project for a period of 2 years.

(d) REPORT AND EVALUATION.—The Secretary shall conduct an evaluation of the demonstration and not later than 1 year after the completion of the project shall submit to Congress a report including the following:

(1) An analysis of the effectiveness of outreach activities targeting beneficiaries who were previously uninsured, such as revising outreach and enrollment materials (including the potential for use of video information), providing one-on-one counseling, working with community health workers, and amending the Medicare and You handbook.

(2) The effect of such outreach on beneficiary access to care, utilization of services, efficiency and cost-effectiveness of health care delivery, patient satisfaction, and select health outcomes.

SEC. 187. OFFICE OF THE INSPECTOR GENERAL REPORT ON COMPLIANCE WITH AND ENFORCEMENT OF NATIONAL STANDARDS ON CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS) IN MEDICARE.

(a) REPORT.—Not later than two years after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall prepare and publish a report on—

(1) the extent to which Medicare providers and plans are complying with the Office for Civil Rights' Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons and the Office of Minority Health's Culturally and Linguistically Appropriate Services Standards in health care; and

(2) a description of the costs associated with or savings related to the provision of language services.

Such report shall include recommendations on improving compliance with CLAS Standards and recommendations on improving enforcement of CLAS Standards.

(b) IMPLEMENTATION.—Not later than one year after the date of publication of the report under subsection (a), the Department of Health and Human Services shall implement changes responsive to any deficiencies identified in the report.

SEC. 188. MEDICARE IMPROVEMENT FUNDING.

(a) MEDICARE IMPROVEMENT FUND.—

(1) IN GENERAL.—Subject to paragraph (2), title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

''MEDICARE IMPROVEMENT FUND

''SEC. 1898. (a) ESTABLISHMENT.—

''The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the 'Fund') which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

''(b) FUNDING.—

''(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal years 2014 through 2017, $19,900,000,000.

''(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund in such proportion as the Secretary determines appropriate.

''(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.''.

(2) CONTINGENCY.—

(A) IN GENERAL.—If there is enacted, before, on, or after the date of the enactment of this Act, a Supplemental Appropriations Act, 2008 that includes a provision providing for a Medicare Improvement Fund under a section 1898 of the Social Security Act, the alternative amendment described in subparagraph (B)—

(i) shall apply instead of the amendment made by paragraph (1); and

(ii) shall be executed after such provision in such Supplemental Appropriations Act.

(B) ALTERNATIVE AMENDMENT DESCRIBED.—The alternative amendment described in this subparagraph is as follows: Section 1898(b)(1) of the Social Security Act, as added by the Supplemental Appropriations Act, 2008, is amended by inserting before the period at the end the following: '' and, in addition for services furnished during fiscal years 2014 through 2017, $19,900,000,000''.

(b) IMPLEMENTATION.—For purposes of carrying out the provisions of, and amendments made by, this title, in addition to any other amounts provided in such provisions and amendments, the Secretary of Health and Human Services shall provide for the transfer, from the Federal Hospital Insurance

Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t), in the same proportion as the Secretary determines under section 1853(f) of such Act (42 U.S.C. 1395w–23(f)), of $140,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2009 through 2013.

SEC. 189. INCLUSION OF MEDICARE PROVIDERS AND SUPPLIERS IN FEDERAL PAYMENT LEVY AND ADMINISTRATIVE OFFSET PROGRAM.

(a) IN GENERAL.—Section 1874 of the Social Security Act (42 U.S.C. 1395kk) is amended by adding at the end the following new subsection:

''(d) INCLUSION OF MEDICARE PROVIDER AND SUPPLIER PAYMENTS IN FEDERAL PAYMENT LEVY PROGRAM.—

''(1) IN GENERAL.—The Centers for Medicare & Medicaid Services shall take all necessary steps to participate in the Federal Payment Levy Program under section 6331(h) of the Internal Revenue Code of 1986 as soon as possible and shall ensure that—

''(A) at least 50 percent of all payments under parts A and B are processed through such program beginning within 1 year after the date of the enactment of this section;

''(B) at least 75 percent of all payments under parts A and B are processed through such program beginning within 2 years after such date; and

''(C) all payments under parts A and B are processed through such program beginning not later than September 30, 2011.

''(2) ASSISTANCE.—The Financial Management Service and the Internal Revenue Service shall provide assistance to the Centers for Medicare & Medicaid Services to ensure that all payments described in paragraph (1) are included in the Federal Payment Levy Program by the deadlines specified in that subsection.''.

(b) APPLICATION OF ADMINISTRATIVE OFFSET PROVISIONS TO MEDICARE PROVIDER OR SUPPLIER PAYMENTS.—Section 3716 of title 31, United States Code, is amended—

(1) by inserting ''the Department of Health and Human Services,'' after ''United States Postal Service,'' in subsection (c)(1)(A); and

(2) by adding at the end of subsection (c)(3) the following new subparagraph:

''(D) This section shall apply to payments made after the date which is 90 days after the enactment of this subparagraph (or such earlier date as designated by the Secretary of Health and Human Services) with respect to claims or debts, and to amounts payable, under title XVIII of the Social Security Act.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE II—MEDICAID

SEC. 201. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Section 401 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432, 120 Stat. 2994), as amended by section 1 of Public Law 110–48 (121 Stat. 244), section 2 of the TMA, Abstinence, Education, and QI Programs Extension Act of 2007 (Public Law 110–90, 121 Stat. 984), and section 202 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(1) by striking ''June 30, 2008'' and inserting ''June 30, 2009'';

(2) by striking ''the third quarter of fiscal year 2008'' and inserting ''the third quarter of fiscal year 2009''; and

(3) by striking ''the third quarter of fiscal year 2007'' and inserting ''the third quarter of fiscal year 2008''.

SEC. 202. MEDICAID DSH EXTENSION.

Section 1923(f)(6) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)) is amended—

(1) in the heading, by striking ''FISCAL YEAR 2007 AND PORTIONS OF FISCAL YEAR 2008'' and inserting ''FISCAL YEARS 2007 THROUGH 2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010''; and

(2) in subparagraph (A)—

(A) in clause (i)—

(i) in the second sentence—

(I) by striking ''fiscal year 2008 for the period ending on June 30, 2008'' and inserting ''fiscal years 2008 and 2009''; and

(II) by striking ''¾ of''; and

(ii) by adding at the end the following new sentences: ''Only with respect to fiscal year 2010 for the period ending on December 31, 2009, the DSH allotment for Tennessee for such portion of the fiscal year, notwithstanding such table or terms, shall be ¼ of the amount specified in the first sentence for fiscal year 2007.'';

(B) in clause (ii), by striking ''or for a period in fiscal year 2008'' and inserting '', 2008, 2009, or for a period in fiscal year 2010'';

(C) in clause (iv)—

(i) in the heading, by striking ''FISCAL YEAR 2007 AND FISCAL YEAR 2008'' and inserting ''FISCAL YEARS 2007 THROUGH 2009 AND THE FIRST CALENDAR QUARTER OF FISCAL YEAR 2010'';

(ii) in subclause (I), by striking ''or for a period in fiscal year 2008'' and inserting '', 2008, 2009, or for a period in fiscal year 2010''; and

(iii) in subclause (II), by striking ''or for a period in fiscal year 2008'' and inserting '', 2008, 2009, or for a period in fiscal year 2010''; and

(3) in subparagraph (B)(i)—

(A) in the first sentence, by striking ''fiscal year 2007'' and inserting ''each of fiscal years 2007 through 2009''; and

(B) by striking the second sentence and inserting the following: ''Only with respect to fiscal year 2010 for the period ending on December 31, 2009, the DSH allotment for Hawaii for such portion of the fiscal year, notwithstanding the table set forth in paragraph (2), shall be $2,500,000.''.

SEC. 203. PHARMACY REIMBURSEMENT UNDER MEDICAID.

(a) DELAY IN APPLICATION OF NEW PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS UNDER MEDICAID.—Notwithstanding paragraphs (4) and (5) of subsection (e) of section 1927 of the Social Security Act (42 U.S.C. 1396r–8) or part 447 of title 42, Code of Federal Regulations, as published on July 17, 2007 (72 Federal Register 39142)—

(1) the specific upper limit under section 447.332 of title 42, Code of Federal Regulations (as in effect on December 31, 2006) applicable to payments made by a State for multiple source drugs under a State Medicaid plan shall continue to apply through September 30, 2009, for purposes of the availability of Federal financial participation for such payments; and

(2) the Secretary of Health and Human Services shall not, prior to October 1, 2009, finalize, implement, enforce, or otherwise take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose the specific upper limit established under section 447.514(b) of title 42, Code of Federal Regulations as published on July 17, 2007 (72 Federal Register 39142).

(b) TEMPORARY SUSPENSION OF UPDATED PUBLICLY AVAILABLE AMP DATA.—Notwithstanding clause (v) of section 1927(b)(3)(D) of the Social Security Act (42 U.S.C. 1396r–8(b)(3)(D)), the Secretary of Health and Human Services shall not, prior to October 1, 2009, make publicly available any AMP disclosed to the Secretary.

(c) DEFINITIONS.—In this subsection:

(1) The term ''multiple source drug'' has the meaning given that term in section 1927(k)(7)(A)(i) of the Social Security Act (42 U.S.C. 1396r–8(k)(7)(A)(i)).

(2) The term ''AMP'' has the meaning given ''average manufacturer price'' in section 1927(k)(1) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)) and ''AMP'' in section 447.504(a) of title 42, Code of Federal Regulations as published on July 17, 2007 (72 Federal Register 39142).

SEC. 204. REVIEW OF ADMINISTRATIVE CLAIM DETERMINATIONS.

(a) IN GENERAL.—Section 1116 of the Social Security Act (42 U.S.C. 1316) is amended by adding at the end the following new subsection:

''(e)(1) Whenever the Secretary determines that any item or class of items on account of which Federal financial participation is claimed under title XIX shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance, provided that such request is made during the 60-day period that begins on the date the State receives notice of the disallowance.

''(2)(A) A State may appeal a disallowance of a claim for federal financial participation under title XIX by the Secretary, or an unfavorable reconsideration of a disallowance, during the 60-day period that begins on the date the State receives notice of the disallowance or of the unfavorable reconsideration, in whole or in part, to the Departmental Appeals Board, established in the Department of Health and Human Services (in this paragraph referred to as the 'Board'), by filing a notice of appeal with the Board.

''(B) The Board shall consider a State's appeal of a disallowance of such a claim (or of an unfavorable reconsideration of a disallowance) on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold a disallowance of such a claim or any portion thereof, the Board shall be bound by all applicable laws and regulations and shall conduct a thorough review of the issues, taking into account all relevant evidence. The Board's decision of an appeal under subparagraph (A) shall be the final decision of the Secretary and shall be subject to reconsideration by the Board only upon motion of either party filed during the 60-day period that begins on the date of the Board's decision or to judicial review in accordance with subparagraph (C).

''(C) A State may obtain judicial review of a decision of the Board by filing an action in any United States District Court located within the appealing State (or, if several States jointly appeal the disallowance of claims for Federal financial participation under section 1903, in any United States District Court that is located within any State that is a party to the appeal) or the United States District Court for the District of Columbia. Such an action may only be filed—

''(i) if no motion for reconsideration was filed within the 60-day period specified in subparagraph (B), during such 60-day period; or

''(ii) if such a motion was filed within such period, during the 60-day period that begins on the date of the Board's decision on such motion.''.

(b) CONFORMING AMENDMENT.—Section 1116(d) of such Act (42 U.S.C. 1316(d)) is amended by striking ''or XIX,''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act and apply to

any disallowance of a claim for Federal financial participation under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) made on or after such date or during the 60-day period prior to such date.

SEC. 205. COUNTY MEDICAID HEALTH INSURING ORGANIZATIONS.

(a) IN GENERAL.—Section 9517(c)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 1396b note), as added by section 4734 of the Omnibus Budget Reconciliation Act of 1990 and as amended by section 704 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, is amended—

(1) in subparagraph (A), by inserting ‘‘, in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Ventura County, and in the case of any health insuring organization described in such subparagraph that is operated by a public entity established by Merced County’’ after ‘‘described in subparagraph (B)’’; and

(2) in subparagraph (C), by striking ‘‘14 percent’’ and inserting ‘‘16 percent’’.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

TITLE III—MISCELLANEOUS

SEC. 301. EXTENSION OF TANF SUPPLEMENTAL GRANTS.

(a) EXTENSION THROUGH FISCAL YEAR 2009.—Section 7101(a) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 135) is amended by striking ‘‘fiscal year 2008’’ and inserting ‘‘fiscal year 2009’’.

(b) CONFORMING AMENDMENT.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended to read as follows:

‘‘(ii) subparagraph (G) shall be applied as if ‘fiscal year 2009’ were substituted for ‘fiscal year 2001’; and’’.

SEC. 302. 70 PERCENT FEDERAL MATCHING FOR FOSTER CARE AND ADOPTION ASSISTANCE FOR THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended in each of paragraphs (1) and (2) by striking ‘‘(as defined in section 1905(b) of this Act)’’ and inserting ‘‘(which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia)’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2008, and shall apply to calendar quarters beginning on or after that date.

SEC. 303. EXTENSION OF SPECIAL DIABETES GRANT PROGRAMS.

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)) is amended by striking ‘‘2009’’ and inserting ‘‘2011’’.

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)(C)) is amended by striking ‘‘2009’’ and inserting ‘‘2011’’.

(c) REPORT ON GRANT PROGRAMS.—Section 4923(b) of the Balanced Budget Act of 1997 (42 U.S.C. 1254c–2 note), as amended by section 931(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554, and section 1(c) of Public Law 107–360, is amended—

(1) in paragraph (1), by striking ‘‘and’’ at the end;

(2) in paragraph (2)—

(A) by striking ‘‘a final report’’ and inserting ‘‘a second interim report’’; and

(B) by striking the period at the end and inserting ‘‘; and’’; and

(3) by adding at the end the following new paragraph:

‘‘(3) a report on such evaluation not later than January 1, 2011.’’.

SEC. 304. IOM REPORTS ON BEST PRACTICES FOR CONDUCTING SYSTEMATIC REVIEWS OF CLINICAL EFFECTIVENESS RESEARCH AND FOR DEVELOPING CLINICAL PROTOCOLS.

(a) SYSTEMATIC REVIEWS OF CLINICAL EFFECTIVENESS RESEARCH.—

(1) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine of the National Academies (in this section referred to as the ‘‘Institute’’) under which the Institute shall conduct a study to identify the methodological standards for conducting systematic reviews of clinical effectiveness research on health and health care in order to ensure that organizations conducting such reviews have information on methods that are objective, scientifically valid, and consistent.

(2) REPORT.—Not later than 18 months after the effective date of the contract under paragraph (1), the Institute, as part of such contract, shall submit to the Secretary of Health and Human Services and the appropriate committees of jurisdiction of Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Institute determines appropriate.

(3) PARTICIPATION.—The contract under paragraph (1) shall require that stakeholders with expertise in conducting clinical effectiveness research participate on the panel responsible for conducting the study under paragraph (1) and preparing the report under paragraph (2).

(b) CLINICAL PROTOCOLS.—

(1) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall enter into a contract with the Institute of Medicine of the National Academies (in this section referred to as the ‘‘Institute’’) under which the Institute shall conduct a study on the best methods used in developing clinical practice guidelines in order to ensure that organizations developing such guidelines have information on approaches that are objective, scientifically valid, and consistent.

(2) REPORT.—Not later than 18 months after the effective date of the contract under paragraph (1), the Institute, as part of such contract, shall submit to the Secretary of Health and Human Services and the appropriate committees of jurisdiction of Congress a report containing the results of the study conducted under paragraph (1), together with recommendations for such legislation and administrative action as the Institute determines appropriate.

(3) PARTICIPATION.—The contract under paragraph (1) shall require that stakeholders with expertise in making clinical recommendations participate on the panel responsible for conducting the study under paragraph (1) and preparing the report under paragraph (2).

(c) FUNDING.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated for the period of fiscal years 2009 and 2010, $3,000,000 to carry out this section.

MOTION TO ADJOURN

Mr. CULBERSON. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CULBERSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 75, nays 309, not voting 50, as follows:

[Roll No. 442]

YEAS—75

Akin
Alexander
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Broun (GA)
Burton (IN)
Camp (MI)
Campbell (CA)
Cantor
Carter
Clay
Coble
Cubin
Davis, Tom
Deal (GA)
Doolittle
Duncan
Emerson
English (PA)
Everett
Flake
Foxx
Franks (AZ)
Garrett (NJ)
Gilchrest
Gordon
Granger
Hastings (FL)
Hastings (WA)
Hensarling
Herger
Hobson
Hoekstra
Hunter
Inglis (SC)
Johnson, Sam
Keller
King (IA)
Lamborn
Lewis (KY)
Lucas
Lungren, Daniel E.
Manzullo
Marchant
McCaul (TX)
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Miller, Gary
Musgrave
Myrick
Petri
Pickering
Rehberg
Reichert
Renzi
Rogers (AL)
Roskam
Ryan (WI)
Sensenbrenner
Sessions
Shadegg
Shimkus
Sullivan
Whitfield (KY)
Young (AK)

NAYS—309

Abercrombie
Ackerman
Aderholt
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bishop (GA)
Bishop (NY)
Blumenauer
Bonner
Bono Mack
Boozman
Boren
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Butterfield
Buyer
Calvert
Capito
Capps
Capuano
Carnahan
Carney
Carson
Castle
Castor
Cazayoux
Chabot
Chandler
Childers
Clarke
Cleaver
Clyburn
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (KY)
Davis, David
DeFazio
DeGette
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Dreier
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emanuel
Etheridge
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Forbes
Fortenberry
Fossella
Foster
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Giffords
Gingrey
Gonzalez
Goode
Goodlatte
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lampson
Langevin
Larson (CT)
Latham
LaTourette
Latta
Lee

Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCollum (MN)
McCotter
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Mitchell
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Nadler
Napolitano
Neal (MA)
Neugebauer
Obey
Olver
Ortiz
Pallone
Pastor
Paul
Payne
Pearce
Perlmutter
Peterson (MN)
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Ramstad
Rangel
Regula
Richardson
Rodriguez
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Serrano
Sestak
Shays
Sherman
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Space
Stark
Stearns
Stupak
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Towns
Tsongas
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wilson (NM)
Wilson (OH)
Wittman (VA)
Wolf
Wu
Young (FL)

NOT VOTING—50

Boswell
Boucher
Cannon
Cardoza
Costa
Courtney
Davis (IL)
Davis, Lincoln
Delahunt
DeLauro
Engel
Eshoo
Gillibrand
Gohmert
Jefferson
Johnson (IL)
Larsen (WA)
Mahoney (FL)
McNulty
Miller, George
Mollohan
Nunes
Oberstar
Pascrell
Pence
Peterson (PA)
Pryce (OH)
Radanovich
Rahall
Reyes
Reynolds
Ross
Rush
Saxton
Scott (VA)
Shea-Porter
Souder
Speier
Spratt
Tancredo
Thompson (MS)
Tierney
Turner
Udall (CO)
Wamp
Weiner
Wexler
Wilson (SC)
Woolsey
Yarmuth

□ 1116

Messrs. SESTAK and KUCINICH changed their vote from ''yea'' to ''nay.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

MEDICARE IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT OF 2008—Continued

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

GENERAL LEAVE

Mr. PALLONE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. Mr. Speaker, I ask unanimous consent that the gentleman from New York (Mr. RANGEL) be permitted to control 10 minutes of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008, and I urge my colleagues on both sides of the aisle to offer their support for this bill.

H.R. 6331 would make a number of improvements that are important to protecting the health and well-being of our seniors. The legislation also addresses the reimbursement concerns of doctors who treat Medicare patients. It also completely is paid for by implementing sensible reforms to the Medicare Advantage program that is supported by almost every expert body, including MedPAC and GAO.

Mr. Speaker, while I still believe that the CHAMP Act, which the House passed last year, was the best way to address Medicare's future, the bill before us today is a reasonable compromise that both Democrats and Republicans should support. In the end this legislation would allow us to take the steps necessary to keep Medicare working for America's seniors, doctors, and taxpayers. And with less than a week to go before the impending physician cuts go into effect, it is time to put politics aside and pass this commonsense policy.

Mr. Speaker, I reserve the balance of my time, and I ask unanimous consent that the gentleman from Georgia (Mr. BARROW) be permitted to control the balance of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I would ask unanimous consent that the gentleman from Michigan (Mr. CAMP) be allowed to control 10 minutes for debate purposes of the time that I control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise today in opposition to H.R. 6331, the Medicare bill that is put before this Congress today on a suspension vote.

Somehow I missed it, but I didn't see the notice of the legislative hearing in the Energy and Commerce Committee hearing on this. I didn't see the notice of the subcommittee markup on this bill. I didn't see the full committee notice to have a markup. I didn't get any notice of the technical corrections of the bill, which we received at 10 minutes until 10 a.m. this morning.

The majority seems to be under the mistaken impression that the less input and the less Republicans know about major bills, the more likely we are to vote for them. Well, I have a news flash. When we were not a part of the process, when we don't have any input into the policy, there is over a 95 to 100 percent we are going to be ''noes'' regardless of the substance of the bill.

On this particular bill, had we had some input, we would have strongly opposed the cuts to Medicare Advantage. A large number of us would have opposed the delay in the durable medical equipment competitive bidding that's supposed to go into effect on July 1 and, under the current bill, is also delayed for 18 months. There is obviously a need to fix the current physician reimbursement system. We have been in session now in this Congress almost 18 months, perhaps longer. You would think that in that time period, there could have been some legislative hearings. There could have been some draft proposals floated. There could have been some markups and some discussion and some give and take, and we could have found a compromise that would pass on the suspension calendar. But that has not been the case, as it was not the case on the CHAMP Act that my good friend from New Jersey just referred to.

So, Mr. Speaker, on this particular piece of legislation for this morning, I would strongly urge a ''no'' vote and ask all Members of this body that believe in regular process and give and take in policy reform to vote ''no,'' and then sometime when we come back after the July 4th work period, perhaps we can work together to do what needs to be done.

Mr. Speaker, I rise today to oppose H.R. 6331, the Medicare bill put before this Congress today on a suspension vote. While I a agree that we should do something to address the Medicare physician payment cut that will take affect in just a few days, I do not support cutting Medicare Advantage to pay for this short-term fix.

This legislation cuts close to $50 billion from Medicare Advantage, a program that benefits seniors in every State and a program in which our seniors are deeply satisfied. I believe people benefit when they have the kind of choices that only market competition can provide, and that certainly includes choice in health care. As we have seen with the Medicare Part D drug benefit, when an entitlement program is subjected to market forces, everyone is a winner. The taxpayer gets lower spending in an entitlement program; the beneficiary pays lower premiums and co-pays; and we get to provide broader access to affordable and accountable health care for our seniors.

Yes, it is true that this bill provides temporary relief for payment cuts for physician services for the next year or so. So I guess as

Members we can rest assured that this problem will disappear for the next 18 months.

But what else have we signed on to if we are to pass this bill today? We have signed on to massive entitlement expansion through the revisions to the low-income subsidy and Medicare savings program. We have signed on to eliminating private, fee-for-service Medicare Advantage plan options that are currently available in 48 States. We have signed on to significant cuts in payment to all Medicare Advantage plans that work with teaching hospitals across this country. And last but not least, we have signed on to a process by which our own committees are now rendered useless in this Congressional body.

Over the course of the past year, there has not been one single Medicare hearing in the Energy and Commerce Committee. Not one. I guess the doc fix is so important that it justifies taking a significant, political, and complex bill straight to the floor under a vote by suspension of the rules.

That means no consideration by the committees of jurisdiction and no amendments on the floor. For an issue that the Democrats like to consider bipartisan—avoiding a physician payment crisis—one has to ask, why not work with Republicans to enact something earlier and more meaningful?

We know why we are here today. If the Speaker is able to jam this down our throats today, we know that it will hit a brick wall in the Senate. How do we know this? Because this bill is just about like the one that recently failed in the Senate. And, the President has indicated that he will veto it, in the unlikely event that it passes both bodies.

So, we see that today's vote for a physician payment fix is merely the political exercise Republicans must endure so that Democrats may turn to their constituents when they return for the holiday next week and say, ''See, I tried to help you but those abominable old Republicans, why they just wouldn't let me. They don't even like puppies, I heard.''

This bill temporarily stops the hemorrhaging, but it does not fix the long-term problem of physician payment. And the cure is likely worse than the illness—the doc fix is at the expense of our senior who enjoy their MA benefit.

I oppose this bill. I oppose the process—no committee hearings; no committee markups; no mention of the word Medicare in our committee at all.

Last year, I decried the politics of some of debates we had, and I was told that politics is a good thing for this body. Well, we're all elected to these seats, so we know a thing or two about politics, but at some point the people who elected us expect us to quit politicking and start governing. Too often this new Democratic Majority lacks the ideas they need to govern, and so they revert to politics.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself 3 minutes, and I ask unanimous consent that the remainder of my time go to the distinguished chairman of the Health Subcommittee of the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. RANGEL. Mr. Speaker, I wish we weren't legislating this way, as the gentleman has pointed out, on the suspension calendar, but as you know, it's difficult working with the other House. They have our CHAMP bill over there, and there is no telling what we might do if we don't come right now and deal with this emergency before these provisions expire.

This would allow the Secretary to add preventative benefits without waiting for the Congress. It would help us out in Medicare. And we have been able to gather the support of the doctors, the hospitals, the pharmacists, those that are concerned with durable medical expenses, the dialysis people, wheelchair. And so we made an attempt, even though it is patchwork and it's not a piece of legislation we're proud of. But if we don't move in this House, the effects of not doing anything would be more detrimental than trying to get a perfect bill.

We have been working desperately hard to try to get something that all of the people could agree to, but, unfortunately, we haven't had an opportunity to do that. And we also are concerned with the teaching hospitals with suggestions that we have heard that they would pay for the whole thing when we know that a physician's fee for service is an area that should equally bear the costs of trying to get this legislation through.

So I really don't think we have much of a choice. Our votes are being recorded. People are watching what we do. And I do hope that we can do a better job next year. But the whole idea is to make certain that the House is responsible, and while we don't have any indication of what's going to happen in the other body, it seems to me that we should move on this bill.

I want to thank Congressman STARK for the great work he and his staff have done. It's always a moving target as to what we can get in, what we can't get in. But I don't think there is anyplace we can go for now except to support the suspension, and then whatever corrections we have to do, we should do it next year.

Mr. Speaker, I reserve the balance of my time.

Mr. CAMP of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Medicare bills should be bipartisan and should be fully debated, not on some shortened suspension calendar. My question is just what about this bill worries the majority that they won't fully debate it?

Today we are discussing a serious issue, how to prevent Medicare from cutting physicians' payments by over 10 percent by next Tuesday. Make no mistake. That will happen if Congress does not act, and despite virtually every Member of this House being opposed to such a cut to doctors, here we are only a week away from that happening.

And, sadly, this shouldn't surprise any of us. Shortly after Congress passed the last short-term extension in December, the chairman of the Ways and Means Health Subcommittee noted that he was inclined to do nothing to stop the cut from taking place. And that's exactly what this majority has done for the past 6 months: nothing.

In the last couple of days, this bill has been drafted in secret, and a recent version just appeared at 10 o'clock this morning, 278 new pages of bill. But this bill has been drafted in secret without committee hearings, without committee markups, without committee amendments, and without any chance for public review.

This is the most restrictive Congress in our Nation's history. Neither the minority or majority should find this way of doing the people's business acceptable. It is certainly not what the Speaker promised us or promised the American people.

Maybe that's why when you break the public's trust in this way, your approval numbers plummet. This is the most unpopular Congress ever, and that's saying a lot. The American people want an open, accessible, and accountable government, and they are not getting it from this majority.

So today here we are rushing to pass a bill that couldn't muster enough support in the Senate to even be debated and one that is sure to be vetoed by the President, if it ever got that far. It's the first time I have ever seen this House in such a rush to take up the scraps of the Senate, and, frankly, we would be equally wise to reject this so-called fix. I know I speak for all of my colleagues on this side of the aisle when I say we want to prevent this cut and, in fact, we want to provide physicians with a payment increase. Yet with this bill, we are cutting seniors' access to affordable health care under Medicare some $47 billion, causing 2 million seniors to lose access to health care through Medicare Advantage. What we give some providers we directly take away from beneficiaries. This is no way to manage Medicare.

It is my sincere hope that we can ultimately pass a bipartisan compromise this week. A compromise is imminent in the Senate as we speak. Physicians deserve no less, and certainly beneficiaries, America's seniors, and the disabled deserve no less.

I urge my colleagues to vote ''no'' and to demand a Medicare doctor fix that is workable for all parties involved.

Mr. Speaker, I reserve the balance of my time.

Mr. BARROW. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, without H.R. 6331 many doctors across the country will not be able to afford to see and treat Medicare patients. In a rural district like mine where a greater percentage of the population depends on Medicare for their health care, that's not acceptable. We are lucky to have world-class health care in this country, but health care is only as good as an individual's ability to get to that health care and their

ability to afford it. H.R. 6331 will keep our doctors in business so that our Nation's poor and elderly can get the health care that they need.

I am proud of the fact that H.R. 6331 contains some specific relief for folks in rural areas, making sure that rural doctors get paid fairly, increasing payments to critical access hospitals, and covering the additional fuel costs faced by ambulances in rural districts. This bill will also help poor seniors by increasing the amount of assets that a low-income beneficiary can have and still qualify for financial help with Medicare costs.

I recently spent a week touring just about every kind of health care facility in my district. Folks back home have a lot of problems with our health care system. While this bill doesn't fix everything that's broke with Medicare, it is a big step forward and we absolutely need it.

Mr. Speaker, we have until July 1 to stop these cuts from taking effect.

□ 1130

Unless we adopt this legislation before then, doctors all across the country will have to start turning away Medicare patients that they are seeing right now. We can't let that happen. I therefore urge my colleagues to support this bill.

I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I want to yield 2 minutes to a member of the Energy and Commerce Committee, the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. I thank the gentleman from Texas.

Mr. Speaker, he mentioned earlier in his comments the lack of hearings that we have had on this issue. Indeed, this morning over in Energy and Commerce there is a hearing on health issues, but nothing to do with Medicare reform, nothing to do with this situation that is before us right now. Indeed, late notice was mentioned.

Mr. Speaker, I think that what we see here is a pattern that is developing with the majority party, and when they don't want to talk about something, they don't want to debate it on the floor, they want to maybe cover a few things into the bill, then we have it on suspension calendar. I find that very unfortunate.

I will say this. With H.R. 6331, 89 percent of our seniors in Tennessee that are enrolled in Medicare Advantage would be adversely impacted by this bill. This is something, this bill, H.R. 6331, would leave a lot of our elderly patients and doctors in peril, while the leadership in this body is playing politics with Medicare.

We have heard about the 10 percent cut on July 1. We have heard about procrastinating and leaving this until the 11th hour rather than taking significant action. Mr. Speaker, I think that we have to look at what is happening to Medicare. I am deeply concerned about this issue and how it impacts our seniors.

We know that the Medicare trust fund is likely to go bankrupt in 2019. These aren't my figures, these are the Congressional Budget Office figures. We know that this year, we hit the 45 percent trigger, which occurs when Congress is obliged to find a new way to curb Medicare spending. This bill does not do one thing to curb that spending. It makes it worse. It is unfair to our seniors.

I urge a ''no'' vote.

Mr. STARK. Mr. Speaker, I yield myself 2 minutes.

(Mr. STARK asked and was given permission to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, I urge my colleagues to support H.R. 6331. For whatever reasons, people may be concerned with process. To me, that is a snare and a delusion. Basically, this bill protects the physicians from their 10 percent cuts. If you vote against it, you're voting to cut physicians by 10 percent.

It improves benefits for seniors and people with disability, it ends discriminatory mental health copayments. So vote against the bill and seniors don't get mental health treatment. It targets extra help to low-income people. Vote against the bill and you're, as Republicans like to do, trashing low-income people for the benefit of rich insurance companies, the only one group that opposes this bill.

It delays the durable medical equipment competitive bidding demonstration, which we have agreed on a bipartisan basis should be delayed. Vote against the bill and let the medical equipment competitive bidding go ahead. It makes improvements in quick pay for pharmacists. Vote against the bill and talk to your local pharmacists, my Republican friends, and see what they think about your voting against the bill, which would otherwise provide them prompt payment.

The clinical labs, therapy services, rural providers, psychologists, social workers, dialysis patients all get help in this bill. So vote against it and go back and talk to your constituents who depend on those services for their quality of life.

I am ready to have you do that because all of this is paid for in a balanced, fair method, suggested, I might add, by the administration's own actuary, and the Government Accountability Office and MedPAC all say that trimming the payments to Medicare Advantage is the right thing to do, and will extend the life of the Medicare trust fund.

So it's not a bill I wish we were considering. The CHAMP Act, which many of you voted, is one. But this is a modest compromise. I urge its support.

For several years now, I have pushed to modernize Medicare's reimbursement for ESRD, consistent with longstanding recommendations from the Medicare Payment Advisory Commission, MedPAC, and the Government Accountability Office, GAO. The current payment system includes a perverse financial incentive to dose higher levels of the anti-anemia drug, Epogen, which can put patients at risk of death and serious cardiovascular events. Both MedPAC and GAO recommend replacing this system by reimbursing providers with one ''bundled'' payment for dialysis services and related drugs and labs, thereby removing the incentive to overuse items and services that are currently separately billed. This will encourage more efficient provider behavior while maintaining and improving patient care. This modernized payment system is consistent with the philosophy governing many of Medicare's other payment systems.

It is imperative bundling be done in a way that is sensitive to individual patient needs, protects against provider stinting, and is not ''one-size-fits all.'' Including an outlier pool, risk adjustment, and a strong quality performance system all work to ensure that appropriate care is ensured.

That is why I was very proud when the Children's Health and Medicare Protection, CHAMP, Act, which passed the House in August 2007, advanced ESRD bundling with these patient protections. That is also why I am disheartened by the ESRD bundling proposal before us today, as I have several serious concerns with this package.

First, I am very disappointed to see that much of this package is designed to appease the profit-hungry interests of the dialysis and pharmaceutical companies. I have long believed that dialysis providers should meet strong quality standards in order to receive increased payments. I oppose the automatic updates in this bill. I hope that when structuring the quality incentive program, CMS pushes dialysis providers to meet a rigorous set of standards in order to get payment increases. In CHAMP, providers had to meet a clear and strong set of quality measures in order to receive bonus payment.

Unfortunately, the initial anemia management quality measure in this bill is seriously flawed. The MIPPA quality measure tells providers that they are providing acceptable care as long as they haven't gotten worse than their past track record. That's like telling a D-student that they are doing fine as long as they keep getting at least D grades.

This is wrong. We should be encouraging providers to improve the care provided. There are serious health issues at stake, with the FDA warning that using anti-anemia drugs in a way that raises red blood cell levels too high puts ESRD patients at risk of death or cardiovascular events. Sadly, the measure in MIPPA gives providers a pass as long as the care provided just doesn't get worse.

Instead, we should be encouraging providers to get more patients within FDA's recommended range for anemia management. We tried to do this in CHAMP when we designed something that pushed providers to at least meet the national average, with the bar getting raised in subsequent years. If the MIPPA quality measure is enacted into law, I intend to work to override or modify it. I hope that the Centers for Medicare and Medicaid Services will instead develop a system that pushes providers toward improved performance and assesses them against anemia management measures that are consistent with the FDA label.

A second flaw in this package is that it allows the large dialysis organizations, LDOs, to

benefit from a mandated low-volume adjustment. I have no problem with a low-volume adjustment if it is warranted and set right. However, LDOs don't need it, and they shouldn't get it. Repeated studies by the HHS Office of Inspector General show that LDOs are able to get much better prices on dialysis-related drugs than smaller dialysis organizations. Even if an LDO has a low-volume facility, that facility still benefits from the price discounts negotiated with the parent corporation. Giving LDOs a low-volume adjustment is an unnecessary waste of money.

Another flaw with the MIPPA package is that it only lets facilities fully opt-in to the bundled payment system in the first year of the phase-in. I suspect that facilities will find the incentives for practice patterns under the old system and new systems to be in conflict, and may quickly realize that moving directly to bundling in year two is easier. To the extent bundling incentivizes more efficient behavior and has the necessary patient protections, if a facility wants to opt-in in year two or three, I see no reason to stop them.

I would also like to clarify something about the bundle itself. MedPAC has repeatedly pushed for a broader ESRD bundle. My understanding of the MIPPA language is that it provides for inclusion of all oral dialysis-related drugs in the bundle, including calcimimetics and phosphate binders. Specifically the term ''items and services'' at clause (14)(B)(iv) of the Social Security Act, as amended by MIPPA, and the reference to ''other drugs and biologicals'' at clause (14)(B)(iii), both afford the Secretary broad discretion to include oral drugs furnished to an individual for the treatment of end stage renal disease that don't necessarily have an IV equivalent.

I know why some pharmaceutical companies want to exclude these drugs from the bundle. They want another product line where they can play their separately billable game and try to drive up utilization and corporate profits. That is contrary to the philosophy of bundling and not the intent of Congress.

These drugs should be included in the bundle to prevent cost shifting to Part D in order to circumvent the new bundled payment. Most importantly, it would ensure that decisions as to which drug a patient receives are driven by clinical decisions not reimbursement policy. This will also ensure that all drugs furnished to patients for the treatment of ESRD are captured in the new bundled payment.

I also believe the bundle should set in a way, including any appropriate adjustments, so that more frequent home dialysis, both peritoneal and hemodialysis, is adequately paid and encouraged.

ESRD bundling is long overdue, but it is unfortunate that industry has demanded such a high price for it. If this bill becomes law, I intend to keep pushing for these changes and will be watching and weighing-in heavily as CMS moves forward with implementation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

Mr. CAMP of Michigan. I yield 1 minute to a respected physician, the gentleman from Louisiana (Mr. BOUSTANY).

Mr. BOUSTANY. I thank my colleague for yielding time to me.

As a physician, I am deeply disappointed in the way we are legislating on health care. Here we are, on one hand, physicians are facing a 10 percent cut in reimbursement, which is going to deeply have an impact on access. Furthermore, a 5 percent cut coming up in January. On the other hand, we are going to cut $47 billion out of a Medicare program that is extremely valuable to rural America.

I have a substantial number of citizens, constituents in my district, who depend on this program for access, not just coverage. Coverage is something on paper. Coverage gets you, hopefully, into the door, but not necessarily into the door of a physician's office where they can have a physician-patient relationship, a meaningful relationship that focuses on prevention and screening and not just treating everybody as if they are just a cog or an animal.

We want to do good health care, and this is an irresponsible way to do this. This bill does not pay attention to access; it simply glosses over it. It pits seniors, seniors against physicians. As a physician, I deeply resent that.

Mr. BARROW. Mr. Speaker, I am pleased to yield 1½ minutes to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank my good friend from Georgia, and I congratulate him on the way he is handling this legislation. We are proud of him and his service.

Mr. Speaker, the legislation before us today is critical to ensuring high quality physician services for Medicare beneficiaries. If you want to cabal about that, you're making a great mistake. If this legislation fails, physicians are going to face a 10 percent pay cut, and that is going to drive them out of Medicare and it's going to threaten the security and the health care of senior citizens and the disabled.

At the same time, this legislation provides additional protections for low-income beneficiaries, adds benefits to the traditional Medicare program, such as coverage for more preventive benefits. It will also address the Medicare drug benefit and make it work better for pharmacists and therefore seniors.

Finally, the legislation addresses one of the most egregious problems, and that is private plans operating in Medicare. Private Fee-for-Service plans, or PFFS plans, which is one type of Medicare Advantage plan. There, they are cutting a fat hog at the expense of the public. If you do away with that particular vice, you will find you are making it more solvent over a long period of time and you are using a mechanism which will help our senior citizens to know that their Medicare is protected and seeing to it that the doctors are there to provide the care that is needed. We are also assuring that the pharmacists are able to stay in this business by addressing a significant hurt that they are undergoing.

I urge my colleagues to support this legislation and not to cabal about the perfection of the process.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 30 seconds.

I think we are entitled to cabal about the process. We represent about 48 percent of the American people and have had absolutely no input into a multi, multibillion-dollar temporary fix. This would only go into effect for 1 year. It doesn't solve the long-term program. So I think we are entitled to a little caballing, as they said.

I want to yield 2 minutes to the distinguished gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. I thank the gentleman from Texas.

Florida 5 is the district that I represent, and it is not a wealthy area. I have the highest number of people on Social Security of any Member of this Congress, and obviously a huge number on Medicare.

Medicare Advantage is a very popular program. And why is it popular? It's popular because many of the programs, and by the way, there's a large variety of programs for the seniors to choose from, many of the programs will actually pay the seniors' part B cost.

When you represent a district that isn't wealthy, let me assure the Members of both sides of the aisle that this is an important medical program and it does give them choices. Nobody is forced into the Medicare Advantage plans, but they join them because it saves them money, while offering quality health care.

Yes, we all want to fix the cuts to the doctors. Yes, we want to make sure that the DME program is revised, and revised well. But we all know that it has already been said the Senate won't accept it, the President has just issued a veto threat on it, and so my question is: Why are we here?

Obviously, July 1 is right around the corner, and to take this up at the last minute when the bill was only available at 10 o'clock this morning, I think is an insult. It's an insult to the people who like the Medicare Advantage program and it certainly is an insult to every Member of this Chamber, 278 pages of a bill that we really don't know everything that is in it because it's now a little after 11:30 in the morning. So obviously nobody has had the time to adequately review the bill.

Medicare Advantage is a good program that helps so many low-income seniors. People have to ask: Why does the Democrat Party want to do away with this program? Shame, shame, shame.

Mr. STARK. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend, the chairman of the Subcommittee on Health, for yielding.

Mr. Speaker, like any other great and necessary journey, the journey to improve Medicare must start with a first step. Although we can and must do more, this bill is that first step.

I want to just mention the pulmonary rehabilitation benefit and the

kidney provision, which I strongly support, and the increase in the community health center cap. Seniors deserve a Medicare program that delivers services, supports doctors, and prevents disease.

Take this first step. It is a good step, it is a necessary step. It is the right thing to do. I urge all of my colleagues to support this bill.

Mr. CAMP of Michigan. I yield 2 minutes to a physician and respected Member of this House, the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. I thank the gentleman.

As a physician, nothing is more important to me than patients and the ability of doctors to take care of them. One of the reasons that I ran for public office was to work as diligently as I could to get politics out of the clinical exam room and out of the operating room.

The process that has brought this bill to the floor, a new bill of over 270 pages, just this morning, reveals the cynical and solely political activity of the majority leadership, a crisis of leadership in this House. No hearing, no amendments, no fairness, no recognition of the true needs of patients and doctors.

Politics over policy, politics over people. Shame, Mr. Speaker. Shame.

MR. BARROW. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, the Medicare Improvements for Patients and Providers Act not only eliminates the scheduled 20 percent cut to physicians, which is set to take place next week, but it also will provide numerous other protections. It provides incentives for prescriptions for e-prescribing technology and it extends and vastly improves low-income assistance programs for very low-income Medicare beneficiaries.

□ 1145

And this bill includes a very important 2-year reauthorization of the special diabetes programs for type 1 diabetics and American Indians. Thanks to over a decade of investment in these programs, we can point to tangible and significant progress, like the creation of an artificial pancreas. It is vital for a multiyear reauthorization because of the structure of the NIH funding cycle, and I want to thank my chairman and the leadership for including this language in the bill. There are other wonderful protections in the bill for diabetics and for other Medicare beneficiaries.

I just want to close by saying one thing: The language in this bill and the concepts are not new today. We have been talking them to death for 2 years. This program expires next week, and I don't think that the patients of America and the doctors of America are going to be too sympathetic about process arguments, when what they really care about is being able to provide quality medical services to low income and to senior citizens in this country.

Mr. BARTON of Texas. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, again, I have missed the legislative hearing on this issue in the last 18 months. Maybe they had it in the other body, but we haven't had it here. The actual bill that we are addressing, we got it at 10 minutes until 10 this morning. This is the same group that passed a farm bill that left out a complete title, and we are passing a 278 page bill that the original substance I think we got Friday or Monday, the technical corrected copy we got at 10 until 10.

I may be mistaken, but I believe if we had a process that worked and had enough time to think about it, if we had actually been holding hearings and substantive markups and all that is on the books of how the Congress is supposed to work, we would probably have a bill for the suspension calendar that both parties could work for. But the way our friends in the majority are operating these days, the proof is in the pudding.

I would strongly recommend a ''no'' vote, and then let's do it right. Let's do it right so we can vote for it.

Mr. STARK. Mr. Speaker, I would like to yield to the gentlewoman from Kansas (Mrs. BOYDA) for a unanimous consent request.

(Mrs. BOYDA of Kansas asked and was given permission to revise and extend her remarks.)

Mrs. BOYDA of Kansas. Mr. Speaker, I rise in support of H.R. 6331, along with the National Community Pharmacists Association, the Kansas Pharmacists, the National Rural Health Care Association, the American Medical Association, the Kansas Medical Society, the American Hospital Association, the Kansas Hospital Association, the Federation of American Hospitals, and on and on.

These people agree that passage of this bill is vital for Medicare and America's seniors, and certainly for people with disabilities.

Mr. STARK. Mr. Speaker, I yield to the gentleman from Rhode Island (Mr. KENNEDY) for the purpose of making a unanimous consent request.

(Mr. KENNEDY asked and was given permission to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, I rise in support of H.R. 6331, to extend my support along with Mental Health America for equal coverage for our seniors for mental health. This bill supports mental health parity, and that is why we should pass this bill.

Mr. STARK. I yield to the gentleman from Washington (Mr. MCDERMOTT) for the purpose of making a unanimous consent request.

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. MCDERMOTT. I rise in support of H.R. 6331, along with the American College of Cardiology, the American College of Physicians, the American College of Radiology and the American College of Surgeons. All the medical organizations are supportive of this bill.

Mr. STARK. Mr. Speaker, I am happy to yield 1 minute to the distinguished gentleman from California (Mr. BECERRA).

Mr. BECERRA. I thank the gentleman for yielding.

Mr. Speaker, 2 years of debate, a 10 percent cut, 40 million American seniors at risk, and 6 days before the clock strikes 12. That is where we are. Regardless of what anyone says, that is where we are. We need to do something. The time to act is now.

The bill before us is actually a Senate version of an attempt to come up with a modest bipartisan fix. Is it the best bill we could have? Absolutely not. But it is a fix that avoids a 10 percent cut, which could cause many physicians across the country to say no mas. I cannot afford to do this. And it would cause 40 million American seniors to say where do I get my health care?

We need to do something. That is why the Alliance for Retired Americans, the American Association for Health Care, the American College of Physicians, the American College of Surgeons, the American Medical Association, the Federation of American Hospitals, the National Committee to Preserve Social Security and Medicare, the National Community Pharmacists Association, and the National Rural Health Association have said please stop the partisanship. Pass this bill.

Mr. CAMP of Michigan. Mr. Speaker, I yield 2 minutes to the distinguished ranking member of the Committee on Ways and Means, the gentleman from Louisiana (Mr. MCCRERY).

(Mr. MCCRERY asked and was given permission to revise and extend his remarks.)

Mr. MCCRERY. Mr. Speaker, I rise in opposition to the bill on the floor today. I have some prepared remarks that I am going to submit for the RECORD, but rather than reiterate the problems that we have with the process that brought this bill to the floor, let me say my good friend Mr. STARK has been talking with us all along about this problem. We have all been aware of it. And, frankly, it was our understanding in talking with the distinguished chairman of the Health Subcommittee of the Ways and Means Committee that we were going to try to let the Senate, our colleagues in the Senate, work out a bipartisan solution to this take that we could then embrace and bring to the floor.

They were not able to do that at first in the Senate, so we frankly were kind of scrambling to figure out what we were going to do. But now we are told that our friends in the Senate have indeed reached a bipartisan compromise on this issue. They hope to bring it to the floor within the next day or two.

At that time, we could take that bill on a bipartisan basis in the House and embrace it and pass it and get this problem behind us. So why are we doing this today? I am not really sure. It baffles me.

This is a bill that does not have bipartisan support. It did not get 60 votes in the Senate. It couldn't even come up on the floor for a vote. The President would veto it. It is clear this bill is not going to become law.

So I think we are wasting our time here today, to be frank. We ought to be joining arms and hoping that the Senate gets that bill to us, the new compromise bipartisan bill, in a timely fashion so we can get it done this week and avert the drastic cut to reimbursements for physicians, as well as the other things that will occur with caps on services to seniors and the like.

So, Mr. Speaker, I would urge us to defeat this bill today on a bipartisan basis, and then get about the serious business of passing a bipartisan bill later this week that can become law.

I rise in opposition to H.R. 6331.

The Majority notified us at 10 o'clock this morning that they have made a number of changes to the bill that they told us would be on the floor. Members have had just one hour to review this 278-page bill, which moves tens of billions of dollars around in the Medicare program. The limited time for review of such an important measure should give every Member pause.

For six months now, the Democratic Majority in the House has known that physicians face a looming 10.6 percent cut to their Medicare payments.

Now with just six days left before this cut is scheduled to take effect, they are bringing a bill to the floor that we all know will never be signed into law. The Senate considered a similar bill 2 weeks ago and they could not even get the 60 votes necessary to be able to debate the bill. We also know that the President would veto this bill, because of the changes it makes to the Medicare Advantage program.

Yet here we are, playing games with less than a week before physicians' Medicare reimbursements are scheduled to be cut, therapy services for some seniors will be ended, and billions of dollars that assist rural physicians and hospitals will be terminated. Once this bill fails today, we'll still be faced with the same expiring Medicare policies, but we will have one less day to fix them.

If anyone actually believes that this bill is a serious effort to fix these problems, they need only look to page 253 of the bill. Here you'll find a ''Sense of the Senate'' provision. Mr. Speaker, the last time I checked, this is the House of Representatives. This raises the question of whether, in their rush to bring this bill up for a vote, the Majority even read their own 278-page bill, which they introduced an hour ago, or if they simply copied the failed Senate bill word for word.

Well, my staff has read the bill, and here's what else they found. The bill cuts approximately $50 billion from Medicare Advantage. CBO predicts that more than 2 million seniors would lose access to their Medicare Advantage plan if this bill were enacted. The President has said repeatedly that he would veto any bill that contained these reductions. Thankfully, he won't have to, because the Senate already rejected these cuts two weeks ago.

Mr. Speaker, if the Majority was really serious about helping Medicare beneficiaries and providers, we would take up the compromise bill that Senators BAUCUS and GRASSLEY have worked out. That bill will eliminate the physician payment cuts in 2008 and 2009, extend rural payment add-ons and the existing exceptions process for therapy services and fully pay for these changes without changing the rules governing private fee for service plans. I believe that bill will pass the Senate, and then we in the House will have an opportunity, on a bipartisan basis, to protect physicians from the looming drastic cut in their reimbursement.

Mr. BARROW. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. I thank the gentleman for yielding, and I thank him for his leadership. I also want to thank Energy and Commerce Chair JOHN DINGELL and the Health Subcommittee Chairman FRANK PALLONE, as well as Chairmen RANGEL and STARK of the Ways and Means Committee for their continued leadership.

Last year, we passed the CHAMP bill to prevent a 10.6 percent cut in payments to Medicare providers and to make critical improvements, and today we are trying again. This bill would prevent physician payment cuts in 2008 and provide an increase in 2009. And, something of particular concern to me, it would address the cuts to mental health providers that have already taken place.

While we need to do more, we have to act now. And there are many, many reasons to support the passage of this bill. It provides mental health parity. It expands access to low-income assistance for seniors and people with disability struggling to pay their health care costs. It extends the moratorium on physical therapy caps. It eliminates cuts to oxygen treatment and wheelchairs. It postpones competitive bidding for durable medical equipment. On the diabetes front, it includes a 2-year reauthorization of the special diabetes program, prompt pay requirements for pharmacies, and on and on.

If you think it is more important to continue excess payments to private Medicare Advantage plans, plans that are getting 13 percent more than Medicare, you should vote no. In 2008, this meant that Medicare Advantage plans saw a 6 percent increase, while physicians are scheduled for a 10.6 percent cut. Next year, Medicare Advantage plans will see between a 5 and 7 percent increase, while physicians are scheduled for a 5 percent cut. But if you think it is more important to prevent Medicare cuts to physicians and providers and to help senior citizens and persons with disabilities, then you will vote yes.

I hope that all my colleagues on both sides of the aisle will make the right choice. I hope you will side with Medicare physicians and their patients and pass H.R. 6331.

Mr. BARTON of Texas. Mr. Speaker, can I inquire as to the time remaining on the four sides.

The SPEAKER pro tempore. The gentleman from Texas has 2½ minutes remaining; the gentleman from Georgia has 1½ minutes remaining; the gentleman from Michigan has 3 minutes remaining; and the gentleman from California has 3½ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I have no other speakers, so I reserve the balance of my time and am prepared to close.

Mr. STARK. Mr. Speaker, I recognize the distinguished gentlewoman from California (Mrs. DAVIS) for a unanimous consent request.

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I join with the California Medical Association, the Center for Medicare Advocacy, the Clinical Social Work Association, the Federation of American Hospitals, the Food Marketing Institute and Kidney Care Partners in supporting H.R. 3631.

PARLIAMENTARY INQUIRY

Mr. CAMP of Michigan. Mr. Speaker, parliamentary inquiry. Is this coming out of the gentleman's time?

The SPEAKER pro tempore. A Member asking to insert remarks may include a simple declaration of sentiment for the question under debate, but should not embellish the request with extended oratory.

Mr. CAMP of Michigan. Mr. Speaker, the answer is yes?

The SPEAKER pro tempore. The Chair may charge time in the case of extended oratory.

Mr. CAMP of Michigan. I am sorry, could you repeat that?

The SPEAKER pro tempore. The Chair may charge time in the case of extended oratory.

Mr. CAMP of Michigan. I would certainly urge the Chair to charge time, because you have repeated extended oratories during this debate, and we would like the rules to be followed.

The SPEAKER pro tempore. The gentleman is correct.

Mr. STARK. I would like to yield 1 minute to the distinguished gentleman from California (Mr. THOMPSON).

Mr. THOMPSON of California. Mr. Speaker, I thank the gentleman for yielding and also for his leadership on this issue.

Mr. Speaker, today's vote is about maintaining access to health care for seniors and people with disabilities. Although this bill stops cuts to physician payments, it is not about how much we pay doctors. This bill is about access to health care for patients, people that need medical attention.

The data are convincing. Over 60 percent of California physicians would leave Medicare or stop taking new Medicare patients if these cuts are implemented. In rural California, like

rural America, we are already facing a physician shortage crisis. The impact on seniors would be devastating if Medicare beneficiaries lose access to thousands of physicians in California because of this cut.

Fortunately, we can prevent those cuts and further strengthen Medicare through expanded preventive health services, enhanced low income protections and other improvements to help people in need of care by passing H.R. 6331.

There may not be bipartisan support in this House for this bill, but there is bipartisan support across the country for this bill. I urge everyone to vote for it.

Mr. CAMP of Michigan. Mr. Speaker, I yield 1 minute to the distinguished member of the Ways and Means Committee, the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, this bill offers a false choice between helping our physicians and our pharmacists, who need fair reimbursement, and helping our seniors, especially those in minority communities and those in rural communities from being able to see a doctor who they know and knows them.

Unfortunately, this Congress is full of false choices. In Texas, I know if we pass this bill, we have got over 800,000 seniors, mainly in rural communities and in very poor communities, who will not be able to see a doctor, will not be able to get the health care that they chose under Medicare, because this Congress has decided that they are going to pit those poor seniors against physicians and pharmacies in our communities. Those false choices is why this Congress has the lowest approval rating since they began taking polls.

Let's stop playing games with our doctors, let's stop playing games with our pharmacists, and let's stop playing games with the lives of our seniors. We can do better than this.

Mr. BARROW. Mr. Speaker, it is a pleasure for me to yield 1 minute to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. I thank my colleague.

Mr. Speaker, I rise in support of H.R. 6331. The alternative to this bill is a 10 percent pay cut for doctors who serve critical seniors and those with disabilities. Our doctors are desperate for this. It is emergency care. It is a band-aid approach, but at least it will stop the bleeding.

Last year we had a much better package, the CHAMP Act, which we did debate on this floor and which we did vote out. It hit a roadblock in the other body and at the White House. This bill at least ensures our physicians can continue practicing in our communities and serving the Medicare population.

I do want to mention two important items, a cost saving provision which will improve services for the Medicaid beneficiaries by expanding the numbers of patients who can be covered by the county organized health systems in Ventura and other counties in California. This is a proven way to provide cost-effective access to quality health care, and it has been in place in my County of Santa Barbara for many years.

I also want to commend the inclusion of E-Prescribing language. I was proud to work on this with my colleagues ALLYSON SCHWARTZ and JON PORTER. E-Prescribing will ensure prescriptions are transmitted safely.

I urge my colleagues to vote ''yes'' on this legislation.

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Mr. BARTON of Texas. I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I am pleased to yield 1 minute to the distinguished gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, when it comes to health care reform, my colleagues on the other side say the most important priority is the relationship between a patient and a doctor. Why isn't that true for seniors?

Today, our Republican friends are once again confronted with a simple choice: Stand with seniors and their physicians, or stand with the big insurance companies and tax cheats.

Seniors on Medicare are at risk of losing access to the doctor they know and trust. We have a plan to ensure that doesn't happen, and strengthen Medicare while doing it. Our plan stops overpayments to big insurance companies. We tell providers that owe billions in taxes that they cannot continue to cheat the taxpayers and go unpunished.

I know some of my colleagues on the other side of the aisle oppose this bill. Under their plan, seniors would go without care, tax cheats go unpunished, and insurance companies go to the bank. That is a tough argument to make here in Congress, and it is an even tougher argument to make to the American people.

I hope my Republican colleagues reconsider and lend their support to this legislation, which continues the relationship between seniors and their physician of choice.

Mr. CAMP of Michigan. Mr. Speaker, I reserve the balance of my time.

Mr. BARROW. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I am prepared to close if everybody else is prepared to close.

I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman is recognized for 2½ minutes.

Mr. BARTON of Texas. We do have a serious issue here, Mr. Speaker. We have known for several years that we needed to fix the current system for physician reimbursement. We also have known that in some of the other issues that have been put into this bill, that there are areas of reform that need to be implemented. One of the things that I have worked on for over 12 years is a competitive bidding process for durable medical equipment which is supposed to go into effect July 1 of this year. The pending bill has a moratorium on that implementation I believe for 18 months, which I think is ill-advised.

But I do think that when each of us gets elected to this body, when we go out and campaign and ask for Members and voters to support us, we don't say: If you vote for me, I will go to Washington and I will make sure that I have no input into major issues, and when they are put up at the last minute I will go vote ''yes'' on the suspension calendar. That is not what we say.

This is a serious issue. There are serious issues that need to be addressed in this bill. I am not sure this bill is even a House bill. My understanding is that it is a failed version of a Senate bill that has been patched together for purposes of a vote today just in case there is not a bipartisan compromise later in the week, as Congressman MCCRERY spoke about earlier.

Process does count. Policies are better if there is bipartisan input and you go through the give and take of subcommittee, full committee markup where stakeholders and Congressmen and women on both sides of the aisle can be involved. That has not happened here.

Again, this is a multibillion-dollar bill. Even if it were to be passed, it only has the effect for the rest of this year and the next calendar year. It is not a permanent fix. It doesn't address long term these issues. And all of the groups that are supporting the bill today that have been enunciated by the majority, when they have been in to see me they are talking about a permanent fixes, they are not talking about a temporary quick fix, patch it, go on down the road, kick the can fixes, which is what this is if it were to be implemented.

So I really hope that we can vote against this. Since it is a suspension vote, it only needs 146 ''no'' votes and it would fail, and then we could work together to perhaps on a permanent way fix some of these in a bipartisan way. So I urge a ''no'' vote.

Mr. STARK. Mr. Speaker, I yield myself the balance of my time, and urge my colleagues to support the bill.

The distinguished gentleman from Louisiana was quite correct; we have worked together on this. But for us now to depend on the other body is sheer folly. We quite have an idea of what they will send us, and it will be much less. There will be no prompt pay for pharmacists in the other body's bill. They will cut payment to oxygen providers and wheelchair providers. There will be less for low income seniors. There will be no preventative services. The only difference will be a slightly less cut to the private fee for service plans, and the administration actuaries have just recently sent us an e-mail saying this will extend the life of the Medicare trust fund.

And I apologize also to my distinguished ranking member on the Health Subcommittee, and I understand when we have 50 groups supporting our bill and you only have one, the lobbyists for the private fee for service plan, it gets a little annoying. But we will see if we can find one other group to support your bill. I doubt it, but we will try.

I urge this. This may be the last chance. I won't discuss process, but we all know that we cannot rely on the other body to come together and work as well as we have on a bipartisan basis.

Every part of this bill has had support on a bipartisan basis over the last year in this House. It is put together to get as much as we can for as little cost to the providers, to extend benefits to the seniors, to provide preventative care, to give mental health parity, and pay the doctors what they are entitled to. Please support the bill, and let us finish our work this week.

Mr. CAMP of Michigan. Mr. Speaker, I yield myself such time as I may consume.

I would just say, if we are really worried about cuts to physicians, why bring up a bill that has already failed in the Senate?

And frankly, I would say to my good friend that every person or group that supports this bill will also support the bipartisan Senate bill that is going to come over from the Senate later this week.

And let me just say, if anyone actually believes still that this bill is a serious effort to fix these problems, they need only look to page 253 of the bill. As my friend from Texas pointed out, this is the group that left a whole section out of the farm bill so we had to revote on it a second time. But here we will find a ''Sense of the Senate provision.'' And, Mr. Speaker, the last time I checked, this is the House of Representatives. And this really raises the question of whether in the rush to bring this bill up for a vote the majority even read their own 278 page bill because they introduced it at about 10:00, 2 hours ago, or if they just simply copied the Senate bill word for word.

So, frankly, I think if we could look at the Senate bill that I just got an e-mail that their bipartisan issue is imminent, that they are working and they are close to a deal. This could have happened in the House as well if the majority had decided to honestly debate this issue.

So I urge my colleagues to vote ''no'' on this bill that is dead before it even arrived, as it has already failed in the Senate.

At this time I yield back the balance of my time.

Mr. BARROW. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have until July 1 to stop these cuts from taking effect. Unless we adopt this legislation before then, doctors all across the country will start turning away Medicare patients. We cannot let that happen.

I want to thank the distinguished chairman of the Committee on Energy and Commerce for his leadership on this matter. I urge my colleagues to support this bill.

Mr. ENGEL. Mr. Speaker, I rise today in strong support for H.R. 6331, the ''Medicare Improvements for Patients and Providers Act of 2008.''

As a senior member of the Health Subcommittee of the House Energy and Commerce Committee, I have worked hard throughout my career in Congress to pass commonsense healthcare measures. I am proud to have worked with my colleagues on the underlying legislation. H.R. 6331 prevents the pending 10 percent payment reduction for physicians in Medicare, enhances Medicare preventive and mental health benefits, and improves and extends programs for low-income Medicare beneficiaries.

Our physicians are the backbone of our communities and we must guarantee that they are fairly compensated for the good work they do. By eliminating the physician payment reduction and through the other measures included in H.R. 6331, we can ensure our patients' continued access to quality care.

Mr. Speaker, I am deeply trouble by some of the rhetoric on the other side of the aisle. It is absolutely disgraceful that the Republican leadership has been urging a ''no'' vote in part because we are strengthening the Medicare program in this bill. There have been comments from the Republican side opposing the expansion of the Medicare Savings Program, MSP, in this bill—a program specifically designed to provide a extra assistance to low-income seniors who desperately need it. Republicans also oppose he expansion of Medicare's coverage of preventive services in this bill. We all know that improving access to quality health care, such as by providing preventive services will save millions of Medicare dollars down the line. It is backwards thinking to simply wait till seniors' healthcare erodes beyond repair before we take action.

Democrats will stand by our Medicare beneficiaries and doctors and vote ''yes'' on H.R. 6331 today. Republicans should do the same. Anything different is simply unconscionable.

Mrs. JONES of Ohio. Mr. Speaker, I rise in support of the Medicare Improvements for Patients and Providers Act of 2008. This legislation prevents the pending 10-percent payment reduction for physicians in Medicare, enhances Medicare preventive and mental health benefits, improves and extends programs for low-income Medicare beneficiaries, and extends expiring provisions for rural and other providers.

While I do have some concerns regarding the lack of protections for African American end stage renal disease patients, I am encouraged by many of the provisions included in this legislation. I am particularly pleased that the bill extends and improves low-income assistance programs for Medicare whose income is below $14,040.00 including the qualified individual program that pays part B premiums for low-income beneficiaries. Additionally, the bill adds new preventative benefits to the Medicare program and reduces out of pocket expenses for mental health care.

Specifically, provisions of the legislation include modest steps to reduce Medicare payments to private plans that receive more than 100 percent of the cost to treat a beneficiary in fee-for-service Medicare. The legislation would accomplish this by phasing out the Indirect Medical Education double-payment, eliminating the Medicare ''slush'' fund to further increase payments to private plans, and ensuring that Private Fee-for-Service, PFFS, plans comply with quality requirements and have adequate access to providers.

Additionally, the legislation provides assistance to physicians and pharmacies including eliminating the pending 10-percent cut in Medicare payments to physicians through 2008, a 1.1 percent update in Medicare physician payments for 2009, and requires Medicare Advantage plans to pay pharmacies promptly within a 14-day period.

Mr. KLEIN of Florida. Mr. Speaker, I rise in support of H.R. 6331, the ''Medicare Improvements and Patients and Providers Act of 2008,'' and thank Chairmen RANGEL and DINGELL for their leadership in bringing it to the House floor today. This legislation, among other things, will block a devastating 10.6 percent cut in reimbursement fees for physicians who accept Medicare patients.

Mr. Speaker, Medicare used to be known as the ''Gold Standard'' for physicians because it provided them with fair and sustainable reimbursement rates, but not anymore. As a result of the President trying to balance the budget on the backs of doctors, physicians all across the country are facing severe cuts in their Medicare reimbursements on July 1.

In south Florida, we're currently facing a severe shortage of qualified physicians in part because of the way physicians are paid under Medicare, and the pending cut could hasten this exodus, potentially leaving many elderly and other vulnerable populations without doctors to treat them.

This is an unacceptable situation for south Florida or for any region of this country. Eliminating the cuts and providing physicians with a 1.1 percent increase in 2009 is simply the right thing to do.

But we cannot be satisfied with short-term patches to this systemic problem. During the next 18 months, let us once and for all end all talk of patches or fixes, and come together in a bipartisan way to find a permanent solution to the way we pay our doctors.

We owe it to our seniors, to the men and women who helped to make this country the greatest in the world, to ensure that when they are sick, a doctor will be there to see them. It's a fair deal, and one we must not turn our backs on.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H.R. 6331, the ''Protecting the Medicaid Safety Net Act of 2008.'' I would like to thank my colleague from New York, Chairman CHARLES RANGEL for his leadership in this important issue.

This legislation could not come at a more crucial time. Americans are in need of support. Rising gas prices, food costs at an all-time high, and a rocky housing market have pushed this great Nation towards an economic downturn. Families are clinging to basic necessities and quality healthcare is one of those essential needs.

I am pleased to see that there is no language that inhibits physician ownership of general acute care hospitals. I have worked tirelessly with Members of leadership and with the Texas delegation to support general acute-care hospitals and their future development. Physicians who have decided to build in areas

where often no other hospital will—should not be penalized for their commitment to work on the clinical and business side of health care.

General acute-care hospitals still need to be able to: maintain a minimum number of physicians available at all times to provide service; provide a significant amount of charity care; treat at least 1/6 of their outpatient visits for emergency medical conditions on an urgent basis without requiring a previously scheduled appointment; maintain at least 10 full-time interns or residents-in-training in a teaching program; advertise or present themselves to the public as a place which provides emergency care; serve as a disproportionate share provider, serving a low income community with a disproportionate share of low income patients; and have at least 90 hospital beds available to patients.

This issue is of the utmost importance to me because I, like others in the Democratic Caucus, have hospitals and hospital systems such as University Hospital Systems of Houston in my district that would have been greatly affected by this provision.

For example, 2 years ago, St. Joseph Medical Center, downtown Houston's first and only teaching hospital, was on the verge of closing its doors. However, a hospital corporation in partnership with physicians purchased it, and as a result of proper and responsible management, has made it the premier hospital in the region, with a qualified emergency room responsive to a heavily populated downtown Houston. St. Joseph Medical Center is also in the process of reopening Houston Heights Hospital, the fourth oldest acute care hospital in Houston. This hospital will be serving a large Medicare/Medicaid population.

I am committed to this issue and to the issue of health care for all Americans. Provisions that could end the expansion of truly compassionate hospital care in places like Texas, Maryland, New York and California have no place in healthcare legislation.

What I do support is legislation that seeks to aid our elderly, our disabled, our veterans, our children and our indigent populations. I stand here today to show my support not only for the physicians and medical care providers of Houston, Texas, but for all of our healthcare providers across this country. We need them to continue to be able to care for our underserved and elderly—this bill allows them to do just that.

This bill provides a delay of 18 months for the competitive bidding program for Durable Medical Equipment, DMEPOS. It also prevents the 10.6 percent pay cut to physicians that is scheduled to take place on July 1, and provides a 1.1 percent update starting January 1, 2009.

This bill also includes important beneficiary improvements such as Medicare mental health parity, improved preventive coverage, and enhanced assistance for low-income beneficiaries.

It contains provisions that will protect the fragile rural health care safety net. In my home State of Texas, we have not only great urban areas such as Houston, Dallas and Austin, we have over 300 rural areas in Texas with cities such as Rollingwood and Hamilton.

Our rural health care providers are scheduled to receive steep cuts in Medicare reimbursement rates on July 1 unless we take action now. Such cuts are catastrophic in rural America, where a disproportionate number of elderly Americans live. These seniors are, per capita, older, poorer and sicker (with greater chronic illnesses) than their urban counterparts. Additionally, recruitment and retention of providers to much of rural America is often daunting. Provider shortages are rampant throughout many rural and most frontier regions.

Additionally, H.R. 633 also includes several other critical provisions for rural providers which, cumulatively, create a rural package that will help protect both the rural health safety net and the health of tens of millions of seniors who call rural America home.

H.R. 6331 focuses on strengthening primary care and takes significant strides in protecting rural seniors' access to care by correcting certain long-standing inequities between rural and urban providers.

Thank you both for your continued concern for the health of rural Americans. So many enduring inequities in health care must be faced by rural patients and providers daily. H.R. 6331 offers critical assistance and will go far to improving the health of millions of rural Medicare beneficiaries.

Quality measures must continue to be adequately funded in order to promote quality, cost-effective health care for consumers and employers. The uncertainty of Medicare payments makes it increasingly difficult for surgeons and their practices to plan for the expenses that they will incur as they serve their patients.

The provisions included in H.R. 6331 would enable surgeons and surgical practices to plan for the rising costs that they will continue to face over the next year and a half.

By addressing payment levels through 2009, Chairman RANGEL has given us more time to study the payment issues surrounding Medicare and allow us to look at the systemic reforms needed to preserve access to quality surgical care and other physician services.

As a long-time advocate for universal health care, I believe we must continue to support our essential medical providers so that they can focus on patient care. We need more physicians as we seek to expand health care for all Americans. Yet, how can we expect to grow that workforce when we continue to cut their reimbursement levels? We must support our physicians so that they may support and care for their patients. We have to continue to look at how we can save Medicare and expand it to care for those who need it most.

I am proud to cosponsor legislation that will add support for our healthcare workforce. I urge my colleagues to join me in supporting this legislation.

Mr. VAN HOLLEN. Mr. Speaker, I rise in strong support of H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008.

Most importantly, this legislation prevents the impending 10 percent cut in Medicare payments to physicians for the remainder of 2008 and provides a 1.1 percent update in physician payments for 2009. The uncertainty of Medicare payments makes it difficult for physicians and their practices to plan for the expenses that they will incur as they serve Medicare beneficiaries. And in turn, beneficiaries will face increasing difficulties accessing physicians who accept Medicare. What we need to do is address this issue in the long term by reforming the flawed reimbursement formulas. By addressing this issue in the short term through 2009, we will provide Congress with the needed time to study and develop a long term solution to this problem.

Not only would we prevent cuts in Medicare physician reimbursements, the bill will make important and necessary improvements to the Medicare program by enhancing Medicare preventative and mental health benefits, improving assistance for low-income Medicare beneficiaries, and extending expiring provisions for rural and other providers.

And this legislation is fully paid for. It reduces Medicare Advantage Indirect Medical Education IME, overpayments, which are being paid twice: once to the teaching facility itself, and again to Medicare Advantage plans, with no requirement that plans pass the IME payment along to the teaching facility. H.R. 6331 will eliminate the needless double payment by still reimbursing the teaching facility directly for the higher cost of care, but ceasing IME payments to Medicare Advantage plans.

I am pleased that this legislation contains a provision that makes a technical correction to ensure that all physicians, including podiatrists, are permitted to perform required face-to-face examinations so that they are able to prescribe Medicare-covered durable medical equipment, prosthetics, orthotics and supplies, DMEPOS. This provision corrects a drafting error in the 2003 Medicare Modernization Act that pointed to the wrong definition of physician in the Social Security Act when requiring face-to-face examination in order to prescribe DMEPOS items.

I am also pleased that the bill includes a two-year reauthorization of the Special Diabetes Programs for Type 1 Diabetes and the Special Diabetes Programs for Native Americans at current funding levels. It is vital that this successful program be reauthorized on a multi-year basis so that the National Institutes of Health, NIH, can invest in new research. Without this reauthorization, NIH would have to begin to shut down research projects that are currently underway.

Mr. Speaker, we owe it to provide and beneficiaries to make these modest improvements to the Medicare program now. This bill will protect our seniors. The clock is ticking. I urge my colleagues to support this much-needed legislation.

Mr. BLUMENAUER. Mr. Speaker, today I am proud to support H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008. This legislation addresses issues within Medicare that have been too long ignored, including preventing the pending 10 percent payment reduction for, enhancing preventive and mental health benefits, improving and extending programs for low-income Medicare beneficiaries, and extending expiring provisions for rural providers.

By addressing the critical issue of physician payment under Medicare through 2009, Congress will have the time to study and develop the systemic, sustainable reforms necessary to preserve patient access to physician services under Medicare. And the 18-month delay in implementation of the flawed competitive bidding program for Durable Medical Equipment, DMEPOS, allows Congress time to evaluate and improve this policy.

I am heartened this legislation passed with such overwhelming bipartisan support, demonstrating that we can come together with thoughtful solutions that better the lives of Americans.

Mr. FARR. Mr. Speaker, I would like to add my comments for the record on this Medicare bill that we debate today.

Yes, it is a critical bill. It will prevent a 10.6 percent cut in payments to doctors who treat America's senior citizens, the wide network of doctors in the Medicare system. In addition, it shores up those payments with a 1.1 percent payment increase in 2009.

But though I applaud what is in this bill, I bemoan what is not in the bill.

The negotiators on this bill have heard from me—and others—long and loud about the flaws in the formula that determines Medicare doctor fees. In a number of States across the country the formula knowingly and erroneously designates some areas as being rural in nature when they are by all other definitions clearly urban. The result of this deliberate misclassification is to pay doctors at low rural reimbursement rates rather than at their true costs of operating a medical practice in a high-end urban setting.

Doctors in my district and 9 other counties in California are paid upwards of 10 to 12 percent less than the law—yes, the law—says they ought to be paid. But because the Centers for Medicare and Medicaid Services, CMS, won't make the necessary technical formula adjustment in a factor called the Geographic Practice Cost Index or GPCI, these doctors are underpaid. Doctors in Santa Cruz, Sonoma, Monterey, San Diego, Santa Barbara, Sacramento, El Dorado, Marin, and San Benito counties in California are mistreated by CMS. But nothing in the bill we debate today will help them.

Previously this House did take a step to correct this inequity. In H.R. 3162, the original CHAMP bill that we passed last summer, Section 308 fixed the GPCI factor. But despite my efforts and those of my colleagues from affected counties throughout California and in similarly impacted States of New York, Texas and elsewhere, H.R. 6331 maintains the flawed formula and perpetuates the clear disparities of this CMS payment policy. Even the GAO in its report last year, GAO–07–466, showed that without a doubt the CMS formula did not fairly compensate doctors and needed serious reform. Despite mountains of evidence and years of engaging the Ways and Means Committee on this issue, H.R. 6331 ignores an opportunity to do what's right by these doctors.

I am not going to vote against this bill. But I have to say that it is a sad day when this House votes to pass a doctor payment reform bill that only reforms doctor payments for some and not for all.

Mr. ETHERIDGE. Mr. Speaker, I rise in strong support of H.R. 6331, The ''Medicare Improvements for Patients and Providers Act of 2008.'' This bill fulfills America's promise to its seniors and disabled citizens, protecting access to high quality health care without unreasonable costs.

For more than 40 years, Medicare has helped meet the needs of many vulnerable Americans. It cannot continue to do so if providers are paid unreasonable reimbursements, if rules hinder quality patient care, or if the burden of paperwork and payment delays keeps small businesses out of the health care market. This bill ensures physicians, pharmacists, durable medical equipment suppliers, and other health care providers can continue to support the health and well being of Medicare beneficiaries in many ways.

H.R. 6331 will ensure health care is available in rural areas of this country, like those in the Second District of North Carolina. By replacing a 10 percent cut in pay with a slight increase, it ensures doctors can afford to stay in business wherever they choose to practice medicine. By improving payments to hospitals that provide care where no other provider is available, and by making sure rural hospitals are paid equally for clinical services, it ensures those services are available throughout the country. By increasing access to telehealth, it expands the reach of professional advice beyond the doctor's office.

H.R. 6331 is also a boon for small businesses. The vast majority of medical providers are small businesses, and by ensuring they can afford to provide care we support the engine of our economy. Especially in rural areas, our small community pharmacies and medical equipment suppliers are the face of medicine for many Medicare beneficiaries. Health care is improved when people know their providers, and this makes them more likely to comply with medical directives. I am pleased that H.R. 6331 includes several provisions for these small suppliers that I have advocated for some time, including prompt payment provisions and a delay in rules from the Centers for Medicare and Medicaid Services, CMS. Before proceeding, we need to be sure that these initiatives, including competitive bidding for durable medical equipment and the implementation of the Average Manufacturing Price, AMP, system, help to preserve and improve patient care by allowing community suppliers to remain open so that they may continue to serve, and, more importantly, operate at a level that facilitates the provision of the best possible, safest medical care.

Mr. Speaker, this legislation improves the health and health care of Medicare beneficiaries, the ability of medical professionals to provide that care, and the quality of medical care throughout our country. I urge my colleagues to join me in supporting H.R. 6331.

Mr. ABERCROMBIE. Mr. Speaker, I rise today in support of H.R. 6331, the ''Medicare Improvement for Patients and Providers Act of 2008.'' This bill makes some important changes in the Medicare program that help assure access for our seniors to quality medical care.

The bill defers the 10.6% cut in physician reimbursements mandated by the Sustainable Growth Rate (SGR) that would go into effect on July 1, 2008. Instead, the bill continues the present reimbursement rate for 18 months and then increases it by 1.1%.

The bill also provides important improvements for our senior citizens, increasing the allowable income and asset maximums for premium assistance. The co-payments for mental health services are reduced from 50% to 20%, the same as any other doctor visit.

The legislation addresses problems within Medicare to pay for these benefits, reforming the system that overpays to Medicare Advantage (MA) plans, private plans that operate within Medicare, which cost the government on average 12% more than traditional services. The bill will also require that any delinquent taxes owed by Medicare providers be deducted from their Medicare reimbursements.

In addition to improving Medicare services, the legislation also makes important changes to Medicaid, including a provision that is particularly vital for the people of Hawaii: Disproportionate Share Hospital (DSH) payments. Following an oversight in the Balanced Budget Act of 1997, only Hawaii and Tennessee have not received DSH payments in Medicaid, which provide additional support to hospitals that treat large numbers of Medicaid and uninsured patients. This bill provides a temporary remedy, which will help keep these hospitals open.

I have been working with Senator DANIEL AKAKA, the Hawaii Delegation and my colleagues on the Committee on Energy and Commerce to ensure that Hawaii and Tennessee receive equal treatment in the matter of DSH payments from the Federal Government. H.R. 6631 extends DSH payments for Hawaii and Tennessee through December 31, 2009, and provides an additional $15 million for Hawaii. This extension authorizes the submission by the State of Hawaii of a State plan amendment covering a DSH payment methodology to hospitals which is consistent with the requirements of existing law. The purpose of providing a DSH allotment for Hawaii is to provide additional funding to the State of Hawaii to permit a greater contribution toward the uncompensated costs of hospitals that are providing indigent care. It is not meant to alter existing arrangements between the State of Hawaii and the Centers for Medicare and Medicaid Services (CMS) or to reduce in any way the level of Federal funding for Hawaii's QUEST program.

I will continue to work toward a permanent solution to the DSH matter, but until then, I urge my colleagues to support this measure. It is not an earmark, but merely provides Hawaii and Tennessee equity with everyone else.

Again I want to thank Chairman RANGEL, Chairman DINGELL, Chairman PALLONE, and Chairman STARK on this important piece of legislation that protects our seniors and provides equity for the State of Hawaii. I urge my colleagues to pass this vital bill.

Mr. POMEROY. Mr. Speaker, I rise in strong support of H.R. 6331, the Medicare Improvements for Patients and Providers Act, legislation that strengthens the Medicare Program and maintains our commitment to rural America.

Rural America continues to be challenged by shortages of health care providers, barriers to health care access, and geographic isolation. In my own home State of North Dakota, approximately 80 percent of the State is designated as a partial or full county Health Professional Shortage Area. In order to address these unique challenges, the Medicare Modernization Act, MMA, enacted special payment enhancements to make sure that rural health care facilities and providers have the resources they need to deliver quality care in their communities.

Unfortunately, many of these important provisions are set to expire and further assistance is needed to ensure that seniors living in rural America have access to quality, affordable health care. That is why I introduced H.R. 2860, the Health Care Access and Rural Equity, H–CARE, Act, bipartisan legislation that addresses these and other barriers to quality health care by recognizing the unique characteristics of health care delivery in rural areas and assisting rural health care providers in their efforts to continue to provide quality care to rural Americans.

I am pleased that the Medicare Improvements for Patients and Providers Act, MIPPA,

of 2008 incorporates many important provisions from H–CARE that will do much to protect the fragile rural health care safety net. More specifically, MIPPA will do the following:

Reauthorize and expand the FLEX Grant Program to include a new grant program that could mean up to $1 million to Richardton, North Dakota, as they convert from their status as a Critical Access Hospital;

Extend Section 508 of the Medicare Modernization Act which provides nearly $10 million a year to North Dakota hospitals to give them the resources they need to compete in an increasingly competitive labor market;

Ensure that rural doctors are paid the same rate for their work as their urban counterparts by extending the 1.0 work floor on the Medicare work geographic adjustment applied to physician payments bringing in $9 million to North Dakota through 2009;

Improve Medicare reimbursements for Critical Access Hospitals by directly increasing payments for critical lab services such as blood testing and other diagnostic services;

Boost reimbursements to sole community hospitals by updating the data used to calculate their Medicare reimbursements;

Protect access to rural ambulance services by providing rural ambulance providers an additional 3 percent of their Medicare reimbursement in order to help cover their costs;

Require prompt payment to rural pharmacies by Medicare prescription drug plans;

Extend a provision that allows 19 North Dakota hospital-based labs to directly bill Medicare for pathology services; and

Expand access to telehealth services by allowing hospital-based renal dialysis facilities, skilled nursing facilities, and community mental health centers to be reimbursed under Medicare for telehealth services.

I would also like to express my appreciation of the Chairman's consideration of technical corrections to recently enacted reforms to the Long Term Care Hospital payment system under Medicare and I look forward to continuing to work with him to resolve this issue.

Medicare Improvements for Patients and Providers Act is a good bill that has been endorsed by the National Rural Health Association and deserves every Members' support.

Mr. BACA. Mr. Speaker, I rise today to support of H.R. 6331, the Medicare Improvements for Patients and Providers Act.

My top priorities are the patients and their families from my District.

Over the past several months, I've received several phone calls from hard-working families. These families are worried whether the Medicare physician payment cuts will prevent them from being able to see their doctor.

These families are worried about their ability to receive life saving medicines and medical supplies in the mail next time they run out.

These families are worried about their local pharmacy's ability to offer discounts on medicines.

For these families, I stand here in support of H.R. 6331.

This bill delays physician payment cuts, protecting our seniors from facing difficulty in accessing needed healthcare. In these times of skyrocketing gas prices, this bill improves low-income assistance programs for Medicare beneficiaries. Many working families from the Inland Empire, in California, are faced with putting food on the table or paying for medicines.

Furthermore, my constituents will face a unique situation when the competitive bidding process rolls out on July 1st. This bill delays this process; preventing any possible harmful interruptions in the shipment of medical supplies to patients.

Time is quickly running out, these deadlines are approaching and we must not stand by and watch.

I urge my colleagues to vote for H.R. 6331, our working families are counting on us.

Mr. CONYERS. Mr. Speaker, I rise to voice my strong support for H.R. 6331, the Medicare Improvements for Patients and Providers Act of 2008. This important legislation amends titles XVIII and XIX of the Social Security Act to extend, for 18 months, expiring provisions under the Medicare Program. This critical bill prevents the implementation of a scheduled 10.6 percent cut in Medicare reimbursements for physicians and other health care professionals, and extends the 0.5 percent payment update for 2008 and provides a 1.1 percent payment increase for physicians in 2009.

Cutting funds to Medicare, in any way, threatens to up heave the very system that millions of Americans rely upon to provide life saving medical care and services. It boggles the mind to think that, with an aging population and a worsening physician shortage, we would even consider cutting reimbursement rates to our hard-working physicians who care for millions of Medicare patients across the country. If these cuts were allowed to go into effect, many physicians would opt out of accepting Medicare, and would therefore be unable to provide necessary medical services to our seniors.

Mr. Speaker, we are in the midst of a bona fide health care crisis. One-in-three Americans either have either no health insurance whatsoever, or have insurance that is so inadequate that it can potentially lead to financial ruin. For those lucky enough to have survived these misadventures in our fragmented non-system of care, Medicare and Medicaid is their singular saving grace.

Allowing Medicare to unravel before our eyes is unacceptable. It, along with Medicaid, represents a lone island in a sea of broken services representative of our fragmented, non-system of health care. We must not only keep Medicare afloat, but improve and expand its ideals and principals if we are to ever truly provide quality health care to all.

Mr. Speaker, passage of H.R. 6331 is simply a necessity. However, we as a Congress must confront head-on the looming health care crisis and make the difficult decisions our constituents expect us to make. Revising the Sustained Growth Rate Formula, which is used to set Medicare's physician payment rate, represents only a portion of reforms which are needed to ensure that our seniors are cared for in the sunset of their lives. Patch-work fixes and temporary solutions are no substitution for real answers to difficult problems. After all, what we put off today must be dealt with tomorrow.

Mr. LANGEVIN. Mr. Speaker, I rise in support of H.R. 6331, the Medicare Improvement for Patients and Providers Act of 2008. I am pleased that the House of Representatives is taking action to address some immediate concerns within the Medicare program. This matter has regrettably become stalled in the Senate, and passage of this bill will affirm our commitment to ensuring continued access to care for America's Medicare beneficiaries.

This measure includes a number of important provisions, including increased access to low income assistance, additional supports for rural providers and beneficiaries, and an extension of access to therapy services through 2009. Additionally, this bill delays the impending 10.6 percent cut in Medicare physician reimbursements scheduled to take effect on July 1, 2008. Instead, it freezes payments for the remainder of 2008 and provides a modest 1.1 percent increase in 2009. This legislative fix, although temporary, will help ensure that access to care is not compromised and physicians can continue serving our most vulnerable populations. It is my hope that Congress will use these next 18 months as an opportunity to find a permanent and sustainable solution for the flawed reimbursement formula so that it more accurately represents the costs of providing care in the current market.

Also included in this bill is a provision to delay Medicare's competitive bidding program for durable medical equipment. Although competitive bidding was instituted to reduce spending within the already overburdened Medicare system, serious concerns have been raised over the implementation and potential consequences of this program. H.R. 6331 halts the implementation of the competitive bidding program for one year, while making necessary improvements to the bidding process and establishing quality standards for suppliers. This will constitute an important step towards a more efficient system that maintains the quality and access that beneficiaries deserve.

Americans everywhere are counting on this Congress to take action before July 1, to ensure that access to Medicare services is not jeopardized. I urge my colleagues to support this bill so that lawmakers can begin to discuss long-term, viable solutions to reform and stabilize the Medicare program.

Mr. MILLER of California. Mr. Speaker, this is a very important bill that will prevent the pending payment reduction of 10 percent for physicians in Medicare, enhance Medicare preventive and mental health benefits, and includes many important improvements to the Medicare program to the benefit of our constituents.

I strongly support the legislation.

Mr. BARROW. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CAPUANO). The question is on the motion offered by the gentleman from New Jersey (Mr. PALLONE) that the House suspend the rules and pass the bill, H.R. 6331, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BARTON of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 59, not voting 20, as follows:

[Roll No. 443]

YEAS—355

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachus
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Calvert
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Castor
Cazayoux
Chabot
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cubin
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doyle
Drake
Dreier
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Forbes
Fortenberry
Fossella
Foster
Foxx
Frank (MA)
Gallegly
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Herseth Sandlin
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Perlmutter
Peterson (MN)
Petri
Pickering
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NAYS—59

Akin
Bachmann
Barrett (SC)
Bartlett (MD)
Barton (TX)
Blackburn
Blunt
Boehner
Boustany
Brady (TX)
Broun (GA)
Buyer
Camp (MI)
Campbell (CA)
Cantor
Carter
Cole (OK)
Conaway
Crenshaw
Culberson
Doolittle
Duncan
Flake
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Granger
Hensarling
Herger
Hulshof
Johnson, Sam
Jordan
King (IA)
Lamborn
Lewis (KY)
Linder
Lungren, Daniel E.
Marchant
McCrery
McHenry
Mica
Neugebauer
Paul
Pitts
Radanovich
Renzi
Rogers (MI)
Roskam
Royce
Ryan (WI)
Sali
Scalise
Sensenbrenner
Sessions
Shadegg
Shimkus
Smith (NE)
Thornberry
Westmoreland

NOT VOTING—20

Bishop (UT)
Cannon
Davis (IL)
Engel
Gohmert
Higgins
Johnson (IL)
McNulty
Miller, George
Nunes
Pence
Peterson (PA)
Pryce (OH)
Reyes
Reynolds
Rush
Saxton
Speier
Tancredo
Thompson (MS)

□ 1236

Mr. DANIEL E. LUNGREN of California changed his vote from ''yea'' to ''nay.''

Messrs. CHABOT, WHITFIELD of Kentucky, FRANK of Massachusetts, GRAVES, HASTINGS of Washington, WELLER of Illinois, LATTA, FARR, Mrs. MYRICK, Messrs. GALLEGLY, REICHERT, Mrs. MILLER of Michigan, Messrs. McKEON, MANZULLO, MILLER of Florida, BOOZMAN, WILSON of South Carolina, MACK, DREIER, ISSA, CALVERT, HALL of Texas, Mrs. DRAKE, Messrs. HUNTER, ROGERS of Kentucky, GARY G. MILLER of California, McCAUL of Texas, KLINE of Minnesota, RAMSTAD, Mrs. McMORRIS RODGERS, Ms. FALLIN, Messrs. KINGSTON, DEAL of Georgia, and BROWN of South Carolina changed their vote from ''nay'' to ''yea.''

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. GEORGE MILLER of California. Mr. Speaker, because I was chairing a hearing today on whether OSHA is failing to adequately enforce construction safety rules, I was unable to vote on the Medicare Improvements for Patients and Providers Act of 2008, H.R. 6331.

I strongly support the legislation, and I would have voted in favor of H.R. 6331 had I been present during the vote.

FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2008

Mr. NEAL of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6327) to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6327

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Aviation Administration Extension Act of 2008''.

SEC. 2. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) of the Internal Revenue Code of 1986 is amended by striking ''June 30, 2008'' and inserting ''September 30, 2008''.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''June 30, 2008'' and inserting ''September 30, 2008''.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) of such Code is amended by striking ''June 30, 2008'' and inserting ''September 30, 2008''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008.

SEC. 3. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''July 1, 2008'' and inserting ''October 1, 2008'', and

(2) by inserting ''or the Federal Aviation Administration Extension Act of 2008'' before the semicolon at the end of subparagraph (A).

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) of such Code is amended by striking the date specified in such paragraph and inserting ''October 1, 2008''.

(c) EXTENSION OF EXPIRING AVIATION PROGRAM AUTHORITY.—

(1) Section 40117(l)(7) of title 49, United States Code, is amended by striking ''the date that is 3 years after the date of issuance of regulations to carry out this subsection.'' and inserting ''September 30, 2008.''.

(2) Section 47141(f) of title 49, United States Code, is amended by striking ''September 30, 2007.'' and inserting ''September 30, 2008.''.

(3) Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking ''fiscal year 2008 before July 1, 2008.'' and inserting ''fiscal year 2008.''.

(4) Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (Pub. L. No. 108–176, 117 Stat. 2490, 2518) is amended by striking ''October 1, 2007, and for the portion of fiscal year 2008 ending before July 1, 2008,'' and inserting ''October 1, 2008,''.

(5) Section 47115(j) of title 49, United States Code, is amended by striking ''fiscal years

2004 through 2007,'' and inserting ''fiscal years 2004 through 2008,''.

(6) Section 44302(f)(1) of title 49, United States Code, is amended by striking ''August 31, 2008'' and inserting ''November 30, 2008''.

(7) Section 44303(b) of such title is amended by striking ''December 31, 2008'' and inserting ''March 31, 2009''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008.

SEC. 4. EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103(5) of title 49, United States Code, is amended to read as follows:

''(5) $3,675,000,000 for fiscal year 2008.''.

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) of such title is amended by striking ''June 30, 2008,'' and inserting ''September 30, 2008,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. NEAL) and the gentleman from Texas (Mr. BRADY) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. NEAL of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 6327.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, first, let me thank Chairman RANGEL and Chairman OBERSTAR for their tireless efforts in trying to seek a long-term funding solution for our Nation's aviation programs.

Last year, I was honored to chair a hearing in the Select Revenue Measure Subcommittee where we heard from all sides on this issue, including the chairman and ranking member of the Transportation Committee and Aviation Subcommittee. Unfortunately, our colleagues on the other side of the Hill have not been able to secure an agreement, and that's really why we're here today to provide some additional time for negotiations.

H.R. 6327 extends the financing and spending authority for the Airport and Airway Trust Fund. The trust fund taxes and spending authority are scheduled to expire on June 30, 2008. H.R. 6327 extends these dates at current rates for 3 months through September 30, 2008.

Previous legislation extending these taxes were unanimously reported out of the Ways and Means Committee with bipartisan support. The substitute amendment makes one change from the bill as introduced. It deletes section 5 which would have transferred $8 billion to the Highway Trust Fund. This provision would prevent cuts in highway programs next year. CBO has informed us that it would have no budgetary impact.

While that provision enjoys significant bipartisan support, a number of Republican Members have indicated strong opposition. It is imperative that we enact the FAA provisions this month. To ensure that we have the necessary two-thirds support to pass this bill today, we decided to remove the highway language. This bill will keep the Airport and Airway Trust Fund taxes and operations in place until a long-term FAA reauthorization act is signed into law.

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The bill also includes a number of authorizing provisions under the jurisdiction of the Transportation and Infrastructure Committee, which worked with Ways and Means to develop the legislation.

The most important of these is the Airport Improvement Program, or AIP. This program funds grants for projects throughout the country. Many of our airports rely on this program to help finance critical modernization and expansion efforts.

The bill would extend the AIP for another 3 months. The other authorizing provisions are also 3-month extensions.

Mr. Speaker, this is a temporary extension of an essential funding mechanism for our aviation programs, and I urge its adoption.

I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6327, the Federal Aviation Administration Extension Act of 2008.

This bill would extend for 3 months the excise taxes that presently fund the Airport and Airway Trust Fund. These are taxes on passengers' tickets and on jet fuel. They are due to expire next Monday. It's important we extend them because they benefit our Nation's airports, airlines, passengers, and pay the salaries of thousands of FAA employees.

This 3-month extension will also allow us additional time to consider some fundamental reforms to the tax structure that finances the Airport and Airway Trust Fund.

We need time to study how the burdens of the taxes that fund our airports and our air traffic control system are distributed among the users.

For example, higher fuel prices have led to higher ticket prices, which means Americans are paying more in taxes on their tickets since the tax is based on a percentage of the fare. I hope we will examine a new system that replaces the percentage tax with a more fair approach that is based on a departure fee, plus the mileage traveled. It seems to make much more sense.

We also need more time to examine proposals to modernize our air traffic control system to satellite, which promises to help cut down on congestion and delays and reduce fuel costs.

Unfortunately, this bill does nothing to help the airline industry keep fuel costs under control, does nothing to keep prices reasonable, does nothing to keep routes accessible and jobs stable for American families, businesses and thousands of airline workers today.

The escalating cost of jet fuel—which peaked at $175 a gallon last month, up nearly $100 from the beginning of this year—in this country is killing our aviation industry, and they can't make up the cost enough in ticket prices alone. This year, the airlines are projecting they will spend $20 billion more in jet fuel, and that will be a 72 percent increase from last year.

Now fuel costs consume almost 40 percent of the price of a ticket, which has tripled just in the last 7 years. Jet fuel has to compete against gasoline and biodiesel for refinery space, and gas continually wins out. We simply don't have enough supply or refinery capacity to produce enough affordable jet fuel.

In response to these record-high jet fuel prices, the airlines have laid off thousands of workers, cut service to hundreds of communities, raised ticket prices, and have started charging new fees even for luggage.

Americans are suffering. Our economy is suffering, and airlines are suffering because of these high fuel prices. I urge my colleagues to bring legislation to the floor that will finally address the core of the problem we all know to be: more supply, more American-made energy, less dependency on foreign sources of oil. And we don't need more gimmicks, gimmicks like suing OPEC, gimmicks like use-it-or-lose-it, gimmicks like windfall profits taxes.

We need to open up the closed areas in our waters and on our land to thoughtful exploration and production. We need to invest in existing technologies.

We need to develop oil shale and coal-to-liquid technology, which can go in our airline fuel tanks, as well as promote advanced biofuels instead of relying on food-based fuel. We also need to get more refineries online by streamlining the permitting process. We also should extend current tax benefits for renewable energy, as well as solar and wind technology.

So, while I urge my colleagues to vote ''yes'' on this bill, I hope they will consider real relief for the airline industry, passengers and its workers to address the growing cost of fuel.

Congress has failed to act. Our airlines and their workers and those passengers have paid the price. It is time to produce more American-made energy.

Mr. Speaker, I reserve the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, I am pleased to yield such time as he might consume to the gentleman from Illinois (Mr. COSTELLO) whose knowledge of transportation and aviation initiatives in Illinois is not only extensive but most impressive.

Mr. COSTELLO. I thank my friend for yielding his time and for his kind words.

Mr. Speaker, I rise today in support of H.R. 6327, the Federal Aviation Administration Extension Act. I want to thank Chairman RANGEL and Chairman NEAL for bringing this to the floor today, as well as Chairman OBERSTAR and Ranking Members MICA and PETRI.

The Aviation Trust Fund was established to help the fund to develop a nationwide airport and airway system and to make critical investments in our air traffic control facilities.

The trust fund provides funding for the Airport Improvement Program, which provides grants for construction and safety projects at airports; the Facilities and Equipment account, which funds technological improvements to the air traffic control system; and a Research, Engineering, and Development account. The fund also partially pays for the salaries, expenses, and operations for the Federal Aviation Administration.

This trust fund is currently operating under a short-term extension that expires on June 30, 2008. Congress must act before June 30 to ensure that critical safety and capacity improvement funds are provided to our airports and our entire aviation system. Further, without action, the FAA will be forced to lay off 4,000 employees on June 30 of this year.

To address these issues, H.R. 6327 extends not only the aviation taxes and expenditure authority, but also AIP contract authority until September 30, 2008.

H.R. 6327 provides an additional $919 million in AIP contract authority, resulting in a full-year contract authority level of $3.675 billion for fiscal year 2008. These additional funds will allow airports to proceed with critical safety and capacity enhancement projects, particularly large projects that require full-year's worth of AIP funding in order for them to move forward.

On September 20, 2007, the House passed H.R. 2881, the FAA Reauthorization Act of 2007, a long-term authorization of the FAA's programs. The other body, as Chairman NEAL has indicated, has yet to pass its version of the bill, and until H.R. 2881 becomes law, it is important that we extend the FAA programs on a short-term basis.

Mr. Speaker, aviation is too important to our Nation's economy—contributing $1.2 trillion in output and approximately 11.4 million U.S. jobs—to allow taxes or funding for critical aviation programs to expire.

As we begin what is expected to be a very busy travel season, Congress must act now on this extension to reduce delays and congestion, improve safety and efficiency, and help our economy.

Mr. Speaker, I urge our colleagues to support the bill.

Mr. BRADY of Texas. Mr. Speaker, I yield 5 minutes to a gentleman who is a recognized expert on aviation infrastructure in America, the ranking Republican on the Aviation Subcommittee, the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. In September, the House considered and passed the FAA Reauthorization Act of 2007, also known as H.R. 2881. That legislation reauthorizes the FAA for the next 4 years. Unfortunately, though, the other body has not come to any agreement on its bill, and so we are here today considering yet another extension. The bill before us would extend the programs and funding at the Federal Aviation Administration at current levels through the end of this budget year.

This bill funds the operations and safety initiatives of the Federal Aviation Administration; provides Airport Improvement Program contract authority at the budget year 2007 level through the end of September; authorizes such sums as are necessary for FAA Facilities and Equipment, Research and Development, through the end of the budget year; and extends the authority to limit the third party liability of air carriers arising out of acts of terrorism through March of 2009.

The bill before us will ensure that our national aviation system continues to operate until a full FAA reauthorization can be enacted.

We need to look at how to meet the growing demands placed on our Nation's infrastructure whether modernizing our antiquated air traffic control system or repairing our crumbling infrastructure.

We also need to produce more domestic energy and look for alternative fuel sources.

There is much work yet to be done on the FAA reauthorization bill. I urge our colleagues in the other body to take up a comprehensive reauthorization package so that we may get to conference. We must work in a bipartisan and bicameral fashion to craft legislation that our President can sign.

So I support this extension in order to allow us time to accomplish the important goal of coming to agreement on the comprehensive FAA reauthorization package.

Mr. NEAL of Massachusetts. Mr. Speaker, at this time, I'm pleased to yield 2 minutes to the gentlelady from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Let me thank Mr. NEAL for his leadership and as well thank my good friend Chairman RANGEL and fellow Texas friend Mr. BRADY, Mr. COSTELLO, and others who have been engaged in this legislation.

I chair the Subcommittee on Transportation Security and Infrastructure Protection. We have much overlapping concerns as relates to the aviation industry. So I rise to support these extensions because I believe that we do have a challenge in not disallowing these payments to go forward.

The costs of air travel have increased rapidly in the last few months. Airlines have not only increased the price of air fare, but they have been forced to put charges on extra baggage, cut flights, and lay off hundreds of employees. But safe, secure air travel is essential, as it is beneficial environmentally, socially, and especially economically necessary. Without the ability to travel by air cheaply and easily, the flow of people, goods, and ideas would substantially decrease.

I represent Houston Intercontinental Airport and the headquarters for Continental Airlines. I see it firsthand. In order to be able to have safe secure travel, the necessary resources must be in place.

I look forward to meeting with the leadership of my hometown airline to discuss what Congress can do as it relates to jet fuel. Although we know how many of our consumers are suffering because of price per gallon for gasoline, the need for jet fuel and the cost has risen exponentially, with no relief in sight.

In fact, let me applaud Continental Airlines for its alliance with Star Alliance just last week to be able to provide more services and other necessary support matters being taken care of. It is standing independently, but as well, it has its own concerns.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Mr. NEAL of Massachusetts. I yield the gentlelady an additional 1 minute.

Ms. JACKSON-LEE of Texas. If we do not extend funding to airline programs, many negative consequences will ensue, including the cutting of services, such as air traffic control, certification, and inspection, as well as the inability by the airlines to buy new equipment for aging infrastructure.

As I travel around the country on behalf of my constituents, I'm also hearing from small towns who are concerned that because of the high cost of flying, those centers will be cut off. Although I live in the fourth largest city in the Nation, I'm not interested in seeing others in the surrounding areas of Texas not have air transport.

The Airport and Airway Trust Fund was established in 1970 ''to provide for the expansion and improvement of the Nation's airport and airway system.'' It has provided funds for the Federal Aviation Administration.

And so this is an important extension because we need air travel, but we need it in the right way.

Mr. Speaker, I look forward to working with my colleagues and addressing the question of high fuel costs, of looking at ensuring the safety and security of our fellow travelers, and as well to ensure that we have opportunities for minority businesses to work on these large projects that are coming forward.

This is a necessary bill. I ask my colleagues to support it.

I rise today in strong support of H. Res. 6327, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes, introduced by my distinguished colleague from New York, Representative CHARLES B. RANGEL. This important legislation will extend funding in order to

improve transportation for Americans across the Nation.

The costs of air travel have increased rapidly in the last few months. Airlines have not only increased the price of air fare, but they have been forced to put charges on extra baggage, cut flights, and lay off hundreds of employees. Air travel is essential, as it is beneficial environmentally, socially, and especially economically. Without the ability to travel by air cheaply and easily, the flow of people, goods, and ideas would substantially decrease.

If we do not extend funding to airline programs, many negative consequences will ensue, including cutting services, such as air traffic control, certification, and inspection, as well as the inability by the airlines to buy new equipment for the aging infrastructure.

It is obvious that something must be done to solve this pressing problem. It is necessary for airlines to look into alternative means in order to increase their effectiveness. However, it is also necessary for the United States to fund several programs.

The Airport and Airway Trust Fund was established in 1970 ''to provide for the expansion and improvement of the Nation's airport and airway system.'' Since then, it has provided funds for the Federal Aviation Administration. Various pieces of legislation have come before the Congess to extend this fund, and yet partisanship has stalled these bills. It is necessary for us to extend this program in order to modernize our air traffic control system. NextGen, a state-of-the-art air traffic control system, would allow control towers to pinpoint the exact locations of aircraft, making the skies less chaotic, and air travel much more efficient.

Additionally, the extension of the Airport Improvement Program is necessary in order to improve safety and efficiency in our air travel. Airports are sites used by millions and millions of Americans every single day. It is vital that airports, travelers, and air flight personnel be secure, and thus it is important to continue to fund this program.

Even though air travel is obviously important, other forms of travel contribute to the Nation as well. The Highway Trust Fund was created by the Highway Revenue Act of 1956 to ensure a dependable source of financing for the National System of Interstate and Defense Highways. This is the premier fund for Government spending on highways, with approximately 45 percent of all highway spending coming from this fund. The Congressional Budget Office predicts the fund will run a deficit of $1.7 billion at the end of 2009 and $8.1 billion by the end of 2010. The Highway Trust Fund balance must be restored.

This bill will extend the taxes that fund the Airport and Airway Trust Fund, extend the expenditure authority of the Airport and Airway Trust Fund, extend the Airport Improvement Program, and restore the Highway Trust Fund balance. This will be important to keep airports modernized and we should also ensure that minority-owned and women-owned and small businesses have equal chances for construction work. This is a vital bill for cities like Houston, Texas, which happens to have one of the top 10 airports in the Nation. I urge my fellow members of Congress to support H.R. 6327 in order to increase efficiency, safety, and functioning of our Nation's transportation systems.

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Mr. BRADY of Texas. Mr. Speaker, I yield myself 30 seconds.

I would say these sky-high jet fuel prices are caused in part because America is doing less, not more, to take responsibility for our own energy needs.

We're blessed in this country with more than a 200-year supply of coal. It is affordable, but not yet clean. It can be, with the right technology, converted to super clean liquid fuels. Technology has existed in Germany since the 1940s and used in African countries for almost one-third of their diesel and other vehicle fuels. This Congress needs to act to create more affordable fuel here at home.

With that, I yield 2 minutes to the gentleman from Texas whose district reflects a lot of the American-made energy that has created America, the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. I thank my colleague from Texas for allowing me to rise.

I, too, support the short-term extension of this bill. But you cannot talk about the regulation of the airline industry without talking about jet fuel prices. As has already been stated in a variety of ways, airlines are experiencing dramatic increases in their cost of fuel. They're trying to cope, they're struggling to cope with these high prices, but baggage fees and soda fees and blanket rentals are not going to get there in terms of allowing them to become profitable again. They need more jet fuel at a cheaper price.

One of our problems is additional refining capacity. We don't build refineries in America anymore. We import some 3 million barrels of refined products every day. Even Iran recognizes that they're vulnerable and have announced a doubling of their refining capacity so that they no longer have to import refined products, and yet we continue to do that.

As we take steps and measures are brought to this floor, I urge my colleagues on the other side of the aisle to understand the impact that those have. I am told that we will have a bill on the floor later on this afternoon on price gouging—in the face of all evidence that there has never been any price gouging—that they want to try to curtail. This price gouging bill that they will bring again will have a chilling effect on anybody who wants to build a refinery because it will place grave uncertainties as to whether or not, during times of emergencies or times of shortages, that the market will be able to function the way the market is supposed to.

So I urge my colleagues to vote for this short-term extension, but we also ought to be about rational, thoughtful approaches to increasing the fuel supply in this country, whether it's diesel for truckers, gasoline for cars or homes, or jet fuel.

We can fix this problem. We really need to quit talking by each other and understand that the extremes don't work. The path is in the middle of responsible development of American resources and American energy to reduce our vulnerabilities and, at a minimum, address a crying need these airlines are trying to deal with, and that is higher jet fuel prices.

I urge my colleagues to vote for this bill.

Mr. NEAL of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, at this point, I yield 3 minutes to one of our leaders in the party who is knowledgeable on many issues, the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. I thank my colleague for yielding time to me.

Mr. Speaker, I rise today to support this short-term authorization for the FAA because we simply cannot allow our transportation system to fail. However, I believe this country and its airspace would be better served by the FAA if this legislation demanded greater accountability and responsiveness from this agency.

We need to continue to invest in our air transportation system to make it safer and more efficient. Airline passenger volume continues to increase, and the percentage of flights delayed 15 minutes or more in 2007 is close to surpassing the record set in 2000.

Many business travelers are rightfully frustrated by the long delays and inefficiencies at these airports. However, I am opposed to the FAA's implementation of its preferred Integrated Airspace Alternative, which will redesign the New York, New Jersey and Philadelphia airspace to mitigate air traffic congestion. Furthermore, the arrogance I have experienced in working with the FAA to mitigate airline congestion and improve efficiency at some of our Nation's most congested airports, like LaGuardia, Kennedy and Newark, is palpable.

In deciding to move forward with its Integrated Airspace Alternative, the FAA had three other alternatives to choose from, but selected the congestion mitigation plan that would shift the approach for flights to LaGuardia to the north, which would reroute significant air traffic over previously unaffected populated areas. The FAA has refused to consider other market-based measures that could be equally as effective and less extreme than redesigning the airspace.

I am particularly disappointed the FAA has not implemented any noise mitigation strategies in the district I represent, or many districts throughout the northeast, despite the wide swath of land over the Fourth District that will be adversely impacted by planes flying as low as 4,000 feet. I believe if the FAA was required to take quality of life concerns into consideration, it would not have decided to implement its preferred Integrated Airspace Alternative.

Time and again I have shared my concerns and the concerns of my constituents with the FAA and emphasized

the fact that the plan would bring countless more planes into the region at the expense of the region's quality of life. It seems to many of us there are other solutions that need to be considered before implementing such a radical alternative that negatively affects so many thousands of residents throughout the northeast.

Even though there is no mandate to consider quality of life issues, the FAA simply must not ignore the hugely negative impacts of air noise in this process.

In closing, it is my hope that in the long term we can address the need to upgrade and improve our air transportation system and demand greater accountability from the FAA.

Mr. NEAL of Massachusetts. Mr. Speaker, I continue to reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, may I inquire as to the remaining time.

The SPEAKER pro tempore. The gentleman from Texas has 8½ minutes and the gentleman from Massachusetts has 11 minutes.

Mr. BRADY of Texas. Mr. Speaker, at this time, I would like to yield 2 minutes to the gentlelady from North Carolina, who is going to talk about one of the solutions to higher jet fuel prices for airlines.

Ms. FOXX. I thank my colleague from Texas for giving me this time.

Even in western North Carolina we have figured out that this is a technology that needs to be done, turning coal into liquid fuel. Bixby Energy, which is located in North Wilkesboro, North Carolina, has found a way to heat coal and turn it into natural gas, and there is no pollution and no detriment to the environment.

We all know how the price of airline tickets is going up tremendously. I had visits last week from USAir saying they're going to go out of business if we don't do something about the cost of fuel. And the Republicans have brought in many, many ideas about how we can do this. We simply have got to address the issue of the cost of fuel because it is threatening families, it is threatening industries, and it is doing great harm to our economy.

So I'm here to support this bill, but also to say that the Democratic majority must pay attention to the issue of fuel and the cost of that fuel.

Mr. NEAL of Massachusetts. Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself as much time as I may consume.

This bill is an appropriate one. It is important in the airline infrastructure to find the right solutions. As America continues to grow, the aviation infrastructure needs to grow and upgrade as well.

I appreciate the gentleman from Massachusetts and the gentleman from Illinois' leadership on this issue because it is so vital to our future in America.

Equally important, I think, though, is the cost of energy in this country. It seems to me that while America has done less and less to take responsibility for our energy needs, we've seen prices go up and up. Under President Carter's Presidency, at the time of the last energy crisis America was only importing one-third of the oil that we needed each day. Today, it is the reverse; we import nearly two-thirds of what we use each day and we are now, unfortunately, subject to the whims of the global market on energy prices. As a result, in the airline industry we're seeing each day we can't open the newspaper without seeing the cuts to some community that depend upon service from airlines. We don't see some notices of layoff. I know in Continental, we're going to lose 3,000 jobs, 3,000 families being laid off through no fault of their own, except this Congress has not acted. It has failed to act to address lower jet fuel prices for the airline industry plus lower gas prices for America as a whole.

The solution is fairly direct. In addition to energy conservation, which we need to do more of, in addition to renewable energies, which are important, we need to also provide more traditional energy, the supply of oil and gas, coal and oil shale, that will help ease the transition to renewable energies and avoid the cost of layoffs, the unprofitable quarters, and the impact on our American airline industry.

I hope that this Congress will come together again, not on gimmicks, but on real substantive issues that Republicans and Democrats together can support that will create more American-made energy, more supply here in America, and lower gas prices.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. NEAL of Massachusetts. Mr. Speaker, the issue has been vetted in committee. The House has had an opportunity to work its will, and we're simply asking for an extension based upon the bipartisan support demonstrated here today. I urge adoption of the resolution and urge adoption of the extension.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 6327. This legislation provides a three-month extension of aviation programs and taxes, through September 30, 2008. Without this extension, the Federal Aviation Administration, FAA, will face a partial shut-down beginning next week, on July 1, 2008.

The previous authorization for aviation programs—the ''Vision 100—Century of Aviation Reauthorization Act''—expired on September 30, 2007. On September 20, 2007, the House passed H.R. 2881, the ''FAA Reauthorization Act of 2007,'' to reauthorize FAA programs for fiscal yeas 2008–2011.

Unfortunately, the Senate has yet to act on this or any other long-term FAA reauthorization bill. I strongly urge the other body to bring their reauthorization bill to the floor, so we can go to conference and pass a long-term reauthorization of aviation programs. In the meantime, the three-month extension before us today is urgently needed.

H.R. 6327 extends the aviation excise taxes through September 30, 2008. These taxes are necessary to support the Aviation Trust Fund, which in recent years has provided about 80 percent of the FAA's budget. With an uncommitted cash balance of just $1.5 billion at the start of this fiscal year, any lapse in the aviation taxes could put the solvency of the Aviation Trust Fund at risk.

In addition to extending the aviation taxes, H.R. 6327 extends the FAA's authority to make expenditures from the Aviation Trust Fund. Without this authority, the FAA will face a partial shut-down beginning July 1st, as it will be unable to pay approximately 4,000 employees whose salaries are funded entirely by the Aviation Trust Fund.

H.R. 6327 also provides an additional $919 million in contract authority for the Airport Improvement Program, AIP. Together with the $2.756 billion provided under the previous short-term extension, this results in a total of $3.675 billion in contract authority for the AIP program in FY 2008. This will enable airports to move forward with important safety and capacity projects.

To allow aviation programs to continue under the same terms and conditions as were in effect during the previous authorization period, H.R. 6327 also extends several other provisions of Vision 100.

I thank Chairman RANGEL and Ranking Member MCCRERY of the Committee on Ways and Means for their, assistance in ensuring the continued operation of aviation programs. I also thank my Committee colleagues, Ranking Member MICA, Subcommittee Chairman COSTELLO, and Subcommittee Ranking Member PETRI, for working with me on this critical legislation.

I urge my colleagues to support H.R. 6327.

Mr. ENGEL. Mr. Speaker, I rise today not in opposition to this legislation, but simply to talk for a moment about the problems of the FAA.

Early last year, we were informed by the FAA of their plan to implement a redesign of the airspace in the northeast, which would negatively affect Rockland County, which I represent. I wanted to know more about the redesign, so I investigated the maps and other materials on their website, and my staff did the necessary research.

After looking at the information, I could not determine how many more planes would be flying over my District if the FAA changed the airspace to their preferred alternative. The maps were extremely vague, with no landmarks or cities identified.

Only through persistent inquiries to the FAA, most of which yielded little new information, did I finally learn that their plan would send up to 400 additional flights every day over Rockland County, at altitudes as low as 5,000 feet. This translates to one flight every 2 to 3 minutes over a previously quiet suburban area.

Although I strongly disagreed with their decision to send hundreds of new planes over Rockland every day, the plan itself wasn't the FAA's only problem. The bigger issue was how they tried to implement this plan without telling the very people who would be most affected by the redesign. Although a number of town hall meetings were held in the region, the FAA avoided going to Rockland County. Only through my efforts did I finally get the FAA to hold a town hall meeting in Rockland County, where 1,200 attended and spoke in universal opposition to this plan. Before this

meeting the FAA arrogantly decided not to consider Rockland County's views. The FAA maintained it was too late to take their voices into consideration. Of course, it would be too late if they stubbornly kept their mindset of ignoring the views of Rocklanders before the close of the official comment period. At least the FAA did eventually meet my demands and come to Rockland to listen to my affected constituents. Unfortunately, the FAA didn't learn from the universal opposition to their failed plan, as they continue to pursue the flawed redesign plan.

Throughout the whole process, the FAA has made it difficult, if not impossible, to get accurate information on the effects of the airspace redesign. For example, over a year after it was announced to us, we still don't know how loud it will be when 400 planes fly overhead every day. We don't know how much additional pollution this will cause. We don't know how it will affect the disproportionate rate of childhood asthma in my District. This level of secrecy is simply unacceptable.

Everyone in this room knows that we must do something to prevent this summer from turning into the disaster of delays we experienced last summer. However, it seems to me the solution is not to implement a flawed airspace redesign proposal that will relieve little, if any, congestion. The FAA estimates that this will possibly save a couple of minutes per flight. However, they can't say this for sure. Last year, at Members supported the call for the GAO to study the effectiveness of this redesign. And despite the fact that the GAO is currently studying whether this will actually have any benefit on congestion, the FAA is rushing full speed ahead to implement their plan before the study is completed.

Over time we have witnessed a number of different strategies to reduce regional delays without adversely affecting thousands of people. Reinstituting flight caps at Newark, La Guardia, and JFK can help to reduce delays. Opening up military airspace, as the President did over the holidays, is another way to help. Expediting the implementation of the NextGen air traffic control system will offer positive benefits as well.

I ask all of my colleagues to put yourselves in the position of the 300,000 people who live in Rockland County, as well as the countless others the FAA failed to properly consult in the drafting of this flawed proposal. Think about trying to read a book in your quiet living room, and then imagine someone turns on the vacuum cleaner every two minutes for the entire day. My constituents chose to live in Rockland County because they wanted to get away from the noise of the city. They didn't choose to buy a house next to an airport. They live 30, 40, even 50 miles from the nearest major airport, and they have had little say in this redesign plan. I ask you to take this lesson into account: Today's airspace redesign harms people and their quality of life in my District. Tomorrow, another redesign effort can have the same negative impact on your constituents. If this plan goes forward, I fear for the quiet neighborhoods across the county.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. NEAL) that the House suspend the rules and pass the bill, H.R. 6327, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BRADY of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FOSTERING CONNECTIONS TO SUCCESS ACT

Mr. MCDERMOTT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6307) to amend parts B and E of title IV of the Social Security Act to assist children in foster care in developing or maintaining connections to family, community, support, health care, and school, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6307

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 ''Fostering Connections to Success Act''.

SEC. 2. KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR CHILDREN.

(a) STATE PLAN OPTION.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking ''and'' at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting ''; and''; and

(3) by adding at the end the following:

''(28) at the option of the State, provides for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in section 473(d).''.

(b) IN GENERAL.—Section 473 of such Act (42 U.S.C. 673) is amended by adding at the end the following:

''(d) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS FOR CHILDREN.—

''(1) KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT.—

''(A) IN GENERAL.—In order to receive payments under section 474(a)(6), a State shall—

''(i) negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian of a child who meets the requirements of this paragraph;

''(ii) provide the prospective relative guardian with a copy of the agreement; and

''(iii) certify that any child on whose behalf kinship guardianship assistance payments are made under the agreement shall be provided medical assistance under title XIX in accordance with section 1902(a)(10)(A)(i)(I).

''(B) MINIMUM REQUIREMENTS.—The agreement shall specify, at a minimum—

''(i) the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement;

''(ii) the additional services and assistance that the child and relative guardian will be eligible for under the agreement;

''(iii) the procedure by which the relative guardian may apply for additional services as needed; and

''(iv) subject to subparagraph (D), that the State will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed $2,000.

''(C) INTERSTATE APPLICABILITY.—The agreement shall provide that the agreement shall remain in effect without regard to the State residency of the kinship guardian.

''(D) NO EFFECT ON FEDERAL REIMBURSEMENT.—Nothing in subparagraph (B)(iv) shall be construed as affecting the ability of the State to obtain reimbursement from the Federal Government for costs described in that subparagraph.

''(2) KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—

''(A) IN GENERAL.—The kinship guardianship assistance payment shall be equal to the amount of the foster care maintenance payment for which the child would have been eligible if the child had remained in a foster family home, or, at State option, the amount of the adoption assistance payment for which the child would have been eligible if the child had been adopted, and may be readjusted periodically based on changes in the circumstances of the relative guardians involved and the needs of the child. Notwithstanding the preceding sentence, the amount of the kinship guardianship assistance payment may not exceed the foster care maintenance payment which would have been paid during the period involved if the child had been in a foster family home.

''(B) LIMITATION.—A State may not make a kinship guardianship assistance payment to a relative guardian for any child who has attained 18 years of age, or such greater age as the State may elect under section 475(8)(B)(iii).

''(3) CHILD'S ELIGIBILITY FOR A KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT.—

''(A) IN GENERAL.—A child is eligible for a kinship guardianship assistance payment under this subsection if the State agency determines the following:

''(i) The child has been—

''(I) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child;

''(II) under the care of the State agency for the 12-month period ending on the date of the agency determination;

''(III) eligible for foster care maintenance payments under section 472 while in the home of the prospective relative guardian; and

''(IV) residing for at least 6 months with the prospective relative guardian.

''(ii) Being returned home or adopted are not appropriate permanency options for the child.

''(iii) The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.

''(iv) With respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.

''(B) TREATMENT OF SIBLINGS.—With respect to a child described in subparagraph

(A) whose sibling or siblings are not so described—

''(i) the child and any sibling of the child may be placed in the same kinship guardianship arrangement if the State agency and the relative agree on the appropriateness of the arrangement for the siblings; and

''(ii) kinship guardianship assistance payments may be paid for the child and each sibling so placed.''.

(c) CONFORMING AMENDMENTS.—

(1) ELIGIBILITY FOR ADOPTION ASSISTANCE PAYMENTS.—Section 473(a)(2) of such Act (42 U.S.C. 673(a)(2)) is amended by adding at the end the following:

''(D) In determining the eligibility for adoption assistance payments of a child in a legal guardianship arrangement described in section 471(a)(28), the placement of the child with the relative guardian involved shall be considered never to have been made.''.

(2) STATE PLAN REQUIREMENT.—

(A) IN GENERAL.—Section 471(a)(20) of such Act (42 U.S.C. 671(a)(20)) is amended—

(i) by adding ''and'' at the end of subparagraph (C); and

(ii) by adding at the end the following:

''(D) provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of title 28, United States Code), on any relative guardian, and for checks described in subparagraph (C) of this paragraph on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may be finally approved for placement of a child regardless of whether kinship guardianship assistance payments are to be made on behalf of the child under the State plan under this part;''.

(B) REDESIGNATION OF NEW PROVISION AFTER AMENDMENT MADE BY PRIOR LAW TAKES EFFECT.—

(i) IN GENERAL.—Section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) is amended—

(I) in subparagraph (D), by striking ''(C)'' and inserting ''(B)''; and

(II) by redesignating subparagraph (D) as subparagraph (C).

(ii) EFFECTIVE DATE.—The amendments made by clause (i) shall take effect immediately after the amendments made by section 152 of Public Law 109–248 take effect.

(3) PAYMENTS TO STATES.—Section 474(a) of such Act (42 U.S.C. 674(a)) is amended—

(A) by striking the period at the end and inserting ''; plus''; and

(B) by adding at the end the following:

''(6) an amount equal to the percentage by which the expenditures referred to in paragraph (2) of this subsection are reimbursed of the total amount expended during such quarter as kinship guardianship assistance payments under section 473(d) pursuant to kinship guardianship assistance agreements.''.

(4) DEFINITIONS.—Section 475(1) of such Act (42 U.S.C. 675(1)) is amended by adding at the end the following:

''(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 473(d), a description of—

''(i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

''(ii) the reasons for any separation of siblings during placement;

''(iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

''(iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

''(v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefor; and

''(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.''.

(d) CONTINUED SERVICES UNDER WAIVER.—Section 474 of such Act (42 U.S.C. 674) is amended by adding at the end the following:

''(g) For purposes of this part, after the termination of a demonstration project relating to guardianship conducted by a State under section 1130, the expenditures of the State for the provision, to children who, as of September 30, 2008, were receiving assistance or services under the project, of the same assistance and services under the same terms and conditions that applied during the conduct of the project, are deemed to be expenditures under the State plan approved under this part.''.

SEC. 3. FAMILY CONNECTION GRANTS.

Part B of title IV of the Social Security Act (42 U.S.C. 620–629i) is amended by adding at the end the following:

''Subpart 3—Family Connection Grants

''SEC. 441. FAMILY CONNECTION GRANTS.

''(a) IN GENERAL.—The Secretary of Health and Human Services may make matching grants to State, local, or tribal child welfare agencies, and private nonprofit organizations that have experience in working with foster children or children in kinship care arrangements, for the purpose of helping children who are in, or at risk of entering, foster care reconnect with family members through the implementation of—

''(1) kinship navigator programs designed to assist kinship caregivers in navigating their way through programs and services, and to help the caregivers learn about and obtain assistance to meet the needs of the children they are raising and their own needs;

''(2) intensive family-finding efforts that utilize search technology to find biological family members for children in the child welfare system, and once identified, work to reestablish relationships and explore ways to find a permanent family placement for the children; or

''(3) family group decision-making meetings for children in the child welfare system that engage and empower families to make decisions and develop plans that nurture children and protect them from enduring further abuse and neglect.

''(b) APPLICATIONS.—An entity desiring to receive a matching grant under this section shall submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a description of how the grant will be used to implement 1 or more of the activities described in subsection (a);

''(2) a description of the types of children and families to be served, including how the children and families will be identified and recruited, and an initial projection of the number of children and families to be served;

''(3) if the entity is a private organization—

''(A) documentation of support from the relevant local or State child welfare agency; or

''(B) a description of how the organization plans to coordinate its services and activities with those offered by the relevant local or State child welfare agency; and

''(4) an assurance that the entity will cooperate fully with any evaluation provided for by the Secretary under this section.

''(c) LIMITATIONS.—

''(1) GRANT DURATION.—The Secretary may award a grant under this section for a period of not less than 1 year and not more than 3 years.

''(2) NUMBER OF NEW GRANTEES PER YEAR.—The Secretary may not award a grant under this section to more than 20 new grantees each fiscal year.

''(d) FEDERAL CONTRIBUTION.—The amount of a grant payment to be made to a grantee under this section during each year in the grant period shall be the following percentage of the total expenditures proposed to be made by the grantee in the application approved by the Secretary under this section:

''(1) 75 percent, if the payment is for the 1st or 2nd year of the grant period.

''(2) 50 percent, if the payment is for the 3rd year of the grant period.

''(e) FORM OF GRANTEE CONTRIBUTION.—A grantee under this section may provide not more than 50 percent of the amount which the grantee is required to expend to carry out the activities for which a grant is awarded under this section in kind, fairly evaluated, including plant, equipment, or services.

''(f) USE OF GRANT.—A grantee under this section shall use the grant in accordance with the approved application for the grant.

''(g) RESERVATIONS OF FUNDS.—

''(1) EVALUATION.—The Secretary shall reserve 3 percent of the funds made available under subsection (h) for each fiscal year for the conduct of a rigorous evaluation of the activities funded with grants under this section.

''(2) TECHNICAL ASSISTANCE.—The Secretary may reserve 2 percent of the funds made available under subsection (h) for each fiscal year to provide technical assistance to recipients of grants under this section.

''(h) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary not more than $50,000,000 for each of fiscal years 2009 through 2013.''.

SEC. 4. NOTIFICATION TO RELATIVES OF FOSTER CARE PLACEMENTS.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by section 2(a) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting ''; and''; and

(3) by adding at the end the following:

''(29) provides that, not later than 30 days after the date the State places a child in foster care, the State agency shall attempt to locate and notify any noncustodial parents, siblings, grandparents, aunts, or uncles of the child who are adults, of the removal of the child from the custody of the child's parent or parents and explain the options the relative has to participate in the care and placement of the child, subject to exceptions due to family or domestic violence which shall be provided for under State law.''.

SEC. 5. STATE OPTION FOR CHILDREN IN FOSTER CARE, AND CERTAIN CHILDREN IN AN ADOPTIVE OR GUARDIANSHIP PLACEMENT, AFTER ATTAINING AGE 18.

(a) DEFINITION OF CHILD.—Section 475 of the Social Security Act (42 U.S.C. 675) is amended by adding at the end the following:

''(8)(A) Subject to subparagraph (B), the term 'child' means an individual who has not attained 18 years of age.

''(B) At the option of a State, the term shall include an individual—

''(i)(I) who is in foster care under the responsibility of the State;

''(II) with respect to whom an adoption assistance agreement is in effect under section

473 if the child had attained 16 years of age before the agreement became effective; or

''(III) with respect to whom a kinship guardianship assistance agreement is in effect under section 473(d) if the child had attained 16 years of age before the agreement became effective;

''(ii) who has attained 18 years of age;

''(iii) who has not attained 19, 20, or 21 years of age, as the State may elect; and

''(iv) who is—

''(I) completing secondary education or a program leading to an equivalent credential;

''(II) enrolled in an institution which provides post-secondary or vocational education;

''(III) participating in a program or activity designed to promote, or remove barriers to, employment; or

''(IV) employed for at least 80 hours per month.''.

(b) CONFORMING AMENDMENT TO DEFINITION OF CHILD-CARE INSTITUTION.—Section 472(c)(2) of such Act (42 U.S.C. 672(c)(2)) is amended by inserting '', except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations'' before the period.

(c) CONFORMING AMENDMENTS TO AGE LIMITS APPLICABLE TO CHILDREN ELIGIBLE FOR ADOPTION ASSISTANCE OR KINSHIP GUARDIANSHIP ASSISTANCE.—Section 473(a)(4) of such Act (42 U.S.C. 673(a)(4)) is amended to read as follows:

''(4)(A) Notwithstanding any other provision of this section, a payment may not be made pursuant to this section to parents or relative guardians with respect to a child—

''(i) who has attained—

''(I) 18 years of age, or such greater age as the State may elect under section 475(8)(B)(iii); or

''(II) 21 years of age, if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance;

''(ii) who has not attained 18 years of age, if the State determines that the parents or relative guardians, as the case may be, are no longer legally responsible for the support of the child; or

''(iii) if the State determines that the child is no longer receiving any support from the parents or relative guardians, as the case may be.

''(B) Parents or relative guardians who have been receiving adoption assistance payments or kinship guardianship assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for the payments, or eligible for the payments in a different amount.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010.

SEC. 6. SHORT-TERM TRAINING FOR CHILD WELFARE AGENCIES, PROSPECTIVE RELATIVE GUARDIANS, AND COURT PERSONNEL.

(a) IN GENERAL.—Section 474(a)(3)(B) of the Social Security Act (42 U.S.C. 674(a)(3)(B)) is amended—

(1) by inserting ''or relative guardians'' after ''adoptive parents'';

(2) by striking ''and the members'' and inserting '', the members'';

(3) by inserting '', or State-licensed or State-approved child welfare agencies providing services,'' after ''providing care'';

(4) by inserting '', and members of the staff of abuse and neglect courts, agency attorneys, attorneys representing children or parents, guardians ad litem, or other court-appointed special advocates representing children in proceedings of such courts'' after ''part,'';

(5) by inserting ''guardians,'' before ''staff members,''; and

(6) by striking ''and institutions'' and inserting ''institutions, attorneys, and advocates''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2008.

(c) PHASE-IN.—With respect to an expenditure described in section 474(a)(3)(B) of the Social Security Act by reason of an amendment made by subsection (a) of this section, in lieu of the percentage set forth in such section 474(a)(3)(B), the percentage that shall apply is—

(1) 55 percent, if the expenditure is made in fiscal year 2009;

(2) 60 percent, if the expenditure is made in fiscal year 2010;

(3) 65 percent, if the expenditure is made in fiscal year 2011; or

(4) 70 percent, if the expenditure is made in fiscal year 2012.

SEC. 7. EQUITABLE ACCESS FOR FOSTER CARE AND ADOPTION SERVICES FOR INDIAN CHILDREN IN TRIBAL AREAS.

(a) AUTHORITY FOR INDIAN TRIBES TO RECEIVE DIRECT FEDERAL TITLE IV–E FUNDS.—Section 472(a)(2)(B) of the Social Security Act (42 U.S.C. 672(a)(2)(B)) is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by striking ''and'' at the end and inserting ''or''; and

(3) by adding at the end the following:

''(iii) an Indian tribe or a tribal organization (as defined in section 479B(a)) or a tribal consortium, if the Indian tribe, tribal organization, or tribal consortium—

''(I) operates a program under section 479B;

''(II) has a cooperative agreement with a State under section 479B(d); or

''(III) submits to the Secretary a description of the arrangements (jointly developed in consultation with the State) made by the Indian tribe or tribal consortium for the payment of funds and the provision of the child welfare services and protections required by this title; and''.

(b) PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.—Part E of title IV of such Act (42 U.S.C. 670 et seq.) is amended by adding at the end the following:

''SEC. 479B. PROGRAMS OPERATED BY INDIAN TRIBAL ORGANIZATIONS.

''(a) DEFINITIONS OF INDIAN TRIBE; TRIBAL ORGANIZATIONS.—In this section:

''(1) IN GENERAL.—Except as provided in paragraph (2), the terms 'Indian tribe' and 'tribal organization' have the meanings given those terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(2) SPECIAL RULE FOR ALASKAN TRIBES.—The term 'Indian tribe' means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

''(A) Artice Slope Native Association.

''(B) Kawerak, Inc.

''(C) Maniilaq Association.

''(D) Association of Village Council Presidents.

''(E) Tanana Chiefs Conference.

''(F) Cook Inlet Tribal Council.

''(G) Bristol Bay Native Association.

''(H) Aleutian and Pribilof Island Association.

''(I) Chugachmuit.

''(J) Tlingit Haida Central Council.

''(K) Kodiak Area Native Association.

''(L) Copper River Native Association.

''(b) APPLICATION.—Except as provided in subsections (c) and (e), this part shall apply to an Indian tribe, tribal organization, or a tribal consortium that elects to operate a program under this part in the same manner as this part applies to a State.

''(c) MODIFICATION OF PLAN AND OTHER REQUIREMENTS.—

''(1) IN GENERAL.—In the case of an Indian tribe, a tribal organization, or a tribal consortium submitting a plan for approval under section 471, the plan—

''(A) shall—

''(i) in lieu of the requirements of section 471(a)(3), identify the service area or areas and population to be served by the Indian tribe, tribal organization, or tribal consortium; and

''(ii) in lieu of the requirements of section 471(a)(10), provide for the establishment and application of standards for foster family homes and child care institutions pursuant to tribal standards and in a manner that ensures the safety of, and accountability for, children placed in foster care; and

''(B) may, at the option of the Indian tribe, tribal organization, or tribal consortium, in lieu of the requirements of section 471(a)(20), provide procedures for conducting background checks in accordance with the requirements of section 408 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3207) and regulations issued thereunder, and for conducting checks of child abuse and neglect registries maintained by the Federal Government, by a State, and by an Indian tribe, tribal organization, or tribal consortium in a manner that ensures the safety of, and accountability for, children placed in foster care or who are being placed for adoption.

''(2) DETERMINATION OF FEDERAL SHARE; SOURCES OF NON-FEDERAL SHARE.—

''(A) PER CAPITA INCOME.—

''(i) IN GENERAL.—For purposes of determining the Federal medical assistance percentage applicable to an Indian tribe, a tribal organization, or a tribal consortium under paragraphs (1) and (2) of section 474(a) (and for purposes of payments made under an arrangement described in section 472(a)(2)(B)(iii)(III)), the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium shall be based upon the service population of the Indian tribe, tribal organization, or tribal consortium as defined in the plan of the Indian tribe, tribal organization, or tribal consortium, in accordance with paragraph (1)(A), except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive less than the Federal medical assistance percentage for any State in which the tribe is located.

''(ii) CONSIDERATION OF OTHER INFORMATION.—Before making a calculation under clause (i), the Secretary shall consider any information submitted by an Indian tribe, a tribal organization, or a tribal consortium that the Indian tribe, tribal organization, or tribal consortium considers relevant to making the calculation of the per capita income of the Indian tribe, tribal organization, or tribal consortium.

''(B) ADMINISTRATIVE, TRAINING, AND DATA COLLECTION EXPENDITURES.—The Secretary shall, by regulation, determine the proportions to be paid to Indian tribes, tribal organizations, and tribal consortiums pursuant to section 474(a)(3) for purposes of this section (and for purposes of payments made under an arrangement described in section 472(a)(2)(B)(iii)(III)), except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive a lesser proportion than the corresponding amount specified for a State in that section.

''(C) SOURCES OF NON-FEDERAL SHARE.—An Indian tribe, tribal organization, or tribal consortium may use Federal, State, tribal,

or private funds, which may be in kind, fairly evaluated, including plant, equipment, administration, and services, to match payments for which the tribe, organization, or consortium is eligible under section 474.

''(3) MODIFICATION OF OTHER REQUIREMENTS.—On the request of an Indian tribe, tribal organization, or a tribal consortium, the Secretary may modify any requirement under this part if, after consulting with the Indian tribe, tribal organization, or tribal consortium, the Secretary determines that modification of the requirement would advance the best interests and the safety of children served by the Indian tribe, tribal organization, or tribal consortium.

''(4) CONSORTIUM.—The participating Indian tribes or tribal organizations of a tribal consortium may develop and submit a single plan under section 471 that meets the requirements of this section.

''(d) COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—An Indian tribe, a tribal organization, or a tribal consortium and a State may enter into a cooperative agreement for the administration or payment of funds under this part.

''(2) APPLICATION AND ENFORCEMENT OF INCORPORATED PROVISIONS OF THIS SECTION.—If an Indian tribe, a tribal organization, or a tribal consortium and a State enter into a cooperative agreement that incorporates any of the provisions of this section, those provisions shall be valid and enforceable.

''(3) PRIOR AGREEMENTS IN EFFECT.—Any cooperative agreement described in paragraph (1) that is in effect as of the date of enactment of this section, shall remain in full force and effect subject to the right of either party to the agreement to revoke or modify the agreement pursuant to the terms of the agreement.

''(e) JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM.—Except as provided in section 477(j), subsection (b) of this section shall not apply with respect to the John H. Chafee Foster Care Independence Program established under section 477 (or with respect to payments made under section 474(a)(4) or grants made under section 474(e)).''.

(c) APPLICATION OF FEDERAL MATCHING RATE THAT WOULD APPLY TO INDIAN TRIBES, TRIBAL ORGANIZATIONS, OR TRIBAL CONSORTIA TO EXPENDITURES UNDER STATE AGREEMENTS OR AN AGREEMENT WITH THE SECRETARY.—

(1) FOSTER CARE MAINTENANCE AND ADOPTION ASSISTANCE PAYMENTS.—Paragraphs (1) and (2) of section 474(a) of such Act (42 U.S.C. 674(a)) are each amended by inserting ''(or, with respect to such payments made during such quarter under an agreement entered into by the State and an Indian tribe, tribal organization, or tribal consortium, or under an arrangement described in section 472(a)(2)(B)(iii)(III), an amount equal to the Federal medical assistance percentage that would apply under subsection (c)(2)(A) of section 479B (in this paragraph referred to as the 'tribal FMAP') if such Indian tribe, tribal organization, or tribal consortium made such payments under a program operated under that section, unless the tribal FMAP is less than the Federal medical assistance percentage that applies to the State)'' before the semicolon.

(2) ADMINISTRATIVE EXPENDITURES.—Section 474(a)(3) of such Act (42 U.S.C. 674(a)(3)) is amended—

(A) in the matter preceding subparagraph (A), by striking ''section 472(i)'' and inserting ''subparagraph (E) and section 472(i)'';

(B) in subparagraph (D), by striking ''and'' at the end;

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

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

''(E) in the case of a State that has entered into an agreement with an Indian tribe, tribal organization, or tribal consortium (or an Indian tribe, tribal organization, or tribal consortium with an arrangement described in section 472(a)(2)(B)(iii)(III)), an amount equal to the proportions that would be paid to such tribe, organization, or consortium pursuant to regulations issued under section 479B(c)(2)(B) if the tribe, organization, or consortium operated a program under that section; and''.

(d) HOLD HARMLESS FOR INDIAN FAMILIES RECEIVING FOSTER CARE MAINTENANCE PAYMENTS OR ADOPTION ASSISTANCE.—Nothing in the amendments made by this Act shall be construed as authorization to terminate funding to any Indian or Indian family currently receiving foster care maintenance payments or adoption assistance on behalf of a child and for which the State receives Federal matching payments under paragraph (1) or (2) of section 474(a) of the Social Security Act, regardless of whether a cooperative agreement between the State and an Indian tribe, tribal organization, or tribal consortium is in effect pursuant to subsection (d) of section 479B(d) of such Act, or an Indian tribe, tribal organization, or tribal consortium elects to operate a foster care and adoption assistance program directly under such section 479B.

(e) NONAPPLICATION OF CERTAIN ELIGIBILITY REQUIREMENTS FOR INDIAN CHILDREN.—Section 472(a) of such Act (42 U.S.C. 672(a)) is amended by adding at the end the following:

''(5) NONAPPLICATION OF CERTAIN REQUIREMENTS FOR INDIAN CHILDREN.—In the case of an Indian tribe, tribal organization, or tribal consortium that assumes responsibility for administering the program under this part through a cooperative agreement with the State under section 479B(d), or that elects to operate a foster care and adoption assistance program directly under section 479B, the following rules shall apply:

''(A) USE OF AFFIDAVITS, ETC.—The requirement in paragraph (1) shall not be interpreted so as to prohibit the use of affidavits or nunc pro tunc orders as verification documents in support of the reasonable efforts and contrary to the welfare of the child judicial determinations required under such paragraph.

''(B) RESIDENCY REQUIREMENT IMPOSED UNDER AFDC STATE PLAN.—Notwithstanding paragraph (3)(A), any residency requirement imposed under the State plan referred to in such paragraph shall not apply with respect to a child for whom an Indian tribe, tribal organization, or tribal consortium assumes responsibility.''.

(f) AUTHORITY TO RECEIVE PORTION OF STATE ALLOTMENT AS PART OF AN AGREEMENT TO OPERATE THE JOHN H. CHAFEE FOSTER CARE INDEPENDENCE PROGRAM.—

(1) IN GENERAL.—Section 477 of such Act (42 U.S.C. 677) is amended by adding at the end the following:

''(j) AUTHORITY FOR AN INDIAN TRIBE, TRIBAL ORGANIZATION, OR TRIBAL CONSORTIUM TO RECEIVE AN ALLOTMENT.—

''(1) IN GENERAL.—An Indian tribe, tribal organization, or tribal consortium with a plan approved under section 479B, which is receiving funding to provide foster care under this part pursuant to a cooperative agreement with a State, or that provides child welfare services and protections in accordance with an arrangement submitted to the Secretary under section 472(a)(2)(B)(iii)(III), may apply for an allotment out of any funds authorized by paragraph (1) or (2) (or both) of subsection (h) of this section.

''(2) APPLICATION.—An Indian tribe, tribal organization, or tribal consortium desiring an allotment under paragraph (1) shall submit an application to the Secretary to directly receive such allotment that includes a plan that satisfies such requirements of paragraphs (2) and (3) of subsection (b) as the Secretary determines are appropriate.

''(3) PAYMENTS.—The Secretary shall pay an Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection from the allotment determined for the tribe, organization, or consortium under paragraph (4) of this subsection in the same manner as is provided in section 474(a)(4) (and, where requested, and if funds are appropriated, section 474(e)) with respect to a State, or in such other manner as is determined appropriate by the Secretary, except that in no case shall an Indian tribe, a tribal organization, or a tribal consortium receive a lesser proportion of such funds than a State is authorized to receive under those sections.

''(4) ALLOTMENT.—From the amounts allotted to a State under subsection (c) of this section for a fiscal year, the Secretary shall allot to each Indian tribe, tribal organization, or tribal consortium with an application and plan approved under this subsection for that fiscal year an amount equal to the tribal foster care ratio determined under paragraph (5) of this subsection for the tribe, organization, or consortium multiplied by the allotment amount of the State within which the tribe, organization, or consortium is located. The allotment determined under this paragraph is deemed to be a part of the allotment determined under section 477(c) for the State in which the Indian tribal organization or tribal consortium is located.

''(5) TRIBAL FOSTER CARE RATIO.—For purposes of paragraph (4), the tribal foster care ratio means, with respect to an Indian tribe, tribal organization, or tribal consortium, the ratio of—

''(A) the number of children in foster care under the responsibility of the Indian tribe, tribal organization, or tribal consortium (either directly or under supervision of the State), in the most recent fiscal year for which the information is available; to

''(B) the sum of—

''(i) the total number of children in foster care under the responsibility of the State within which the Indian tribe, tribal organization, or tribal consortium is located; and

''(ii) the total number of children in foster care under the responsibility of all Indian tribes, tribal organizations, or tribal consortia (either directly or under supervision of the State).''.

(2) AUTHORITY TO RECEIVE PORTION OF STATE ALLOTMENT AS PART OF A COOPERATIVE AGREEMENT ENTERED INTO WITH RESPECT TO THE CHAFEE PROGRAM.—Section 477(b)(3)(G) of such Act (42 U.S.C. 677(b)(3)(G)) is amended—

(A) by striking ''and that'' and inserting ''that''; and

(B) by striking the period and inserting ''; and that each Indian tribe, tribal organization, or tribal consortium in the State that does not receive an allotment under subsection (j)(4) for a fiscal year may enter into a cooperative agreement or contract with the State to administer, supervise, or oversee the programs to be carried out under the plan with respect to the Indian children who are eligible for such programs and who are under the authority of the Indian tribe and to receive from the State an appropriate portion of the State allotment under subsection (c) for the cost of such administration, supervision, or oversight.''.

(g) RULE OF CONSTRUCTION.—Nothing in the amendments made by this Act shall be construed as affecting the responsibility of a State—

(1) as part of the plan approved under section 471 of the Social Security Act (42 U.S.C.

671), to provide foster care maintenance payments and adoption assistance for Indian children who are eligible for such payments or assistance and who are not otherwise being served by an Indian tribe, tribal organization, or tribal consortium pursuant to a foster care and adoption assistance program operated under section 479B of such Act; or

(2) as part of the plan approved under section 477 of such Act (42 U.S.C. 677) to administer, supervise, or oversee programs carried out under that plan on behalf of Indian children who are eligible for such programs if such children are not otherwise being served by an Indian tribe, tribal organization, or tribal consortium pursuant to an approved plan under section 477(j) or a cooperative agreement or contract entered into under section 477(b)(3)(G) of such Act.

(h) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary, in consultation with Indian tribes, tribal organizations, tribal consortia, and affected States, shall promulgate regulations to carry out the amendments made by this section.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2010.

SEC. 8. HEALTH OVERSIGHT AND COORDINATION PLAN.

Section 422(b)(15) of the Social Security Act (42 U.S.C. 622(b)(15)) is amended to read as follows:

''(15)(A) provides that the State will develop, in coordination and collaboration with the State agency referred to in paragraph (1) and the State agency responsible for administering the State plan approved under title XIX, and in consultation with pediatricians, other experts in health care, and experts in and recipients of child welfare services, a plan for the ongoing oversight and coordination of health care services for any child in a foster care placement, which shall ensure a coordinated strategy to identify and respond to the health care needs of children in foster care placements, including mental health and dental health needs, and shall include an outline of—

''(i) a schedule for initial and follow-up health screenings that meet reasonable standards of medical practice;

''(ii) how health needs identified through screenings will be monitored and treated;

''(iii) how medical information for children in care will be updated and appropriately shared, which may include the development and implementation of an electronic health record;

''(iv) steps to ensure continuity of health care services, which may include the establishment of a medical home for every child in care;

''(v) the oversight of prescription medicines; and

''(vi) how the State actively consults with and involves physicians or other appropriate medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment for the children; and

''(B) subparagraph (A) shall not be construed to reduce or limit the responsibility of the State agency responsible for administering the State plan approved under title XIX to administer and provide care and services for children with respect to whom services are provided under the State plan developed pursuant to this subpart;''.

SEC. 9. EDUCATIONAL STABILITY.

(a) IN GENERAL.—Section 475 of the Social Security Act (42 U.S.C. 675), as amended by section 2(c)(4) of this Act, is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking clause (iv) and redesignating clauses (v) through (viii) as clauses (iv) through (vii), respectively; and

(B) by adding at the end the following:

''(G) A plan for ensuring the educational stability of the child while in foster care, including—

''(i) assurances that the placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

''(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of placement; or

''(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.''; and

(2) in the 1st sentence of paragraph (4)(A)—

(A) by striking ''and reasonable'' and inserting ''reasonable''; and

(B) by inserting '', and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement'' before the period.

(b) EDUCATIONAL ATTENDANCE REQUIREMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 2(a) and 4 of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting ''; and''; and

(3) by adding at the end the following:

''(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary school student or has completed secondary school, and for purposes of this paragraph, the term 'elementary or secondary school student' means, with respect to a child, that the child is—

''(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

''(B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;

''(C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or

''(D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information included in the case plan of the child.''.

SEC. 10. SIBLING PLACEMENT.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 2(a), 4, and 9(b) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (29);

(2) by striking the period at the end of paragraph (30) and inserting ''; and''; and

(3) by adding at the end the following:

''(31) provides that reasonable efforts shall be made to place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings.''.

SEC. 11. ADOPTION INCENTIVES PROGRAM.

(a) 5-YEAR EXTENSION.—Section 473A of the Social Security Act (42 U.S.C. 673b) is amended—

(1) in subsection (b)(4), by striking ''in the case of fiscal years 2001 through 2007,'';

(2) in subsection (b)(5), by striking ''1998 through 2007'' and inserting ''2008 through 2012'';

(3) in subsection (c)(2), by striking ''each of fiscal years 2002 through 2007'' and inserting ''a fiscal year''; and

(4) in each of subsections (h)(1)(D), and (h)(2), by striking ''2008'' and inserting ''2013''.

(b) UPDATING OF FISCAL YEAR USED IN DETERMINING BASE NUMBERS OF ADOPTIONS.—Section 473A(g) of such Act (42 U.S.C. 673b(g)) is amended—

(1) in paragraph (3), by striking ''means'' and all that follows and inserting ''means, with respect to any fiscal year, the number of foster child adoptions in the State in fiscal year 2007.'';

(2) in paragraph (4)—

(A) by inserting ''that are not older child adoptions'' before ''for a State''; and

(B) by striking ''means'' and all that follows and inserting ''means, with respect to any fiscal year, the number of special needs adoptions that are not older child adoptions in the State in fiscal year 2007.''; and

(3) in paragraph (5), by striking ''means'' and all that follows and inserting ''means, with respect to any fiscal year, the number of older child adoptions in the State in fiscal year 2007.''.

(c) INCREASE IN INCENTIVE PAYMENTS FOR SPECIAL NEEDS ADOPTIONS AND OLDER CHILD ADOPTIONS.—Section 473A(d)(1) of such Act (42 U.S.C. 673b(d)(1)) is amended—

(1) in subparagraph (B), by striking ''$2,000'' and inserting ''$4,000''; and

(2) in subparagraph (C), by striking ''$4,000'' and inserting ''$8,000''.

(d) 24-MONTH AVAILABILITY OF PAYMENTS TO STATES.—Section 473A(e) of such Act (42 U.S.C. 673b(e)) is amended—

(1) in the heading, by striking ''2-year'' and inserting ''24-month''; and

(2) by striking ''through the end of the succeeding fiscal year'' and inserting ''for the 24-month period beginning with the month in which the payments are made''.

SEC. 12. INFORMATION ON ADOPTION TAX CREDIT.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)), as amended by sections 2(a), 4, 9(b), and 10 of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting ''; and''; and

(3) by adding at the end the following:

''(32) provides that the State will inform any individual who is adopting, or whom the State is made aware is considering adopting, a child who is in foster care under the responsibility of the State of the potential eligibility of the individual for a Federal tax credit under section 23 of the Internal Revenue Code.''.

SEC. 13. MODIFICATION OF FOSTER CARE MATCHING RATE FOR THE DISTRICT OF COLUMBIA TO CONFORM WITH MEDICAID MATCHING RATE.

Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended in each of paragraphs (1) and (2) by striking ''(as defined in section 1905(b) of this Act)'' and inserting ''(which shall be as defined in section 1905(b), in the case of a State other than the District of Columbia, or 70 percent, in the case of the District of Columbia)''.

SEC. 14. COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.

(a) IN GENERAL.—Section 6402 of the Internal Revenue Code (relating to authority to

make credits or refunds) is amended by redesignating subsections (f) through (k) as subsections (g) through (l), respectively, and by inserting after subsection (e) the following new subsection:

''(f) COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.—

''(1) IN GENERAL.—Upon receiving notice from any State that a named person owes a covered unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary—

''(A) reduce the amount of any overpayment payable to such person by the amount of such covered unemployment compensation debt;

''(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person's name, taxpayer identification number, address, and the amount collected; and

''(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a covered unemployment compensation debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (B) shall include the names, taxpayer identification numbers, and addresses of each person filing such return and the notice under subparagraph (C) shall include information related to the rights of a spouse of a person subject to such an offset.

''(2) PRIORITIES FOR OFFSET.—Any overpayment by a person shall be reduced pursuant to this subsection—

''(A) after such overpayment is reduced pursuant to—

''(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

''(ii) subsection (c) with respect to past-due support; and

''(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

''(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

''(3) NOTICE; CONSIDERATION OF EVIDENCE.—No State may take action under this subsection until such State—

''(A) notifies the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;

''(B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or due to fraud;

''(C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and due to fraud; and

''(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such covered unemployment compensation debt.

''(4) COVERED UNEMPLOYMENT COMPENSATION DEBT.—For purposes of this subsection, the term 'covered unemployment compensation debt' means—

''(A) a past-due debt for erroneous payment of unemployment compensation due to fraud which has become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 and which remains uncollected;

''(B) contributions due to the unemployment fund of a State for which the State has determined the person to be liable due to fraud; and

''(C) any penalties and interest assessed on such debt.

''(5) REGULATIONS.—

''(A) IN GENERAL.—The Secretary may issue regulations prescribing the time and manner in which States must submit notices of covered unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations may specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied.

''(B) FEE PAYABLE TO SECRETARY.—The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

''(C) SUBMISSION OF NOTICES THROUGH SECRETARY OF LABOR.—The regulations may include a requirement that States submit notices of covered unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

''(6) ERRONEOUS PAYMENT TO STATE.—Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).''.

(b) DISCLOSURE OF CERTAIN INFORMATION TO STATES REQUESTING REFUND OFFSETS FOR LEGALLY ENFORCEABLE STATE UNEMPLOYMENT COMPENSATION DEBT RESULTING FROM FRAUD.—

(1) GENERAL RULE.—Paragraph (3) of section 6103(a) of such Code is amended by inserting ''(10),'' after ''(6),''.

(2) DISCLOSURE TO DEPARTMENT OF LABOR AND ITS AGENT.—Paragraph (10) of section 6103(l) of such Code is amended—

(A) by striking ''(c), (d), or (e)'' each place it appears in the heading and text and inserting ''(c), (d), (e), or (f)'',

(B) in subparagraph (A) by inserting '', to officers and employees of the Department of Labor and its agent for purposes of facilitating the exchange of data in connection with a request made under subsection (f)(5) of section 6402,'' after ''section 6402'', and

(C) in subparagraph (B) by inserting '', and any agents of the Department of Labor,'' after ''agency'' the first place it appears.

(3) SAFEGUARDS.—Paragraph (4) of section 6103(p) of such Code is amended—

(A) in the matter preceding subparagraph (A), by striking ''(l)(16),'' and inserting ''(l)(10), (16),'';

(B) in subparagraph (F)(i), by striking ''(l)(16),'' and inserting ''(l)(10), (16),''; and

(C) in the matter following subparagraph (F)(iii)—

(i) in each of the first two places it appears, by striking ''(l)(16),'' and inserting ''(l)(10), (16),'';

(ii) by inserting ''(10),'' after ''paragraph (6)(A),''; and

(iii) in each of the last two places it appears, by striking ''(l)(16)'' and inserting ''(l)(10) or (16)''.

(c) EXPENDITURES FROM STATE FUND.—Section 3304(a)(4) of such Code is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) in subparagraph (F), by inserting ''and'' after the semicolon; and

(3) by adding at the end the following new subparagraph:

''(G) with respect to amounts of covered unemployment compensation debt (as defined in section 6402(f)(4)) collected under section 6402(f)—

''(i) amounts may be deducted to pay any fees authorized under such section; and

''(ii) the penalties and interest described in section 6402(f)(4)(B) may be transferred to the appropriate State fund into which the State would have deposited such amounts had the person owing the debt paid such amounts directly to the State;''.

(d) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 6402 of such Code is amended by striking ''(c), (d), and (e),'' and inserting ''(c), (d), (e), and (f)''.

(2) Paragraph (2) of section 6402(d) of such Code is amended by striking ''and before such overpayment is reduced pursuant to subsection (e)'' and inserting ''and before such overpayment is reduced pursuant to subsections (e) and (f)''.

(3) Paragraph (3) of section 6402(e) of such Code is amended in the last sentence by inserting ''or subsection (f)'' after ''paragraph (1)''.

(4) Subsection (g) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking ''(c), (d), or (e)'' and inserting ''(c), (d), (e), or (f)''.

(5) Subsection (i) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking ''subsection (c) or (e)'' and inserting ''subsection (c), (e), or (f)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of enactment of this Act.

SEC. 15. INVESTMENT OF OPERATING CASH.

Section 323 of title 31, United States Code, is amended to read as follows:

''§ 323. Investment of operating cash

''(a) To manage United States cash, the Secretary of the Treasury may invest any part of the operating cash of the Treasury for not more than 90 days. The Secretary may invest the operating cash of the Treasury in—

''(1) obligations of depositories maintaining Treasury tax and loan accounts secured by pledged collateral acceptable to the Secretary;

''(2) obligations of the United States Government; and

''(3) repurchase agreements with parties acceptable to the Secretary.

''(b) Subsection (a) of this section does not require the Secretary to invest a cash balance held in a particular account.

''(c) The Secretary shall consider the prevailing market in prescribing rates of interest for investments under subsection (a)(1) of this section.

''(d)(1) The Secretary of the Treasury shall submit each fiscal year to the appropriate committees a report detailing the investment of operating cash under subsection (a) for the preceding fiscal year. The report

shall describe the Secretary's consideration of risks associated with investments and the actions taken to manage such risks.

''(2) For purposes of paragraph (1), the term 'appropriate committees' means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''.

SEC. 16. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, each amendment made by this Act to part B or E of title IV of the Social Security Act shall take effect on the date of the enactment of this Act, and shall apply to payments under the part amended for quarters beginning on or after the effective date of the amendment.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan approved under part B or E of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by this Act, the State plan shall not be regarded as failing to comply with the requirements of such part solely on the basis of the failure of the plan to meet such additional requirements before the 1st day of the 1st calendar quarter beginning after the close of the 1st regular session of the State legislature that ends after the 1-year period beginning with the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

SEC. 17. NO FEDERAL FUNDING TO UNLAWFULLY PRESENT INDIVIDUALS.

Nothing in this Act shall be construed to alter prohibitions on Federal payments to individuals who are unlawfully present in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington (Mr. MCDERMOTT) and the gentleman from Illinois (Mr. WELLER) each will control 20 minutes.

The Chair recognizes the gentleman from Washington.

Mr. MCDERMOTT. Mr. Speaker, we are here today on behalf of young people like Anthony Reeves, a former foster child in Georgia who wrote something that defines our call to action. ''Life is tough enough when transitioning out of care, but it's even tougher if you don't have the support that you need from people who care about you or if you don't have resources and skills packed along with the rest of our belongings as you are shown out the door.''

Anthony's words should remind us that government, and ultimately society, acts as the legal guardian of foster children. These are our children, and the fact is we are failing too many of them.

There is no shortage of problems to confronting foster care—insufficient services for at-risk families, too few qualified case workers, and an outdated Federal eligibility standard, to name a few. We'll have to confront these issues in order to provide the comprehensive reform that is so urgently needed.

Today we are focused on the shortcomings in the existing system that can disconnect foster children from the things they need most—family, support and school.

Sometimes children have to be removed from their homes to protect them from abuse and neglect. That is a sad, but undeniable fact. But the foster system unnecessarily disrupts other connections to home, family and school for these vulnerable children at a time when they're most in need. One glaring example of this is when foster children are literally pushed out into the streets when they turn 18 years of age. No parent I know of severs all ties and abandons their kids at age 18, yet that is Federal policy for foster care. We displace them from their homes, support them, and then tell them to go it alone. Rather than provide a glide path to success, we subject foster children to a crash landing.

Another example is the inconsistent effort to help foster children stay connected to family. Today, we deny grandparents assistance if they become the legal guardians to a foster child. This is contrary to the growing base of research illustrating that children do better living with relative guardians than they do living in traditional foster homes. Additionally, siblings are too often separated during foster care placement just when a foster child most needs a brother or a sister.

Ensuring school stability is yet another area where we too often come up short. Not enough is done to ensure children that they can stay in their current schools when they are placed in foster care, thus depriving them of the one place where they may feel secure.

We also hear too many stories about foster children not receiving adequate health care services, especially for mental health. Furthermore, we have a special duty to ensure that prescription medications foster children are receiving are effective and appropriate instead of quick and easy.

And finally, we don't provide adequate assistance for Native American children who are removed from their homes and then cared for by tribal communities.

For Anthony Reeves and every foster child, we can and must do better. And that is why we are here today. The Fostering Connections Success Act addresses many of these issues. The legislation would allow States to extend foster care assistance up to age 21, giving young men and women more time to get an education and become truly self-sufficient.

Recognizing that many grandparents and other relatives want to provide loving, permanent homes for children in foster care, the bill would provide Federal payments to relatives who become legal guardians of children for whom they have cared for as foster parents.

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It also requires improved efforts to keep siblings together when they are removed from their homes. The measure would require increased oversight of the health care needs of foster kids. And there is a renewed attention paid to ensuring educational stability for foster children in foster care, including avoiding frequent school changes.

Additionally, the bill gives tribes equal and fair access to Federal resources dedicated to keeping vulnerable children safe. For the first time, tribal child welfare programs could directly receive Federal foster care financing. The legislation also provides new resources to ensure all child welfare workers have access to training, which ultimately results in better care for kids. And, finally, this bill extends and improves incentives for States that increase the number of children adopted out of the foster care system.

The legislation includes two provisions outside of the foster care system which save money and thereby ensure that the bill is budget neutral. The first provision reduces Federal tax refunds for individuals who have fraudulently collected unemployment insurance. The same policy has already passed the House once. The second provision will allow the Treasury Department to improve the management of the government's short-term operating cash to achieve a better rate of return. While this bill doesn't do all that's needed, it does meet many of the critical challenges in our foster care system.

We received a letter today from the American Academy of Pediatrics, representing 60,000 professionals, urging passage. The academy said: ''Our Nation has a moral and legal obligation to provide the best possible care to these most vulnerable children.'' I couldn't agree more.

The legislation is bipartisan, budget neutral, and good for children, and deserves every Member's support.

Before I yield to my ranking member on the subcommittee and the co-author of this bill, let me first thank him for his dedication to foster children and his willingness to find common ground. JERRY WELLER has been a true partner in doing what is right for our most vulnerable children. He's retiring from Congress this year, and I can think of no better parting gift than passing a bipartisan bill he worked on to improve the lives of foster children.

Mr. Speaker, I reserve the balance of my time.

Mr. WELLER of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 6307, the Fostering Connections to Success Act. I also want to thank my chairman for his leadership and his dedicated example of working together in a bipartisan way to help vulnerable kids. This legislation, H.R. 6307, is an example of what we can accomplish when we work together. And, again, I want to thank Chairman MCDERMOTT for this opportunity to work together.

This is bipartisan legislation, and it's a result of a series of hearings in which we heard about how youth are shortchanged in the current foster care system. For example, most foster youth

experience three to four placements while in care and some many more than that. Different homes often mean different schools, poor performance, repeated grades, and far too many ultimately dropping out before graduation. About one in four foster youth do not complete high school. In fact, many attend three to four different schools during their foster care experience, and even more don't complete school on the same timetable as their peers.

To address such serious problems, this legislation steps up efforts to engage adult relatives in caring for children abused or neglected by their parents. My home State of Illinois has been at the forefront of efforts to support more care by adult relatives, like grandparents, adults, or cousins, rather than strangers in foster care. These efforts resulted in better outcomes for children, including more stability and safety, stronger attachments to school and community, and better long-run prospects for young people. H.R. 6307 encourages more care by relatives nationwide.

A former intern in my Washington office, Jamaal Nutall of Joliet, who testified before our subcommittee, was a product of the foster care system and whose life was turned around by being placed in the care of relatives. Jamaal lived what we all intuitively know to be sound policy. In most cases placement with a child's own family makes for the best environment for the child to grow and prosper.

This legislation also will hold foster youth and the adults who care for them accountable for the type of responsible behavior any parent would expect and which will help them succeed in the long run. So for the first time, staying in high school through graduation will be a condition of receiving Federal foster care, relative guardian, or adoption payments. A similar new ''education, training, or work'' requirement will apply to young people over the age of 18 who receive continued Federal support.

As a letter endorsing this policy from the Foster Care Alumni Association of America put it, ''Holding young people and families in the foster care system to this high standard is a statement from Congress that lowered expectations are not acceptable for those of us from foster care.''

Mr. Speaker, I will insert a copy of the Foster Care Alumni Association's letter endorsing this legislation in the RECORD at this point, and I thank this fine organization and so many others for their help in assembling this bill.

FOSTER CARE
ALUMNI OF AMERICA,
Alexandria, VA, June 18, 2008.

Hon. JAMES MCDERMOTT, Chair,
Hon. JERRY WELLER, Ranking Member,
Subcommittee on Income Security and Family Support, Ways and Means Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN MCDERMOTT AND REPRESENTATIVE WELLER: We are writing on behalf of the 12 million alumini of the foster care system in the United States and the 1,400 members of Foster Care Alumni of America (FCAA) to offer support for ''The Fostering Connections to Success Act of 2008.'' We are pleased with the thoughtful approach you have taken in this legislation to assist children in foster care develop and strengthen bonds to their families and communities. Throughout your careers, you have been tireless advocates for youth in high risk situations. This bill is a reflection of your ongoing commitment to ensuring that all young people have the opportunity to build successful futures through access to affordable health care, a decent education, and the chance to develop healthy, lifelong relationships with family.

As alumni of the foster care system we know that reforms of all kinds are necessary to truly improve the child welfare system. However, increasing opportunities among foster youth to improve bonds with siblings, kin and their communities are essential first steps. The ''Fostering Connections to Success Act of 2008'' bill achieves these goals in a number of ways.

First, through the new Family Connections Grant program and additional requirements upon states, the bill provides assurances that states will go to great lengths to keep siblings together and pursue all possible kinship placements before a child is placed into foster care. We especially appreciate the provision which mandates that youth over the age of 14 have a role in selecting placement options. As alumni, we recognize the importance of providing youth with some control over their fate in the system.

Second, this bill requires states to develop a plan for the oversight and coordination of health care services and educational stability. This will vastly improve the access of foster youth to both systems. Equally important, this bill requires that the foster care system keep better, more organized records of youth involvement with these systems. Sadly, the inferior record-keeping of foster care systems, and the lack of coordination among foster care, health care and education provides as much of a barrier to young people in care as the shoddy medical and educational services they too often receive. This bill also encourages adults involved in the lives of foster youth to help youth stay in school by withholding foster care and adoption payments for children under 18 who have not completed high school unless the child is in school or home school full time, or is incapable of attending school full time due to a medical condition. Holding young people and families in the foster care system to this high standard is a statement from Congress that lowered expectations are not acceptable for those of us from foster care.

This bill extends Title IV–E eligibility for tribal youth. We know that American Indian children have faced disproportionately large consequences for their need to be part of the child welfare system and we appreciate the attention and commitment to bringing equal support to this group.

We are pleased with the provision in the bill to expand options to train America's private sector child welfare workforce. Our members who had positive experiences in foster care often attribute this to the availability of a diligent, competent social worker. These workers exist in both the public and private agencies yet, federal reimbursement rates for training them is not equitable. Conversely, our members who suffered through very difficult experiences, all too often recount having dealt with an overburdened social worker who was ill-equipped to respond to even the most basic request. Your bill acknowledges that social workers in both private and public agencies with the right tools, training, and time can make a positive impact in the lives of children and families.

Finally, the bill addresses the needs of older youth in care in two important ways. The bill encourages states not to give up on finding permanent, loving homes for older youth by doubling the states' adoption incentive payment for older youth. This legislation also offers states the option to extend foster care to age 21. Here, you take seriously the challenges of young people who are unable to achieve permanency or to be prepared for total financial and emotional emancipation by age 18. Over 24,000 of our brothers and sisters in care age out of foster care at 18, entering adulthood ill-prepared for independence in numerous ways. States should be encouraged to extend foster care to 21 and use this additional time wisely to provide concrete services and training for older foster youth to support their successful transition to independence.

''The Fostering Connections to Success Act of 2008'' places the first step of child welfare reform where it rightly belongs—with the very children and youth the system intends to serve. As such, we are pleased to offer our support to this thoughtful legislation. Thank you for all that you do to improve the lives of America's children, youth and families. Please feel free to contact us at Foster Care Alumni of America to further discuss the urgent concerns of our brothers and sisters in care.

Respectfully,

NATHAN MONELL,
Chief Executive Officer.
MISTY STENSLIE,
Deputy Director.

Other provisions in this bill track legislation I have spent literally years working to pass. One builds on my legislation to harmonize Federal reimbursement rates for training child welfare workers. This is critically important in States like Illinois that depend heavily on private child welfare workers, organizations such as Catholic Charities, Baby Fold, Lutheran Social Services, for example, who currently qualify for lower Federal training payments. We equalize that in this legislation.

H.R. 6307 also would address concerns about child welfare services for Native American children. Our first Americans should be treated as full Americans, including in child welfare programs, as this legislation will accomplish. We hope this provision will translate into better care and better outcomes for young people in tribal areas, which I understand number almost 3,000 children in foster care on tribal lands. Clearly, the current system is not working for our first Americans. We want to right that wrong.

Finally, this legislation reauthorizes and improves the current Adoption Incentives program, which has been a bipartisan success and expires this year. All sides agree on the need to extend and improve this important program.

I am delighted to have worked with Chairman MCDERMOTT on this important legislation. This is a good bill. It's fully paid for by the inclusion of several anti-fraud provisions drawn from the President's budget, one of which the House has already passed unanimously.

Misty Stenslie of the Foster Care Alumni Association noted in her testimony before our subcommittee that

Members of this body stand in the place where the parents of children in foster care belong. That is a serious responsibility, and this legislation accepts that responsibility and makes solid, bipartisan improvements to help children who today have too many challenges and not enough opportunities.

I urge all Members to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. MCDERMOTT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 6307.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MCDERMOTT. Mr. Speaker, I now yield 2 minutes to the gentleman from Tennessee (Mr. COOPER), not a member of the committee but a staunch advocate for foster kids.

Mr. COOPER. I thank my friend Mr. MCDERMOTT for yielding.

Mr. Speaker, I urge all of my colleagues to support this bill. It does great work to help our foster children nationwide. It's long overdue, many of these reforms, and, thankfully, it's paid for. As a Blue Dog, my colleagues know that I am focused on fiscal responsibility issues. So this bill does good not only for the foster kids, but also it does not injure our budget.

I hope that people realize that while this bill is a very positive step, it is an incremental step. There is so much more that we need to do to improve our foster care and adoption system. My friend from Washington (Mr. MCDERMOTT) has a very comprehensive bill in this regard. We need to look at that. First we are going to have to figure out a way to pay for it. But investing in kids is an investment in our own future.

In my opinion, the area of foster care is perhaps the most broken area of Federal law. So let's not use this small step we are taking today as a reason for inaction in the future. Let's use it as a stepping stone to bigger, better, bolder reforms that would help the half million children who are in government supervision today. There are 10,000 in Tennessee alone, and we're not doing justice by these children.

Today's bill will help with kinship care and helping them get care when they have aged out of the system at 19, 20, 21, but there is so much more that we need to do.

So I thank my friend the gentleman from Washington (Mr. MCDERMOTT) for his amazing leadership in this year. It's an accomplishment what we are doing today. I urge all Members to support it. But this is just the beginning.

Mr. WELLER of Illinois. Mr. Speaker, it's a pleasure for me to yield to a distinguished member of the Ways and Means Committee, someone who has had a long-time interest in child welfare issues and a gentleman who has made a substantial contribution to this bipartisan legislation. I yield 6 minutes to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I would like to applaud Chairman MCDERMOTT and Ranking Member WELLER for their leadership in bringing forward this major piece of legislation that will change so many lives across our country.

We have a lot of challenges in our different communities, and one of the largest challenges is how we can help our foster children.

Can you imagine a child sitting in a living room, maybe 5 or 6 years old or maybe 10 or 12 years old, sitting in a living room watching television or maybe playing a game. Two strangers come to the door, knock on the door, and say, ''You're now leaving. It's time for you to leave this family, and we're going to take you to a new family.'' Can you imagine the pain of that child? And in some cases it happens time and time again. Imagine two strangers showing up out of the blue to tell you that you have to move to another family.

Also imagine if you are a child that goes from family to family that you may not have the right prescription for your glasses and your family may not know that you need glasses, or you may get numerous tetanus shots as you go from family to family.

Mr. Speaker, these are some of the challenges that our foster kids are facing today in a system that is broken and needs our help and our assistance now more than ever, and we need to find creative ways to help these children and to help these families.

I have two children. Each are in their twenties. And I can assure you that after the age of 18, they keep coming home. And they are more than welcome in my home, but as Chairman MCDERMOTT mentioned, there's a lot of children that don't have a home to go to after the age of 18. So in the Nevada State Senate, I passed legislation that I think has changed a few lives in Nevada. I found a creative way to help fund a program between the ages of 18 and 21 for those children that don't have a home. It provides for education. It provides for a place for them to live, for health care, and for training. And it's generating about $1½ million a year today to help these foster kids.

I am proud to be a cosponsor of this legislation. And, again, I applaud our chairman and ranking member. There are some key areas of the bill that I know have been addressed, but certainly the fact that we now can help families work within families, helping grandparents and brothers and sisters and the extended family to get involved in a far faster, more efficient but also more caring way, plus the fact that there are requirements for the children to be in school and to finish school.

So, again, we need to help these kids that need our help the most. And, unfortunately, these children or that child sitting in the living room watching television today does not have high paid lobbyists that are out there pushing the needs of these children. They have Members of Congress and very caring Members of this U.S. Congress but also elected officials across the country. So I stand here today encouraging my colleagues to pass this legislation, to step up and provide these new tools for our local governments and for our communities.

Mr. Speaker, I appreciate this opportunity.

Mr. MCDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Philadelphia (Mr. FATTAH), who has been the chairman of the Forum on Children, which the Speaker created.

□ 1330

Mr. FATTAH. I rise today to commend both the chairman and the ranking member. I am in an all-day markup on the Homeland appropriations bill, but I left that markup because I think this is very important to our homeland security. The notion that as a Nation we would finally address some of the shortcomings in our foster care system, I think is so appropriate. I want to thank Chairman MCDERMOTT for his leadership on this.

This bill, particularly when we focus on kinship care, when we look at the whole question of aging out and the challenges, we held a forum the other day right here in the Capitol and heard from experts, but more importantly, heard from a former foster child herself about how she was told to leave immediately upon her 18th birthday and all of her belongings put in four trash bags. Now she's getting ready to graduate from one of our finest universities, and she's on the right track, but to think how abruptly she was treated by this foster family.

We need to look at, through all of these challenges, how we can better reform these systems. Hundreds of thousands of young people and their life chances are impacted. I join the ranking member and the chairman as a cosponsor of this bill. But this is just the beginning. There are other issues raised in the Invest in Kids Act; there are issues, and we have raised them in the bill that I have offered, to create a White House conference on children so that we can focus anew on what we can do to improve our entire foster child system.

I thank you for this time.

Mr. WELLER of Illinois. Mr. Speaker, can you tell us how much time remains on each side, please.

The SPEAKER pro tempore. The gentleman from Illinois has 11½ minutes. The gentleman from Washington has 9 minutes.

Mr. WELLER of Illinois. Mr. Speaker, I reserve the balance of my time.

Mr. MCDERMOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. I want to start off by thanking Chairman MCDERMOTT for doing a fabulous job on this bill on behalf of foster kids generally.

Mr. Speaker, I rise in support of H.R. 6307, the Fostering Connections to Success Act. Many of my colleagues already know that I care deeply about foster care, in part because 8 years ago, my wife and I adopted two of our children from foster care.

We didn't know much about foster care back then, but we certainly are intimately familiar with it at this point, and familiar with the plight of foster kids in America. These children who come into foster care through no fault of their own face a number of inequalities compared to children who have not endured the type of abuse that typically places a foster child in care.

While foster parents receive Federal assistance to care for kids in their home, family members, many of whom would willingly care for their nieces and nephews, only if they had a little help to do so, are denied foster care payments. This legislation will end that misguided policy and provide that assistance to family members.

While biological children count on health insurance policies of their parents until the age of 25, foster children's health care coverage is often terminated on the night of their 18th birthday. Mr. Speaker, I want to believe that all children are self-sufficient on the day they turn 18, but as a father, both of us know better than that.

Earlier this year, I introduced legislation that would require health care coverage for children in foster care until the age of 21. Chairman MCDERMOTT lent his support to my bill, and I understand there is a similar provision in his bill to provide States with the option of extending health care coverage.

I hope that all States will exercise this option because parents don't walk out on their kids at 18, and neither should we.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. MCDERMOTT. I yield the gentleman 1 additional minute.

Mr. CARDOZA. Thank you, Mr. MCDERMOTT.

Finally, Mr. Speaker, this bill will improve the oversight of health care needs for our children in foster care. My wife is a family doctor, and she has been taken aback by the lack of oversight in the medical treatment of foster kids. The committee heard testimony from foster children who have been over-prescribed or mis-prescribed numerous medications. I know personally that my children received several rounds of immunizations, when they only needed one set.

It's about time we raise the standards for continuity of health care, medical records, and prescription drugs, and this legislation will in fact accomplish that. I will continue to work with my colleagues and fight on the behalf of abused and neglected children in America. I thank the gentleman who has authored this bill for doing the same, and I thank him for bringing this legislation to the floor.

Mr. WELLER of Illinois. Mr. Speaker, I yield myself the balance of my time.

I am proud to say that this is bipartisan legislation designed to help children. Children need help. I am also proud to say that this legislation has a proud array of organizations that have endorsed it. I'd like to go through that list.

Organizations which have endorsed H.R. 6307, the Fostering Connections to Success Act: The Alliance for Children and Families; American Academy of Pediatrics; the Center for Law and Social Policy; Child Welfare League of America; County Welfare Directors Association of California; Foster Care Alumni of America; National Association of Counties; National Congress of American Indians; National Council for Adoption; National Indian Child Welfare Association; North American Council on Adoptable Children; Pew Commission on Children in Foster Care; Public Children Services Association of Ohio; Voices for America's Children; and also, Mr. Speaker, I have letters of support here from the Lutheran Services in America in support of this legislation, Catholic Charities USA, in support of this legislation, and also an organization which I am proud to say is headquartered in the 11th Congressional District of Illinois, which I represent, an organization that is respected, called the The Baby Fold, which is a long-time child welfare advocacy organization, as well as providing outstanding services children need.

In closing, I want to say this is good legislation, and I want to commend my chairman, Mr. MCDERMOTT, for working in a bipartisan way, reaching out to a broad array of organizations, reaching out to a broad, wide variety of Members of the House on both the Democrat and Republican side who care about kids in foster care, and ensuring children who have needs, that we work to help them.

This is good legislation. It's bipartisan. It enjoys the support of a wide array of groups. And it helps kids. That is our goal. That is the bottom line. We want to help children who need help.

Mr. Chairman, I, of course, again want to thank you for the opportunity of working with you. I look forward to working with you as we reach out to our colleagues in the other body as we work towards our goal of this legislation becoming law this year. I want to thank you for the spirit of cooperation and bipartisanship which you have extended to me, as well as other members on our subcommittee and the full committee and other Members of this body. For that, I want to congratulate you as well as thank you.

Mr. Speaker, again, I urge my colleagues to support this legislation with a strong bipartisan vote.

ORGANIZATIONS ENDORSING H.R. 6307, THE ''FOSTERING CONNECTIONS TO SUCCESS ACT''

1. Alliance for Children and Families.
2. American Academy of Pediatrics.
3. Center for Law and Social Policy.
4. Child Welfare League of America.
5. County Welfare Directors Association of California.
6. Foster Care Alumni of America.
7. National Association of Counties.
8. National Congress of American Indians.
9. National Council for Adoption.
10. National Indian Child Welfare Association.
11. North American Council on Adoptable Children.
12. Pew Commission on Children in Foster Care.
13. Public Children Services Association of Ohio.
14. Voices for America's Children.

LUTHERAN SERVICES IN AMERICA,
Washington, DC, June 24, 2008.

Hon. JERRY WELLER,
House of Representatives
Washington, D.C. 20515

DEAR CONGRESSMEN WELLER: Lutheran Services in America (LSA) expresses its strong support for the Fostering Connections to Success Act (H.R. 6307). LSA member organizations are particularly supportive of the expansion of child welfare worker training funds to private, non-profit organizations. Many of LSA's member organizations, including Lutheran Social Services of Illinois, have been working in close partnership with states for many years to provide excellent services for children and families involved in the foster care system without access to federal training funds. This bill would enable our organizations to better train, develop and retain qualified, dedicated child welfare workers who have already shown such passion and dedication for their work and the people they serve.

LSA is an alliance of national Lutheran church denominations and their health and human service providers. LSA member organizations deliver more than $9.5 billion in services to more than six million people every year—that translates to one in 50 people in the United States. LSA members provide services in all 50 states and the Caribbean. The network of close to 300 organizations serves the elderly, children and families, people with mental and physical disabilities, refugees, victims of natural disasters and others in need. Through these efforts LSA is on the front lines of building self-sufficiency and creating hope in millions of lives.

Thank you for your dedication to improving the connections children in foster care have to relatives, schools and communities so they have a better chance to succeed. If LSA can be of further assistance, please contact Lisa Hassenstab.

Sincerely,

LISA M. CARR,
Senior Director of Public Policy.
LISA HASSENSTAB,
Associate Director of Public Policy.

CATHOLIC CHARITIES USA,
Alexandria, VA, June 24, 2008.

Hon. JIM MCDERMOTT,
Chairman, Subcommittee on Income Security and Family Support, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

Hon. JERRY WELLER,
Ranking Member, Subcommittee on Income Security and Family Support, Committee on Ways and Means, House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVES MCDERMOTT AND WELLER: I am writing to express our support for your recently introduced legislative proposal, ''Fostering Connections to Success Act,'' H.R. 6307. This legislation advances a number of important improvements to the nation's child welfare system. Catholic Charities USA thanks you for your leadership in promoting stable homes for children in the foster care system through family, educational, and health care supports.

We are particularly pleased that your proposal includes the following improvements:

A state option to extend federal foster care payments to age 21 for children living in a supervised setting; a state option to continue federal assistance to relative guardians of foster children; an expansion of federal funds for training of child welfare workers in private agencies; family connections grants, including kinship navigator programs; notification to adult relatives within 30 days of a child's placement in foster care and reasonable efforts to place siblings together; coordination and oversight of health care services for children in care; and reauthorization and expansion of the Adoption Incentive Program.

Catholic Charities USA is one of the nation's largest private networks of over 1,700 social service agencies and institutions providing services to nearly 8 million people annually. As one of the nation's largest social service providers, we recognize the importance of a strong child welfare system in keeping families out of generational poverty. Catholic Charities USA strongly supports ongoing improvements to the child welfare system to protect and strengthen vulnerable children.

We look forward to working with you and your colleagues on these important reforms. Please do not hesitate to call on Catholic Charities USA if we can provide any assistance.

Sincerely,

CANDY HILL,
Sr. Vice President for Social Policy and Government Affairs.

THE BABY FOLD,
Normal, IL, June 23, 2008.

Hon. JERRY WELLER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WELLER: On behalf of The Baby Fold, I would like to offer our full support of the bipartisan Fostering Connections To Success Act of 2008 (H.R. 6307). Thank you for your leadership in supporting and improving critical services for our nation's children and families.

Provisions of the Act will improve the lives of youth by addressing their basic needs for safety, stability, education, health and vocational preparation.

Kinship Guardianship Assistance Payments will support relative caregivers in being able to provide permanent loving family homes for their related children without unnecessary and costly long term government oversight. Having a sense of belonging to family is a key to children's long term success in life.

Family Connection Grants will provide critical funding for services to help at risk families overcome the obstacles that could result in their children being removed from the home and placed in substitute care settings. Investing in these types of prevention services will not only save families, but will save costs of longer term government services for these children and families.

Federal Matching for Training Private Sector Child Welfare Workers will enable private agency child welfare workers to receive the same training and federal reimbursement for training as public child welfare workers. In Illinois, the shift in caseload responsibilities for foster care has shifted substantially to the private sector child welfare sector, and yet Title IV E monies have not been available to offset the cost of private sector staff training. Private sector agencies have been absorbing the average cost of $5,000 per staff for required child welfare training. With State funding in Illinois being stagnant over the past 8 years, these unfunded but critical training requirements have threatened the viability of some agencies continuing to provide much needed foster care services.

The reauthorization and enhancement of the Adoption Incentives Program helps to offset the additional cost of recruitment of and training of adoptive parents for special needs children.

Thank you for your leadership in introducing this legislation and your continued support of our nation's children and families.

Sincerely,

KAREN ROUSEY,
Vice President of Programs.

I yield back the balance of my time.

Mr. MCDERMOTT. Mr. Speaker, I will only take a moment here at the end. The old rule we learned a long time ago is if you have the vote, shut up. So I am not going to make a long speech.

It has been a great pleasure to work with Mr. WELLER. The only thing I really am sad about is that you won't be here to work with me on the Invest in Kids Act in the next legislative session of this Congress.

This bill obviously does not do everything. One would always like to do more. But what we did today was what was possible and what we could pay for and what we could agree upon. I think that that is the important thing for people to realize, that the Congress does work together, and it works best when the sides work together on issues like this. They can be resolved, even though some of these have some sticking points here and there, they can be resolved, and in this case, the children are the beneficiaries. I think for that, the Congress should all be proud today as we vote unanimously, I hope, for this bill.

I think that there are children out there right now who are going to benefit from this, whose stories, many of which we heard in the committee, and if we stood here and told the stories that we heard in the committee, everyone would be in support of this bill.

Mr. STARK. Mr. Speaker, I rise to support important progress toward reforming our troubled child welfare system. Today, we can come one step closer to fulfilling our promise to abused and neglected children that we will protect them, heal their wounds, and provide them with stable and loving homes.

Anyone who has paid attention to the plight of our half a million foster children and the millions of former foster children should be angry at how miserably we have failed them. Once a child enters the system, we, the government, become their parents. Just like parents, we have a moral obligation to act in their best interests. Unfortunately, many foster children are cycled from placement to placement and school to school, over-medicated with psychotropic drugs, and kept apart from their siblings and other relatives who could provide them with support. Not surprisingly, former foster youth are not doing well. They are more likely to become homeless, incarcerated, disconnected from education and the workforce, or using drugs than nearly any other group of individuals. Perhaps most shockingly, these youth suffer from post traumatic stress disorder at rates comparable to Iraq war veterans.

The ''Fostering Connections to Success Act'' allows us to turn our anger into action. This legislation will create permanency for thousands of children by providing Federal assistance to grandparents and relatives who care for a foster child. In my home State of California, a State-funded Program exists to help ease the financial burden for relative caregivers. Much needed Federal support will ensure that this program will not be zeroed out during the current fiscal crisis and will be able to expand to help additional children. This bill also recognizes a truth that is obvious to any parent: turning 18 does not mean that a young person is ready to live on their own. I have heard from too many former foster youth that when they turned 18 they found their belongings placed in garbage bags with no idea where they would live or how they would support themselves. By extending assistance to foster youth until age 21, we an help ease their transition into adulthood.

Finally, this legislation takes important steps to promote educational stability for foster children and better oversee their medical care. During committee hearings we heard accounts from advocates and former foster youth about children on multiple psychotropic drugs prescribed by different doctors that never spoke to each other. Many foster children have serious and complex physical and mental illnesses. Their care must be coordinated and appropriate. This bill requires oversight and accountability to ensure that foster children are not overly medicated, but receiving effective, high-quality health care.

I am heartened that this legislation has strong support from both sides of the aisle. It should. These are our children and we should provide them with the same level of support we provide for children living under our own roofs.

Ms. BERKLEY. Mr. Speaker, I rise today in support of the Fostering Connections to Success Act. The provisions contained in this bipartisan legislation will benefit thousands of children and will help to promote stability and permanency in their lives.

The ultimate goal of our Nation's child welfare system is to promote safe, stable and permanent homes for America's most vulnerable children. The provisions of this bill will help to accomplish this by allowing States to continue foster care assistance for kids up to the age of 21, authorizing Federal assistance to relatives assuming legal guardianship of children for whom they have cared as foster

parents, and extending and improving the Adoption Incentives Program.

While much more remains to be done to ensure the safety and well being of our Nation's foster children, I support this legislation as a commonsense and much needed first step in the right direction.

I urge my colleagues to support this legislation.

Ms. BACHMANN. Mr. Speaker, I rise today to support H.R. 6307, the Fostering Connections to Success Act. This vital piece of bipartisan legislation was designed to make much needed improvements to the child welfare system, focused on some of the most vulnerable among us—foster children.

There are more than 500,000 children in foster care nationwide today, many of whom come from troubled homes and have been moved from family to family several times. My husband and I have cared for 23 foster children, and I understand full well the struggles these children face on a daily basis. This bill goes a long way in alleviating some of the roadblocks standing in their way.

The main focus of this bill is to improve the accessibility foster youth have to essential services, their family, health care, and education. However, this legislation makes considerations for those not only actually in foster care, but for those who ''age out'' of the system—a group of young men and women who are often overlooked.

A key component of this bill is the extension of federal foster care payments up to the age of 21. We are considered adults at the age of 18 in this society, but reaching 18 does not automatically mean that an individual is financially independent. As these young men and women pursue a degree of higher learning, or whether they choose to start working, this bill will give them the financial help they desperately need. Too often their troubled past and unstable family background have not provided them the foundation of support to do it on their own.

Along with providing—for the first time—federal financial support for relatives who assume legal guardianship of foster children, this bill also expands coverage of federal funds for the training of child welfare workers to include private agency and non-profit workers who provide foster care and adoption services on behalf of the state. When combined, all of the components of this bill offer the overhaul our foster care system so sorely needs.

Today, I stand proud knowing that Congress is on the cusp of passing such a crucial piece of bipartisan legislation for America's youth. As a foster mother myself, I thank Congress for giving this matter the serious time and consideration it deserves.

Mr. MCDERMOTT. I yield back the balance of my time, and urge my colleagues to vote for this bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. MCDERMOTT) that the House suspend the rules and pass the bill, H.R. 6307, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL SAVE FOR RETIREMENT WEEK

Ms. SCHWARTZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1294) supporting the goals and ideals of National Save for Retirement Week.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1294

Whereas Americans are living longer and the cost of retirement continues to rise, in part because the number of employers providing retiree health coverage continues to decline, and retiree health care costs continue to increase at a rapid pace;

Whereas Social Security remains the bedrock of retirement income for the great majority of the people of the United States, but was never intended by Congress to be the sole source of retirement income for families;

Whereas recent data from the Employee Benefit Research Institute indicates that, in the United States, less than ⅔ of workers or their spouses are currently saving for retirement and that the actual amount of retirement savings of workers lags far behind the amount that will be needed to adequately fund their retirement years;

Whereas many workers may not be aware of their options for saving for retirement or may not have focused on the importance of, and need for, saving for their own retirement;

Whereas many employees have available to them through their employers access to defined benefit and defined contribution plans to assist them in preparing for retirement, yet many of them may not be taking advantage of employer-sponsored defined contribution plans at all or to the full extent allowed by the plans as prescribed by Federal law;

Whereas all workers, including public- and private-sector employees, employees of tax-exempt organizations, and self-employed individuals, can benefit from increased awareness of the need to save adequate funds for retirement and the availability of tax-preferred savings vehicles to assist them in saving for retirement; and

Whereas October 19 through October 25, 2008, has been designated as ''National Save for Retirement Week'': Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of National Save for Retirement Week, including raising public awareness of the various tax-preferred retirement vehicles;

(2) supports the need to raise public awareness of efficiently utilizing substantial tax revenues that currently subsidize retirement savings, revenues in excess of $170,000,000,000 for the 2007 Fiscal Year Budget;

(3) supports the need to raise public awareness of the importance to save adequately for retirement and the availability of tax-preferred employer-sponsored retirement savings vehicles; and

(4) calls on the States, localities, schools, universities, nonprofit organizations, businesses, other entities, and the people of the United States to observe this week with appropriate programs and activities with the goal of increasing the retirement savings for all the people of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Pennsylvania (Ms. SCHWARTZ) and the gentleman from Texas (Mr. SAM JOHNSON) each will control 20 minutes.

The Chair recognizes the gentlewoman from Pennsylvania.

Ms. SCHWARTZ. Mr. Speaker, I yield myself such time as I may consume.

The resolution before us supports the goals and ideals of National Save for Retirement Week, which this year falls between October 19 and October 25, 2008. I want to thank my colleague, Mr. JOHNSON of Texas, for working with me to bring attention to the importance of retirement planning for American families.

We are living in a time when workers are being asked to shoulder an increasing share of the cost of saving for retirement. Even with an employee-sponsored retirement plan and the promise of Social Security benefits, Americans need to put additional money aside to ensure a financially secure retirement.

For many Americans, saving is becoming an increasingly difficult task as they struggle to meet their everyday obligations. Even in solidly middle-income families, financial resources are stretched thin as parents work to meet other pressing needs, whether it's purchasing health care coverage, paying for college, buying a tank of gas, or simply paying monthly bills on time.

Over the past several years, we have seen a dramatic shift in our retirement system. Most workers are no longer eligible for traditional pensions, which provide a predictable monthly benefit throughout retirement. Instead, workers are bearing more of the costs and investment risks of saving adequately for their retirement through workplace defined contribution plans, such as 401(k)s or through IRAs.

As a result, the value of most Americans' retirement benefits, and the security of their retirement, is now directly linked to their own decisions and the amount of dollars that they save over the years and the balance held in their accounts when they retire.

The dramatic shift towards individual defined contribution plans is clear. According to Employee Benefits Research Institute, only 10 percent of workers are currently covered by defined benefit plans, compared to 63 percent of workers who are currently covered by 401(k) plans. This stands in stark contrast to the reality of 30 years ago when it was just the opposite, when coverage rates were 62 percent for defined benefits plans and 16 percent for 401(k)s.

While this shift is empowering American workers to make more of their own financial decisions, many families are finding it difficult to save significantly to meet their retirement needs. It is particularly difficult during a time of economic uncertainty, as we are experiencing today.

It may be difficult but continues to be vitally important for Americans to prepare for retirement, to think about savings, especially given that half of all workers have less than 25 percent in total savings, whether for retirement or to help them in periods of financial difficulty.

As our country shifts towards an increasing reliance on individual savings and as families are tempted to dip into their retirement accounts to meet current everyday expenses during this time of high gas and food prices, it is more important than ever that we educate Americans about the pressing need to save even small amounts every year that they possibly can.

In my district, I have partnered with banks and credit unions and other financial institutions to host seminars to help provide information on how to make educated, financially responsible decisions about personal and family budgets and to help establish a habit of saving for the future.

I have even visited with schools in my district to help reach out to young people in order to emphasize the importance of saving for the future. It is never too early to learn that every little bit we save now will help in the long run.

So whether you're a 16-year-old receiving your first paycheck, or a 25-year-old getting your first real raise, or a 45-year-old with a mortgage and two kids, the habit of putting a little bit away every month in regular savings can, with the help of compound interest, add up to a more secure retirement.

□ 1345

The resolution before us supports and encourages educational opportunities on a national scale and creates a collaborative effort to emphasize the importance of making savings for retirement a priority for all Americans.

Mr. Speaker, I urge my colleagues to support this resolution so that we can help Americans create a financial security for themselves in their retirement years.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 1294, to recognize the goals of National Save for Retirement Week. I am pleased to join my colleague from Pennsylvania, Representative ALLYSON SCHWARTZ, to again introduce a resolution in support of National Save for Retirement Week.

The week is designated this year as October 19–25. You know the best time for Americans to save is on payday. That is when they have got the cash. When employees save through their employer-based retirement plan, the money comes out of their paycheck before other tempting priorities get in the way.

Saving for numero uno ought to be every working American's top priority before spending on optional things like dinner, movies, or, I hope today, still buying a shiny new car. Saving for retirement is not as flashy or fun as many competing priorities, but the only way most of us are ever going to be able to afford retirement in the future is by saving today.

This spring, the Employee Benefit Research Institute released its annual retirement confidence survey that shows Americans' confidence in their ability to afford a comfortable retirement has dropped to its lowest level in several years. This drop in confidence represents several concerns, but the big concerns I hear about are the overall state of the economy, the weak stock market and concern about one's own job security.

The answer to these concerns, in my opinion, is to save in an employer-based retirement plan. The first reason is that most employers match the employee contributions. If an employee puts 1 percent of earnings into a plan, many employers match that contribution dollar for dollar. That means the employee gets a 100 percent rate of return. Even if the market slides a little bit, the employee still comes out ahead because of the company match. Many employers match even more generously, up to 4 or 6 percent of salary. When an employer is handing out free money, I encourage all employees to get in line and let's say ''yes.''

A second reason to save at work is our economy is going to recover soon and employees can look at their current stock market purchases as buying low. The formal term for regular purchases in the stock market is dollar cost averaging. That means you purchase mutual funds or stocks at regular intervals, such as on payday, regardless of share price. Under dollar cost averaging, when the market prices are low, you end up buying more shares with a set amount of money, and when market prices are high you buy fewer shares with your set amount of dollars. Buy low, sell high. It works every time to build wealth.

The third reason to participate in an employer-based retirement plan is that the sooner people save money, the sooner the most powerful force on Earth can work for them, the power of compound interest. With an average of 8 percent return, money doubles every 9 years. The cost of living in the future, even in retirement, is not going to go down, but money saved early in one's work life will make retirement easier.

Another powerful force in saving is inertia, sometimes described as a body at rest stays at rest, or a body in motion stays in motion. Employers and Congress recognize that principles of inertia often means that employees never get around to affirmatively signing up for retirement plans at work.

To address inertia, Congress passed a law to allow employers to automatically enroll employees in retirement plans and get those savings rolling forward with the power of compound interest. The amazing thing is we are now seeing roughly 90 percent employer participation in retirement plans with an automatic enrollment, up from previous levels of roughly 70 percent. I am glad to see this new law is working.

Last year, after we enacted a similar resolution, I was happy to see reports about the number of employers that promoted National Save for Retirement Week. There were lots of employee benefit fairs, promotional enrollment meetings and seminars, and other employers printed up new brochures for employees to review regarding the importance of retirement savings. I hope to work with more employers in my congressional district this year to bring the message of Save for Retirement Week to employees.

Mr. Speaker, I know that Americans are strapped for cash and that right now saving is a hard thing to do. Rising gas prices are taking bigger and bigger bites out of everyone's income. It is hard to set aside retirement money for years down the road. It feels like right now there is a lot of month left at the end of every paycheck.

But Americans don't want to work forever, and the only way to retire is to plan and save. I would encourage everyone to go to the Web site choosetosave.org and use any of the calculators that help to plan for retirement, college savings, and budgeting in general. Planning is a great first step to financial security.

Mr. Speaker, we know that Americans who have only Social Security as retirement income end up in poverty. As much as some of my colleagues hate to admit it, Social Security has a serious funding problem in a relatively short time and we need to address the problem. We can't just tax our way out of that problem either.

Part of the reason for our horrible national savings rate is that Americans are paying a whopping 15 percent of salary between their individual share and their employer's share in payroll taxes.

In 1984, when payroll taxes went up dramatically by 5 percent, the national savings rate fell by the same amount. Congress took those payroll taxes out of Americans' pockets in order to fund Social Security and Medicare, with the promise that the programs would always be there to pay benefits in the future. The problem is our programs face huge structural deficits, and Americans have not been saving. We need to change a lot of things, but the first thing we can do is get people to start saving. Americans need to save at work where they generally get a match from their employer and where the money goes down to their own retirement accounts before expenses get in the way.

I look forward to working with employers and financial institutions in my Dallas and Collin County representation areas later this year to promote National Save for Retirement Week, which will happen the week of 19 October through 25 October.

Mr. Speaker, I want to thank ALLYSON for introducing this legislation.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Ms. SCHWARTZ. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Pennsylvania?

There was no objection.

Ms. SCHWARTZ. I just want to close by thanking my colleague Mr. JOHNSON for working with me on this legislation this year, and for encouraging even in these difficult economic times that all Americans think about saving even a little bit of I week. With compound interest, it does add up, particularly if you start young to do that. But any time is good. And certainly as we recognize that there is increasing reliance on our own individual ability to save and to think about the future, this is an important resolution that can help Americans have greater financial security in their retirement.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Pennsylvania (Ms. SCHWARTZ) that the House suspend the rules and agree to the resolution, H. Res. 1294.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FEDERAL PRICE GOUGING PREVENTION ACT

Mr. STUPAK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6346) to protect consumers from price-gouging of gasoline and other fuels, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6346

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Price Gouging Prevention Act''.

SEC. 2. UNCONSCIONABLE PRICING OF GASOLINE AND OTHER PETROLEUM DISTILLATES DURING EMERGENCIES.

(a) UNCONSCIONABLE PRICING.—

(1) IN GENERAL.—It shall be unlawful for any person to sell, at wholesale or at retail in an area and during a period of an energy emergency, gasoline or any other petroleum distillate covered by a proclamation issued under paragraph (2) at a price that—

(A) is unconscionably excessive; and

(B) indicates the seller is taking unfair advantage of the circumstances related to an energy emergency to increase prices unreasonably.

(2) ENERGY EMERGENCY PROCLAMATION.—

(A) IN GENERAL.—The President may issue an energy emergency proclamation for any area within the jurisdiction of the United States, during which the prohibition in paragraph (1) shall apply. The proclamation shall state the geographic area covered, the gasoline or other petroleum distillate covered, and the time period that such proclamation shall be in effect.

(B) DURATION.—The proclamation—

(i) may not apply for a period of more than 30 consecutive days, but may be renewed for such consecutive periods, each not to exceed 30 days, as the President determines appropriate; and

(ii) may include a period of time not to exceed 1 week preceding a reasonably foreseeable emergency.

(3) FACTORS CONSIDERED.—In determining whether a person has violated paragraph (1), there shall be taken into account, among other factors—

(A) whether the amount charged by such person for the applicable gasoline or other petroleum distillate at a particular location in an area covered by a proclamation issued under paragraph (2) during the period such proclamation is in effect—

(i) grossly exceeds the average price at which the applicable gasoline or other petroleum distillate was offered for sale by that person during the 30 days prior to such proclamation;

(ii) grossly exceeds the price at which the same or similar gasoline or other petroleum distillate was readily obtainable in the same area from other competing sellers during the same period;

(iii) reasonably reflected additional costs, not within the control of that person, that were paid, incurred, or reasonably anticipated by that person, or reflected additional risks taken by that person to produce, distribute, obtain, or sell such product under the circumstances; and

(iv) was substantially attributable to local, regional, national, or international market conditions; and

(B) whether the quantity of gasoline or other petroleum distillate the person produced, distributed, or sold in an area covered by a proclamation issued under paragraph (2) during a 30-day period following the issuance of such proclamation increased over the quantity that that person produced, distributed, or sold during the 30 days prior to such proclamation, taking into account usual seasonal demand variations.

(b) DEFINITIONS.—As used in this section—

(1) the term ''wholesale'', with respect to sales of gasoline or other petroleum distillates, means either truckload or smaller sales of gasoline or petroleum distillates where title transfers at a product terminal or a refinery, and dealer tank wagon sales of gasoline or petroleum distillates priced on a delivered basis to retail outlets; and

(2) the term ''retail'', with respect to sales of gasoline or other petroleum distillates, includes all sales to end users such as motorists as well as all direct sales to other end users such as agriculture, industry, residential, and commercial consumers.

(c) CONSTRUCTION.—As described in this section, a sale of gasoline or other petroleum distillate does not include a transaction on a futures market.

SEC. 3. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.

(a) ENFORCEMENT BY FTC.—A violation of section 2 shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act. In enforcing section 2(a) of this Act, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of gasoline and other petroleum distillates in excess of $500,000,000 per year.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Notwithstanding the penalties set forth under the Federal Trade Commission Act, any person who violates this Act with actual knowledge or knowledge fairly implied on the basis of objective circumstances shall be subject to—

(A) a fine of not more than 3 times the amount of profits gained by such person through such violation; or

(B) a fine of not more than $3,000,000.

(2) METHOD.—The penalties provided by paragraph (1) shall be obtained in the same manner as civil penalties obtained under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the court shall take into consideration, among other factors, the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

SEC. 4. CRIMINAL PENALTIES.

(a) IN GENERAL.—In addition to any penalty applicable under section 3, any person who violates section 2 shall be fined under title 18, United States Code—

(1) if a corporation, not to exceed $150,000,000; and

(2) if an individual not to exceed $2,000,000, or imprisoned for not more than 10 years, or both.

(b) ENFORCEMENT.—The criminal penalty provided by subsection (a) may be imposed only pursuant to a criminal action brought by the Attorney General or other officer of the Department of Justice.

SEC. 5. ENFORCEMENT AT RETAIL LEVEL BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 2(a) of this Act, or to impose the civil penalties authorized by section 3(b)(1)(B), whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a violation of this Act or a regulation under this Act, involving a retail sale.

(b) NOTICE.—The State shall serve written notice to the Federal Trade Commission of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Federal Trade Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the

powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which—

(A) the defendant operates;

(B) the defendant was authorized to do business; or

(C) the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Federal Trade Commission has instituted a civil action or an administrative action for violation of this Act, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Federal Trade Commission or the other agency for any violation of this Act alleged in the complaint.

(g) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of such State.

SEC. 6. LOW INCOME ENERGY ASSISTANCE.

Amounts collected in fines and penalties under section 3 of this Act shall be deposited in a separate fund in the treasury to be known as the Consumer Relief Trust Fund. To the extent provided for in advance in appropriations Acts, the fund shall be used to provide assistance under the Low Income Home Energy Assistance Program administered by the Secretary of Health and Human Services.

SEC. 7. EFFECT ON OTHER LAWS.

(a) OTHER AUTHORITY OF FEDERAL TRADE COMMISSION.—Nothing in this Act shall be construed to limit or affect in any way the Federal Trade Commission's authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) STATE LAW.—Nothing in this Act preempts any State law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. STUPAK) and the gentleman from Texas (Mr. BARTON) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. STUPAK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous materials on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STUPAK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the U.S. House of Representatives has an opportunity to vote on my legislation, the Federal Gas Price Gouging Prevention Act, H.R. 6346. Every Member of the House will face a simple choice: Vote to stand up for consumers, your constituents, who are paying outrageous gas prices at the pump, or vote to allow oil companies to go on setting them unchecked.

As of last night, the national average for a gallon of gasoline, regular gasoline, was $4.07. With rising prices, it makes sense that we vote on this legislation before the House leaves for the 4th of July holiday and millions of Americans fill their gas tanks and hit the road. Or even as we look forward to this winter, with home heating oil at $3.98 per gallon, it will be impossible for people to heat their homes this winter.

The high cost of energy produces more opportunities for multiple opportunities to have price gouging and price manipulation. Unfortunately, with these high prices, fewer families will be traveling this year, and that takes an especially hard toll on districts like mine that rely on tourism.

As I travel my vast northern Michigan congressional district, I have heard from everyone from clergy to farmers to seniors who are outraged by prices at the pump. They are shocked to learn that there is no Federal law against gas price gouging. Just as speculators are driving up prices on the global energy markets, unscrupulous wholesalers, retailers and refiners operate without the Federal oversight to ensure prices are fair and justified.

Twenty-nine States and the District of Columbia have put their own price gouging laws into place, but there is no uniform standard as to price gouging. Absent Federal action, Michigan Governor Jennifer Granholm is pushing State legislation that would give the Michigan Attorney General full authority to investigate price fixing and gas gouging at Michigan's gas pumps.

In Michigan, in fact, in my district, we have seen recent evidence of price gouging. An energy company of Kansas City, Missouri, opted to settle a class action suit brought under the Michigan's Consumer Protection Act in May over charges that they charged at least $1 above the State average over energy this year. I am pleased a deal was reached that will provide Michigan consumers with recourse, but I have a hard time believing this is an isolated case. If price gouging is occurring in my district, I have to believe it is not happening in other parts of the country and we need a uniform law to prevent it and enforce penalties on those who violate it.

Because there is no Federal law against price gouging, the Federal Trade Commission has never prosecuted a case of gas price gouging. Let me give you an example.

After Hurricane Katrina, the Federal Trade Commission at the request of Congress examined gas prices and found 23 percent of the refineries looked at, 9 percent of the wholesalers looked at and 25 percent of the retailers that were reviewed had increased prices that ''were not substantially attributed to increased costs'' and ''could not be attributed to national market trends.''

In other words, they were price gouging after Hurricane Katrina. Yet, the FTC was still powerless to act because there is no law against gas price gouging. I hope my colleagues in the other body will take action and join the House in passing this bill and work toward giving Federal agencies the tools to provide effective oversight of energy companies. There is no reason for my colleagues on either side the aisle to vote against my legislation.

Today, every House Member has a choice: Side with big oil companies who are making obscene profits, or side with the American consumer.

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A vote against my bill is a vote against consumers and a vote for Big Oil. I am pleased to be joined by other Members and colleagues who are here to work very hard on this issue with me.

I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I rise in opposition to H.R. 6346. I know it is very similar to a bill that my friend introduced a year ago, and I think we even had a vote on the House floor a year ago on the bill, but there are some changes. Let me give the process argument against it, and then I will give the policy argument against it.

The process argument against it is a bill that is introduced on one day, is voted out of the House Floor the next day. That certainly shows a speedy government, but it doesn't show due process under the normal rules of the House of Representatives.

It would be good to have a legislative hearing on the bill and to have either a subcommittee and/or, and preferably or, a full committee markup. We have a number of bills right now that have been introduced on oil speculation in the futures markets. My friend, Mr. STUPAK of Michigan, has introduced a bill, I have introduced a bill. He and I and the chairman of the full committee, Mr. DINGELL, are on a bill together on that issue. We had an excellent oversight hearing yesterday that Chairman Stupak chaired. We have got a commitment from Chairman DINGELL that we are going to have a legislative hearing and go through regular order on the oil speculation bill. So we will have an oil speculation bill on the floor hopefully within the month that will have gone through the process, that will be bipartisan. This bill doesn't meet that test. It was introduced in its current form yesterday and we are voting on it on the floor today.

Now, as to the substance of the bill. Let me read into the record some information on prices. These are national average gasoline prices in the United States of America.

In 2006, the average retail price was $2.56 a gallon. This is the national retail price for self-serve unleaded gasoline. The average retail margin was 14 cents, and the average credit card fee was a little over 6 cents. Last year in 2007, the average retail price had gone up to $2.79. The average retail margin was still 14 cents, and the average credit card fee had gone up to 7 cents.

So far, for data that we have this year for calendar year 2008, the average retail price has jumped to $3.37. Now we know as a side note that as of today the average national retail price is a little over $4, I believe $4.07. The average retail margin has gone down to 12 cents, so we have lost 2 cents in retail margin, and the average credit card fee has gone up 8.4 cents.

So based on, such as there is, the definition of price gouging in this bill, which if you go over to page 3 of the bill, they don't directly have a definition of price gouging, but in the factors considered on page 3 of the bill it does speak about a price that grossly exceeds—we don't know what grossly means—grossly exceeds the average price at which the applicable gasoline or other petroleum distillate offered for sale during the 30 days prior to a proclamation, which is a presidential emergency proclamation, or grossly exceeds the price at which the same or similar gasoline or petroleum distillate was readily obtainable in the same period.

So to the extent we have a definition of price gouging in this bill, it is based on an average price 30 days prior or an average price in the same period.

Based on that kind of implicit definition, we don't have price gouging, as far as I can tell, going on in the United States of America today. We do have high prices. There is no question that an average national price of $4.08 a gallon for self-service unleaded is a price that we should not be having to pay right now. But the reason we have that price is not because of price gouging at retail. If the average national price is a little over $4, and that is the average, in some parts of the country I am told out in California it is up over $4.20. In my State in Texas, I did not see but I was told that in Dallas near Love Field they were having a gas price war and you could get a gallon for $3.62, which is a price that is certainly preferable to $4 or $4.50. But according to the statistics that I have, we don't have price gouging going on in the United States of America.

The second point. I am not aware of any pending State action on price gouging. And almost every State in the Union has State law that gives the State Attorney General the ability to go after price gougers within the boundaries of that State. Now, my friend from Michigan may have information about some price gouging efforts that are going on at the State level, but I don't have that information. That would indicate that we don't—again, we have high gasoline prices and high diesel prices and high fuel oil prices and high aviation fuel prices, but it is not because of retail or wholesale price gouging.

The second issue with the bill, it requires the declaration of a Presidential energy emergency. I am going to read that title or that paragraph:

The President may issue an energy emergency proclamation for any area within the jurisdiction of the United States during which the prohibition in paragraph 1 shall apply. The proclamation shall state the geographic area, the gasoline or other petroleum distillate covered, and the time period that such proclamation shall be in effect.

The bill doesn't give any definition as to why the President should declare an energy emergency, but it does say that, in order for the bill to go into effect, the President has to declare that emergency. It has the term in the bill unconscionable pricing, but again does not define it. It just says unconscionably excessive, or the seller is taking unfair advantage. It doesn't define that.

So here we have a bill that has not been through any kind of a process, no hearings. My good friend from Michigan did introduce a similar bill last year, and so it is obviously something that perhaps at the Federal level—and I say perhaps. I am not saying it should be, but I will admit that it could be addressed. We passed a price gouging bill in the last Congress in this body. It went to the other body, it went to the Senate, and was not passed over there.

So I can't say categorically that I am opposed to any price gouging legislation. But I do think, on process grounds, it ought to go through the committee system. And I think on policy grounds, this bill is undefined, it doesn't state the reasons the President should declare a national emergency, it doesn't define what unconscionably excessive is. It appears to base when you would bring a finding based on an average price that was it in a region 30 days before the current period or a price in the region in the current period that is grossly excessive. And, again, it doesn't define grossly excessive.

So Mr. Speaker, I know there is a lot of pressure on the Congress doing something. I would state we would be better served to look at the underlying fundamentals, and the underlying fundamental is pretty straightforward:

Oil is a fungible commodity. It can be produced anywhere in the world; and once it is produced, it can be shipped and refined anywhere in the world. We are currently consuming worldwide about 85 million barrels of petroleum products, and we have the capacity to produce about 86 million barrels. So we have about a 1 million barrel per day surplus production capacity. That is less than 1 percent.

Any time you get the oil markets less than 3 percent capacity in terms of surplus over the demand, you are going to have what is called a very tight market, and the prices are going to tend to spike because there is enough uncertainty in the market that people will bid up, not necessarily in the United States, but in China and India and the developing countries where demand is high and increasing, they will bid these high prices to get that marginal barrel of oil.

What we need to do in this Congress on this floor is bring to the floor bills that address the fundamental supply situation. The United States of America is a treasure house of energy resources. We have 2 trillion barrels of shale oil reserves. We have a 300-year supply of coal that we can convert to liquids. We have hundreds of billions of barrels potentially of oil reserves that are off-limits in the Outer Continental Shelf and in the State of Alaska and on the Federal lands and the lower 48 that we have put off-limits from drilling.

Only 6 percent of the Federal lands in the United States have been made available for leasing under current law. We need to unlock our treasure house. We need to at least start the process of letting there be an opportunity to increase American made energy for America's families. And if we do that, we won't need to depend on false remedies like price gouging legislation. We can bring to the floor bills that increase our supply. And as our supply increases, the price we have to pay will go down, will change domestically and in the world the fundamental supply/demand equation. That is why we have high prices. We are not meeting the demand for energy in the United States from American-made energy, but we could do a lot better.

So I have great respect for my friend from Michigan. I understand it is difficult to focus on the long term in the mid-term strategy. But bringing bills like this to the floor, they may be politically satisfying, but they do not do anything to address the underlying problems. So I would hope that we would vote against this legislation, and then work together on substantive issues that will address the supply and demand inequality.

Mr. Speaker, I reserve the balance of my time.

Mr. STUPAK. Mr. Speaker, before I yield to Mr. MARKEY of Massachusetts, if I may just respond a little bit to my good friend, Mr. BARTON.

I agree with him, we need to have a short-term and long-term strategy. And as the former chairman of the Energy and Commerce Committee, my friend Mr. BARTON knows that this is my third bill we have had on price gouging. And the reason why we have it is short term, like in Midland in 2005 where gas went up 75 cents in one day, that is price gouging. Or in Escanaba, you wake up and it is 30 cents in one night. What happened in that one night? Or if you take a look at it, the

reason why we need a Federal law, because as we see in the bill it is wholesale. So when refineries increase their prices 255 percent from September 2005 to September 2006, for a State like mine to enforce a price gouging legislation we need a Federal law to help them out.

And the Presidential emergency the gentleman brought up; we need that because, as you know, before Hurricane Katrina gas went up over $5 a gallon before the hurricane even struck. Therefore, you need a President who can step forward and say that is excessive, that is not necessary in this region, we will keep gas prices at a reasonable price.

As far as the millions of acres and the drilling that should be done, and I know the Republican Party has been advocating we should drill more and drill more and drill more, but I would remind the gentleman that for the last 6 years, when the Republican Party controlled the House, the Senate, and the Presidency, you never sought to open up those areas now, because there is about 48 million acres of oil leases unused. I hope later this week we will have a chance to vote on a piece of legislation called Use It Or Lose It. It is unfair for oil companies to tie up our areas and refuse to drill in it when they have leases on it. So if you don't use that lease, let's give it up to someone who will drill, who will bring the oil to the surface, and therefore we can help to address our energy needs.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I rise in strong support of this legislation. And I want to commend especially the gentleman from Michigan (Mr. STUPAK) for his historic leadership in bringing this bill to the floor.

Time and again, the opponents of Mr. STUPAK's measure have exhorted us not to interfere with the free market, not to let the Federal Government help consumers in the face of price gouging.

□ 1415

Even as gas prices have sped past $4 a gallon, it is all just a matter of supply and demand, say the oil companies and Republican leaders in Washington. Well, it is a matter of supply and demand: consumers are being forced to supply whatever money the oil companies demand from them at the pump.

The oil companies have the consumer over a barrel, a barrel of oil, that the oil companies control and that they price. They tip the consumer upside down at the pump every single day and shake every bit of money out of their pockets, which they can.

The Christians had a better chance against the lions than the American consumer has against the oil companies at the pumps in the United States today. And all we are saying, all Mr. STUPAK is saying is let's give the Federal Government a sword to get into the battle, to get into the arena on behalf of the American consumer.

The bill before us today would give the Federal Trade Commission new authority to investigate and punish the wholesale or retail sale of gasoline or other petroleum distillates at prices that are unconscionably excessive, or take unfair advantage of consumers during any Presidentially declared national or regional energy emergency.

The Republicans think that is terrible. Why would you pass a law against unconscionably excessive or unfair practices that are tipping the consumers upside down. Don't give the Federal Government that kind of authority to take on the oil and gas industry. And President Bush and Dick Cheney, the oil President and Vice President for 8 years, are saying that they will veto legislation that gives authority to go after excessive, unconscionable pricing of gasoline.

Under the bill, the Justice Department could impose criminal penalties of up to $150 million on corporations, and fines of up to $2 million and jail sentences of up to 10 years for individuals. The legislation would give the regulators the tools they need to more aggressively aid consumers when the oil companies are turning them upside down.

When President Bush took office, the price of oil was $30 a barrel. A couple of years ago, oil at $100 a barrel was unthinkable. Now we are up to $135 a barrel.

So the first energy crisis back in 1973–1974, it was an oil embargo; 1979–1980, a revolution in Iran. What has been going on for the last year? How could the price of oil double and everyone says it is not a crisis in the White House. How about manipulation. How about fraud. How about the consumer being taken advantage of at the pump.

I thank the gentleman for his good leadership.

Mr. BARTON of Texas. I would like my good friend, Mr. MARKEY, to stay at the microphone and let's have a little colloquy, if he is willing.

I recognize myself for 1 minute just to make an observation.

I don't know, Mr. Speaker, that this is a totally true story, so that's why I needed Mr. MARKEY's input. But I am told when he was a young man, he sold ice cream cones and Popsicles outside of Fenway Park. I am also told that he bought or purchased those ice cream cones and Popsicles at a very low price, and he tended to mark the price to market in a somewhat monopolistic fashion. And so depending on how hot the day was and how heated the Red Sox nation was, he was known to price those Popsicles in a way that maximized his profit.

Now my question, if he is willing to answer it, would he consider what he did selling Popsicles and ice cream cones outside of Fenway Park as a young lad, would he consider that unconscionably excessive price gouging, or would he consider that simply being a capitalistic entrepreneur?

The SPEAKER pro tempore (Mr. BLUMENAUER). The gentleman's time has expired.

Mr. BARTON of Texas. I continue to yield myself such time as I may consume.

I am happy to yield to my friend to give us an explanation of his pricing scheme selling ice cream cones at Fenway Park.

Mr. MARKEY. I hate to say this because there is a bit of the capitalist, the unregulated capitalist in all of us. But when I had my Fudgsicles, my chocolate eclairs, my strawberry shortcakes, my twin fudges, and Mr. Softie wasn't coming down the same street, there is a tendency to try to raise the price because there is no one else in the market and there is no regulator going up and down those streets. And if you are outside Fenway Park and there are 35,000 fans coming out and there is no regulator around to say what you can charge as an audience is coming toward you in desperate need of a Popsicle, of a Fudgsicle or a Coke, you have a tendency without a regulator to charge unconscionably high prices.

Now at the time, I didn't think of it that way because, of course, the capitalist never thinks that way. That is why you need regulators to protect consumers against anyone who is selling any product in the marketplace. And that's the lesson I learned.

And I decided early, I was not going to do that any longer, I was going to move over to the regulatory side to protect consumers against human nature that sometimes can affect certain corporate chieftains, especially in the oil industry, to tip consumers upside down and take advantage of them.

Mr. BARTON of Texas. Reclaiming my time, it seems to me that given the circumlocutory answer that I got from my friend from Massachusetts, that he did tend to price somewhat above the market, and he seems to at the time take glee in it.

Mr. MARKEY. I feel guilty about. I feel very guilty about it.

Mr. BARTON of Texas. The statute of limitations under the Commonwealth of Massachusetts has expired.

Mr. Speaker, if it is still my time, I want to yield 3 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman for yielding, and I certainly regret I didn't have an opportunity to negotiate a Popsicle with the gentleman from Massachusetts. I am sure that would have been an interesting experience; about as interesting as this experience is in debating a bill which I feel has a lot to do with feel-good politics, a bill that is particularly unworkable, I fear may lead to de facto price controls, and really takes our attention off of the challenge that we face, and that is to increase American production of American energy.

As much as Members of Congress might like to do it, in over 200 years I have yet to see the ability to repeal the laws of supply and demand. And so

again, I am sure the gentleman from Michigan is very sincere, and I know that he has worked on similar legislation for quite some time, but when we talk about price gouging and an emergency situation, what are we doing to bring down the price of gas at the pump today.

Instead, we have a piece of legislation that is going to allow Federal regulators, bureaucrats that according to the gentleman from Massachusetts, appear to be the savior of the Nation, to tell us what is, quote, ''unconscionably excessive,'' and ''taking unfair advantage'' related to ''an energy emergency to increase prices unreasonably.'' So now we are going to have a Federal bureau come in and tell us what are reasonable prices and reasonable situations.

The FTC, the Federal Trade Commission, after Katrina researched this issue. They could find very little evidence of it. We have unconscionably high gas prices in America, but it has everything to do with a Congress that wants to put its head in the sand and produce no energy.

Our friends from the other side of the aisle, the Democrats, since taking over the energy policy of the Nation, since taking over the economic policy of the Nation 18 months ago, have overseen gas prices that are now 75 percent higher. They have attempted to beg their way, beg OPEC to somehow produce more and bring down the cost of energy. Well, if we can't beg them, maybe we should sue them. We have had legislation to sue OPEC. We are going to sue for lower prices at the pump.

Well, if that doesn't work, maybe we can tax. Let's tax oil producers. Well, Mr. Speaker, the only challenge with that is once you tax them, they turn around and put it in the price of the product, and the poor, beleaguered consumer who is going to the convenience store trying to decide do I buy a gallon of milk or do I buy a gallon of gas, he ends up paying for it. I mean, these are policies that are out of the 1970s. President Carter and a Democrat Congress tried them; they failed. We became more dependent using these types of policies on foreign sources of energy.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. BARTON of Texas. I yield the gentleman an additional 30 seconds.

Mr. HENSARLING. We have tried these policies. It is deja vu all over again. What our friends on the other side of the aisle won't do is open up ANWR where we know we have half of the Nation's proven reserves. Almost 85 percent of our deep sea energy resources have been put out of bounds.

Listen, we all agree, we need to develop renewables. We need to develop alternative sources of energy, but people have to go to work every day and take the children to school every day. This bill does nothing to help them. We need to produce American energy in America today.

Mr. STUPAK. I yield 2 minutes to the gentleman from northern New York (Mr. HALL) who has been a real advocate and a fighter for lower energy costs since he came to Congress 18 months ago.

Mr. HALL of New York. Mr. Speaker, in my district, my constituents are complaining and wondering why one day a gas tanker pulls up to a service station and fills a tank underground at the price of that day, and 2 days later the world price of crude oil goes up and the guy at the local gas station goes up on a ladder and changes the numbers, raising the numbers from $4.17 to $4.29, or whatever it is currently in the 19th Congressional District. We are well above $4 for regular. Why is it that gas that is already in the ground goes up on the world price of crude, but when the world price of crude comes down, the price at the pump detaches from it and keeps going up or staying up?

They ask me this question, and I ask people down here who supposedly know what they are talking about, and they tell me: Oh, it's a commodity. It fluctuates on the commodity market.

Well, I call it the rockets-and-feathers syndrome. The price of gas goes up like a rocket, and it comes down like a feather. And it never seems to deviate from that. While American families are scrimping, oil company profits are soaring. The Big Five's profits jumped a whooping $37 billion this quarter.

After the Bush administration's drill first and ask questions later policy has padded oil profits on the backs of working families, it is time for us here to look out for American drivers.

The Federal Energy Price Gouging Prevention Act, which I strongly support, will give the government the authority to investigate and punish anyone who takes advantage of consumers by running up energy costs with a steep fine and jail time.

After Hurricane Katrina, the FTC found 23 percent of refineries, 9 percent of wholesalers, and 23 percent of retailers had price spikes that could not be explained by increased costs or market trends.

We need to be aggressively vigilant to ensure that none of that behavior is going on and consumers are protected. President Bush threatened to veto this bill the last time Congress tried to take this action. I hope that this time he and his allies will for once choose to stand with the American driver and against Big Oil.

Mr. BARTON of Texas. Mr. Speaker, could I inquire as to the time remaining on each side.

The SPEAKER pro tempore. The gentleman from Texas has 2 minutes remaining. The gentleman from Michigan has 9½ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I reserve the balance of my time because I only have one more speaker who is not on the floor.

Mr. STUPAK. Mr. Speaker, it is my pleasure to yield to the gentleman from New York (Mr. ARCURI), a freshman Member who has been a great advocate for increased energy, not only supply but lower prices here in this country, for 2 minutes.

Mr. ARCURI. I thank the gentleman from Michigan for yielding.

Mr. Speaker, traveling across my district, there is one thing I hear about again and again, and that is gas prices. Whether it is at the grocery store or at the gas pumps, Americans are feeling the crunch. Skyrocketing gas prices are hitting hardworking families across my upstate New York district and across the country.

Today, we will take one more step to bring down gas prices by cracking down on price gouging by big oil companies. The Energy Price Gouging Prevention Act would provide relief for consumers by giving the Federal Trade Commission the authority to investigate and punish companies that artificially inflate the price of energy.

The largest oil companies have seen record profits and record paychecks for their CEOs, while middle-class families struggle just to fill up their tank. It is time to hold them accountable.

Under this bill, the Justice Department could impose criminal penalties of up to $150 million on corporations and jail sentences of up to 10 years to crack down on wholesale and retail companies charging unconscionable and excessive prices. Penalties from price gougers would go to the Low-Income Home Energy Assistance Program, LIHEAP, to help families with heating and air conditioning bills. Already this Congress has fought to increase domestic oil supply and hold OPEC and speculators accountable for price manipulations.

□ 1430

We have invested in new alternative energy sources that will decrease our dependency on finite fossil fuels and create good-paying jobs in places like Upstate New York.

Mr. Speaker, we owe it to our constituents and to our children and grandchildren to do everything we can to bring down outrageous gas prices, put our economy back on track and make sure that this country is on a new path to energy independence and success.

Mr. BARTON of Texas. Mr. Speaker, I continue to reserve.

Mr. STUPAK. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL) who sits on the Ways and Means Committee and knows the ins and outs of the oil industry.

Mr. PASCRELL. Mr. Speaker, I'm proud to rise in support of H.R. 6346, the Federal Price Gouging Prevention Act. And I want to commend the gentleman from Michigan not only for this legislation but other legislation he's put forward debunking the theory that this is simply a supply-and-demand problem. It is not. It is not.

The New York Mercantile Exchange laid it out very clearly. The speculators have increased their share of oil futures, oil future contracts to 71 percent this year from 37 percent in 2000.

At the same time, the contracts held by traditional oil users have fallen to less than 30 percent from more than 60 percent. So while this piece of legislation talks about gouging at the pump, there is gouging going on Wall Street; and if you don't want to recognize it, that's your problem. The American people want answers.

In these tough economic times, price gouging is a very real problem for Americans struggling to get to work. How about that for openers. As prices climb, so does the potential for consumers to be gouged at the pump. Now, it's $4.07 a gallon; when the President took office in January of 2001, $1.36. That's a 270 percent increase. The food becomes more expensive, millions of Americans lose their jobs.

It is shameful that unscrupulous vendors try to make a quick buck by artificially inflating the price. Just last week, officials in my home State of New Jersey issued 350 citations for price gouging-related offenses after surveying 1,000 gas stations. 350 citations. Where is the urgency? If you don't understand the urgency, then we ought to go back to 101.

H.R. 6346 will ensure that those who engage in this practice are not only investigated and found guilty, thoroughly punished, just like what we should do to those on Wall Street who gouge those prices who have speculated and speculated and got us to believe at a time when consumption and supply is just about the same as last year. That's ridiculous.

This bill directs penalties from price gougers to the Low-Income Home Energy Assistance Program to help families with their heating and their air-conditioning bills. Twenty-eight States, Mr. Speaker, have anti-price gouging laws on the books. And it's time for the Federal Government to do exactly the same thing.

I urge my colleagues to support Mr. STUPAK in his efforts and to support the Federal Price Gouging Prevention Act.

And I don't sit until I say, Mr. STUPAK, the American people say thank you to you.

Mr. BARTON of Texas. I continue to reserve.

Mr. STUPAK. Mr. Speaker, I think we have the right to close on this side. So I would ask for their last speaker, and we will close on this side.

Mr. BARTON of Texas. Well, Mr. Speaker, let me just simply say in closing that with regards to the last speaker's comment about the futures market, I tend to agree there may be something that we need to look at. That's why I'm on a bill with Mr. STUPAK and Mr. DINGELL to look at the futures market. But on page 3 of this bill, there is a line that specifically excludes the futures market from the jurisdiction of the bill that's before us.

We have a Federal price gouging bill on the floor right now that deals with retail and wholesale price gouging when there is absolutely no evidence of States' attorneys general conducting prosecutions of price gouging anywhere in this country. And as I pointed out in my opening statement, the average retail price for gasoline is up while retail margins are down, refineries margins are down.

Retail prices are up because the wholesale price of crude oil is up over $130 a barrel. We're not doing anything in this bill to address that fundamental supply problem. We are a treasure house of energy resources here in the United States. We could produce more American energy for America's families and factories.

You know, a price gouging bill when you don't have any real evidence of price gouging and where the States that think there's price gouging going on in their States have legislation to deal with that seems to me to be superfluous and symbolic.

So I would ask for a ''no'' vote on this legislation, and let's work together on issues that would fundamentally address the supply and balance and bring prices down.

With that, I yield back.

Mr. STUPAK. Mr. Speaker, in closing, let me just once again reiterate today every Member of the House has a choice. He can side with the big oil companies and the record profits, or you can side with the American consumer. A vote against my bill is a vote against consumers and a vote for Big Oil.

I am pleased so many of my Democratic Members came and joined me. This legislation is necessary. As I said, this is the third time I have had legislation on price gouging. As I pointed out earlier, this winter we experienced price gouging for energy needs, it was a dollar more than the rest of the region in Michigan and the area was being charged. The attorney general in Michigan, because we don't have a price gouging law, had nowhere to go.

Here's the bill that the Michigan legislature—House bill 6249—just introduced 2 weeks ago, tried new price gouging because we see it going on and on and on; and it's going to continue as we see these record prices and further chances to manipulate the market and to charge excessive prices to support these excessive profits of the oil companies.

Underneath the Democratic House, and I feel I have to say this, we have done a number of things in the last 18 months: Renewable Energy and Jobs Creation Act, which extends tax incentives for renewable energy. We had the Gas Price Relief for Consumers Act, which combats record gas prices. We have the energy price gouging bill we're doing today. We put forth the first new vehicle fuel efficiency standards in 32 years. We have a commitment to affordable American-grown biofuels which are keeping gas prices down. They are lower now than what they would have been if we did not pass this legislation. Action for lower gas prices by suspending oil purchases for the Strategic Petroleum Reserve. Later, hopefully the next month or two, we will see the bill on speculation that Mr. BARTON has mentioned. That is a piece of legislation we're looking at for excessive speculation which is driving up record profits for the price of oil.

But in this Democratic-led Congress, we will continue to invest in clean American renewable energy. We will boost energy technologies. We will help Americans struggling with the high energy prices. We will reward conservation. We will promote efficient vehicles, we will reduce mass transit fares and build infrastructure. We will further close the Enron loophole and speculators in dark petroleum markets which is driving up prices. We will encourage safe domestic drilling by forcing Big Oil to use it or lose it on Federal drilling permits.

I am perplexed that there's 68 million acres that we are not even drilling on because the oil companies have them tied up in leases. And what we are saying is if you're not going to drill to help the American people, then give up your lease. Let's give it to oil companies that at least drill. Democrats aren't against drilling. Let's at least go in these leases, which have been approved, environmentally sound, let's drill, let's bring that energy to the surface. If you're not going to use it, then we're going to pass legislation to say you lose it.

And last but not least, Democrats are leading the way to transition America to a more affordable energy future. But right now, as we go fill up this 4th of July weekend as we travel our parades in our districts and enjoy the summer months, can't we at least make sure that the price we're paying at the pump is based on a reasonable basis, reasonable factor, reasonable cost for taking that oil out of the ground, for shipping it, for refining it, for distributing it and putting it in your gas pump? We should not have to worry about being gouged tomorrow. We should not wake up on July 3 and find that gas went up 40 cents overnight for no reason other than someone needs a few more pennies to pay for their 4th of July. I don't want to pay for the big oil companies' 4th of July. I want the American people to enjoy this 4th of July and to know when they fill up at the pump, it's based on a fair, reasonable price.

Let's finally pass, after some 3 years of arguments on this floor, a Federal price gouging legislation that the other body will take up and we can present to the President. Let's have a reasonable basis for our pricing, and let's try to give the American people some relief from these high excessive energy prices we are experiencing.

Mr. HOLT. Madam Speaker, I rise today in support of H.R. 6346, The Federal Energy Price Gouging Prevention Act.

Today, my constituents in Central New Jersey are paying on average $3.98 at the pump, over a dollar more than they were paying at

the beginning of the year. Increases in gas prices have affected every sector of the economy. We are paying $2 more whenever we get a pizza delivered, $10 more for lawn mowing services, $1.70 for shipping packages, an extra penny for every letter that we send, and these are just a few examples of the effects of gas price increases on the economy at large. As American families suffer, oil companies continue to rake in record profits. It is essential that we prevent price gouging, speculation, and profiteering by those who would take advantage of our energy predicament and guard against harm to commuters and struggling families.

Current law does not have a mechanism for allowing the investigation and punishment of individuals and corporations that are artificially inflating the price of energy. H.R. 6346 would grant the Federal Trade Commission the authority to investigate and punish those who engage in price gouging. H.R. 6346 would finally provide a clear definition of price gouging so that the FTC can prosecute the worst offenders, specifically those companies with more than $500,000,000 in sales per year. It would strengthen the criminal penalties for price gouging to up to $150 million for corporations, and fines of up to $2 million plus jail sentences of up to 10 years for individuals. Finally, it would redirect the fines assessed to help fund the Low Income Home Energy Assistance Program (LIHEAP).

Unfortunately, we are seeing examples across the country of unscrupulous individuals taking advantage of consumers during this energy emergency. Last week, New Jersey's Attorney General Anne Milgram released the results of an investigation that uncovered over 350 ticket worthy instances of gasoline price manipulation after a survey of 1,000 gas stations in the state. Among the citations issued were: 62 violations for the pump not accurately measuring fuel, 46 violations for per-gallon prices being different on each side of the pump, 37 violations for fuel grades not posted, 26 violations for inaccurate octane ratings, 19 violations for inaccurate total sale price calculation and 14 violations for multiple price changes in a 24-hour period. States like New Jersey are already taking action to prosecute gas price manipulation on a small scale; however, they do not have the means necessary to prosecute large-scale offenders. It is past time that Congress gives the FTC the tools it needs protect American consumers from these egregious violations at the pump and the legislation before us today takes an important first step towards achieving this goal.

Passing H.R. 6346 would help to prevent price gouging and I urge my colleagues to support this legislation. However this bill is merely a short term solution to our long term energy needs. There are no easy answers to the fluctuating gas prices. We are paying at the pump today for flawed decisions made years ago. That is why we must work to implement strategies that will lower demand for oil in the long term.

Mr. STUPAK. Mr. Speaker, I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. STUPAK) that the House suspend the rules and pass the bill, H.R. 6346, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. STUPAK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SENSE OF CONGRESS REGARDING DANDY-WALKER SYNDROME AND HYDROCEPHALUS

Ms. HOOLEY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 163) expressing the sense of Congress in support of further research and activities to increase public awareness, professional education, diagnosis, and treatment of Dandy-Walker syndrome and hydrocephalus, as amended.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

H. CON. RES. 163

Whereas Dandy-Walker syndrome is the most common congenital malformation of the cerebellum and its causes are largely unknown;

Whereas between 10,000 and 40,000 people have Dandy-Walker syndrome in the United States;

Whereas the incidence of Dandy-Walker syndrome is at least 1 case per every 25,000 to 35,000 live births, however this is likely a significant underestimate because of difficulties diagnosing the syndrome;

Whereas the Metropolitan Atlanta Congenital Defects Program, Centers for Disease Control and Prevention reports that Dandy-Walker syndrome may affect as many as 1 in 5000 live born infants;

Whereas approximately 70 to 90 percent of patients with Dandy-Walker syndrome have hydrocephalus;

Whereas Dandy-Walker syndrome accounts for approximately 1 to 4 percent of hydrocephalus cases;

Whereas patients with Dandy-Walker syndrome present with developmental delay, enlarged head circumference, or signs and symptoms of hydrocephalus;

Whereas Dandy-Walker syndrome affects males and females approximately equally;

Whereas seizures occur in 15 to 30 percent of patients with Dandy-Walker syndrome;

Whereas subnormal intelligence is manifested in 41 to 71 percent of patients with Dandy-Walker syndrome;

Whereas failure to diagnose Dandy-Walker syndrome with hydrocephalus in a neonate or a child can cause serious neurologic complications;

Whereas Dandy-Walker syndrome is named after former University of New Mexico neurosurgeon and professor Arthur E. Walker (1907–1995) and Walter E. Dandy (1883–1941), who first described the disorder in 1914; and

Whereas there are 2 known researchers dedicated to Dandy-Walker Syndrome in the United States and additional investigators are needed: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress commends the Director of the National Institutes of Health for working with leading scientists and researchers to organize the first National Institutes of Health conference on hydrocephalus in September 2005 and the Inaugural ''Cerebellar Development: Bench to Bedside International Conference'' in November 2006; and

(2) it is the sense of Congress that—

(A) the Director of the National Institutes of Health should continue the current collaboration, with respect to Dandy-Walker syndrome, among the National Human Genome Research Institute, the National Institute of Biomedical Imaging and Bioengineering, the National Institute of Child Health and Human Development, the National Institute of Neurological Disorders and Stroke, and the Office of Rare Diseases;

(B) further research into the epidemiology, diagnosis, pathophysiology, disease burden, and improved treatment of Dandy-Walker syndrome and hydrocephalus should be conducted and supported; and

(C) public awareness and professional education regarding Dandy-Walker research should increase through partnerships between the Federal Government and patient advocacy organizations, such as the Dandy-Walker Alliance and the Hydrocephalus Association.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Oregon (Ms. HOOLEY) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from Oregon.

GENERAL LEAVE

Ms. HOOLEY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Ms. HOOLEY. Mr. Speaker, I yield myself as much time as I may consume.

I rise in support of H. Con. Res. 163 which supports continued research to increase public awareness, professional education, diagnosis, and treatment of Dandy-Walker Syndrome and hydrocephalus.

Dandy-Walker Syndrome is a congenital brain malformation that affects the cerebellum and the fluid spaces around it. Symptoms often develop early in infancy robbing children of their future potential just as their lives are beginning. Its causes are largely unknown, but what is known is that it can have a devastating impact on a child. A baby with Dandy-Walker Syndrome may experience developmental delays, enlarged head size, and severely reduced intellectual capabilities.

Dandy-Walker Syndrome was discovered almost 100 years ago in 1914 by former University of New Mexico neurosurgeon and professor Arthur E. Walker and Dr. Walter E. Dandy. A cure for the disease remains elusive.

□ 1445

The resolution before us supports the continuing research collaboration into Dandy-Walker syndrome. It recognizes the work of the National Institutes of Health with the National Human Genome Institute, the National Institute

of Biomedical Imaging and Bioengineering, the National Institute of Child Health and Human Development, the National Institute of Neurological Disorders and Stroke, and the Office of Rare Diseases.

H. Con. Res. 163 also encourages increased collaboration between the Federal Government and patient advocacy organizations seeking to find a cure for Dandy-Walker syndrome.

I would like to thank my colleagues, Congresswoman HEATHER WILSON and Congressman CHRIS VAN HOLLEN, for their efforts in bringing this resolution to the floor today. I urge my colleagues to join me in support of H. Con. Res. 163.

I reserve the balance of my time.

Mr. TERRY. I yield myself as much time as I may consume.

Mr. Speaker, I, too, rise in favor of H. Con. Res. 163, which is sponsored by the gentlewoman from New Mexico, HEATHER WILSON. She has worked diligently on this issue and has helped raise public awareness for the 10,000 to 40,000 approximate Americans currently diagnosed with Dandy-Walker syndrome. I commend her on her work with H. Con. Res. 163 and support further research and activities to increase public awareness, professional education, diagnosis, and treatment of Dandy-Walker syndrome and hydrocephalus.

Currently, the National Institute of Neurological Disorders and Stroke at the NIH conducts and supports a wide range of studies that explore the complex mechanisms of normal brain development. The knowledge gained from these fundamental studies provides the foundation for understanding abnormal brain development and offers hope for new ways to treat and prevent developmental brain disorders such as Dandy-Walker syndrome.

Dandy-Walker syndrome is a congenital brain malformation that can appear dramatically or develop unnoticed. Symptoms, which often occur in early infancy, include slow motor development and progressive enlargement of the skull. In older children, symptoms of increased intracranial pressure such as irritability, vomiting, and convulsions, and signs of cerebellar dysfunction such as unsteadiness, lack of muscle coordination, or jerky movements of the eyes may occur. Other symptoms include increased head circumference, bulging at the back of the skull, problems with the nerves that control the eyes, face and neck, and abnormal breathing patterns. Dandy-Walker syndrome is frequently associated with disorders of other areas of the central nervous system, and subnormal intelligence is manifested in 41 to 71 percent of the patients.

Treatment for the one in every 25,000 to 35,000 individuals diagnosed with Dandy-Walker syndrome generally consists of treating the associated problems with a special tube to drain off excess fluid inside the skull. This will reduce intracranial pressure and help control the swelling.

Mr. Speaker, I urge Members to recognize the outstanding research that the NIH has conducted and commend them on their efforts to gain more insight into brain disorders such as Dandy-Walker syndrome and hydrocephalus. I, again, congratulate the gentlelady from New Mexico, HEATHER WILSON, and the gentleman from Maryland in their interests in helping these folks and bringing this resolution to the floor today.

I reserve the balance of our time.

Ms. HOOLEY. Mr. Speaker, I'm pleased to yield 4 minutes to the gentleman from Maryland, CHRIS VAN HOLLEN. I know he has worked very hard on this issue.

Mr. VAN HOLLEN. I thank my colleague.

Mr. Speaker, I rise in strong support of this resolution, which supports further research and also activities to increase public awareness, professional education, diagnosis, and treatment of Dandy-Walker syndrome and hydrocephalus.

I, too, want to thank our colleague from New Mexico, HEATHER WILSON, for her leadership on this issue, her persistence on this issue. She has met with families from around the country who are struggling with Dandy-Walker syndrome, and I thank her for all the good work that she has done on this matter.

As we've heard, this is a very rare birth defect that's commonly associated with hydrocephalus. It can cause neurological damage that will delay development and cause severe developmental problems and sometimes lead to death. The Centers For Disease Control and Prevention reports that the Dandy-Walker syndrome may affect one in 5,000 infants, of which approximately 70 to 90 percent will go on to develop hydrocephalus.

The causes of this disease are largely unknown, and current treatment for Dandy-Walker consists primarily of treating the associated problems, the symptoms, rather than the syndrome itself. And as we heard, hydrocephalus is treated today much in the same way it was back in 1952, when this syndrome was first identified, by inserting a special tube called a ''shunt'' into the brain to drain off excess fluid.

We're here today because we think we need to focus more efforts and research in this area, that we shouldn't allow 1950s medical treatment to dictate how Dandy-Walker syndrome and hydrocephalus are treated. That is why we need to learn more about this syndrome and continue to raise public awareness about this condition. And that's why the National Institutes of Health should continue the current collaboration and research that they are doing and increase that effort.

I've had the privilege of getting to know a family with a child who has Dandy-Walker syndrome and hydrocephalus. While waiting for the birth of their child in 2005, Andrea and Eric Cole of Kensington, Maryland, learned that their son would be born with Dandy-Walker syndrome. Their son, Ryan, was born 3 months prematurely. He weighed 1 pound, 15 ounces.

On learning that there was no national organization or support network already organized to advocate on behalf of individuals with Dandy-Walker syndrome, Eric and Andrea took the necessary steps to found the only national nonprofit organization for Dandy-Walker syndrome, the Dandy-Walker Alliance. We're very proud that they are with us today.

The Dandy-Walker Alliance is an organization that's launched a variety of educational programs, publications, activities, and other efforts to raise public awareness and understanding of the Dandy-Walker syndrome.

Mr. Speaker, what we're trying to do today is send a message to families across the country who have members of their family who have Dandy-Walker syndrome, to let them know that they are not alone in this fight, that Congress is listening to their concerns, and that Congress is taking action to encourage all the resources that we can bring to bear through the NIH and other organizations to help fight this syndrome, and to make sure that those around the country who have not been heard until recently really have a voice, not just here on the floor of the Congress, but through the resources that we can focus on this very important issue.

So I urge my colleagues to join me in passing this resolution. Again, I congratulate our colleague from New Mexico, HEATHER WILSON, for her leadership.

Mr. TERRY. At this time, I yield as much time as she may consume to the author, the gentlelady from New Mexico.

Mrs. WILSON of New Mexico. I thank my colleague from Nebraska.

I also wanted to thank my colleague from Maryland, CHRIS VAN HOLLEN, for joining me in this effort and being the lead cosponsor of House Concurrent Resolution 163. There are 105 Members of this body who are cosponsors of this resolution, and it's intended to increase awareness of a syndrome that, frankly, before someone came and talked to me about it, I had never heard of. My guess is most of our colleagues have never heard of Dandy-Walker syndrome because it affects a relatively small number of families, but it's a very serious syndrome that deserves attention and research and understanding.

The resolution encourages the National Institutes of Health and the Centers for Disease Control to do more research on the causes and cures and prevalence of the disease and to encourage education of medical doctors so that it can be quickly and accurately diagnosed.

Even the estimates of the number of children who suffer from Dandy-Walker vary greatly. Somewhere between 10,000 and 40,000 children in America

suffer from this syndrome, and it is very serious and often very difficult to diagnose, a combination of developmental delays, enlarged head circumference, hydrocephalus and seizures, that together define a syndrome that was initially described by a neurosurgeon and professor at the University of New Mexico named Dr. Arthur Walker. He initially described nine cases of what is now known as Dandy-Walker in 1942.

Early detection and diagnosis, accurate diagnosis, is critical for these children, particularly because of the coincidence of hydrocephalus in children, a very serious condition that can result in neurological complications if it's not diagnosed very early in life.

Currently, there are only five researchers in the United States who are focused on Dandy-Walker and trying to understand it, develop treatments, and perhaps eventually develop ways to prevent the disease.

This resolution expresses the sense of the Congress that further research and activities are needed to increase public awareness, to increase professional education, and to make sure physicians and the medical community are aware of what this syndrome's characteristics are so that it can be accurately diagnosed.

It also commends the National Institutes of Health on their first-ever sponsorship of a research workshop focused on hydrocephalus and Dandy-Walker, and acknowledges the need for continued collaboration between different institutes and centers at NIH.

Some of my colleagues have commended me for my leadership on this issue, and I have to demur in that regard. Sometimes I think that the best thing about being a Representative is that you are often the wagon that harnesses the enthusiasm and the passion of others. I would like to recognize where that passion really comes from: Eric Cole and his wife Andrea, who are here in the gallery today. They are the proud parents of Ryan.

The fact is that Eric's dad called me. Eric's dad and I served in the Air Force together, and one time, Captain Don Cole tried to teach me something about politics at the United States Air Force Academy. There are people in this body who would probably disagree as to how well I learned those lessons. But Captain Cole's son is Eric Cole. His grandson is Ryan, and Ryan suffers from Dandy-Walker syndrome.

I want to commend Eric for his leadership, for making a decision to get involved, not only to help his son but to help others who suffer from the same disease. It is because individuals choose to get involved that things change over time.

I would like to place into the RECORD a letter of support from the March of Dimes in support of this resolution. It's dated June 22, 2007.

Again, I'd like to thank my colleague, Mr. VAN HOLLEN of Maryland, for working with us on this resolution and for his staff member, Ray Thorn, who's been particularly helpful in this process. Also, I would like to recognize two of my colleagues, Mr. ADERHOLT of Alabama and Mr. RYAN of Ohio, for their support and their encouragement on this resolution.

I would urge my colleagues to support this resolution to move forward on the understanding and the research and the professional education associated with a syndrome that adversely affects close to 40,000 young Americans.

MARCH OF DIMES,
Washington, DC, June 22, 2007.

Hon. HEATHER WILSON,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WILSON: On behalf of more than 3 million volunteers and 1400 staff members of the March of Dimes Foundation, I am writing to commend you for introducing H. Con. Res. 163, expressing the sense of Congress in support of further research and activities to increase public awareness, professional education, diagnosis and treatment of Dandy-Walker syndrome and hydrocephalus.

As you may know, in the United States, about 3% of all babies are born with a major birth defect. Birth defects are the leading cause of infant mortality accounting for more than 20% of all infant deaths. Children with birth defects who survive often experience lifelong physical and mental disabilities, and are at increased risk for developing other health problems. In fact, birth defects contribute substantially to the nation's health care costs. According to Centers for Disease Control and Prevention (CDC), the lifetime economic cost of caring for infants born each year with 1 of the 18 most common birth defects exceeds $8 billion.

Yet, the causes of nearly 70% of birth defects are unknown. Therefore, March of Dimes is working with Members of Congress from both sides of the aisle to increase funding for the National Center on Birth Defects and Developmental Disabilities, with particular focus on the groundbreaking research being done through the National Birth Defects Prevention Study. This important CDC initiative is being carried out by 9 regional Centers for Birth Defects Research and Prevention. The Centers use medical histories, DNA samples and data on environmental exposures, and lifestyle obtained from parents to study gene-environment interactions. The study has already yielded critical information on certain birth defects and has been particularly useful in responding to public health concerns regarding possible links between medication exposures and birth defects. The study also holds promise for increasing our understanding of the effects of medication use during pregnancy.

Increased federal support for birth defects research and prevention is sorely needed and H. Con. Res. 163 will heighten awareness and encourage additional federal research on Dandy-Walker syndrome and other serious birth defects.

Thank you for your leadership to help improve the health of infants and know that all of us at the March of Dimes look forward to working with you on this and other initiatives to improve the health of each and every child.

Sincerely,

MARINA L. WEISS,
Senior Vice President,
Public Policy & Government Affairs.

Ms. HOOLEY. We have no other speakers, if you would like to close. I'm happy to do that after you.

Mr. TERRY. Mr. Speaker, I want to close by thanking the gentlelady from New Mexico and the gentleman from Maryland (Mr. VAN HOLLEN) for bringing this to the floor, helping to increase public awareness and provide education and training to physicians for early diagnosis, and encouraging the NIH to continue their research to help those with Dandy-Walker and hydrocephalus.

With that, I would encourage all of our colleagues today to vote ''aye'' in support of this measure.

I yield back my time.

□ 1500

Ms. HOOLEY. Mr. Speaker, again I urge an ''aye'' vote.

This bill will give families with Dandy-Walker Syndrome hope. It is something we can all come together on. People need to know that we listen when they speak. And this is a way to make sure that further research is done on a disease that's been around for a long time. Most of us didn't know about it before this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Oregon (Ms. HOOLEY) that the House suspend the rules and agree to the resolution, H. Con. Res. 163, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TERRY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

SENSE OF HOUSE REGARDING PROSTATE CANCER DETECTION AND TREATMENT

Ms. HOOLEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 353) expressing the sense of the House of Representatives that there should be an increased Federal commitment supporting the development of innovative advanced imaging technologies for prostate cancer detection and treatment, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 353

Whereas the annual commemoration of Men's Health Week during the week preceding Father's Day gives new reason to consider the critical need to improve detection and treatment of prostate cancer;

Whereas prostate cancer now strikes at least one in six American men, with African-American men having a 60 percent higher incidence rate than Caucasian men and a mortality rate twice as high;

Whereas each year more than 230,000 American men are newly diagnosed with prostate

cancer, more than 1,500,000 men have biopsies, and around 30,000 men fall prey to this potential killer;

Whereas it is important for men to take advantage of prostate cancer screening exams in order to detect the disease at the earliest opportunity, when it is still curable;

Whereas a recent study funded by the National Cancer Institute demonstrated that the most common available methods of detecting prostate cancer, the PSA blood test and physical exams, are not foolproof—imaging would be another beneficial factor in the diagnosis and treatment of prostate cancer;

Whereas the use of advanced imaging technologies to detect and treat prostate cancer could be beneficial for eliminating unnecessary and costly medical procedures that increase psychological and emotional trauma for American men and their families;

Whereas the lack of accurate imaging tools means that biopsies can miss cancer even when multiple samples are taken, and current treatments—either radical surgery or radiation—can leave 50 to 80 percent of men incontinent or impotent or both; and

Whereas advanced imaging technologies could be combined with treatment tools to perform image-guided, minimally invasive and precisely targeted interventions, which will be performed in outpatient clinics with minimal discomfort, complications and costs and which will end the fear, pain, suffering and costs that prostate cancer causes men and their families: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that Congress should support research and development of advanced imaging technologies for prostate cancer detection and treatment.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Oregon (Ms. HOOLEY) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentlewoman from Oregon.

GENERAL LEAVE

Ms. HOOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on this resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Ms. HOOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 353, which calls for increased support for research and development of advanced imaging technologies for prostate cancer detection and treatment. This resolution recognizes the inadequacies of the current way prostate cancer is detected. There is an urgent need for the development of advanced imaging technologies.

Prostate cancer is the second most common cancer in the United States and the second leading cause of cancer-related deaths in men. In 2008, more than 218,000 men will be diagnosed with prostate cancer and more than 27,000 men will die from the disease. This resolution hopes to use the very successful model presented by the development of breast imaging technologies which has led to life-saving breakthroughs in detection, diagnosis and treatment of that insidious disease. Using this research and development model, hopefully we can achieve the same detection and life-saving successes for prostate cancer.

Imaging technology cannot only save lives, but also has the potential for reducing health care costs with accurate and affordable diagnosis of prostate cancer. This is an important piece of legislation for men's health.

I want to thank my colleague, Congressman ELIJAH CUMMINGS, for his leadership on this issue and urge my colleagues to join me in support of House Resolution 353.

Mr. Speaker, I reserve the balance of my time.

Mr. TERRY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I'm proud to rise in favor of House Resolution 353, which is sponsored by the gentleman from Maryland, ELIJAH CUMMINGS. He has worked steadfastly on this issue that affects an approximate 2 million Americans currently diagnosed with prostate cancer, and I commend him on his work.

House Resolution 353 supports the development and innovative advances of using imaging technologies when detecting and treating prostate cancer.

Prostate cancer is the most common non-skin cancer in America and takes the lives of nearly 28,000 American men each year. Over a lifetime, that is one out of every six males will fall victim to this silent killer.

Early prostate cancer usually has no symptoms and is commonly detected through prostate cancer screening tests such as the PSA blood test and DRE. The chance of being diagnosed with prostate cancer increases rapidly after the age of 50. The most likely risk factors that are associated to prostate cancer are age and family history of the disease.

In addition to the PSA blood test and DRE, imaging is another useful tool that can help with the detection and treatment of the disease. It is important for men to take advantage of prostate screening exams which could yield early detection when the disease is still curable.

I urge my fellow Members to support House Resolution 353.

Mr. Speaker, I reserve the balance of my time.

Ms. HOOLEY. Mr. Speaker, I yield to the gentleman from Maryland as much time as he may consume.

Mr. CUMMINGS. I want to thank the gentlelady for yielding, and I want to thank everyone for all the hard work that went into getting this bill to the floor today.

I rise today to express my appreciation to all of my colleagues who are considering H. Res. 353 which I introduced expressing the need for enhanced support for advanced imaging technologies for prostate cancer detection and treatment. This legislation will lead to the development of prostate cancer screening technologies that are on par with mammography, while improving blood tests and providing education to the general public.

Mr. Speaker, the tragedy of prostate cancer has touched so many Americans, and I ask that you consider these issues:

Prostate cancer is the second most common cancer in the United States and the second leading cause of cancer-related deaths in men. This cancer strikes one in every six men, making it even more prevalent than breast cancer, which strikes one in every seven women. In 2007, more than 218,000 men were diagnosed with prostate cancer and more than 27,000 men died from this disease. One new case occurs every 2.5 minutes, and a man dies from prostate cancer in this country every 19 minutes.

To compact the matter even further, African-American men are 56 percent more likely to develop prostate cancer compared with Caucasian men and nearly 2.5 times as likely to die from the disease. Many of us in the Congress, and indeed throughout the country, have either personally been affected by the disease or had a loved one suffer from it. For me, it was my father.

Tragically, our commitment to fighting the disease has not met its impact. To date, the Department of Health and Human Services has failed to invest substantial resources in promising advanced imaging technologies for prostate cancer research. And while they have failed, people have died. As a result of that, there are currently no reliable accurate diagnostic tools for detection and treatment of prostate cancer.

The implications of this reality have been grave. More than 1 million men have unnecessary prostate biopsies each year, resulting in needless suffering and an enormous waste of resources. At least 10 percent of men undergoing surgery and 44 percent of men undergoing radiation treatment would have benefited more from watchful waiting.

Current treatment is costly and causes many complications, including impotence and incontinence, in up to 50 percent of men. I might note here that Johns Hopkins Hospital and University, which are located in my district, have done many pioneering things with regard to this disease; as a matter of fact, they have some of the leading experts on it.

More than 70,000—or about one in two—men experience treatment failure each year. Mr. Speaker, in this country, with the greatest medical system in the world, we can simply do better. And we must do better. That is why I was so glad that I was joined by 101 of my colleagues in sponsoring H. Res. 353. This legislation is a first step in recognizing the critical need to address this very tragic disease.

I urge my colleagues to similarly take up the Prostate Research Imaging and Men's Education Act, or PRIME

Act, H.R. 3563, which I have also introduced.

The bill provides $100 million per year for 5 years to expand research on prostate cancer and provides the resources to develop innovative and advanced imaging technologies for prostate cancer detection, diagnosis and treatment. The bill also allocates $10 million a year for 5 years for a national campaign to increase awareness about the need for prostate cancer screening and the development of better screening techniques.

Finally, it will spend $20 million a year for 5 years to improve current, often unreliable, blood tests. Just the other day, Mr. Speaker, as I stood in the bank, I ran into four men, all of whom had recently gone through prostate cancer procedures. And it is so sad when you hear them tell their various stories about how it has affected their lives.

And I do believe that this Congress can do better. I believe that this Nation can do better. So many men have said that they want to be treated, but they are simply afraid; they're afraid of the pain, they're afraid of the embarrassment. And I spend a lot of time in my district preaching, almost, to men to make sure they get the test. But if they don't have to have the test, if they can have a better method of discovering this disease, I want them to have that.

Someone once said that in our time and in our space we can make a difference. And we can make a difference. And I realize that a resolution is one thing, something allocating money to do something is another. And that's why this is more or less a precursor, hopefully, for legislation which will bring about the resources so that we can properly address this issue.

Mr. TERRY. Mr. Speaker, I recognize myself for as much time as I may consume.

Mr. Speaker, in closing, let me just thank Mr. CUMMINGS from Maryland for drafting this resolution and his bill and congratulate him on getting this resolution to the House floor. I encourage all of my colleagues to support it.

With that, Mr. Speaker, I yield back the balance of my time.

Ms. HOOLEY. Mr. Speaker, I, too, would like to thank my colleague from Maryland (Mr. CUMMINGS) for all of his hard work on this piece of legislation. This is something that we should pass. I urge my colleagues to vote ''aye.''

Mr. BURTON of Indiana. Mr. Speaker, I rise in strong support of H. Res. 353 and I urge my colleagues to support the resolution. I want to thank Chairman DINGELL and Ranking Member BARTON for bringing this resolution to the Floor today. I am proud to be a sponsor of this resolution and I was honored to work with my friend and colleague from Maryland, Representative ELIJAH CUMMINGS—the Democrat sponsor of the resolution—to bring some critically needed awareness to this issue. Representative CUMMINGS has been a true leader on this issue, and today is the culmination of a two-year effort to shine a public spotlight on this national tragedy. This resolution sends a strong signal to the National Institutes of Health and the private sector that Congress is prepared to help them move prostate cancer detection and treatment into the 21st Century.

Prostate cancer is the most common form of cancer, other than some kinds of skin cancer, among men in the United States, affecting at least one in six American men, a rate comparable to breast cancer which strikes one in seven American women. In fact, prostate cancer is the second leading cause of cancer deaths among men in the United States, after lung cancer, and the seventh leading cause of death overall for men in this country. The National Cancer Institute estimates that in 2007 alone approximately 218,000 new cases of prostate cancer were diagnosed and roughly 27,000 American men died as a result of this disease.

Medical experts do not know what causes prostate cancer. Medical experts do not know how to prevent prostate cancer, but they do know that not smoking, maintaining a healthy diet, staying physically active, and seeing your doctor regularly contribute to overall good health.

While all men are at risk for prostate cancer, some factors increase risk:

Family history. Men with a father or brother who has had prostate cancer are at greater risk for developing it themselves.

Race. Prostate cancer is more common in some racial and ethnic groups than in others, but medical experts do not know why. Prostate cancer is more common in African-American men than in white men. It is less common in Hispanic, Asian, Pacific Islander, and Native American men than in white men.

It is important for men to take advantage of prostate cancer screening exams in order to detect the disease at the earliest opportunity, when it is still curable. Unfortunately, a recent study funded by the National Cancer Institute demonstrated that the most common available methods of detecting prostate cancer, the PSA blood test and Digital Rectal Exam, DRE, the only preinvasive indicators available for the detection of prostate cancer, are not particularly adept at detecting prostate cancer. The study showed that many PSA blood tests that screen for prostate cancer result in false-negative reassurances and numerous false-positive alarms (15 percent of men with normal PSA levels still have prostate cancer). Even when PSA levels are abnormal, 88 percent of men end up not having prostate cancer that would require surgery but undergo unnecessary biopsies. As a result more than 1,000,000 U.S. men have prostate biopsies annually—costing our health care system approximately $1.44 billion—many of which could be eliminated if we had advanced diagnostic imaging tools.

Today, neither the U.S. Department of Health and Human Services nor the Department of Defense devotes substantial resources to prostate cancer imaging research. I have been told that the National Institutes of Health spent only $10 million on prostate cancer detection research last year out of a total prostate cancer research budget of $350 million. In short, there is no concerted Federal effort to bring the equivalent of mammography to prostate cancer detection.

Breakthroughs in the diagnosis and treatment of breast cancer resulted from the development of advanced imaging technologies led by the Federal Government and I am convinced that Federal leadership could lead to similar breakthroughs for prostate cancer. That is why we introduced, along with my colleague ELIJAH CUMMINGS of Maryland, H. Res. 353—Expressing the sense of the House of Representatives that there should be an increased Federal commitment supporting the development of innovative advanced imaging technologies for prostate cancer detection and treatment.

We owe it to ourselves, our fathers, grandfathers, brothers, sons, husbands, and friends to make this effort. I urge my colleagues to support H. Res 353.

Ms. HOOLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Oregon (Ms. HOOLEY) that the House suspend the rules and agree to the resolution, H. Res. 353, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. TERRY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

VETERANS' EPILEPSY TREATMENT ACT OF 2008

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2818) to amend title 38, United States Code, to provide for the establishment of Epilepsy Centers of Excellence in the Veterans Health Administration of the Department of Veterans Affairs, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2818

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 ''Veterans' Epilepsy Treatment Act of 2008''.

SEC. 2. EPILEPSY CENTERS OF EXCELLENCE.

(a) REQUIREMENT FOR ESTABLISHMENT OF EPILEPSY CENTERS OF EXCELLENCE.—Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

''§ 7330A. Epilepsy centers of excellence

''(a) DESIGNATION OF CENTERS.—Not later than 120 days after the date of enactment of this section, the Secretary shall designate an epilepsy center of excellence at each of the 5 centers designated under section 7327.

''(b) EXPERT CLINICAL AND RESEARCH STAFF.—Each center designated under subsection (a) shall employ such expert clinical and research staff, including board certified neurologists and neurosurgeons, as may be necessary to ensure that such center is capable of serving as a center of excellence in research, education, and clinical care activities in the diagnosis and treatment of epilepsy, including post-traumatic epilepsy.

''(c) REQUIREMENTS AND OPERATION OF CENTERS.—Each center designated under subsection (a) shall function as a center for—

''(1) research on the diagnosis, treatment, and long-term effects of epilepsy, including epilepsy developed as a result of combat, in order to support the provision of services for such diagnosis and treatment in accordance with the most current information on epilepsy;

''(2) the development of evidence-based methodologies for treating individuals with epilepsy;

''(3) the continuous and consistent coordination of care from the point of referral throughout the diagnostic and treatment process and ongoing follow-up after return to home and community;

''(4) the development of a national system of coordinated care for veterans with epilepsy, including the development and maintenance of a national network of Department health care personnel with an interest and expertise in the care and treatment of epilepsy and the establishment of a referral system and procedure within each Veterans Integrated Service Network;

''(5) assist in the expansion, where appropriate, of the utilization of telehealth technology, including exploring the use of such technology to develop, transmit, monitor, and review neurological diagnostic tests and other applicable uses of telehealth technology for the diagnosis, care, and treatment of veterans with epilepsy; and

''(6) the dissemination of educational materials and research regarding diagnosis, care, and treatment of epilepsy, throughout the Department.

''(d) ADMINISTRATION.—In order to assist the Secretary in carrying out this section, the Secretary shall designate a national coordinator for epilepsy programs who shall report to the official responsible for neurology at the Veterans Health Administration and shall—

''(1) supervise the operation of the centers designated under this section;

''(2) coordinate and support the national network of Department health care professionals with an interest and expertise in the care and treatment of epilepsy;

''(3) ensure that the education and research mission of such centers is being accomplished; and

''(4) conduct regular evaluations of such centers to ensure compliance with the requirements of this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2009 through 2013.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7330 the following new item:

''7330A. Epilepsy centers of excellence.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) will each control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Speaker, in this Congress the new Members have taken a great leadership role on many matters, and especially those in the area of veterans affairs. One of those great new Members is Mr. PERLMUTTER of Colorado, and I yield to him as much time as he might consume to explain his bill which is on the floor today and will do so much for so many veterans.

Mr. PERLMUTTER. I thank Mr. FILNER for this opportunity.

Mr. Speaker, I rise today in support of H.R. 2818, the Veterans' Epilepsy Treatment Act, which establishes a national epilepsy network within the Veterans Affairs health care system.

I introduced H.R. 2818 on June 21, 2007, and now, 1 year later, I'm pleased it was reported out of the VA Committee by a voice vote.

The measure has the support and sponsorship of 135 Members of Congress. And I want to thank Chairman FILNER, Subcommittee Chairman MICHAUD, Ranking Member BUYER, Mr. MILLER from Florida, and their staff for the work they do on behalf of our Nation's veterans and for their work on H.R. 2818.

I also want to thank Majority Leader HOYER for the interest he has taken in this bill, and Rick Palacio from his office.

H.R. 2818, the Veterans' Epilepsy Treatment Act, will establish five epilepsy treatment centers called Epilepsy Centers of Excellence which are going to be co-located at the VA polytrauma centers in Palo Alto, Minneapolis, San Antonio, Richmond and Tampa. These centers will care for veterans experiencing seizures, and especially those we predict will develop epilepsy as a result of suffering traumatic brain injury while serving in Iraq and Afghanistan.

Mr. Speaker, we have a moral obligation to our service men and women who are defending our country overseas to help them when they return home. Our veterans health care system is the best in the world, and H.R. 2818 will make our system even stronger.

□ 1515

Today estimates show some 89,000 veterans have epilepsy and 42 percent of that number is service connected.

Epilepsy is often defined as two or more seizures, and during Vietnam, a number of men and women returned home with head wounds and head injuries. Of those who came home with these types of injuries, some 53 percent developed epilepsy within 15 years thereafter; 15 percent of those who developed epilepsy did so 5 years or more after their combat injuries.

For these service-connected injuries, the relative risk for developing epilepsy is 25 times higher than in the population as a whole. These statistics indicate the number of veterans who will develop epilepsy due to the extended combat in Iraq and Afghanistan is only going to rise. And with the IED injuries that our men and women have suffered, we know that that's going to occur. That is why we need expert clinical and research staff to work together to diagnose, care for, and research the long-term effects of epilepsy.

This bill takes those steps by creating a National Epilepsy Program through the establishment of five sophisticated centers for epilepsy care. In addition, each Veterans Integrated Service Network, or VISN, will have an epilepsy referral clinic and the VA's telehealth capacity will be expanded to track the neurological diagnostic tests of our rural veterans. These centers will develop and administer treatments and possibly cures for our veterans, allowing them to live their lives to the fullest.

It establishes a National Coordinator For Epilepsy within the VA system, and it will provide educational materials throughout the country to assist people in dealing with epilepsy or those who may come into contact with people with epilepsy.

Moreover, the body of knowledge developed through the research conducted by the VA will help our society as a whole. And I will admit to having a child with epilepsy, and, quite frankly, if, in fact, the research that's developed by the VA assists her, I will be very thankful for that on a personal basis.

The bill authorizes expenditures of $5 million per year for the years 2009–2013. A small price to diagnose, treat, and research epilepsy for those who have served us so valiantly all around the globe.

Therefore, Mr. Speaker, I urge my colleagues to join me in supporting H.R. 2818, the Veterans Epilepsy Treatment Act. I want to thank the Epilepsy Foundation, the Brain Injury Association, the American Academy of Neurology, the Disabled American Veterans, the Paralyzed Veterans of America, the Blinded Veterans, and the Vietnam Vets of America for their support of this bill. Again, I want to thank the VA Committee for supporting this bill and voting it out by a voice vote.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 2818, as amended, the Veterans Epilepsy Treatment Act of 2008. It's a bill to amend title 38 of the United States Code to provide for the establishment of Epilepsy Centers of Excellence in the Veterans Health Administration of the Department of Veterans Affairs.

I would like to thank the Health Subcommittee chairman, MIKE MICHAUD, and Ranking Member JEFF MILLER for their work on the bill. They determined that existing six new centers spread throughout the country without utilizing the clinical and scientific expertise available within the VA's polytrauma rehabilitation centers was probably not the optimal approach. So working in a bipartisan manner, this legislation was amended to ensure that there will soon be five polytrauma rehabilitation centers.

We also need to recognize that we have many of these 89,000 veterans who live in rural areas and also will be traveling distances, we need to acknowledge, to these rehabilitation centers; so there is an energy cost issue, which we are going to address here in a moment.

The VA has a long history of providing specialized treatment and research on epilepsy. In 1972, recognizing that head trauma, whether mild or severe, is a risk factor for developing epilepsy, the VA created dedicated centers

to improve the quality of care for veterans who may develop posttraumatic epilepsy as a result of military service. Today the VA operates seven sites with advanced capabilities to monitor and perform epilepsy surgery.

There are, as I said earlier, approximately 89,000 veterans, many of whom also live in rural America, with epilepsy enrolled in the VA health care system. And with the prevalence of combat-related traumatic brain injury among our returning OEF and OIF servicemembers, it is important that the VA is a national leader in the prevention, treatment, and research on epilepsy.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

Let me speak to a couple of matters relative here to the House in how we manage the House's business. First I will speak with regard to process.

We are bringing eight veterans bills to the floor all as individual bills. That is very concerning to me because these could have been placed all in one omnibus bill that we would then bring to the floor. It would create better management of the floor. So why is this brought as eight individual bills on suspension? My guess, Mr. Speaker, is that the House is now performing what I would call filling the time. Why are we filling time? Well, because this Congress isn't working on some of the most important issues facing this country.

We have about 35 legislative days left in this Congress. This Congress has not passed a single appropriations bill to run the government. This is a dysfunctional Congress, and we're failing to meet our responsibilities. So while we are not doing the responsibilities of the country, we have to fill time. So they turn to the Veterans' Affairs Committee and other committees and find what are all the bills that you've got out there that we can do on suspension, that we can do on the calendar? Let's fill the time. And that's what is happening here, and it's extremely bothersome to me.

Here the country is facing tremendous issues, whether it's the downturn of the economy, the issues relative to people leaving their homes. We have got an energy crisis with the challenge on how we're going to reduce our energy dependence on a lot of bad actors around the world. We have got the solvency of Medicare issue. We have got the Social Security issue. We have got the AMT patch. We have got immigration. No, this Congress, we're not going to work on those important issues, I guess must be the message that the country is receiving from our acts of today, because we're going to take up a lot of time here on the legislative calendar on eight individual veterans bills. Now, think about that. That's eight bills split up of 40 minutes on each bill. This is the House equivalent of dilatory tactics when it comes to working on what is important facing the country.

So I guess on the energy issue, I think my colleagues would immediately respond, well, my gosh, Steve, we just voted on price gouging. Okay. I think my Democrat colleagues think that to solve the energy crisis relative to the country, we are going to, let's see, tax the profits of oil companies. We're going to do price gouging legislation. Oh, there must be something going on out there in the futures market; so let's talk about speculators. Let's do nothing with regard to supply.

Now, I am in favor of these Centers of Excellence to advance and coordinate care for veterans with epilepsy. So why am I talking about these other issues? I'm talking about them because they are important issues also facing the country that this Congress is not addressing. And as we continue to work as a Congress to improve the quality of life for our veterans, we must examine the added burden that energy costs are placing upon those who served their country.

Americans are coping with increased energy prices, including veterans. Congress must act to decrease the energy costs. The energy bills we have been voting on in the House are fighting the smoke of the energy crisis in America, not fighting the fires. So my Democrat colleagues love to work on the demand side of the economic equation. Price is fundamental economics. You've got a supply and demand result in the increase in price.

We've got one of my colleagues here that wants a 50 cent consumption tax on gasoline. Why would they be proposing things like this? Well, you propose things like that because you want to compress demand on energy to change the American culture rather than opening up supplies.

Why is this such an important issue? It's an important issue because it impacts veterans. Energy price impacts veterans, and nationwide Americans are now spending nearly 4 percent of their aftertax income on gasoline.

So on this bill on epilepsy, we talked about the fact that we have got 89,000 veterans with epilepsy enrolled in the VA health care system. We now in this bill are saying that we are going to move them to the polytrauma centers. There are five polytrauma centers, which means that individuals to gain access to the polytrauma care centers now have to travel. How do they get there? They either get there through the airlines or through surface transportation. In order to do that, they're facing increased costs to the access of health care. That's why energy is also an important veterans issue.

We are importing over 60 percent of our oil from foreign countries, and as the price of gasoline increases, the cost of food, goods, and medical care go up. Veterans are being hit by increased prices at the pump, and Congress must make every effort to deal with the heart of the energy issue for every citizen and increase our energy supply. If we increase our supply, we will then decrease energy prices.

Many of America's veterans, as I said, live in rural areas, and they also then get hit the hardest by the increase in gasoline prices. While 4 percent may be the average amount Americans are paying, that figure has surpassed 13 percent in rural areas. Rural Americans are estimated to be paying now over $2,000 for gasoline this year, and this has a tremendous impact upon our—

POINT OF ORDER

Mr. FILNER. Point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Indiana will suspend.

The gentleman from California will please state his point of order.

Mr. BUYER. I have the time, Mr. Speaker. I have not yielded for a point of order.

The SPEAKER pro tempore. It is not necessary that the Member under recognition yield for a point of order. The Chair may recognize another who seeks recognition for a point of order.

The gentleman from California will please state his point of order.

Mr. FILNER. Mr. Speaker, clause 1 of rule XVII says: ''A member is required to confine himself or herself to the question under debate,'' which is the establishment of epilepsy centers in this country, ''and may not stray from the subject under discussion. If so, a Member may be subject to a point of order that his or her remarks are not relevant to the debate.''

And I raise that as a point of order, Mr. Speaker.

Mr. BUYER. May I speak to the point of order?

The SPEAKER pro tempore. The gentleman may speak to the point of order.

Mr. BUYER. Mr. Speaker, the bill before us creates these epileptic centers to be associated with the five polytrauma centers. In order for veterans to gain access to them, they have to be able to travel to get there. The increased price of energy is very important for veterans to be able to gain access to these centers.

It is pertinent, it is relevant, and it is material to this debate.

The SPEAKER pro tempore. The gentleman is requested to continue the nexus to the subject at hand.

The gentleman may proceed.

Mr. BUYER. So have you overruled the chairman's point of order?

The SPEAKER pro tempore. The Chair has simply acknowledged the need to maintain the nexus to the subject at hand. The gentleman may proceed.

Mr. FILNER. Mr. Speaker, if I may say one more thing in support of my point of order.

Before I withdraw my point of order, I would like to point out that the definition of ''filling the time'' has just been shown by the ranking member.

Mr. BUYER. I ask for a ruling from the Chair.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. BUYER. I ask for a ruling from the Chair on the point of order.

Mr. FILNER. Mr. Speaker, I ask to withdraw my point of order.

Mr. BUYER. I object.

The SPEAKER pro tempore. The point of order is withdrawn.

Mr. BUYER. I object.

The SPEAKER pro tempore. Unanimous consent is not required to withdraw a point of order.

The gentleman from Indiana is recognized.

Mr. BUYER. Mr. Speaker, what I object to is the fact that the chairman of the committee must not care about the increased cost of energy prices on veterans in America. He must not care, Mr. Speaker, because he's so concerned that he wants to raise a point of order against me to silence the issue of the impact of energy prices at the VA on health care, on medical research?

Mr. Speaker, this is a very, very pertinent and important issue. The increased prices to the VA, a few years back we had an emergency supplemental, and part of that was because of the increase in energy costs to the VA. This is a pretty important issue.

So let me now embrace your counsel, Mr. Speaker, to me.

□ 1530

H.R. 2818, as amended, will improve the VA's research. Now why do I mention research? Well, because what we're doing here, we recognize the VA has a long history of providing specialized treatment and research on epilepsy. So now let's talk about the impact on energy prices on research. It's a proper nexus, would the Speaker not agree? The Speaker is stoic.

H.R. 2818, as amended, I believe it improves VA's research, but as we look at this, the research activities consume high amounts of energy, and these activities include using CT scans, MRIs, other medical imaging technology. We use medical testing and other laboratory devices. Research laboratories require high amounts of security to protect personal medical information on research subjects. Laboratory data may examine heating and cooling systems to control specimen temperatures to ensure viability in our research activities. All that requires energy and in fact energy prices will impact the delivery of care that we do at our epileptic centers.

Facility energy consumption also involves power to run computers, printers, scanners, copiers, shredders. Some of these research, medical research projects require specialized lighting and may occur after hours when VA physicians have time to work in their labs and analyze data when these systems would then be shut down.

From 2005 to 2007, the Department of Veterans Affairs' energy costs have increased by 20 percent. The VA's energy costs have increased 65 percent since the 2003 baseline set by Federal mandates in the OMB energy scorecard.

May I ask the Speaker how much time I have remaining.

The SPEAKER pro tempore. The gentleman has approximately 10 minutes remaining.

Mr. BUYER. The increasing cost of energy is affecting every sector of American life, including the services provided by the Department of Veterans Affairs, which we are not immune to the effects of high fuel prices. Yet, our colleagues, it appears the chairman of the Veterans' Affairs committee, that is so upset now that I am talking about the increase in energy and its impact on the quality of care we can deliver in health care, are not providing the relief on energy costs. We should be looking at ways to reduce the energy burden on the VA.

So when I look at the energy baseline in 2003 in the VA on energy costs and its impact on how we can provide quality health care to our veterans, that baseline was $287.7 million. Today, that energy baseline—actually, my numbers are of 2007—was $475.5 billion. That is a 65 percent increase in VA utility expenses.

So with regard to the Speaker's counsel to me that I can talk about energy prices in the VA so long as there is a proper nexus, well, I think if we are talking about a 65 percent increase in fuel prices and its impact upon the VA and how we will be able to deliver not only quality research but also quality health care at our epileptic centers, I think is a pretty important issue.

With that, I reserve the balance of my time.

Mr. FILNER. Before I yield to my colleague on the committee, I just want to point out to the 25 million veterans of our Nation, 100 million people who constitute their families, all of this Nation who cares about health care for our veterans, the benefits for our veterans, all of those who understand that this war is costing us enormous personal tragedies, brain injuries, amputations, psychological wounds, that we have millions of veterans from earlier wars who are suffering, need help from the VA. All of that health care, all of that concern for the VA has been called by my colleague, the ranking member from Indiana, ''filling the time.'' I am happy to fill the time with bills that refer to the health and well-being of all our veterans, whether from this war or from earlier wars.

I would yield such time as she may consume to a very important member of our committee for 16 years, the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to thank you for your leadership on the committee and your leadership for these veterans in this country. And to the ranking member, I know that he did not mean that the leadership of this House, that have devoted a block of time to talk about the veterans and their service to this country, is filling the time.

I want to thank the leadership, I want to thank the chairman, and I want to thank the Republicans on the committee because we have some issues that we want to talk about honoring veterans that have served this country. So I know he did not mean that talking about veterans, other than Memorial Day or Veterans Day, is filling our time. He didn't mean that, I know that.

So I want to rise in support of veterans-related bills being considered today, and I support all eight of them.

I am pleased to be a cosponsor of House Resolution 1231, supporting Vietnam Veterans Day. In my State of Florida, we have close to 600,000 thousand veterans in Florida, and I am pleased to be given the chance to serve their interests as a member for 16 years on the Veterans' Affairs Committee.

The Vietnam War was a very divisive time in our Nation's history, and I hope that all Americans, through this resolution, will be able to continue to help heal this Nation, and that the Vietnam vets, who so bravely served our country, will finally get the respect they have earned. Let me just say: Vietnam veterans bravely served this country finally get the respect they helped earn.

I am also pleased recently to visit Puerto Rico recently and tour the VA Medical Center in San Juan. I was very impressed with the people who work at that facility and with the people in the territory as a whole. The employees were very professional, and it is a credit to both Puerto Rico and to the VA.

I was also in Ponce, admiring the port there, in my other role as a member on the Transportation Committee, and was very impressed by the city and very pleased that the veterans there have access to the VA clinic.

I support H.R. 4289, to name the VA clinic in Ponce after Captain Rubio, who earned the Medal of Honor for his service protecting his comrades above and beyond the call of duty.

I also rise in support of H.R. 4918, to rename the Miami Veterans Medical Center after one of Florida's bravest servicemen, Private Bruce Wayne Carter, of the United States Marine Corps. His mother still lives in Jacksonville. Private First Class Carter was ordered to Vietnam in April, 1969, and served as a radio operator. When he was 19, and in an act of incredible altruism, he threw himself on an enemy grenade, absorbing the full extent of the blast to protect his fellow marines.

He gave his life in service to our country and to his fellow marines and was awarded the Congressional Medal of Honor. I am pleased to join the entire Florida delegation in support of this legislation in honor of Bruce Carter.

Again, I want to thank the chairman, and I urge all of my colleagues to support all eight bills honoring veterans

on the floor of the House of Representatives today. And once again I want to thank the leadership for bringing these veterans bills up today.

Mr. BUYER. The gentlelady knows quite well, having been here a very long time, that the best way to utilize the floor time, which is extremely important on the important issues facing the country, is that we could have taken these eight veterans bills and consolidated them and brought them to the floor. That is not what we have done.

Half of the bills that we are talking about here today, Mr. Speaker, I say to the gentlelady, is that they are naming bills. They are naming bills. We could have managed the time of the floor much better.

So the gentlelady was absolutely correct. No one here should try to attempt to spin my remarks about filling time as if somehow veterans substantive legislation is not important. The fact that the time on the floor is what is extremely important.

We have 35 legislative days, approximately, to go. I know you're praising leadership, Ms. BROWN, but this Congress, we have not done one appropriations bill to run this country. Mr. Speaker, I think that is correct. I think there are 12 legislative bills. We haven't done any of them. None of them have come to the House floor.

Ms. CORRINE BROWN of Florida. Will you yield?

Mr. BUYER. I yield to the gentlelady.

Ms. CORRINE BROWN of Florida. Sir, I understand what you're saying, but I don't know that it was any different when the Republicans were in charge. The appropriations bills, they are going through the process, they are going through the different hearings and the discussion. But today we have an opportunity to honor the veterans.

Mr. BUYER. I reclaim my time. When the gentlelady brought up with regard to what you did when you were in charge—I will just share this with the gentlelady—the bills that have been brought to the floor here under suspension, in the past, for years now you and I have work together and served on the Veterans' Affairs Committee. Any time the bill would actually come to the floor, it was always by agreement between the ranking and the chairman and other members of interest, always by consensus and by agreement.

That is not what happened here today. That is not. We did that with regard to seven bills. At the last moment, another bill gets added. We had some general concerns with regard to the language in the bill. But, no, the chairman is going to have his way.

So I just share with the gentlelady that he wanted to roll the minority, no differently than how the Speaker has rolled the committee with regard to the GI Bill and others.

Mr. FILNER. Would the gentleman yield?

Mr. BUYER. I wanted the gentlelady to know when you brought up the issue about, Well, here's what occurred when you were in charge, we had great deference to the Speaker and the access to the floor.

Ms. CORRINE BROWN of Florida. Will the gentleman yield?

Mr. BUYER. My point is that because this Congress has now chosen not to work on these very important issues facing the country, whether it's decreasing the energy prices, on immigration, solvency of Social Security, Medicare, all of these list of issues, we are not doing right now. So we need to be able to say, Okay, what are we going to do with our time. So we take the eight veterans bills that we have and split them each up individually, with 40 minutes on each bill.

I yield to the gentlelady.

Ms. CORRINE BROWN of Florida. Mr. BUYER, I think it is appropriate to take proper time to honor the veterans, and I am very happy that we are doing this today. The appropriation bills, as you know, will be coming up. These are the ''must'' bills that we have to pass. And so often, as you well know, we take them and we wrap them in a continuing resolution. Hopefully, we will pass several of those bills, but today it is time for us to honor the veterans.

We have passed, working together, the largest VA budget in the history of the United States.

Mr. BUYER. I reclaim my time. If you want to honor the veteran, then help me help this Congress and the American people reduce energy prices that impact upon the VA and other departments of government, but in particular, our veterans today, this bill before us deals with the epilepsy centers. And in order for these patients to gain access to these epileptic centers, they are either going to have to fly or they have got to drive great distances to get there, and there is going to be a cost increase to do that.

So if we are facing now from 2003 to today a 65 percent increase in energy baseline at the Department of Veterans Affairs, carry that across all government. So, today we are going to honor the veterans? We can't do things in a vacuum, I would say, Mr. Speaker. We have to be holistic with regard to how we apply our policies that we do here in Congress.

So with regard to caring for the Nation's veterans, for which we all embrace, we can only do that if we can increase the quality of our health care; at the same time, increasing the access. If we don't work on the increase in energy prices, then it has a depression then upon the access to quality health care.

So we can invest all the moneys we like on improving the quality of care, but if we can't also get them access, then have we achieved the goal for which we desire?

Ms. CORRINE BROWN of Florida. Will the gentleman yield?

Mr. BUYER. I yield to the gentlelady.

Ms. CORRINE BROWN of Florida. Last week, just last week we passed the Amtrak bill, which is an opportunity that we can take people out of their cars and move them forward. I went from downtown Brussels to downtown Paris, 200 miles, 1 hour and 15 minutes. That is the future of this country. We are moving forward. And I know you voted for my Amtrak bill. That is a great step forward.

□ 1545

Mr. BUYER. Reclaiming my time, I appreciate that your own chairman did not object to your words. I voted for your Amtrak bill and I support the increase in our transportation, and I appreciate the deference of the chairman for not objecting to your words being outside of the nexus of the bill. I think they were inclusive of the nexus of the bill, Mr. Speaker, because it is about transportation and how our veterans gain access to the health care system. So I also appreciate the indulgence of the Chair by permitting the gentlewoman to speak and not silencing an individual Member's words on the House floor.

I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, before I yield to the gentleman from Colorado, I heard the gentleman from Indiana object to the naming bills. I guess that would be a unanimous consent request to tell Mr. HASTINGS from Washington, Mr. MILLER from Florida, Mr. FORTUÑO from Puerto Rico and Ms. ROS-LEHTINEN from Florida that he doesn't want to hear their bills. That is what I heard.

I yield such time as he may consume to the gentleman from Colorado (Mr. SALAZAR).

Mr. SALAZAR. I want to thank the chairman for bringing up these bills today.

It is actually a little disappointing to stand here and listen to the dialogue, when I know my Republican colleagues on the House Veterans' Committee actually voted unanimously to get these bills to the floor. You know, veterans issues to me are not a partisan issue. We are all Americans. I think all of us support veterans, and we are all doing the best we can to move this thing forward.

Today, Mr. Speaker, I rise to support H.R. 2818, the Veterans' Epilepsy Treatment Act of 2008. I want to especially thank my fellow Coloradan, Congressman ED PERLMUTTER, who introduced this bill. He continues to be a champion for Colorado, for Colorado veterans and veterans across the Nation who suffer from epilepsy.

According to the VA, there are currently 89,000 veterans enrolled in the VA who have been diagnosed with epilepsy. This bill creates a national system of care to treat our veterans, colocated at existing polytrauma centers. This is very important to rural districts like mine, where making health care accessible is a constant challenge.

The Veterans Health Subcommittee has heard about the increasing rates of TBI among our returning veterans. A DOD study after Vietnam found that 53 percent of soldiers with brain injuries suffered from a penetrating TBI, the most severe type of TBI. About 15 percent of these also developed epilepsy soon after their injury.

Longer deployments put our heroes at greater risk for these injuries and mental health conditions. At the same time, advancements in medicine have saved many soldiers from injuries that only a few years ago would have been fatal. The result is a greater number of vets in the VA health care system with these types of injuries.

As a veteran myself, I was proud to serve my country at the end of the Vietnam War. Vietnam veterans returned home with head injuries, TBI and PTSD, but were not properly diagnosed. This bill honors their service by improving access to health care for current and future veterans. H.R. 2818 will go a long way in helping change our health care system to one that is prepared for tomorrow's challenges.

I encourage my colleagues on both sides of the aisle to support this legislation, as we did in the Veterans Affairs Committee, and I want to especially once again thank our Congressman from Colorado, who has a special interest for his leadership in making sure that our veterans have the health care that they deserve.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Colorado. He is a very valuable member of the Veterans' Affairs Committee. He and I have traveled part of the world together and I have tremendous respect for him. He also knows the Veterans' Affairs Committee works best when it works in a bipartisan fashion. So I turn to my good friend and ask for that help and assistance and best counsel that he can give to the chairman to stop the divisiveness that occurs on the committee by the actions he has been taking.

With that, I embrace the gentleman from Colorado. The gentleman should also know if the House is not going to address the big energy issues that also face America, and in particular your State with regard to oil shale and being able to access important sources of oil for this country, then I have to be able to create the nexus, Mr. Chairman, where I can, to talk about the impact of energy on this country and the impact upon veterans in this country.

With that, I reserve my time.

Mr. FILNER. I am the closing speaker on our side, Mr. Speaker, so I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I urge my colleagues to support H.R. 2818, as amended, and, with that, I yield back.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with all the huffing and puffing, I am glad the minority ranking member supports the bill. Let me remind people what this bill is all about. It is about our veterans. It is about our veterans.

A DOD study after Vietnam found in fact that 15 percent of veterans with severe traumatic brain injury, TBI, developed epilepsy soon after their injury. We know how many TBI victims we have from Iraq and Afghanistan. So as more and more veterans move from DOD health care to the VA health care system, the VA must be prepared to treat TBI and epilepsy.

The Epilepsy Centers of Excellence in this bill by Mr. PERLMUTTER of Colorado would function as centers of research on the diagnosis, treatment and long-term effects of epilepsy. It gives the VA the tools to provide to veterans with epilepsy the quality of care that they deserve.

I join my ranking member in urging my colleagues to support H.R. 2818, as amended.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I would ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2818, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 2818, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: ''A bill to amend title 38, United States Code, to provide for the establishment of epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs.''.

A motion to reconsider was laid on the table.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. GEORGE MILLER of California. Mr. Speaker, I send to the desk a privileged concurrent resolution and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 379

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 26, 2008, or Friday, June 27, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, July 8, 2008, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, June 26, 2008, through Friday, July 4, 2008, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 7, 2008, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore (Mr. SHULER). The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCKEON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. GEORGE MILLER of California. Mr. Speaker, I request 5 legislative days during which Members may revise and extend their remarks and insert extraneous material on H.R. 5876 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

STOP CHILD ABUSE IN RESIDENTIAL PROGRAMS FOR TEENS ACT OF 2008

The SPEAKER pro tempore. Pursuant to House Resolution 1276 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 5876.

□ 1557

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 5876) to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes, with Ms. MCCOLLUM of Minnesota in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from California (Mr. GEORGE MILLER) and the gentleman from California (Mr. MCKEON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Madam Chairman, I yield myself such time as I may consume.

I rise today in strong support of H.R. 5876, the Stop Child Abuse in Residential Programs For Teens Act of 2008. Last year, a 17-year-old boy in a Maryland residential program for teens became unresponsive after he was physically restrained by staff members. According to the press reports, prosecutors alleged that the staff members waited 41 minutes to call 911 because they thought the boy was faking. The boy died. A 15-year-old boy in a wilderness camp in Colorado died in May 2007 from a staph infection. According to the press reports, State authorities said the boy showed observable signs of infection that were neglected by the camp staff members.

Tragically, these recent deaths are not isolated cases. The Government Accountability Office has thousands of cases and allegations of child abuse and neglect stretching back decades in teen residential programs, including boot camps, wilderness camps and therapeutic boarding schools.

The Education and Labor Committee has closely examined a number of these neglect and abuse cases, including cases that resulted in the death of a child. We have heard stories about program staff members forcing children to remain in so-called stress positions for hours at a time, to stand with bags over their heads and nooses around their necks in mock hangings, to eat foods to which they were allergic, even as they got sick, or to eat their own vomit. We have heard from parents of children who died preventible deaths at the hands of untrained, uncaring staff members.

□ 1600

Bob Bacon testified that program staff members mocked his son, Aaron, when the 16-year-old boy asked for medical help, calling him a faker. For weeks, the staff deprived Aaron of adequate food and water even though his weight loss became frighteningly apparent. When Bob and his wife Sally went to the mortuary to see their son, they found scars of abuse and dried skin stretched taut over Aaron's bones.

Cynthia Harvey told the Education and Labor Committee that program staff members waited 45 minutes before summoning appropriate medical care for her daughter, Erica, who had collapsed and was having difficulty breathing.

Paul Lewis testified that program staff members ignored his son Ryan's obvious signs of emotional distress, denying him psychiatric care that could have saved his life.

In addition to wrenching stories like these parents told, the Education and Labor Committee has also heard from adults who attended these programs as teens. They too were victims of physical and emotional abuse and witnessed other children being abused.

Madam Chairman, these abuses have been allowed to continue unchecked because of the weak patchwork of State and Federal regulations governing teen residential programs.

An exhaustive 18-month study by the Government Accountability Office showed that State licensing programs may exclude certain types of teen residential programs, and thus place children at higher risk of abuse and neglect. In some States, inconsistent licensing enables programs to define themselves out of the licensing altogether. According to the GAO, in Texas a program that calls itself a residential treatment center would be required to obtain a license; but if that same program were simply called a boarding school, it would not require a license. Even when licensing exists, GAO found that there may not be minimum standards to effectively prevent child abuse and neglect.

Parents often send their children to these programs when they feel they have exhausted all their alternatives. Their children may be abusing drugs or alcohol, attempting to run away—or physically harm themselves—or otherwise acting out. Parents turn to these programs because of the promise that staff members will help their children straighten their lives out. And surely there are many cases in which programs do provide families with the help they need. In far too many cases, however, the very people entrusted with the safety, health, and welfare of these children are the ones who violate the trust in some of the most awful ways imaginable.

We have learned a great deal from the Government Accountability Office about programs' irresponsible operating practices that put kids at risk and about the deceitful marketing practices that programs use to lure parents desperate for help for their children. The Government Accountability Office also found examples of the shady network that programs sometimes relied on, such as referral service providers that claim to offer independent services to parents but that actually have close financial or personal ties to the very programs that they are ''independently recommending.''

We know that there are many programs and people around the country who are committed to helping improve the lives of young people and who do good work every day. But, unfortunately, it has become extremely difficult for parents to tell the good programs from the bad. And I would remind you again that very often these parents seek nothing but the best for their children, children who are extremely difficult to handle, who have failed in other efforts and other programs to deal with their problems. So these parents have exhausted most of their options, and then they run into some of these programs which then endanger their child even though the parent is seeking the best for their child.

The legislation before us today, H.R. 5876, would help keep children safe in residential programs and help ensure that parents have information they need to make safer choices for their kids. The legislation requires the U.S. Department of Health and Human Services to establish minimum standards for private programs to enforce those standards.

With children's health and safety at risk, this Federal rule is a necessary recognition that we are dealing with an emergency and we cannot wait for the States to act. These abuses have been going on for years. States have had time to act and in many instances they have failed to do so.

Ultimately, however, States will be primarily responsible for carrying out the work of this bill. The legislation calls for States within 3 years to take up the role of setting standards and enforcing them on all programs, both public and private.

The Health and Human Services Administration and the State standards would include prohibitions on physical, sexual, and mental abuse of children. The standards would require that programs provide children with adequate food, water, and medical care. They would require that programs have plans in place to handle medical emergencies. They would also include new training requirements for program staff members, including training on how to identify and report child abuse.

The legislation requires Health and Human Services to set up a toll-free hotline for people to call to report abuse in these programs.

As you can see, Madam Chair, these are minimum requirements for the health and the safety of the children that have been placed in this care.

It also requires Health and Human Services to create a Web site with information about each program so that parents can look and see if substantiated cases of abuse have occurred at a program that they are considering for their children.

Finally, the legislation helps prevent programs from using deceptive marketing tactics to target parents. Among other things, it requires programs to disclose to parents the qualifications, roles, and responsibilities of all current staff members, and requires programs to notify parents of substantiated reports of child abuse or violations of health and safety laws.

The legislation has the strong support of the American Association of Residential Centers. One of the association board members, Dr. Christopher Bellonci, testified in support of the legislation earlier this year. He said, and I quote, ''The goal of this legislation is to ensure that children are not abused in these treatment settings, not to limit access to appropriate, regulated, and licensed residential care for children who are in need of these services. All of us working in licensed residential centers should support this goal.''

Madam Chairman, we have a responsibility to keep children safe no matter what setting they are in, and today we

are taking an important step towards finally ending the horrific abuses that have gone on far too long in residential programs for teens.

I want to thank Congresswoman MCCARTHY of our committee for her hard work on this legislation, and I want to thank Congressman MCKEON for his effort. And we will be offering a manager's amendment later that I think will help make this bill bipartisan and helps deal with some of the concerns that people had with the legislation. So I want to thank Congressman MCKEON and his staff.

I reserve the balance of my time.

Mr. MCKEON. Madam Chairman, I yield myself such time as I may consume.

We are here today to consider a bill that will help protect the thousands of young people enrolled in residential treatment facilities.

Although we don't know exactly how many such facilities exist, it is estimated that hundreds of them have been established all around the country. We will hear a lot about boot camps today, but there are a range of residential treatment programs, both public and private, ranging from wilderness therapy to boarding schools.

Many of these programs are successful, helping troubled teens overcome addiction, emotional struggles, and other challenges in order to turn their lives around. We are here today not because of the success stories, and there are many, but because of cases where these programs have harmed the young people they are meant to heal.

Over the last several years, the Government Accountability Office has been conducting a series of inquiries into reports of child abuse, neglect, and even death at residential treatment programs for teens.

Beginning last fall, the Education and Labor Committee heard testimony from the GAO on its findings. We also heard directly from victims of abuse and from the families of teens who lost their lives.

The stories we heard were devastating and the response was unequivocal: Someone needs to take responsibility for regulating and monitoring these programs and enforcing strong protections for the young people they enroll. However, even though we know the need to regulate these programs is clear, we are faced with many obstacles in determining the best approach.

The threshold challenge we face is to determine exactly what facilities we are talking about. Even the GAO, which has spent years investigating these programs, cannot offer a precise count or even an estimate of how many such programs exist and where they are located.

There is also the question of protecting against abuse while still allowing effective programs to serve families. As I mentioned earlier, in addition to stories of neglect and victimization, our inquiries into these programs also brought to light numerous success stories. We heard from young people who suffered from drug addiction, emotional and behavioral troubles, and other self-injuring behaviors. They credited residential treatment programs with turning their lives around.

Balancing these and other challenges, and after a process of review, analysis, and cooperation, I am pleased that we have developed a bipartisan proposal that will ensure the effective regulation, monitoring, and enforcement of these programs by the States, with the Federal Government playing an appropriate oversight role.

I appreciate Chairman MILLER's willingness to work with our side of the aisle throughout this process, and particularly over the last several days as we were able to forge a compromise that achieves our shared goal of protecting young people without creating the type of parallel and conflicting dual-regularity structure envisioned in the original bill.

As with any piece of legislation, this bill is not yet perfect. I remain concerned about potential conflicts between State child abuse laws and the new definitions and interpretations established here at the Federal level. I also think we need to consider whether linkages to the Child Abuse Prevention and Treatment Act will be sufficient to ensure States are fulfilling their duties to protect the young people in these programs. But on the whole, I am pleased with the progress we have made to develop a strong bipartisan bill that will help put an end to the cases of abuse, neglect, and death in these facilities.

Madam Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Madam Chairman, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. I thank the chairman for yielding and I thank him and I thank the ranking member as well for a bill that is, I think, very important to the country.

This is a matter of State regulation and will remain and should remain a matter of State regulation. But the fact is that there are many jurisdictions like my own which, because of the nature of the mental or the emotional or the behavioral problem of a particular child and the attempt to match that with the child's needs, may be required to send the child out of State. That is more likely to be the case if you are in a city, a medium-sized city like the District of Columbia which of course, does not have State facilities, but it is true of every State. We have learned of instances where I think even with the best efforts of the city, and the city has been to blame some of the time, there would have been very little that the city could have done unless there was a monitor on the spot. And understand, it costs hundreds of millions of dollars to send these children out of State. This is very expensive to do, but you do it for a young child, in the hope that you can help this child and bring this child back.

We had a situation recently, Madam Chair, where the city was sued, this city, the District of Columbia was sued for a hefty amount because the city had sent a child to a clinic in Pennsylvania and the child was raped by a very trusted counselor.

Now, perhaps the city should have been sued, so I am certainly not here to say whose fault it was, and I know nothing of the regulations of the State of Pennsylvania. I do know this: That if there are not minimum standards across these United States, no city or jurisdiction which sends children to another jurisdiction can be confident that every day, everything is going to happen as expected.

There is a monitor of child welfare matters in the District of Columbia, and she recently reported that, for example, that some District children that were being treated in Florida like ''garbage.'' And the only way the District of Columbia knew was they read it in the newspapers. Now, what were they supposed to do, have somebody down there looking every day at what they were doing? Perhaps it was their fault. But we do not know if there were standards, such as the chairman and the committee have proposed here.

We just had to take some children out of something called ''therapeutic restraint,'' Madam Chair, after we found that the children's arms had been broken as a part of this therapeutic restraint. Excuse me, spare me this therapy.

In this city, at least, we send hundreds upon hundreds of children to such schools around the country. It costs the District of Columbia $210 million a year. If you are in a larger State, this child may go within the State. Even so, there are large numbers who don't go within the State.

I want to thank the chairman for simply creating standards, and by the way, standards that will apply to the public sector and not only the private sector. There is no private right of action given by this bill. I particularly like the random inspections, because you never know if they are going to look at you.

□ 1615

Mr. GEORGE MILLER of California. I yield the gentlewoman 1 additional minute.

Ms. NORTON. Madam Chairman, I like the commonsense, low-cost approach here because we obviously are not trying to duplicate what they do in the States. The random inspections will say to you, you never know if they are going to come to get you, and there are States that don't do such inspections. The fact that we are not talking about suing you, these people know how to get lawyers to sue under the appropriate circumstances.

In any case, we don't want to do something after the fact. We want to

be assured if we have to send our children to another jurisdiction, that all will be well to the greatest extent possible. This bill, which covers the entire country, will, I think, restore the confidence of many parents that in fact at least the Congress has done all it can.

I thank the chair and the ranking member and the committee again for this important bill.

Mr. MCKEON. Madam Chairman, I yield 4 minutes to the gentleman from Utah (Mr. BISHOP), a member of the committee.

Mr. BISHOP of Utah. Madam Chairman, first of all, I wish to thank the two gentlemen from California, Mr. MCKEON and as much as I hate to, Mr. MILLER as well, for continuing to work on this particular bill. To say that this bill that is before us today is vastly better than the one that came out of the committee is definitely one of the understatements of the century, and so I appreciate their efforts to continue to try to make improvements on this particular bill.

I still have some problems. You know, this is the era of the NBA draft, and every team that's involved in the NBA draft is going through all of the data. They are going through all the pictures, they are going through the reviews, and they are checking the schedules of all the players. Not one of them is basing their decisions on a couple of comments in the yearbook written in the high school year of one of the kids.

Unfortunately, this bill is based upon a GAO report that is spotty at best which dealt with anecdotal evidence, several deaths of teens that were reported in this program. My office received a very emotional call from one of those who was cited, one of the programs that was cited, saying that the death had been found to be an accident, but GAO had never asked them about it. In fact, the GAO investigator admitted the eight anecdotal cases that were brought before us, only one resulted in any kind of criminal activity which simply meant either these problems were dealt with in a professional way or the legal system failed us miserably.

The GAO investigator admitted not knowing how many problems existed and the depth of the problem, if there was any, because no official study had been done on those particular areas.

Instead, perceptions were made on these particular programs which are designed to help troubled youth, youth in difficult situations to begin with.

One of the studies I did see indicated that in a study that was done, wilderness programs like this designed for troubled kids estimate about 1.1 injuries of all kinds per 1,000 days of participation. High school football camps have 19.7 injuries per 1,000 days of participation. In fact, even average kids living at home who have a driver's license are estimated at 4.5 accidents per 1,000 days.

We are dealing with a situation here which is more anecdotal than actual, and we are still coming up with a bill, much better than what we had in committee, but still has a few problems. Subsection (J) still insists on a sex offender registry that is yet to be up and running. Subsection (M) deals with parental requirements in which the parent is supposed to give information yet there is no enforcement mechanism to ensure the parent actually gives that particular recommendation. So there is still work that needs to be done on this.

Perhaps I can end with a quote from a parent whose daughter was actually in the same program as one of those who testified in front of the committee in which she said: Improvements can only happen when they are based on reality rather than generalizations and politics.

The reality is that there are three basic approaches to residential placement of youth, and each has its own strengths and weaknesses and a different route to improve each. First, there are juvenile justice institutions; second, treatment facilities including psychiatric hospitals and residential treatment centers; and the third general type are those that we refer to as parental-choice schools and programs.

We can and need to do better, but a solution will come about from reasoned discussions and step-by-step improvements that address the real problems in each type of approach. I am dubious that the Federal Government has the ability to improve the situation. This is partly based on what I have seen in the committee hearings where the emphasis was on wringing political condemnations, blurring boundaries and appealing to ideology and biases, and partly because of chronic problems existing in the current public-funded and controlled programs.

In short, this is an approach in which the States, especially my State, are actually solving the problem in a better way right now. We do not need the Federal Government to be involved in this particular program.

The CHAIRMAN. The gentleman's time has expired.

Mr. MCKEON. I yield the gentleman an additional minute.

Mr. BISHOP of Utah. I am told that one of the quirks of the system we have right now is in the State of California. Anyone who is age 14 or older can check him or herself out of a situation or a program, which may be one of the reasons why programs in other parts of the country have almost 30 percent of their residents in these parent-type choice programs coming from the State of California. Maybe in the future we should work on how California deals with the situation internally instead of having a one-size-fits-all program here when the States are close to the problem and actually have stepped up to the plate and are doing a better job in trying to emphasize and control these programs than anything that we can do here on the Federal level.

With that, once again I thank the chairman and the ranking member for improving this bill from where it was.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

(Mr. MCDERMOTT asked and was given permission to revise and extend his remarks.)

Mr. MCDERMOTT. Madam Chairman, as a child psychiatrist, I have seen lots of these kids. I have seen them both in detention centers and in mental health facilities and in a variety of settings in which youngsters with really severe problems, people try to handle them. And it is with that in mind, that is why I rise in strong support of H.R. 5876, the Stop Child Abuse in Residential Programs For Teens Act of 2008.

It was introduced by my friend, GEORGE MILLER, and I am proud to be a cosponsor of what is a very important piece of legislation that will help protect America's kids.

In answer to the remarks of one of my colleagues just a moment ago about whether or not maybe we ought to let California deal with their problems, this is a problem nationwide. This is not a California problem. There are parents all over this country who have severely disturbed youngsters who try to find a place to place a kid in hopes that the program that is offered will in some way help their child get back on the track to being a successful adult. There are thousands of these youngsters every year that look for a place, some in their States, some outside their State. Parents know what they know. They may not know what the rules are in various States, and in some ways it is almost inevitable something like this, because of the transfer across State lines, that we have a national standard by which we require programs to operate.

They go to these programs for help in facing behavior and emotional problems, substance abuse and sometimes elements of building self-confidence that are known as bootstrap programs or wilderness camps or self-help boarding schools, and they operate across the country.

Now the teenagers who come into these programs receive help.

The CHAIRMAN. The gentleman's time has expired.

Mr. GEORGE MILLER of California. I yield 1 additional minute.

Mr. MCDERMOTT. But tragically, Madam Chairman, they sometimes become the victims of child abuse and neglect. And you have heard about the GAO study, and I think there are plenty of examples about why this is necessary.

The bill would stop any program from restraining kids for any reason other than safety. It would stop a program from withholding essential food and water, clothing and shelter. It would mandate education and training for workers. It would require operators to disclose everything from the roles and responsibilities of their employees to confirmed cases of abuse.

Now to ensure compliance, the department will be empowered to carry out unannounced inspections and enforcement. And above all, this bill places the safety and well-being of the child above marketing hype and unscrupulous operators. In some cases, people have closed a program in one State and moved to another State. These programs that truly help children with a positive, uplifting experience will only benefit from this legislation.

There is no place in America for a program that hurts kids who are there trying to get help. This is not a bootstrap program, it is a dangerous program that should be changed or shut down, and I urge my colleagues to support this.

To allow children who are unable to control their own emotions and their own well-being to be in the hands of people who aren't thinking about them from their safety first is really a misguided program, and this bill will correct that.

Mr. MCKEON. Madam Chairman, I yield 3 minutes to the gentleman from Idaho (Mr. SALI).

Mr. SALI. Madam Chairman, child abuse is a horrendous evil. Such abuse is reported on an average of every 10 seconds in the United States. And three children die every day in our country as a result of abuse. Any abuse in residential treatment programs is an incredible travesty.

While fighting child abuse poses a tremendous challenge for us to overcome, this bill is not the answer. The manager's amendment makes great progress in improving the bill, yet there remain provisions that are simply unconscionable for those who respect the system of Federalism long established in our Nation. H.R. 5876 represents a dramatic expansion of the Federal oversight role in really an unprecedented area. Most States already have systems in place to check the abuse that this legislation would supposedly address. Yet this legislation would trump those systems. This bill provides a one-size-fits-all mandate for residential treatment facilities, inflexible to the needs of actual children and unresponsive to the local challenges faced by such youth treatment programs.

Residential treatment programs have had a great impact on youth in my district in Idaho. For instance, Cherry Gulch is a small, owner-operated treatment facility located on 220 acres of pristine land near Boise, Idaho. The ranch-style therapeutic boarding school is designed specifically for 10- to 14-year-old boys, and has made an incredible difference in the lives of the youth who have participated in those programs. Yet directors of these facilities have expressed grave concerns to me that their needs will not be met by H.R. 5876.

For instance, as one treatment program director pointed out, in a State like Idaho where usage of drugs like methamphetamine has exploded, giving every child the undefined right to so-called ''reasonable'' access to a telephone creates direct and unreasonable risks. Why allow youth the opportunity to contact drug dealers when the entire point of being put in such a facility is to overcome their addictions?

There is kind of political hubris to this approach. The attitude of this bill is that we here on Capitol Hill know better than people in our home States how to address the needs of abused children. I find that stunning. I would invite any of my colleagues to go back to their districts and talk with the people who day in and day out work to bring hope and healing to children victimized by abuse. I believe they will find it, as I have, quite humbling. We don't have all of the answers in Washington, D.C., and we certainly would be wrong to impose a top-down system of Federal management on States and localities.

Overall, I am certain that we can agree that it is important that children in residential treatment programs be protected. However, I do not believe that another Federal intrusion into the affairs of all 50 States is the answer.

In Federalist No. 8, James Madison warned of the dangers of creeping Federal powers over the States. In his words: ''Ambitious encroachments of the Federal Government on the authority of the State governments would be signals of great alarm.''

The CHAIRMAN. The gentleman's time has expired.

Mr. MCKEON. I yield the gentleman an additional 1 minute.

Mr. SALI. When the Father of the Constitution issues such a warning, we should listen closely. Even more importantly, the Constitution of the United States says in the 10th amendment: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved for the States respectively, or to the people.''

In 1941, the New Deal Supreme Court, in Darby v. United States, commented that this amendment is mere ''truism.'' Many of us here in this body would challenge that assertion. The authority of the States and their right to govern their own affairs is not a trite and archaic remark but an essential aspect of our Federal system. We diminish it to the peril of our system of Federalism which has been vital to our freedom as a Nation.

H.R. 5876 is not a solution looking for a problem, but it is a solution that I will submit solves fewer problems than it will create.

□ 1630

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. MCDERMOTT) assumed the chair.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

STOP CHILD ABUSE IN RESIDENTIAL PROGRAMS FOR TEENS ACT OF 2008

The Committee resumed its sitting.

Mr. GEORGE MILLER of California. Madam Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MCCARTHY) who's been very, very involved in the drafting of this legislation and also in other matters before our committee to keep children safe in whatever setting they're in.

Mrs. MCCARTHY of New York. Madam Chairman, I want to start by saying congratulations to Chairman MILLER on this important day and thank him for his strong leadership over the many years that this has been an issue for him.

I also want to thank Chairman MILLER and the committee staff for working with me on this important legislation. When we started working on this issue in the committee, I became outraged over the testimony we heard. You see, children are dying.

I cannot forget the testimony of Bob Bacon, father of Aaron Bacon. Bob and his wife Sally were seeking the best alternative for their son, Aaron, who was struggling. They talked with therapists, counselors, pastors, and doctors, and were referred by friends to a particular program. They read, and I quote, in their very compelling brochure, spoke with the office on the phone, and met with the owners for a personal interview and chose this particular program for their son. They felt that the owners were caring people who had experience in counseling kids who were struggling with drugs and peer pressure.

He continued on in his testimony to our committee: ''Of course, being normal, trusting, and honest people ourselves, we assumed we were being told the truth.'' They were not.

I will never forget the pain in the father's eyes when he told us that he regretted being talked into using the program's escort service, and here is why: At 5 a.m., Bob's son, Aaron, was taken from his bed under the threat of physical force if he resisted. Aaron was not permitted to speak to Bob or Sally, his mother, or father. His parents managed to hug him and tell him that it was for the best. The van backed out of the driveway, and Bob told us the pleading eyes of his son which begged them not to send him away haunt them today. They never spoke again.

Aaron died in the wilderness with the program's staff claiming he was faking the entire time. Aaron begged to be seen by a doctor. The criminal investigation illuminated 21 days, 21 days of physical and psychological abuse and neglect that Aaron experienced. There is no excuse for this.

This and many other stories are the cause of my outrage, and we should all

be outraged. There were many stories and testimony from parents that came to our committee and talked to us, but here is the bottom line. There are some good residential programs out there that are for the treatment of our young people that have problems. But the majority, I have to say, they go from State to State to State. When they close down in one State, they open up in another State, and they use their same abusive practices.

This is America. These are our most vulnerable children. And yes, as far as I'm concerned, it is a Federal duty to protect these children because these camps do go from State to State. And we should at least be able to give the parents the tools that they need to make sure that their children are getting the treatment and the care that they were promised.

I hope that this bill passes. I hope that those in Congress understand because only because we never know if that's going to happen to one of our children in our families or our grandchildren, and we want to make sure that we have the information that is out there to make sure that our children get the treatment that they need.

Chairman MILLER, I thank you for bringing this forward. I hope this goes forward. I hope we can protect the children of this country. I hope that we can set standards for the many camps around this country that unfortunately do not do what they say to help the children.

Mr. MCKEON. Madam Chairman, I yield 3 minutes no the gentleman from Pennsylvania (Mr. TIM MURPHY).

Mr. TIM MURPHY of Pennsylvania. Madam Chairman, I thank the gentleman from California for yielding, and I thank the House for taking up this important bill.

In my 25-plus years of practicing as a child psychologist, I have treated many of the types of children that we're talking about today: young men and women, young boys and girls, who oftentimes characteristically really have reached the point in living with their family where the family has lost all ability to control these children.

As one group of parents told me when I was working them once in a group, the mother said, You know, it's like walking on eggshells when you're around my son. Another mother said, No, it's like walking on glass. You have to be so careful. You never know when you're going to have harm.

And so it is. I know so many of them move me so much when I wrote my book about these children called ''The Angry Child.'' I recognized what many of their characteristics are: They have difficulty solving problems; they tend to blame other people for their problems; their primary emotional reaction to difficulty is anger; they believe that anger is a source of power for them, and they have a great deal of destructive self-talk. It is so very, very difficult to change these children.

And thus it is important that we have residential treatment programs available as an option because these parents have certainly gone through the whole gamut of possible treatment options through psychotherapy, counseling, sometimes hospitalizations, medication, et cetera. And they're so moved by their love and affection and hope for their child they're willing to try anything. But we have to make sure that ''anything'' does not involve situations that can lead to more harm and abuse.

One of the reasons this bill is so important is because parents have to know at a time when they feel they can no longer trust their child to control themselves and they no longer can trust their own ability to parent, they have to trust someone. And sound, residential treatment programs that are there with proper staff properly trained in therapy, not there to physically abuse or harm the child, of which a majority of these programs are good programs, but parents have to know there is something they can trust.

It is so terribly, terribly heartbreaking to work with these families and work with these children and know that they have destroyed a family. Their threats of violence, the risk for drug and alcohol abuse, their attacking other children, all just on this side of law so they don't end up in jail.

Parents are desperately trying to help them. I'm pleased this legislation is taking some steps to help restore some sense of trust for parents to know that the child can get some treatment to know the risks of harm are eliminated for them.

But still we have to recognize we must keep options open for these families who no longer know how to handle their very, very angry and difficult child.

Mr. GEORGE MILLER of California. Madam Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. I thank our distinguished chairman.

Madam Chairman, I rise in support of the manager's amendment to the Stop Child Abuse in Residential Programs for Teens Act.

I want to begin by thanking our distinguished Chairman MILLER and his wonderful staff, as well as the ranking member and his outstanding staff, for putting together this bipartisan bill and for working with me to incorporate two provisions into this manager's amendment that will strengthen accountability measures in the bill.

Specifically, my provisions direct programs such as these to notify parents of any reports of abuse as soon as possible but absolutely no later than 48 hours after the incident.

Parents have the right to know when their child is in danger, and this amendment ensures that parents are informed expeditiously of any reports of child abuse or neglect. This amendment would also strengthen accountability in this way: The bill creates a publicly searchable Web site that will contain information on these facilities such as death, reports of abuse, and violations of safety standards. My provisions require the Web site to disclose the cause of death.

This will help parents to make informed decisions about which residential facilities are safely caring for children as well as which have poor records on incidents of abuse and/or death.

It is a terrifying yet documented fact that such severe abuse occurs in these programs. The Government Accountability Office reports that precipitated this bill found that more than 1,600 cases of alleged abuse in 33 States occurred in 2005 alone. These alarming occurrences of cruelty and neglect must end, and this bill will establish new national safety standards and guidelines for private therapy facilities to reduce, if not eliminate, these incidents.

Again, I would like to thank Chairman MILLER and his outstanding staff for all of his help in including my thoughts on this measure. I thank again the ranking member and his staff for making this a very important bipartisan measure that deserves the support of all of our colleagues.

Mr. MCKEON. Madam Chairman, I reserve my time.

Mr. GEORGE MILLER of California. If the Chair might advise us of how much time we have remaining.

The CHAIRMAN. The gentleman from California (Mr. GEORGE MILLER) has 9 minutes. The gentleman from California (Mr. MCKEON) has 14 minutes.

Mr. GEORGE MILLER of California. If the gentleman has no further speakers, I would be happy to yield back the general debate time.

Mr. MCKEON. Madam Chairman, I yield myself the balance of my time.

I plan to support passage of H.R. 5876 today not because it's perfect but because Members on both sides of the aisle have acted in good faith to develop a package of reform that will help to protect the young people enrolled in residential treatment facilities.

I thank Chairman MILLER. I think that he knows that this is not the bill I would have written, and some concerns do remain, but he's made compromises and I have made compromises, and together we're working to develop a seamless system of oversight to ensure the teens in these programs, some of our most vulnerable young people, will be kept safe. I plan to continue working with the chairman in the coming months to improve the bill, avert unintended consequences, and ultimately achieve our goal of putting an end to the stories of abuse, neglect, and even death that have put a black mark on some of these programs.

I look forward to working more closely with the programs themselves as this legislation moves forward. I believe there are best practices out there that can be identified and replicated, and I take the expertise of these programs will be invaluable as we develop

programs that do not undercut their ability to treat troubled youth.

I'm also eager to work more closely with the States, some of whom are doing an excellent job of licensing and regulating these programs. Unfortunately, not all States are rising to the task, which is what this bill hopes to change.

So let me close by simply thanking Chairman MILLER by shining a spotlight on this issue and offering my assurances that I will continue to work with you to stop child abuse in residential programs for teens.

I yield back the balance of my time.

Mr. GEORGE MILLER of California. I want to thank the gentleman from California (Mr. MCKEON) for all of his assistance, for his remarks, and we all recognize that this is a bill that is a work in progress. I think certainly at this stage we have it about right, but we will continue those discussions. Again, I thank him for his assistance.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today in strong support of H.R. 5876, ''Stop the Child Abuse in Residential Programs for Teens.'' I would like to thank my colleagues on the Committee on Education and Labor for bringing this very important legislation to the floor.

On Capitol Hill we often debate matters that can address varying viewpoints. I believe that this legislation can only be looked at from two angles—right and wrong.

They are everybody's children, and nobody's children. They are the forgotten children in the Texas foster care and residential care system. Black, White, Hispanic, and Asian—they all need the love of a mother, the nurturing of a family, and the support of their community. Some of them find homes with caring foster parents or in treatment centers with experienced and caring providers. And some do not.

This legislation allows us to keep our children safe with:

New national standards for private and public residential programs—

Prohibit programs from physically, mentally, or sexually abusing children in their care;

Prohibit programs from denying children essential water, food, clothing, shelter, or medical care—whether as a form of punishment or for any other reason;

Require that programs only physically restrain children if it is necessary for their safety or the safety of others, and to do so in a way that is consistent with existing federal law on the use of restraints;

Require programs to provide children with reasonable access to a telephone and inform children of their right to use the phone;

Require programs to train staff in understanding what constitutes child abuse and neglect and how to report it; and

Require programs to have plans in place to provide emergency medical care.

Prevent deceptive marketing by residential programs for teens—

Require programs to disclose to parents the qualifications, roles, and responsibilities of all current staff members;

Require programs to notify parents of substantiated reports of child abuse or violations of health and safety laws; and

Require programs to include a link or web address for the website of the U.S. Department of Health and Human Services, which will carry information on residential programs.

Hold teen residential programs accountable for violating the law—

Require states to inform the U.S. Department of Health and Human Services of reports of child abuse and neglect at covered programs and require HHS to conduct investigations of such programs to determine if a violation of the national standards has occurred; and

Give HHS the authority to assess civil penalties of up to $50,000 against programs for every violation of the law.

Ask States to step in to protect teens in residential programs—

Three years after enactment, the legislation would provide certain Federal grant money to States only if they development their own licensing standards, that are at least strong as national standards, for public and private residential programs for teens and implement a monitoring and enforcement system, including conducting unannounced site inspections of all programs at least once every 2 years. The Department of Health and Human Services would continue to inspect programs where a child fatality has occurred or where a pattern of violations has emerged.

This legislation seeks to protect the unprotected—our children—from abuse, neglect and exploitation. Many of these children are not safe, and their futures are uncertain. The groups serving children and adolescents with mental health or substance use conditions need better regulation. The youth boot camps and other ''alternative placement facilities'' should be forced to provide greater transparency as to the policies and practices of their programs.

This legislation is a welcomed and needed response to numerous studies documenting the ineffectiveness of these programs and, in several instances, the tragic deaths as a result of child abuse and neglect as reported by the GAO in October 2007. Too many families struggle mightily in nearly every state to find placements, when appropriate, for their children that will address their complex mental health needs.

These facilities flourish, in part, because parents lack the necessary information about the operation and practices of these programs. The promise of help cannot be allowed to obscure the fact that these kinds of program are not science-based and have not been forthcoming about the incidence of neglect or abuse.

This addresses the challenges facing many families. It seeks relief from these risks by (1) establishing standards for these programs that are consistent with current child protection laws; (2) ensuring that personnel is qualified; (3) shifting these programs to be family-centered, as well as culturally and developmentally appropriate; (4) creating mechanisms for the monitoring and enforcement of these goals; (5) calling for greater transparency and accessibility to the compliance of these standards; and (6) providing grants to states for the prevention of child abuse and neglect and for the treatment of children's mental health or substance use conditions.

Additionally, the annual report to Congress is an effective tool in ensuring that these critical issues emerge from the shadows and see the light of day. I share the vision and commitment of Chairman MILLER and the Education and Labor Committee in protecting our youth from such predators.

I urge my colleagues to vote for our children, vote for our families, and vote for H.R. 5876.

Mr. DAVIS of Illinois. Madam Chairman, I rise today to emphasize the need for standards and enforcement provisions that prevent and respond to allegations of child abuse and neglect at residential treatment facilities. These facilities include both public and private programs that serve teens with emotional, behavioral, and mental health problems; wilderness camps, boot camps, therapeutic boarding schools, and behavior modification facilities are all programs that serve this purpose. The Stop Child Abuse in Residential Programs for Teens Act, H.R. 5876, would require accountability and transparency from these programs. I strongly support this bill, which would help protect these vulnerable teens entrusted to their care.

Residential programs are meant to provide help and support to teenagers. However, in October 2007, the Government Accountability Office found numerous allegations of abuse, some of which led to death, connected to these programs between 1990 and 2007. Accounts of physical and sexual abuse have been publicized, although with difficulty given that these programs are not accountable to a Federal agency or other entity. It is unacceptable for Government to facilitate this secrecy. Parents trust that residential facilities will keep their child safe and care for their children properly; however, it is often found that this is not the case. I am proud that we are taking steps to implement Federal guidelines for treatment and care for these vulnerable youth.

H.R. 5876 works to end this abuse by enforcing national standards that provide for the basic health and safety of children, along with disseminating information about programs that will help ensure compliance. The bill requires States to inform the Department of Health and Human Services of incidences of child abuse, neglect, and fatalities at covered programs; it also requires HHS to investigate any allegations and will be authorized to financially penalize programs for these offenses. A Web site will summarize information on programs and any problems they have had, including whether the problems occurred under the same management but different program names. In addition, there will be a toll-free hotline to report child abuse and neglect at covered programs. I encourage Congress to fully support H.R. 5876 and, in turn, support the teens that it has been created to protect.

Mr. MATHESON, Madam Chairman, during my 8 years representing Utah's Second District, I have always worked to protect children. The press reports of abuse, neglect, and tragic deaths in some residential therapy programs for youth are very concerning to me. Over the years, many treatment centers have been established across the Nation, including in my home State of Utah. As a result, Utah has worked hard to license and regulate residential treatment programs over the past several years and my State meets many of the standards set forth in the legislation before us. It is my understanding that some States have not developed stringent requirements and that leads to a patchwork of regulations where kids can fall through the cracks.

I'd like to thank Chairman MILLER for working with me to include language in the manager's amendment requesting that HHS study

the outcomes of individuals in these types of programs through a longitudinal study. I feel this data is extremely useful to better understand the outcomes of individuals in these programs and the progress made towards the goals of the treatment programs to fully rehabilitate troubled youth and teens. I want to thank the chairman and ranking member of the committee for their leadership and efforts to establish a more standardized process for overseeing residential treatment centers for children. I believe a uniform set of standards makes sense, especially when it comes to meeting the needs of the most troubled children and their families. Those centers that service families well should not fear uniform standards because they will naturally comply. However, those who say the standards are burdensome fail to recognize that we all must perform at the highest possible standard to ensure the safety of all children. These measures seek to support good actors and encourage those who are not to become so.

Mr. GEORGE MILLER of Califonia. I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment is as follows:

H.R. 5876

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 ''Stop Child Abuse in Residential Programs for Teens Act of 2008''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ASSISTANT SECRETARY.—The term ''Assistant Secretary'' means the Assistant Secretary for Children and Families of the Department of Health and Human Services.

(2) CHILD.—The term ''child'' means an individual who has not attained the age of 18.

(3) CHILD ABUSE AND NEGLECT.—The term ''child abuse and neglect'' has the meaning given such term in section 111 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106g).

(4) COVERED PROGRAM.—

(A) IN GENERAL.—The term ''covered program'' means each location of a program not operated by a governmental entity that, with respect to one or more children who are unrelated to the owner or operator of the program—

(i) provides a residential environment, such as—

(I) a program with a wilderness or outdoor experience, expedition, or intervention;

(II) a boot camp experience or other experience designed to simulate characteristics of basic military training or correctional regimes;

(III) a therapeutic boarding school; or

(IV) a behavioral modification program; and

(ii) operates with a focus on serving children with—

(I) emotional, behavioral, or mental health problems or disorders; or

(II) problems with alcohol or substance abuse.

(B) EXCLUSION.—The term ''covered program'' does not include—

(i) a hospital licensed by the State;

(ii) a foster family home or group home that provides 24-hour substitute care for children place away from their parents or guardians and for whom the State child welfare services agency has placement and care responsibility and that is licensed and regulated by the State as a foster family home or group home; or

(iii) a psychiatric residential treatment facility that is certified as meeting the requirements specified in regulations promulgated for such facilities under section 1905(h)(1)(A) of the Social Security Act and that provides psychiatric services for which medical assistance is available under a State plan under title XIX of such Act.

(5) PROTECTION AND ADVOCACY SYSTEM.—The term ''protection and advocacy system'' means a protection and advocacy system established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

(6) STATE.—The term ''State'' has the meaning given such term in section 111 of the Child Abuse Prevention and Treatment Act.

SEC. 3. STANDARDS AND ENFORCEMENT.

(a) MINIMUM STANDARDS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary for Children and Families of the Department of Health and Human Services shall require each location of a covered program that individually or together with other locations has an effect on interstate commerce, in order to provide for the basic health and safety of children at such a program, to meet the following minimum standards:

(A) Child abuse and neglect shall be prohibited.

(B) Disciplinary techniques or other practices that involve the withholding of essential food, water, clothing, shelter, or medical care necessary to maintain physical health, mental health, and general safety, shall be prohibited.

(C) The protection and promotion of the right of each child at such a program to be free from physical and mechanical restraints and seclusion (as such terms are defined in section 595 of the Public Health Service Act (42 U.S.C. 290jj)) to the same extent and in the same manner as a non-medical, community-based facility for children and youth is required to protect and promote the right of its residents to be free from such restraints and seclusion under such section 595, including the prohibitions and limitations described in subsection (b)(3) of such section.

(D) Acts of physical or mental abuse designed to humiliate, degrade, or undermine a child's self-respect shall be prohibited.

(E) Each child at such a program shall have reasonable access to a telephone, and be informed of their right to such access, for making and receiving phone calls with as much privacy as possible, and shall have access to the appropriate State or local child abuse reporting hotline number, and the national hotline number referred to in subsection (c)(2).

(F) Each staff member, including volunteers, at such a program shall be required, as a condition of employment, to become familiar with what constitutes child abuse and neglect, as defined by State law.

(G) Each staff member, including volunteers, at such a program shall be required, as a condition of employment, to become familiar with the requirements, including with State law relating to mandated reporters, and procedures for reporting child abuse and neglect in the State in which such a program is located.

(H) Full disclosure, in writing, of staff qualifications and their roles and responsibilities at such program, including medical, emergency response, and mental health training, to parents or legal guardians of children at such a program, including providing information on any staff changes, including changes to any staff member's qualifications, roles, or responsibilities, not later than 10 days after such changes occur.

(I) Each staff member at a covered program described in subclause (I) or (II) of section 2(4)(A)(i) shall be required, as a condition of employment, to be familiar with the signs, symptoms, and appropriate responses associated with heatstroke, dehydration, and hypothermia.

(J) Each staff member, including volunteers, shall be required, as a condition of employment, to submit to a criminal history check, including a name-based search of the National Sex Offender Registry established pursuant to the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248; 42 U.S.C. 16901 et seq.), a search of the State criminal registry or repository in the State in which the covered program is operating, and a Federal Bureau of Investigation fingerprint check. An individual shall be ineligible to serve in a position with any contact with children at a covered program if any such record check reveals a felony conviction for child abuse or neglect, spousal abuse, a crime against children (including child pornography), or a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.

(K) Policies and procedures for the provision of emergency medical care, including policies for staff protocols for implementing emergency responses.

(L) All promotional and informational materials produced by such a program shall include a hyperlink to or the URL address of the website created by the Assistant Secretary pursuant to subsection (c)(1)(A).

(M) Policies to require parents or legal guardians of a child attending such a program—

(i) to notify, in writing, such program of any medication the child is taking;

(ii) to be notified within 24 hours of any changes to the child's medical treatment and the reason for such change; and

(iii) to be notified within 24 hours of any missed dosage of prescribed medication.

(N) Procedures for notifying parents or legal guardians with children at such a program of any—

(i) on-site investigation of a report of child abuse and neglect;

(ii) violation of the health and safety standards described in this paragraph; and

(iii) violation of State licensing standards developed pursuant to section 114(b)(1) of the Child Abuse Prevention and Treatment Act, as added by section 8 of this Act.

(O) Other standards the Assistant Secretary determines appropriate to provide for the basic health and safety of children at such a program.

(2) REGULATIONS.—

(A) INTERIM REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall promulgate and enforce interim regulations to carry out paragraph (1).

(B) PUBLIC COMMENT.—The Assistant Secretary shall, for a 90-day period beginning on the date of the promulgation of interim regulations under subparagraph (A) of this paragraph, solicit and accept public comment concerning such regulations. Such public comment shall be submitted in written form.

(C) FINAL REGULATIONS.—Not later than 90 days after the conclusion of the 90-day period referred to in subparagraph (B) of this paragraph, the Assistant Secretary shall promulgate and enforce final regulations to carry out paragraph (1).

(b) MONITORING AND ENFORCEMENT.—

(1) INSPECTIONS.—The Assistant Secretary shall establish a process for conducting unannounced site inspections of each location of a covered program to determine compliance with the standards required under subsection (a)(1). Such inspections shall—

(A) begin not later than the date on which the Assistant Secretary promulgates interim regulations under subsection (a)(2)(A); and

(B) be conducted at each location of each covered program not less often than once every two years, until such time as the Assistant Secretary has determined a State has appropriate health

and safety licensing requirements, monitoring, and enforcement of covered programs in such State, as determined in accordance with section 114(c) of the Child Abuse Prevention and Treatment Act, as added by section 8 of this Act.

(2) ON-GOING REVIEW PROCESS.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall implement an on-going review process for investigating and evaluating reports of child abuse and neglect at covered programs received by the Assistant Secretary from the appropriate State, in accordance with section 114(b)(3) of the Child Abuse Prevention and Treatment Act, as added by section 8 of this Act. Such review process shall—

(A) include an investigation to determine if a violation of the standards required under subsection (a)(1) has occurred;

(B) include an assessment of the State's performance with respect to appropriateness of response to and investigation of reports of child abuse and neglect at covered programs and appropriateness of legal action against responsible parties in such cases;

(C) be completed not later than 60 days after receipt by the Assistant Secretary of such a report;

(D) not interfere with an investigation by the State or a subdivision thereof; and

(E) be implemented in each State in which a covered program operates until such time as each such State has satisfied the requirements under section 114(c) of the Child Abuse Prevention and Treatment Act, as added by section 8 of this Act, as determined by the Assistant Secretary, or two years has elapsed from the date that such review process is implemented, whichever is later.

(3) CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary shall promulgate regulations establishing civil penalties for violations of the standards required under subsection (a)(1). The regulations establishing such penalties shall incorporate the following:

(A) Any owner or operator of a covered program at which the Assistant Secretary has found a violation of the standards required under subsection (a)(1) may be assessed a civil penalty not to exceed $50,000 per violation.

(B) All penalties collected under this subsection shall be deposited in the appropriate account of the Treasury of the United States.

(c) DISSEMINATION OF INFORMATION.—The Assistant Secretary shall establish, maintain, and disseminate information about the following:

(1) Websites made available to the public that contains, at a minimum, the following:

(A) The name and each location of each covered program, and the name of each owner and operator of each such program, operating in each State, and information regarding—

(i) each such program's history of violations of—

(I) regulations promulgated pursuant to subsection (a); and

(II) section 114(b)(1) of the Child Abuse Prevention and Treatment Act, as added by section 8 of this Act;

(ii) each such program's current status with the State licensing requirements under section 114(b)(1) of the Child Abuse Prevention and Treatment Act, as added by section 8 of this Act;

(iii) any deaths that occurred to a child while under the care of such a program, including any such deaths that occurred in the five year period immediately preceding the date of the enactment of this Act;

(iv) owners or operators of a covered program that was found to be in violation of the standards required under subsection (a)(1), or a violation of the licensing standards developed pursuant to section 114(b)(1) of the Child Abuse Prevention and Treatment Act, as added by section 8 of this Act, and who subsequently own or operate another covered program; and

(v) any penalties levied under subsection (b)(3), any judgments or orders issued by a court pursuant to section 5, and any other penalties levied by the State, against each such program.

(B) Information on best practices for helping adolescents with mental health disorders, conditions, behavioral challenges, or alcohol or substance abuse, including information to help families access effective resources in their communities.

(2) A national toll-free telephone hotline to receive complaints of child abuse and neglect at covered programs and violations of the standards required under subsection (a)(1).

(d) ACTION.—The Assistant Secretary shall establish a process to—

(1) ensure complaints of child abuse and neglect received by the hotline established pursuant to subsection (c)(2) are promptly reviewed by persons with expertise in evaluating such types of complaints;

(2) immediately notify the State, appropriate local law enforcement, and the appropriate protection and advocacy system of any credible complaint of child abuse and neglect at a covered program received by the hotline;

(3) investigate any such credible complaint not later than 30 days after receiving such complaint to determine if a violation of the standards required under subsection (a)(1) has occurred; and

(4) ensure the collaboration and cooperation of the hotline established pursuant to subsection (c)(2) with other appropriate National, State, and regional hotlines, and, as appropriate and practicable, with other hotlines that might receive calls about child abuse and neglect at covered programs.

SEC. 4. ENFORCEMENT BY THE ATTORNEY GENERAL.

If the Assistant Secretary determines that a violation of subsection (a)(1) of section 3 has not been remedied through the enforcement process described in subsection (b)(3) of such section, the Assistant Secretary shall refer such violation to the Attorney General for appropriate action. Regardless of whether such a referral has been made, the Attorney General may, sua sponte, file a complaint in any court of competent jurisdiction seeking equitable relief or any other relief authorized by this Act for such violation.

SEC. 5. PRIVATE RIGHT OF ACTION.

(a) MAINTENANCE OF ACTION.—Any person suffering an injury-in-fact traceable to a violation of a regulation promulgated pursuant to section 3(a) may bring suit or a claim demanding relief.

(b) RELIEF.—A court hearing a claim or suit under subsection (a) may order any appropriate equitable remedy and award damages, including punitive damages and reasonable attorneys' fees, for a violation of a regulation promulgated pursuant to section 3(a).

(c) LIMITATION.—The provisions of section 7 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) shall not apply to any action brought under this Act.

SEC. 6. REPORT.

Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary of Health and Human Services, in coordination with the Attorney General shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities carried out by the Assistant Secretary and the Attorney General under this Act, including—

(1) a description of the number and types of covered programs inspected by the Assistant Secretary pursuant to section 3(b)(1);

(2) a description of types of violations of health and safety standards found by the Assistant Secretary and any penalties assessed;

(3) a summary of findings from on-going reviews conducted by the Assistant Secretary pursuant to section 3(b)(2);

(4) a summary of State progress in meeting the requirements of this Act, including the requirements under section 114 of the Child Abuse Prevention and Treatment Act, as added by section 8 of this Act; and

(5) a summary of the Secretary's oversight activities and findings conducted pursuant to subsection (d) of such section 114.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary of Health and Human Services $50,000,000 for each of fiscal years 2009 through 2013 to carry out this Act (excluding the amendment made by section 8 of this Act).

SEC. 8. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR GRANTS TO STATES TO PREVENT CHILD ABUSE AND NEGLECT AT RESIDENTIAL PROGRAMS.

(a) IN GENERAL.—Title I of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended by adding at the end the following new section:

"SEC. 114. ADDITIONAL ELIGIBILITY REQUIREMENTS FOR GRANTS TO STATES TO PREVENT CHILD ABUSE AND NEGLECT AT RESIDENTIAL PROGRAMS.

''(a) DEFINITIONS.—In this section:

''(1) CHILD.—The term 'child' means an individual who has not attained the age of 18.

''(2) COVERED PROGRAM.—

''(A) IN GENERAL.—The term 'covered program' means each location of a program operated by a public or private entity that, with respect to one or more children who are unrelated to the owner or operator of the program—

''(i) provides a residential environment, such as—

''(I) a program with a wilderness or outdoor experience, expedition, or intervention;

''(II) a boot camp experience or other experience designed to simulate characteristics of basic military training or correctional regimes;

''(III) a therapeutic boarding school; or

''(IV) a behavioral modification program; and

''(ii) operates with a focus on serving children with—

''(I) emotional, behavioral, or mental health problems or disorders; or

''(II) problems with alcohol or substance abuse.

''(B) EXCLUSION.—The term 'covered program' does not include—

''(i) a hospital licensed by the State;

''(ii) a foster family home or group home that provides 24-hour substitute care for children place away from their parents or guardians and for whom the State child welfare services agency has placement and care responsibility and that is licensed and regulated by the State as a foster family home or group home; or

''(iii) a psychiatric residential treatment facility that is certified as meeting the requirements specified in regulations promulgated for such facilities under section 1905(h)(1)(A) of the Social Security Act and that provides psychiatric services for which medical assistance is available under a State plan under title XIX of such Act.

''(3) PROTECTION AND ADVOCACY SYSTEM.—The term 'protection and advocacy system' means a protection and advocacy system established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043).

''(b) ELIGIBILITY REQUIREMENTS.—To be eligible to receive a grant under section 106, a State shall—

''(1) not later than three years after the date of the enactment of this section, develop policies and procedures to prevent child abuse and neglect at covered programs operating in such State, including having in effect health and safety licensing requirements applicable to and necessary for the operation of each location of such covered programs that include, at a minimum—

''(A) standards that meet or exceed the standards required under section 3(a)(1) of the Stop Child Abuse in Residential Programs for Teens Act of 2008;

''(B) the provision of essential food, water, clothing, shelter, and medical care necessary to

maintain physical health, mental health, and general safety of children at such programs;

''(C) policies for emergency medical care preparedness and response, including minimum staff training and qualifications for such responses; and

''(D) notification to appropriate staff at covered programs if their position of employment meets the definition of mandated reporter, as defined by the State;

''(2) develop policies and procedures to monitor and enforce compliance with the licensing requirements developed in accordance with paragraph (1), including—

''(A) designating an agency to be responsible, in collaboration and consultation with State agencies providing human services (including child protective services, and services to children with emotional, psychological, developmental, or behavioral dysfunctions, impairments, disorders, or alcohol or substance abuse), State law enforcement officials, the appropriate protection and advocacy system, and courts of competent jurisdiction, for monitoring and enforcing such compliance;

''(B) a State licensing application process through which any individual seeking to operate a covered program would be required to disclose all previous substantiated reports of child abuse and neglect and all child deaths at any businesses previously or currently owned or operated by such individual, except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect;

''(C) conducting unannounced site inspections not less often than once every two years at each location of a covered program;

''(D) creating a database, to be integrated with the annual State data reports required under section 106(d), of reports of child abuse and neglect at covered programs operating in the State, except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect; and

''(E) implementing a policy of graduated sanctions, including fines and suspension and revocation of licences, against covered programs operating in the State that are out of compliance with such health and safety licensing requirements;

''(3) if the State is not yet satisfying the requirements of this subsection, in accordance with a determination made pursuant to subsection (c), develop policies and procedures for notifying the Secretary and the appropriate protection and advocacy system of any report of child abuse and neglect at a covered program operating in the State not later than 30 days after the appropriate State entity, or subdivision thereof, determines such report should be investigated and not later than 48 hours in the event of a fatality;

''(4) if the Secretary determines that the State is satisfying the requirements of this subsection, in accordance with a determination made pursuant to subsection (c), develop policies and procedures for notifying the Secretary if—

''(A) the State determines there is evidence of a pattern of violations of the standards required under paragraph (1) at a covered program operating in the State or by an owner or operator of such a program; or

''(B) there is a child fatality at a covered program operating in the State;

''(5) develop policies and procedures for establishing and maintaining a publicly available database of all covered programs operating in the State, including the name and each location of each such program and the name of the owner and operator of each such program, information on reports of child abuse and neglect at such programs (except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect), violations of standards required under paragraph (1), and all penalties levied against such programs;

''(6) annually submit to the Secretary a report that includes—

''(A) the name and each location of all covered programs, including the names of the owners and operators of such programs, operating in the State, and any violations of State licensing requirements developed pursuant to subsection (b)(1); and

''(B) a description of State activities to monitor and enforce such State licensing requirements, including the names of owners and operators of each covered program that underwent a site inspection by the State, and a summary of the results and any actions taken; and

''(7) if the Secretary determines that the State is satisfying the requirements of this subsection, in accordance with a determination made pursuant to subsection (c), develop and policies and procedures to report to the appropriate protection and advocacy system any case of the death of an individual under the control or supervision of a covered program not later than 48 hours after the State is informed of such death.

''(c) SECRETARIAL DETERMINATION.—The Secretary shall not determine that a State's licensing requirements, monitoring, and enforcement of covered programs operating in the State satisfy the requirements of this subsection (b) unless—

''(1) the State implements licensing requirements for such covered programs that meet or exceed the standards required under subsection (b)(1);

''(2) the State designates an agency to be responsible for monitoring and enforcing compliance with such licensing requirements;

''(3) the State conducts unannounced site inspections of each location of such covered programs not less often than once every two years;

''(4) the State creates a database of such covered programs, to include information on reports of child abuse and neglect at such programs (except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect);

''(5) the State implements a policy of graduated sanctions, including fines and suspension and revocation of licenses against such covered programs that are out of compliance with the health and safety licensing requirements under subsection (b)(1); and

''(6) after a review of assessments conducted under section 3(b)(2)(B) of the Stop Child Abuse in Residential Programs for Teens Act of 2008, the Secretary determines the State is appropriately investigating and responding to allegations of child abuse and neglect at such covered programs.

''(d) OVERSIGHT.—

''(1) IN GENERAL.—Beginning two years after the date of the enactment of the Stop Child Abuse in Residential Programs for Teens Act of 2008, the Secretary shall implement a process for continued monitoring of each State that is determined to be satisfying the licensing, monitoring, and enforcement requirements of subsection (b), in accordance with a determination made pursuant to subsection (c), with respect to the performance of each such State regarding—

''(A) preventing child abuse and neglect at covered programs operating in each such State; and

''(B) enforcing the licensing standards described in subsection (b)(1).

''(2) EVALUATIONS.—The process required under paragraph (1) shall include in each State, at a minimum—

''(A) an investigation not later than 60 days after receipt by the Secretary of a report from a State, or a subdivision thereof, of child abuse and neglect at a covered program operating in the State, and submission of findings to appropriate law enforcement or other local entity where necessary, if the report indicates—

''(i) a child fatality at such program; or

''(ii) there is evidence of a pattern of violations of the standards required under subsection (b)(1) at such program or by an owner or operator of such program;

''(B) annually, a random sample of review of cases of reports of child abuse and neglect investigated at covered programs operating in the State to assess the State's performance with respect to the appropriateness of response to and investigation of reports of child abuse and neglect at covered programs and the appropriateness of legal actions taken against responsible parties in such cases; and

''(C) unannounced site inspections of covered programs operating in the State to monitor compliance with the standards required under section 3(a) of the Stop Child Abuse in Residential Programs for Teens Act of 2008.

''(3) ENFORCEMENT.—If the Secretary determines, pursuant to an evaluation under this subsection, that a State is not adequately implementing, monitoring, and enforcing the licensing requirements of subsection (b)(1), the Secretary shall require, for a period of not less than one year, that—

''(A) the State shall inform the Secretary of each instance there is a report to be investigated of child abuse and neglect at a covered program operating in the State; and

''(B) the Secretary and the appropriate local agency shall jointly investigate such report.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 112(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(1)) is amended by inserting before the period at the end the following: '', and $200,000,000 for each of fiscal years 2009 through 2013''.

(c) CONFORMING AMENDMENTS.—

(1) COORDINATION WITH AVAILABLE RESOURCES.—Section 103(c)(1)(D) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(c)(1)(D)) is amended by inserting after ''specific'' the following: ''(including reports of child abuse and neglect occurring at covered programs (except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect), as such term is defined in section 114)''.

(2) FURTHER REQUIREMENT.—Section 106(b)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)(1)) is amended by adding at the end the following new subparagraph:

''(C) FURTHER REQUIREMENT.—To be eligible to receive a grant under this section, a State shall comply with the requirements under section 114(b) and shall include in the State plan submitted pursuant to subparagraph (A) a description of the activities the State will carry out to comply with the requirements under such section 114(b).''.

(3) ANNUAL STATE DATA REPORTS.—Section 106(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(d)) is amended—

(A) in paragraph (1), by inserting before the period at the end the following: ''(including reports of child abuse and neglect occurring at covered programs (except that such reports shall not contain any personally identifiable information relating to the identity of individuals who were the victims of such child abuse and neglect), as such term is defined in section 114)''; and

(B) in paragraph (6), by inserting before the period at the end the following: ''or who were in the care of a covered program, as such term is defined in section 114''.

(d) CLERICAL AMENDMENT.—Section 1(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended by inserting after the item relating to section 113 the following new item:

''Sec. 114. Additional eligibility requirements for grants to States to prevent child abuse and neglect at residential programs.''.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110–717. Each amendment may be offered only in the order printed in the report; by a Member designated in the report; shall be considered read; shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment; shall not be subject to an amendment; and shall not be subject to a demand for division of the question.

□ 1645

AMENDMENT NO. 1 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110–717.

Mr. GEORGE MILLER of California. Madam Chairman, I have an amendment at the desk, the manager's amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GEORGE MILLER of California:

Page 2, line 20, strike ''not''.

Page 2, line 21, strike ''governmental'' and insert ''public or private''.

Page 3, line 20, insert ''or'' after the semicolon.

Page 3, beginning line 21, strike ''or group home''.

Page 3, line 23, strike ''place'' and insert ''placed''.

Page 4, line 3, strike ''or group home; or'' and insert a period.

Page 4, strike lines 4 through 11.

Page 9, line 4, after ''program'' insert ''immediately, to the maximum extent practicable, but not later than within 48 hours''.

Page 9, line 13, strike ''section 8'' and insert ''section 7''.

Page 10, strike line 13 through page 11, line 4.

Page 11, line 5, strike ''(2)'' and insert ''(1)''.

Page 11, line 13, strike ''section 8'' and insert ''section 7''.

Page 12, line 10, strike ''section 8'' and insert ''section 7''.

Page 12, line 15, strike ''(3)'' and insert ''(2)''.

Page 13, line 10, strike ''contains'' and insert ''contain''.

Page 13, line 21, strike ''section 8'' and insert ''section 7''.

Page 14, beginning line 1, strike ''section 8'' and insert ''section 7''.

Page 14, line 8, before the semicolon insert '', and including the cause of each such death''.

Page 14, line 15, strike ''section 8'' and insert ''section 7''.

Page 14, beginning line 19, strike ''(b)(3), any judgments or orders issued by a court pursuant to section 5,'' and insert ''(b)(2)''.

Page 16, line 8, strike ''(b)(3)'' and insert ''(b)(2)''.

Page 16, strike line 14 through page 17, line 2.

Page 17, line 3, strike ''6'' and insert ''5''.

Page 17, strike lines 13 through 21 and insert the following:

(1) a summary of findings from on-going reviews conducted by the Assistant Secretary pursuant to section 3(b)(1), including a description of the number and types of covered programs investigated by the Assistant Secretary pursuant to such section;

(2) a description of types of violations of health and safety standards found by the Assistant Secretary and any penalties assessed;

Page 17, line 22, strike ''(4)'' and insert ''(3)''.

Page 17, line 25, strike ''section 8'' and insert ''section 7''.

Page 17, line 25, strike ''and'' at the end.

Page 18, line 1, strike ''(5)'' and insert ''(4)''.

Page 18, line 3, strike the period and insert ''; and''.

Page 18, after line 3, insert the following:

(5) a description of the activities undertaken by the national toll-free telephone hotline established pursuant to section 3(c)(2).

Page 18, line 4, strike ''7'' and insert ''6''.

Page 18, line 6, strike ''$50,000,000'' and insert ''$15,000,000''.

Page 18, line 8, strike ''section 8'' and insert ''section 7''.

Page 18, line 8, after ''of this Act'' insert ''and section 8 of this Act''.

Page 18, line 9, strike ''8'' and insert ''7''.

Page 19, line 25, insert ''or'' after the semicolon.

Page 20, beginning line 1, strike ''or group home''.

Page 20, line 8, strike ''or group home; or'' and insert a period.

Page 20, strike lines 9 through 16.

Page 22, line 14, insert ''establishing'' after ''(B)''.

Page 22, line 20, strike ''that such'' and insert ''that substantiated reports of child abuse and neglect may remain confidential and all''.

Page 23, line 4, insert ''non-public'' before ''database''.

Page 24, line 21, insert ''substantiated'' before ''child''.

Page 24, line 25, insert ''and that such database shall include and provide the definition of 'substantiated' used in compiling the data in cases that have not been finally adjudicated'' after ''neglect''.

Page 25, line 20, strike ''develop and'' and insert ''develop''.

Page 26, line 15, insert ''non-public'' before ''database''.

Page 28, line 14, strike ''annually, a random sample of review'' and insert ''an annual review by the Secretary''.

Page 29, line 19, strike ''$200,000,000'' and insert ''$235,000,000''.

At the end of the bill, add the following new section:

SEC. 8. STUDY AND REPORT ON OUTCOMES IN COVERED PROGRAMS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study, in consultation with relevant agencies and experts, to examine the outcomes for children in both private and public covered programs under this Act encompassing a broad representation of treatment facilities and geographic regions.

(b) REPORT.—The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains the results of the study conducted under subsection (a).

The CHAIRMAN. Pursuant to House Resolution 1276, the gentleman from California (Mr. GEORGE MILLER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California.

Mr. GEORGE MILLER of California. Madam Chairman, I yield myself 5 minutes.

I rise in strong support of this manager's amendment, and I offer this manager's amendment on behalf of myself and Congressman MCKEON, who worked with us on this amendment to improve the legislation.

It is the intent, as you have just heard from the debate on this legislation, to ensure that children are safe no matter what settings they are in. And this amendment further refines the legislation to improve the legislation.

The main changes that are offered in this amendment—and Mr. MCKEON pushed for these changes and recognized the need for them—one is to broaden the Federal oversight to include public residential programs as well as private ones. It strikes the right provided under this Act for families to sue in Federal court for violations of the national standards. And it strikes the requirement that the Health and Human Services conduct site inspections of all covered programs at least every 2 years.

It was my belief that we continue and are able to maintain the intent and the purposes of this Act to make sure that children are safe in these varied settings, as we heard from Mr. MURPHY of Pennsylvania, children who are very difficult to handle in many instances and parents who have run out of the capacity to deal with these children seeking to have this care.

I believe that the manager's amendment further refines the legislation, strikes a better balance in the bill, and I want to again thank Mr. MCKEON.

I reserve the balance of my time on the manager's amendment.

Mr. MCKEON. I claim the time in opposition to the amendment, Madam Chairman, although I am not opposed.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 10 minutes.

There was no objection.

Mr. MCKEON. Madam Chairman, I yield myself such time as I may consume.

After the devastating stories we heard of children dying at residential treatment facilities, every member of our committee wondered how this could have happened and what could have been done to prevent it. And being in Washington, it's easy to assume the answer lies here with the Federal Government.

But, Madam Chairman, we know the answer is not always the Federal Government. In fact, States may be better equipped to regulate, monitor, and enforce the safety protections that are needed for these programs. We can ensure stronger protections by resisting the urge to consolidate all responsibility inside the Beltway.

When this bill was brought before the committee, the Department of Health and Human Services said the following:

''The Federal Government has no oversight or rules governing child abuse and neglect investigations, as each State has its own process for defining and investigating child abuse and neglect, including the timeliness

and methods for responding to and completing investigations of allegations. As such, any Federal investigations of abuse and neglect would likely interfere and perhaps conflict with a State's procedures for the same.''

The Miller-McKeon substitute will go a long way toward addressing this issue, and I want to once again thank Chairman MILLER for his willingness to consider our concerns. Some danger still remains that the specific requirements of this bill could conflict with State child protection laws, and I look forward to working in a bipartisan basis to resolve that issue as this bill moves forward.

There was also a practical problem with the top-down Federal regulation in the bill as it was drafted. It would have been virtually impossible for HHS to build up a new regulatory infrastructure and have the capacity to begin visiting each and every one of these programs in the time allotted. It is far more practical for the States, many of which are already licensing and regulating these programs, to take on that responsibility. This substitute ensures that States will do so.

The bill, as originally drafted, also included a new private right of action to sue in Federal court, something that I think would have provided a much greater benefit to trial lawyers than victimized youth. I'm pleased this provision has been removed. Victims of abuse still have the right to remedies in court, but our emphasis now is on protection and prevention instead of litigation.

And so, Madam Chairman, because of this substitute, the bill we will vote on later today is a considerable improvement over what was introduced. While it is still not perfect, I plan to support it and continue working with the Chairman to create strong protections for the young people enrolled in these programs.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. I reserve the balance of my time.

Mr. MCKEON. Madam Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PLATTS).

Mr. PLATTS. I appreciate the ranking member for yielding.

I rise in strong support of H.R. 5876, the Stop Child Abuse in Residential Programs for Teens Act. This legislation will create and enforce safety standards for residential treatment facilities that serve to rehabilitate troubled youth.

While many residential treatment facilities for teens, such as boot camps and substance abuse treatment programs, provide effective rehabilitation services for troubled youth, it is the few bad actors that bring us here today. Families send their teens to residential treatment facilities many times after all other options have been exhausted. Though many of these programs involve extreme physical activities as part of their treatment plans, no child should be forced to endure suffocation, dehydration, or other types of physical abuse that surfaced during hearings that the Committee on Education and Labor held earlier this year.

While I supported the original bill, I believe that this manager's amendment makes the bill even stronger, and I thank Chairman MILLER and Ranking Member MCKEON for working together on this very important issue.

The substitute places the responsibility of monitoring and enforcement of these safety standards in the hands of each State government, rather than officials here in Washington. In addition, the manager's amendment would ensure that all facilities that provide treatment to children, public or private, are subject to safety standards.

I want to stress that not all residential treatment facilities are abusive or bad actors—in fact, quite the opposite. Through the process of considering this legislation, I have heard from many facilities which are proud of the positive impacts that they have had on the lives of teens. I've also heard from graduates from these programs who believe that they owe their lives to a treatment facility.

This bill, the Stop Child Abuse in Residential Programs for Teens Act, aims to ensure that all programs are working in good faith to achieve these goals and do not use violence or intimidation under the guise of treatment.

Again, I'd like to thank Chairman MILLER and Ranking Member MCKEON for working together to improve this important piece of legislation. I urge my colleagues to support the manager's amendment and ultimately to support H.R. 5876, legislation that is critically important to the safety of our Nation's children.

Mr. GEORGE MILLER of California. I have no further requests for time if the gentleman would yield back.

Mr. MCKEON. I yield back the balance of my time.

Mr. GEORGE MILLER of California. I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GEORGE MILLER).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. GEORGE MILLER of California. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 110–717.

Pursuant to clause 6 of rule XVIII, the unfinished business is the demand for a recorded vote on amendment No. 1 printed in House Report 110–717 offered by the gentleman from California (Mr. GEORGE MILLER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 422, noes 0, not voting 17, as follows:

[Roll No. 444]

AYES—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono Mack
Boozman
Bordallo
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Carter
Castle
Castor
Cazayoux
Chabot
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Faleomavaega
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Fortenberry
Fossella
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo

Marchant
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Norton
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sarbanes
Saxton
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—17

Bilbray
Cannon
Christensen
Davis (IL)
Fortuño
Hunter
Johnson, E. B.
Markey
Pence
Pryce (OH)
Rush
Sanchez, Loretta
Snyder
Speier
Velázquez
Weldon (FL)
Wexler

□ 1720

Messrs. CANTOR, BAIRD, and POE changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Chairman, on rollcall No. 444, I was delayed due to traffic—fundraising for DCCC. Had I been present, I would have voted ''aye.''

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SERRANO) having assumed the chair, Ms. MCCOLLUM of Minnesota, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 5876) to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes, pursuant to House Resolution 1276, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MRS. BACHMANN

Mrs. BACHMANN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Mrs. BACHMANN. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. Bachmann moves to recommit the bill H.R. 5876 to the Committee on Education and Labor with instructions to report the same back to the House promptly in the form to which perfected at the time of this motion, with the following amendment: On page 9, beginning on line 3, insert the following new subparagraph (and redesignate subsequent subparagraphs accordingly):

(N) Policies to require the consent of parents or legal guardians of a child, before any prescription medication (including contraception) not previously disclosed in writing pursuant to subparagraph (M)(i) by such parents or legal guardians, may be dispensed to such child.

The SPEAKER pro tempore. The gentlewoman from Minnesota is recognized for 5 minutes.

Mrs. BACHMANN. Mr. Speaker, today I rise to offer a motion which will ensure that parents of children in residential treatment facilities have control over any medication being prescribed to their child. While the bill as currently written would require a parent or a legal guardian to disclose to the facility any prescription drugs that their child is currently taking, the facility would not be required to receive parental consent for the child to be issued a prescription for any new medications.

As a mother and also as a foster mother, I strongly believe in the importance of the role of the parent or the legal guardian in a child's life. This is especially true, Mr. Speaker, when it comes to matters as serious as the health and well-being of a child.

Prescription drugs, such as medication to treat psychiatric conditions, can have a major impact on the mind and the body of an adult, let alone on the young mind and the young body of a child. Such a critical decision should only be made by a qualified medical doctor with the expressed consent of a parent or legal guardian. This is only common sense, Mr. Speaker.

Mr. Speaker, the bill before us today would allow residential treatment facilities to impose their will on children without affording those children the protection and guidance of their closest family. Whether the parent, whose intimate relationship and familiarity with their child is critical in choosing a treatment path, feels that it is in their child's best interest or not, any medication could be prescribed. For example, in its present form, this bill would allow a treatment facility to prescribe contraception to a child, who when properly informed and guided by a parent may have chosen to carry the baby to term, either raising it as their own or contacting an adoption agency, not terminating its life.

The purpose of this amendment is to protect children who are in a very vulnerable situation away from their families in a residential treatment facility where they are supposed to be receiving help for a very difficult problem. The parents and the guardians who have raised and cared for these children, who know and understand their children and their medical histories best, should know about any new or changed medications to exercise their role as primary medical decision makers for their children. The right of consent should be explicitly stated in this legislation meant to protect these vulnerable youth.

□ 1730

Mr. Speaker, one thing that I saw firsthand as a foster mother, there were too many children of color, minority children, who were overly prescribed for prescription drugs at a younger and younger age. This is a very disturbing issue and expressly underscores why parents or their guardians should have a say to actually give consent whether these children are given prescription drugs.

That being said, my motion, Mr. Speaker, does not infringe in any way on the role of the medical facility at a treatment facility. The expertise of the staff and the physicians would still be fully utilized in the diagnosis and, upon parental consent, the dispensing of prescription medication.

Moreover, my motion would not require parental notification for nonprescription drugs. A child in a residential treatment facility would not be hindered in obtaining any over-the-counter medication, such as aspirin. Only prescription drugs, which can have such far-reaching effects on a patient, would be applicable to the terms of this motion.

The prescription drugs often used in these facilities, especially the mental

health drugs, have very serious, and sometimes fatal side effects. This is no laughing matter, Mr. Speaker. These side effects for children, for children, Mr. Speaker, include suicide, homicide, psychosis, heart problems, tics, movement disorders, diabetes, even obesity.

Mr. Speaker, a parent is one of the most powerful influences in a child's life. I think this body agrees on that. In the case of a child in a residential treatment facility, with a very small voice and no ability to protect himself or herself, it is imperative that a parent or a legal guardian be given proper authority over the course of the treatment recommended by the treatment facility.

Mrs. BACHMANN. Mr. Speaker, today I rise to offer a motion which will ensure that parents of children in residential treatment facilities have control over any medication being prescribed to their child. While the bill, as currently written, would require a parent or legal guardian to disclose to the facility any prescription drugs their child is currently taking, the facility would not be required to receive parental consent for the child to be issued a prescription for any new medication.

This issue is very real for me. As a mother and a foster mother who has cared for children in similar situations, I strongly believe in the importance of the role of the parent or legal guardian in a child's life. This is especially true when it comes to matters as serious as the health and well-being of that child. Prescription drugs, such as medication to treat psychiatric conditions can have a major impact on the mind and body of an adult, let alone the young mind and body of a child. Our professionals deal with this on a regular basis in mental health facilities all across the nation. Especially tragic is the statistically high number of children of color who are placed on prescription psychotropic drugs, often with severe misgivings from parents or guardians. Such a critical decision should only be made by a qualified medical doctor and only after the expressed consent of a parent or legal guardian is given.

Mr. Speaker, the bill before us today would allow staff in residential treatment facilities to impose their will on children, without affording those children the protection and guidance of their closest family. Whether the parent, whose intimate relationship and familiarity with their child is critical in choosing a treatment path, feels it is in their child's best interest or not, any medication could be prescribed.

That is a historic leap in loss of parental rights over their children. Parents remain legally and financially liable for their children's mental and physical welfare yet this bill has government stripping parents of their right to consent to medical treatment via prescription drugs for their children. This bill says parents are good enough to pay the bill, but they can't be trusted to make decisions regarding their child's health. That is insulting, demeaning, and wrong.

The purpose of this amendment is to protect children who are in a very vulnerable situation away from their families in a residential treatment facility where they are supposed to be receiving help for very difficult problems. The parents and guardians that have raised and cared for these children, who know and understand their children and their medical histories best, should know about any new or changed medications to exercise their role as primary medical decision makers for their offspring. The right of consent should be explicitly stated in this legislation meant to protect these vulnerable youth.

That being said, this motion does not infringe on the role of the medical faculty at a treatment facility. The expertise of the staff and physicians would still be fully utilized in the diagnosis, and upon parental consent, the dispensing of prescription medication. Moreover, this motion would not require parental notification for non-prescription medication. A child in a residential treatment facility would not be hindered in obtaining any over-the-counter (OTC) medication such as aspirin. Only prescription drugs, which can have such far-reaching effects on the patient, would be applicable to the terms of this motion.

The prescription drugs often used in these facilities, especially the mental health drugs, have extremely serious, and sometimes fatal side effects. These include suicide, homicide, psychosis, heart problems, tics and movement disorders, diabetes and obesity.

Mr. Speaker, Members understand, a parent is one of the most powerful influences in a child's life. In the case of a child in a residential treatment facility, it is imperative that his or her parent or legal guardian be given proper authority over the course of treatment recommended by the treatment facility.

I believe this is an important addition to this bill and I urge my colleages to support the addition of this language.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 1276, further proceedings on this bill are postponed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6275, ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008

Mr. HASTINGS of Florida (during consideration of H.R. 5876), from the Committee on Rules, submitted a privileged report (Rept. No. 110–731) on the resolution (H. Res. 1297) providing for consideration of the bill (H.R. 6275) to amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2176, BAY MILLS INDIAN COMMUNITY LAND CLAIMS SETTLEMENT

Mr. HASTINGS of Florida (during consideration of H.R. 5876), from the Committee on Rules, submitted a privileged report (Rept. No. 110–732) on the resolution (H. Res. 1298) providing for consideration of the bill (H.R. 2176) to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3195, ADA AMENDMENTS ACT OF 2008

Mr. HASTINGS of Florida (during consideration of H.R. 5876), from the Committee on Rules, submitted a privileged report (Rept. No. 110–733) on the resolution (H. Res. 1299) providing for consideration of the bill (H.R. 3195) to restore the intent and protections of the Americans with Disabilities Act of 1990, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: adoption of House Concurrent Resolution 379; approval of the Journal; and motions to suspend the rules with regard to H.R. 6327 and H.R. 6346.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

The SPEAKER pro tempore. The unfinished business is the vote on adoption of House Concurrent Resolution 379, on which the yeas and nays were ordered.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The vote was taken by electronic device, and there were—yeas 225, nays 197, not voting 12, as follows:

[Roll No. 445]

YEAS—225

Abercrombie	Chandler	Etheridge
Ackerman	Clarke	Farr
Allen	Clay	Fattah
Altmire	Cleaver	Filner
Andrews	Clyburn	Foster
Arcuri	Cohen	Frank (MA)
Baca	Conyers	Giffords
Baird	Cooper	Gilchrest
Baldwin	Costa	Gillibrand
Barrow	Costello	Gonzalez
Bean	Courtney	Gordon
Becerra	Cramer	Green, Al
Berkley	Crowley	Green, Gene
Berman	Cummings	Grijalva
Berry	Davis (AL)	Gutierrez
Bishop (GA)	Davis (CA)	Hall (NY)
Bishop (NY)	Davis, Lincoln	Hare
Blumenauer	DeFazio	Harman
Boren	DeGette	Hastings (FL)
Boswell	Delahunt	Herseth Sandlin
Boucher	DeLauro	Higgins
Boyd (FL)	Dicks	Hill
Boyda (KS)	Dingell	Hinchey
Brady (PA)	Doggett	Hinojosa
Braley (IA)	Donnelly	Hirono
Brown, Corrine	Doyle	Hodes
Butterfield	Edwards (MD)	Holden
Capuano	Edwards (TX)	Holt
Cardoza	Ellison	Honda
Carnahan	Emanuel	Hooley
Carson	Engel	Hoyer
Castor	Eshoo	Inslee

Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Lampson
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wilson (OH)
Woolsey
Wu
Yarmuth

NAYS—197

Aderholt
Akin
Alexander
Bachmann
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Carney
Carter
Castle
Cazayoux
Chabot
Childers
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Ellsworth
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jordan
Keller
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Bachus
Cannon
Capps
Cuellar
Davis (IL)
Pence
Pryce (OH)
Rush
Snyder
Speier
Weldon (FL)
Wexler

□ 1751

Messrs. KINGSTON, LINDER and BISHOP of Utah changed their vote from ''yea'' to ''nay.''

Ms. DELAURO and Mr. KENNEDY changed their vote from ''nay'' to ''yea.''

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CUELLAR. Madam Speaker, on rollcall No. 445, had I been present, I would have voted ''yea.''

Mrs. CAPPS. Madam Speaker, on rollcall No. 445, had I been present, I would have voted ''nay.''

THE JOURNAL

The SPEAKER pro tempore (Ms. MCCOLLUM of Minnesota). Pursuant to clause 8 of rule XX, the unfinished business is the question on agreeing to the Speaker's approval of the Journal, on which the yeas and nays were ordered.

The question is on the Speaker's approval of the Journal.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 239, nays 181, answered ''present'' 2, not voting 12, as follows:

[Roll No. 446]

YEAS—239

Abercrombie
Ackerman
Allen
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carson
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell
Doggett
Doyle
Edwards (MD)
Ehlers
Ellison
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Feeney
Ferguson
Filner
Fortenberry
Foster
Frank (MA)
Gerlach
Gillibrand
Gonzalez
Goode
Goodlatte
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Kirk
Klein (FL)
Kucinich
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
Lee
Levin
Lewis (GA)
Lewis (KY)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matsui
McCarthy (CA)
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Perlmutter
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Solis
Space
Spratt
Stark
Sutton
Tanner
Tauscher
Taylor
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Wilson (OH)
Woolsey
Wu
Yarmuth
Young (AK)

NAYS—181

Aderholt
Akin
Alexander
Altmire
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bilirakis
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Carney
Carter
Castle
Cazayoux
Chabot
Childers
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly
Doolittle
Drake
Dreier
Duncan
Ellsworth
Emerson
English (PA)
Everett
Fallin
Flake
Forbes
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Giffords
Gilchrest
Gingrey
Granger
Graves
Hall (TX)
Hastings (WA)
Hensarling
Herger
Hobson
Hoekstra
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jordan
Keller
King (IA)
King (NY)
Kingston
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
LaTourette
Latta
Lewis (CA)
Linder
LoBiondo
Lucas
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mitchell
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Porter
Price (GA)

Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stupak
Sullivan
Terry
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (FL)

ANSWERED ''PRESENT''—2

Gohmert Tancredo

NOT VOTING—12

Cannon
Davis (IL)
Edwards (TX)
Hirono
Moore (WI)
Pence
Pickering
Pryce (OH)
Rush
Snyder
Speier
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1758

So the Journal was approved.

The result of the vote was announced as above recorded.

FEDERAL AVIATION ADMINISTRATION EXTENSION ACT OF 2008

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and passing the bill, H.R. 6327, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. NEAL) that the House suspend the rules and pass the bill, H.R. 6327, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCDERMOTT. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 422, noes 0, not voting 12, as follows:

[Roll No. 447]

AYES—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Altmire
Andrews
Arcuri
Baca
Bachmann
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd (FL)
Boyda (KS)
Brady (PA)
Brady (TX)
Braley (IA)
Broun (GA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Carter
Castle
Castor
Cazayoux
Chabot
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Coble
Cohen
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Everett
Fallin
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Fortenberry
Fossella
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gilchrest
Gillibrand
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hobson
Hodes
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Inglis (SC)
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Jordan
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Klein (FL)
Kline (MN)
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Lamborn
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Mahoney (FL)
Maloney (NY)
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (CA)
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris Rodgers
McNerney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Perlmutter
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Saxton
Scalise
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tancredo
Tanner
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—12

Cannon
Davis (IL)
McCarthy (NY)
Pence
Peterson (MN)
Pryce (OH)
Rush
Scott (VA)
Snyder
Speier
Waters
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1807

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL PRICE GOUGING PREVENTION ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill, H.R. 6346, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. STUPAK) that the House suspend the rules and pass the bill, H.R. 6346, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 276, nays 146, not voting 13, as follows:

[Roll No. 448]

YEAS—276

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bono Mack
Boren
Boswell
Boucher
Boyd (FL)
Boyda (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Butterfield
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson
Castle
Castor
Cazayoux
Chabot
Chandler
Childers
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dent
Dicks
Dingell

Doggett
Donnelly
Doyle
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Farr
Fattah
Filner
Forbes
Fortenberry
Foster
Frank (MA)
Gerlach
Giffords
Gilchrest
Gillibrand
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hall (TX)
Hare
Harman
Hastings (FL)
Hayes
Heller
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Keller
Kennedy
Kildee
Kilpatrick
Kind
Kirk
Klein (FL)
Kucinich
Kuhl (NY)
Lampson
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McCotter
McDermott
McGovern
McHugh
McIntyre
McNerney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Miller (MI)
Miller (NC)
Mitchell
Mollohan
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pelosi
Perlmuter
Petri
Platts
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reichert
Renzi
Reyes
Richardson
Rodriguez
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solis
Space
Spratt
Stark
Stupak
Sutton
Tanner
Tauscher
Taylor
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walz (MN)
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wittman (VA)
Wolf
Woolsey
Wu
Yarmuth
Young (FL)

NAYS—146

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cantor
Carter
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Everett
Fallin
Feeney
Ferguson
Flake
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey
Gohmert
Granger
Hastings (WA)
Hensarling
Herger
Hobson
Hoekstra
Hunter
Inglis (SC)
Issa
Johnson, Sam
Jordan
King (IA)
King (NY)
Kingston
Kline (MN)
Knollenberg
LaHood
Lamborn
Latham
Latta
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul (TX)
McCrery
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Paul
Pearce
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Poe
Porter
Price (GA)
Putnam
Radanovich
Regula
Rehberg
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Saxton
Scalise
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Upton
Walberg
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Wilson (SC)
Young (AK)

NOT VOTING—13

Berman
Blumenauer
Cannon
Davis (IL)
Melancon
Miller, George
Moore (KS)
Pence
Pryce (OH)
Rush
Snyder
Speier
Wexler

□ 1816

Mr. WITTMAN of Virginia and Mrs. BONO MACK changed their vote from ''nay'' to ''yea.''

So (two-thirds not being in the affirmative) the motion was rejected.

The result of the vote was announced as above recorded.

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE WESTERN BALKANS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 110–127)

The SPEAKER pro tempore (Mr. WELCH of Vermont) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Sectlon 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication stating that the Western Balkans emergency is to continue in effect beyond June 26, 2008.

The crisis constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo, that led to the declaration of a national emergency on June 26, 2001, in Executive Order 13219 and to Executive Order 13304 of May 28, 2003, has not been resolved. The acts of extremist violence and obstructionist activity outlined in Executive Order 13219, as amended, are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to the Western Balkans and maintain in force the comprehensive sanctions to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 24, 2008.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

SUPPORTING THE GOALS AND IDEALS OF THE YEAR OF THE AMERICAN VETERAN

Mr. FILNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1098) supporting the goals and ideals of the Year of the American Veteran.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1098

Whereas there are currently more than 25,000,000 veterans of the United States Armed Forces, residing in the United States;

Whereas those who are legally termed ''veteran'' have served the United States honorably in either times of peace or war;

Whereas by the very nature of their service, veterans have sacrificed, along with their families, in the name of their country;

Whereas the service of veterans has and continues to guarantee the fundamental freedoms afforded to all Americans;

Whereas the American people are grateful and appreciative of the sacrifices made by all veterans, past, present, and future and wish to especially commemorate their service; and

Whereas the Commission on the Future for America's Veterans has designated 2008 as the ''Year of the American Veteran'': Now, therefore, be it

Resolved, That the House of Representatives—

(1) encourages the American people to recognize and acknowledge the sacrifices the American veteran demonstrates in the name of freedom;

(2) encourages the education of the American people on the many great contributions of the American veteran to American society; and

(3) supports the goals and ideals of the Year of the American Veteran.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of H. Res. 1098 to support the goals and ideals of the Year of the American Veteran.

This resolution encourages the American people to recognize and acknowledge the sacrifices the American veteran demonstrates in the name of freedom; encourages the education of the American people on the many great contributions of the American veteran to American society; and supports the goals and ideals of the Year of the American Veteran.

The Commission on the Future for America's veterans has designated 2008 as the ''Year of the American Veteran,'' and today we are joining them in remembering our veterans.

I ask my colleagues to support this resolution, and for us to strive together to remember our veterans not only this year, but in the years and decades to come.

Mr. Speaker, I would say that George Washington over 220 years ago had it right when he said the most important factor in the morale of our fighting troops is the sense of how they are going to be treated when they come home. So we have a job to do for the veterans not only of this war, but of all the previous wars that we have carried out.

I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my name is pronounced BOO-yer, B-u-y-e-r. It looks like ''buyer.'' The descent is from Alsace-Lorraine, pronounced de BOO-yea, and you just Americanized it. But we refer to it as BOO-yer. Thank you.

In the previous debate, Mr. Speaker, I would like the RECORD to properly reflect that the chairman had made a comment with regard to four naming bills that was not accurate at all. I support consideration of this naming bill and three other veterans' naming bills on the schedule today. I do wish to correct the record regarding the statement I understand Chairman FILNER to have made during early consideration of H.R. 2818 that I, quote, ''objected to the consideration of the veterans' naming bills today, all four of them.''

While I do not think Chairman FILNER intended to dissemble about the matter, I thought I detected his impish grin for which he is so well-known. In any event, Mr. Speaker, I want to make clear that I support the consideration of veterans' naming bills.

I did ask Chairman FILNER by way of my staff director to his to address specific drafting concerns I have about H. Res. 1291 before scheduling the resolution for the suspension calendar today; but that was not done so I will try to clarify the matter on the resolution with the author of the bill when it is considered.

I also need to clarify for the RECORD in the last debate that in response to Mr. SALAZAR's remarks, my dear friend from Colorado, that ''all of these bills were passed through committee.''

The only bill which we are considering right now, Mr. Speaker, that was passed through the committee is H. Res. 1098. It was marked up and reported out of the Veterans' Affairs Committee. The other seven bills are being brought straight to the floor without committee report or action.

As the ranking member of the House Committee on Veterans' Affairs, I have an obligation to help ensure that veterans and their families have access to the benefits and services they so richly deserve. More importantly, I have been an advocate for military members and veterans almost my entire life. I have been in uniform with the United States Army Reserves both on and off active duty now for 28 years. For the last 16 years, I have simultaneously served in Congress as I have also been in the Army Reserves. It is a great part of who I am. It is for this reason that I am proud to support H. Res. 1098 which supports the goals and ideals of the Year of the American Veteran.

As the chairman stated earlier today, there are over 25 million veterans in the United States who sacrificed by defending the freedoms we enjoy as Americans, and supporting the ideals of liberty all over the world.

Mr. Speaker, this resolution recognizes those sacrifices and commemorates the service of veterans in times of peace and war. This resolution also encourages the people of the United States to join the Commission of the Future of America's Veterans in celebrating the year 2008 as the ''Year of the American Veteran.''

Before we pass this resolution, I believe that my colleagues should also pause for a moment and say why is this Congress bringing this resolution to the floor at this time. I view bringing this resolution to the floor at this time as a continued matter of the chairman attempting to inoculate the majority, inoculate because the Democrats who control this Congress, they want to bring a bill to the floor that would cut a monthly pension to wartime elderly, disabled and indigent veterans in the amount of nearly a billion dollars. So before the Democrats take nearly a billion dollars away from war-time disabled, indigent, homebound veterans, they want to stand and put their arms around veterans and say, We are going to name 2008 the Year of the American Veteran so it makes them look good just before they take a billion dollars from the most vulnerable veterans.

I need to inform not only the Members but the country so they know what this Congress is about to do. I believe it is a matter of principle that the Nation should not be taking money from one group of deserving veterans to fund someone else. In this case, the attempt is to take this series of dollars and if we adopt what the chairman had done in the full committee, it would be to take nearly this $1 billion and make these payments that would then go to Filipinos who fought with the United States during World War II. If we pick up what the Senate had done, they take nearly the billion dollars and they spread it out among a number of veterans programs of which a smaller portion then would be with regard to the Filipinos.

I bring that to everyone's attention because the President of the Philippines is in the United States and is here to deliver a resolution that passed through their legislature wanting our country to know that if Mr. FILNER and this Congress is successful, they will not offset any moneys the United States will be sending to the Philippines.

So this matter before the House is very serious. The American people, Mr. Speaker, should know and all Members should clearly know that before we say that 2008 is the Year of the Veteran, we better make sure that is exactly what we mean. That we embrace those ideals before we take nearly a billion dollars and cut that from the very same soldiers that fought right next to those World War II Philippine veterans.

You think about this, we make it a law and say if someone is about to die, well actually, let me rephrase that.

We believe it is shameful and therefore make it against the law to actually go up and put your hand in the pocket of someone who is dead and steal from that person, take money away from them. Well, I think that is right. We should do that.

But then what are we about to do here with regard to these wartime elderly and indigent, homebound veterans whom are the most vulnerable. Many are lying in a bed. They are homebound. They are 60 percent or greater disabled, and now we are saying Congress, we are going to deny that monthly pension that goes to you. We are going to stop it, take it away from you. And oh, by the way, we are going to give it to the living because you are about to die, so we are going to spread it among other veterans, which will be the nonresident alien Filipinos that served valiantly in World War II.

□ 1830

Now, if in fact that's what Congress wants to do, fund it with some other source, don't take it from this vulnerable population. When I talked about what the Senate bill approved—actually, when I referred to it as almost $1 billion, it's $912 million in pension benefits for these wartime elderly, indigent, severely disabled, or homebound American veterans. A portion of the funding saved by this unprecedented cut in veterans' benefits would be used to fund, if we followed Chairman FILNER's view, which would be a very oversized pension for World War II Filipino veterans; or if we followed the Senate's

version, we would take those moneys, reduce the size of the pensions and spread it among other veterans. We would be doing this in the very same year in which the chairman is asking we make the Year of the American Veteran.

Now, I suspect that most Americans would be shocked and dismayed that any Member of Congress, regardless of what party they are in, would propose such a drastic cut. But that is exactly what the chairman intends to do very soon.

What is more ironic is that today we are here on the floor to consider this worthy resolution that will recognize this year as the Year of the American Veteran while in the same stroke, this very Congress wants to cut veterans' benefits from the very same people from which we are honoring with this resolution.

The bill that I am referring to is Senate 1315 as amended which passed out of the Senate in April, and a similar bill that I earlier had mentioned is H.R. 760 as amended, which passed the House Committee on Veterans Affairs last July. Both of these bills contain this cut of nearly $1 billion.

When the Democrat majority passed these bills out of the Senate and out of the House Committee on Veterans Affairs, they voted to eliminate, as I said, a special monthly pension for severely disabled veterans over 65 who were receiving pensions for wartime service. This special monthly pension provides an additional payment of up to $2,200 per year to the most severely disabled veterans.

In 2006, the United States Court of Appeals for Veterans Claims overturned the Department of Veterans Affairs decision that denied the special monthly pension to an 86-year-old legally blind World War II veteran named Robert A. Hartness, who was also receiving a VA pension granted to poor, disabled veterans. The court reversed the VA's denial of benefits to Mr. Hartness and required them to begin paying this monthly pension. The court held that the United States Code requires an award of a special monthly pension to an eligible veteran for VA nonservice-connected disability pension if, in addition to being at least 65 years old, the veteran has a disability rating of at least 60 percent or is permanently housebound.

This, in the Year of the American Veteran, Senate 1315 and H.R. 760 would override the court's decision.

According to the VA, more than 20,200 veterans could be affected by this unprecedented cut in veterans' benefits. This cut in veterans' benefits is opposed by the American Legion, AMVETS, the National Association of Uniform Services, the Gold Star Wives of Americans, and other veterans' service organizations.

The following excerpt is from an April 25, 2008, letter to all Members of Congress: ''The American Legion believes the sacrifice of these heroes warrants relief. Balancing the books on the backs of the very patriots that protected and defended this Nation is unconscionable. Don't make a grave mistake in the name of fairness, equality, or even fiscal responsibility. Do what is right.''

Well, I wholeheartedly agree. Congress has an obligation to protect these vulnerable veterans, and it's because I believe they have no voice, and indeed many of them are so severely disabled, they are housebound, and require aid and attendance.

While I recognize the service of the Filipino veterans of World War II, those who advocate for their compensation should do so from other funding sources. It should not be at the expense of our needy veterans.

I believe that we should not cut benefits from aging veterans who need us most to fund new entitlements. To do so would violate the principle of honor that defined their service and our obligation to both them and the Nation they served.

Mr. Speaker one of the provisions of the resolutions states, ''Resolved, that the House of Representatives (1) encourages the American people to recognize and acknowledge the sacrifices the American veteran demonstrates in the name of freedom.''

How can the House of Representatives encourage the American people to acknowledge the sacrifices of American veterans when very soon afterwards, this very same Congress that is supposed to represent the people wants to vote to cut nearly $1 billion from these wartime elderly, indigent, disabled veterans who need it most? We are sending veterans, servicemembers, and the American people the wrong message if we do this.

So I would remind my colleagues who vote in support of this resolution to please recognize that when this legislation may come soon to the floor. Because if my colleagues join me in embracing our Nation's veterans, particularly those who are disabled by sacrifice for the ideals and the heritage of this Nation and truly want to thank them by naming 2008 the Year of the American Veteran, then I ask you do not cut their veterans' benefits if this bill is brought to the floor.

I urge my colleagues to support the resolution, but I do not support the rationale of continued inoculation and a mixed message that will result in this cut of nearly $1 billion from these wartime elderly, disabled, and indigent veterans.

I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I'm prepared to close, and I will reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I ask all Members to support the chairman's resolution.

I yield back all my time.

Mr. FILNER. Mr. Speaker, we are debating House Resolution 1098, although the ranking member spent all of his time on a bill called S. 1315 which earlier passed the full Senate by a vote of 96–1. Would 96 Senators support a bill that cuts nearly $1 billion in special monthly pension benefits for elderly veterans? No, because that's not what S. 1315 does. And in fact, the leader of the minority party, Senator JOHN MCCAIN, voted in favor of this bill; and he said, I certainly believe that we should compensate not only the thousands and thousands of veterans who get the money from the bill but the Filipinos for their brave service to our Nation.

But we are on House Resolution 1098 to honor the Year of the American Veteran. I will tell the Speaker that in the last year and a half of a Democratically led Congress, about $17 billion of new money came into the VA system to help the health care of our veterans. That is real contribution to health care. That is real contribution to mental health that we need to deal with.

We have thousands and thousands, even though the Department of Defense refuses to admit it, of young men and women coming back from Iraq and Afghanistan with traumatic brain injury and PTSD, post-traumatic stress disorder. These require months and months, if not years and years, if not decades, of treatment from a grateful Nation for their service. We have put the money in that will begin to do that job.

Of course, our committee has to continue with oversight over bureaucracies that tend to respond rather slowly. But in our Resolution 1098, in our budget which meets the veterans' groups so-called independent budget, which is put together by them, and for the first time in the history of the independent budget for 2 years in a row we exceeded their budget from this Democratic Congress. So the Year of the American Veteran is not just words. It's budget dollars, it's commitment, it's programs, it's support for our brave veterans, like I said, whether from this war or earlier wars.

So, Mr. Speaker, I urge my colleagues to unanimously support House Resolution 1098.

I would also ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and agree to the resolution, H. Res. 1098.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BUYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SUPPORTING THE GOALS AND IDEALS OF VIETNAM VETERANS DAY

Mr. FILNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1231) supporting the goals and ideals of Vietnam Veterans Day and calling on the American people to recognize such a day.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1231

Whereas the Vietnam War was the longest military conflict in United States history;

Whereas more than 3,000,000 Americans served in Southeast Asia during the Vietnam War;

Whereas more than 58,000 Americans lost their lives defending the Nation's freedom during the Vietnam conflict;

Whereas 304,000 additional Americans were wounded during the war;

Whereas on March 29, 1973, the last remaining members of the United States Armed Forces withdrew from Vietnam; and

Whereas the United States does not have a national day of recognition specifically for Vietnam veterans: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of Vietnam Veterans Day; and

(2) calls on the American people to recognize such a day to remember those men and women who sacrificed their lives defending the Nation in the Vietnam conflict, to recognize the prisoners of war and those members of the Armed Forces who are missing in action, and to honor all Vietnam veterans who served the Nation faithfully to protect its freedom.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Thank you, Mr. Speaker, and I yield myself such time as I may consume.

This resolution, 1231, supports the goals and ideals of Vietnam Veterans Day. I don't think we have to remind this body that the Vietnam war was a very divisive time in this country. One of the lessons that we should draw from Vietnam is that although we may disagree about a war, as we do about the current one in Iraq, we must never, never disagree about the importance of honoring the service and sacrifice of the men and women who serve our Nation. We must never confuse the war with the warrior. We must never, never forget the warrior.

This war that we are engaging in Iraq is only exceeded in its length by America in the Vietnamese war, the longest conflict in our history. More than 3 million Americans served in southeast Asia. More than 58,000 Americans lost their lives on the battlefield. Over 300,000 Americans were wounded, and that was at the time of the war itself. We know because we did not honor these heroes when they came home and we did not have the resources in place, especially with regard to mental health, that we inflicted a terrible, terrible future on many of those soldiers.

Half of the homeless on the street tonight are Vietnam veterans. We think that there are more suicides by Vietnam veterans than who died on the original battlefield. That's a terrible, terrible blot on America for not honoring our veterans. And certainly we cannot make the same mistake again with those returning from Iraq and Afghanistan.

So we have a Vietnam memorial. We must always remember the service and sacrifices. A day of remembrance is a particularly fitting way to remember the painful lessons learned. But we could do some more material things, too, and I hope that the cooperation and goodwill shown by my ranking member at all times will make sure that we up the budget, for example, to deal with the homeless veterans on the street—most of them are Vietnam veterans—that we grant their Agent Orange claims that they have fought for for decades, that we provide some security for them and increase the budget that is aimed at their future as citizens in this Nation.

So yes, let us pass this resolution. But let us move on in the context of the budget and in the context of other legislation to really honor these warriors who, when they came home, did not get that honor.

I will reserve the balance of my time.

The SPEAKER pro tempore (Mr. KLEIN of Florida). The gentleman from Indiana (Mr. BUYER) is recognized.

Mr. BUYER. Mr. Speaker, it looks like ''buyer'' but it's pronounced BOO-yer. It comes from Alsace-Lorraine, along the Rhine, and it was pronounced de BOO-yea. You just Americanized my name by calling me ''Buyer.'' We sort of Americanized de Buyer as referring to it as BOO-yer. You are now the second Speaker pro tem who has taken the well who has done so.

Perhaps I need to introduce myself to you. So for that, I apologize.

The SPEAKER pro tempore. The Chair apologizes and recognizes the gentlemen from Indiana.

□ 1845

Mr. BUYER. I rise in support of House Resolution 1231, a bill which would support the goals and ideals of Vietnam Veterans Day and calls upon the American people to recognize such a day. I thank my colleague, Mr. SHULER of North Carolina, for his efforts in bringing the bill to the House floor.

The American participation in the conflict of Vietnam began in March 1959 and continued until March 29, 1973, when the last remaining members of the United States Armed Forces were withdrawn from Vietnam. The conflict itself continued until April 30, 1975. During this conflict, considered the longest military conflict in U.S. history, over 3 million veterans answered their Nation's call to duty. More than 58,000 servicemembers lost their lives, and over 300,000 were wounded. This bill would designate for the first time a national day to recognize Vietnam veterans and commend them for their service to a grateful Nation.

While this resolution is belated, it reflects a better perspective on those who served in an unpopular war and who came home to indifference or outright hostility. That was wrong, and today, we acknowledge that our Vietnam veterans deserved much better.

Now, we recognize also that there are some that perhaps did not honor these veterans in the way in which they should have been, but I also want to recognize there were many people in the country that did recognize their service and honor them.

My grandfather was a World War I veteran who was a Legion commander of the post in Francesville, Indiana. My father then later became that very same commander. And I remember, even as a young man, the discussions about Vietnam and the support. And I remember a young man who even babysat for the four kids and later went on to Vietnam, and I remember the discussions.

But I came from a small town, and I don't remember the hostilities. I remember seeing war protesters on TV, and I remember the term ''hippy.'' I didn't even know what that meant, and I remembered all these things happening as a young man in the 1960s and early 1970s. And it was challenging for me because I didn't share that perspective. I wasn't brought up in a family that had the perspective of public protest and war protesting and those of whom would spat upon someone in uniform and treat them in outward disgrace.

I never understood that. I could never get there to understand that. I understand today that those of whom may have done that in the follies of their youth are filled with guilt, and I'm glad that they are overcoming those types of feelings.

And I will embrace what the chairman had just said, when he said never confuse the war with the warrior. And I think he's absolutely right. And so the country had learned some painful lessons with regard to the Vietnam War, and so if you've got challenges, don't take them out on the warrior, and so I embrace the chairman's remarks.

I was trained as a young ROTC cadet at The Citadel by Vietnam veterans, and I hold the Vietnam veteran in pretty high self-esteem because of the challenge that they went through in a guerrilla war. You know, they never lost a battle. Our soldiers didn't lose a battle, but they ended up losing a war. And we

learned a lot, also as a military force, in guerrilla tactics. And a lot of that is coming home to roost here in the successes that General Petraeus had also used here with regard to the surge.

In the war in which I had served in, the first Gulf war, that war, the first Gulf war, its success came from the leadership of the Vietnam veteran. Those Vietnam veterans were, in fact, the senior NCOs, and they were the general officers and the senior colonels, and they knew the mistakes of Vietnam. They also knew that in Vietnam it was as soon as they hit the ground, they wanted to know when their rotation would end, when do they get to go home. And so when we went in the first Gulf war, it was nothing about rotation. It was all about we're here to do a job, we do the job and get to go home.

So that leadership, the senior leadership from Vietnam, had a great impact upon our military heritage and our legacy.

And so acknowledging the service and the honored sacrifice of the Vietnam veterans, I want to thank the chairman for doing that. I urge my colleagues to support this bill.

I yield back my time.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Resolution 1231.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. I urge my colleagues to join our committee unanimously to support House Resolution 1231.

Mr. SHULER. Mr. Speaker, I rise today to pay tribute to the millions of veterans who served our country during the Vietnam War.

March 29th, 1973 marked the official departure of the last American troops in Vietnam.

During the longest military conflict in U.S. history, over 3 million Americans served in Southeast Asia. Over 58,000 Americans lost their lives and 304,000 additional Americans were wounded.

Those who fought to preserve our freedom in Vietnam have never received the hero's welcome they richly deserve.

Derrell Maxwell and the Veterans of Chapter 994 of Vietnam Veterans of America in Franklin, North Carolina recently approached me with an idea. They wanted Congress to commemorate March 29th as Vietnam Veterans Day.

I was proud to work with Chairman FILNER to get the full House of Representatives on record in support of this idea. House Resolution 1231 calls on all Americans to take time each March 29th to remember all of the service members who defended our Nation in Vietnam.

We honor those who made the ultimate sacrifice, those held captive or missing in action, and those who sustained wounds, both seen and unseen. To all Vietnam veterans, including my constituents in Western North Carolina and those currently serving in this body, I offer my deepest thanks for your service to our Nation.

I urge passage of this resolution.

Mr. FILNER. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and agree to the resolution, H. Res. 1231.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ELWOOD ''BUD'' LINK DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2245) to designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood ''Bud'' Link Department of Veterans Affairs Outpatient Clinic.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2245

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

SECTION 1. DESIGNATION OF ELWOOD "BUD" LINK DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.

(a) DESIGNATION.—The Department of Veterans Affairs outpatient clinic located in Wenatchee, Washington, shall after the date of the enactment of this Act be known and designated as the ''Elwood 'Bud' Link Department of Veterans Affairs Outpatient Clinic''.

(b) REFERENCES.—Any reference in any law, regulation, map, document, record, or other paper of the United States to the medical center referred to in subsection (a) shall be considered to be a reference to the Elwood ''Bud'' Link Department of Veterans Affairs Outpatient Clinic.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Speaker, I rise today to offer my support of H.R. 2245, a bill to name the VA Outpatient Clinic in Wenatchee, Washington, after Elwood ''Bud'' Link.

Mr. Link, along with his comrades from the Cashmere Veterans of Foreign Wars Post 1045, was the driving force in getting a VA clinic built in North Central Washington. A veteran of World War II, Link worked tirelessly to bring accessible health care to his rural community.

And according to the Northwest Chapter of the Paralyzed Veterans of America, ''Bud may not be the highest ranking veteran in the community or the one with the most medals. But if you ask us, no one stood taller than him in the veteran community and naming the [clinic] after him will inspire us all to greater heights.''

In a newspaper article on the opening of the clinic, Mr. Link's widow stated that the message of Link's work for veterans was ''if you want to get something done, get a group behind you and go for it.'' Mr. Link did just that, and today, the veterans of rural Washington have a veterans' health care facility.

So today we not only honor the work of Elwood ''Bud'' Link, we also, in a very real sense, recognize the efforts of all of our veterans who work tirelessly day after day to ensure that their comrades get the health care benefits that they earned in service to our Nation.

Mr. Speaker, everywhere I go across the Nation I find leaders like Bud Link who don't just care about their own benefits, their own next appointment with the VA, but all the veterans, and they work in their community to make sure that we as a Congress respond to those needs. And I hope that we continue to respond to them.

I reserve the balance of my time.

Mr. BUYER. I rise in support of H.R. 2245, a bill to designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood ''Bud'' Link Department of Veterans Affairs Outpatient Clinic. I commend my colleague from Washington, DOC HASTINGS, for introducing this bill.

Bud was a very outspoken Navy veteran of World War II. Along with his friend and fellow veteran Bill Forte, he worked tirelessly with local veteran service organizations and elected officials to establish this outpatient clinic in Wenatchee, Washington, which is about 148 miles from Seattle. Bud is recognized as the catalyst behind this outpatient clinic, but unfortunately, he passed away before seeing its opening.

This selfless example of service to veterans is an inspiration to us all and certainly should be recognized. Memorializing Bud by renaming the clinic will recognize his service as both a seaman and as a veteran advocate.

Mr. Speaker, I urge my colleagues to support this bill.

I reserve the balance of my time.

Mr. FILNER. I'm prepared to close and would reserve my time.

Mr. BUYER. I urge my colleagues to adopt this resolution, and I yield back the balance of my time.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 2245.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HASTINGS of Washington. Mr. Speaker, thank you for the opportunity to speak in support of H.R. 2245, my bill to name the Department of Veterans Affairs community-based outpatient clinic in Wenatchee, Washington in honor of Elwood ''Bud'' Link.

Bud joined the Navy in 1941 and served on the destroyer USS *Tracy* that aided U.S. forces at Guadalcanal, Okinawa, and elsewhere in the Pacific. He was one of many residents of north central Washington who were called to serve their country during World War II. However, Bud's support for his Nation didn't stop when his military service ended.

As an active member of the local Cashmere Veterans of Foreign Wars post, Bud was a dedicated advocate for increased hometown health care. He experienced firsthand the long distances north central Washington veterans had to travel for even the most basic health care. In 2001, the Cashmere-Leavenworth VFW passed a motion to research the need for a VA clinic, and Bud quickly took the lead. He became a tireless proponent of bringing a veterans outpatient clinic to north central Washington.

Bud was instrumental in keeping the local veterans motivated, active and informed about how to successfully make a clinic a reality. He championed the clinic until his death in 2003.

For several years I worked with Bud Link and local veterans to make the case for a new clinic in north central Washington and press the VA when the project faced delays. Our hard work paid off in 2006 when the Secretary of Veterans Affairs approved a new clinic. And, in 2007 I was very proud to attend the grand opening of the new VA clinic in Wenatchee.

As a tribute to Bud's work to support hometown health care for rural Washington state veterans, Senator PATTY MURRAY and I introduced legislation to name the clinic in Bud's honor.

This bill has the endorsement of the local community, the entire Washington state Congressional delegation, the Washington state Chapters of the Paralyzed Veterans of America, the American Legion, the Disabled American Veterans, and the Vietnam Veterans of America.

By officially naming this clinic in Wenatchee after Bud, we are paying respect to a local veteran who fought for the quality care his fellow veterans deserve.

I would like to thank Bud's wife, Helen, for her steadfast support of Bud's efforts. I would also like to thank the members of the Cashmere-Leavenworth VFW for their work to organize the local community in support of the clinic. Finally, I would like to thank Chairman FILNER and Ranking Member BUYER for their work to bring this bill to the floor today.

I strongly encourage my colleagues to support H.R. 2245. Through this bill we are recognizing the heroic efforts of Bud Link and his work to improve the health care of his fellow veterans.

Mr. FILNER. I urge my colleagues to unanimously support this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 2245.

The question was taken.

The SPEAKER. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

MICHAEL BILIRAKIS DEPARTMENT OF VETERANS AFFAIRS SPINAL CORD INJURY CENTER

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4264) to name the Department of Veterans Affairs spinal cord injury center in Tampa, Florida, as the ''Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center''.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4264

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

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS SPINAL CORD INJURY CENTER, TAMPA, FLORIDA.

The spinal cord injury center located at the James A. Haley Department of Veterans Affairs Medical Center in Tampa, Florida, shall after the date of the enactment of this Act be known and designated as the ''Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center''. Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the ''Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Speaker, I rise today to offer my support to name the VA Spinal Cord Injury Center in Tampa, Florida, after our former colleague, Michael Bilirakis, and I thank Mr. MILLER for bringing us this important resolution.

One of the virtues, I guess—although some people advise against this—of naming a facility after someone who's living and who's a former colleague is that we remember him. It's not a historical kind of moment. We have known Michael for many, many, many years in this House, and his efforts, of course, brought this particular center into being. And it's fitting that we recognize his efforts.

But he was responsible for a great many things. His background was in the Air Force where he served for 4 years. He left for the Congress in 1982, served here for 24 years, retired at the end of the last Congress, and we miss his advocacy for veterans. Although, his son, GUS, has taken his place and is a member of our Veterans' Affairs Committee and I'm sure will achieve greatness in terms of his advocacy for veterans, also.

I just have to say personally about Mr. Bilirakis, if he is listening. Mike Bilirakis was a little old fashioned. He believed in civility, that, in fact, we should relate to each other as human beings. We could differ on issues, but we have to speak with respect and complete integrity in the way we deal with each other.

I will tell you that he was not always happy with some of my statements in my years on the Veterans' Affairs Committee, but he would not just let them go. He came up to me and explained why he thought I should take a different tone.

□ 1900

And he convinced me that working with the other party, working together on the committee, in fact, you can achieve much more. He really became the conscience of the Veterans' Affairs Committee. I think he made that committee far more civil, and we miss him, of course, today.

I admired and watched him for many, many years deal with the issue that not too many people understood, it was called ''concurrent receipt,'' that those who were retirees from our Armed Forces but who also were disabled from their time in the service would get both payments because they earned them both; and yet the law had offset them, and so the disabled veteran was actually paying for his disability.

Michael Bilirakis fought tirelessly to get rid of that offset, to have, in fact, concurrent receipt. He was able to achieve his goal for about half of the veterans. We're going to continue his work. And I know GUS is taking the lead to make sure we get full concurrent receipt and really honor him not only in the naming of this center, but in finally achieving that goal for really millions of veterans.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I rise in support of H.R. 4264, a bill to name the Department of Veterans Affairs Spinal Cord Injury Center in Tampa, Florida, as the ''Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center.''

Mr. Michael Bilirakis served in the United States Air Force from 1951 to 1955 and served Florida's Ninth District as Congressman for 24 years, from 1983 to 2007. As a veteran, Mike wanted to be a strong veterans' advocate in Congress, and specifically requested to be appointed to a seat on the House Committee on Veterans' Affairs.

Those of us who served with Mike on the committee well remember his hard work on what the chairman just spoke about, the issue of concurrent receipt. Since his first introduction of the legislation in the 99th Congress to eliminate the offset of the military pension

in order to receive the VA disability compensation, Mike consistently worked each Congress to have this legislation passed, including reintroducing the bill each consecutive Congress in which he had served.

When I served on the House Armed Services Committee as chairman of Military Personnel in the late 1990s, I went to Mr. Bilirakis and informed him that I had $25 million, and I wanted to address the issue of concurrent receipt. And what we did was we first took that $25 million and we said we're going to take care of those 100 percent combat-disabled veterans. And Mike and I felt pretty good about what we had done. We had moved incrementally, but we were going to take on this issue. Boy, did we find out that in the very next Congress we were being attacked. Here we thought we were doing great things on behalf of the veterans' community, and then Mr. Bilirakis and I then began to be attacked by all these other veterans who did not receive the benefits of concurrent receipt. Here we thought we were trying to do that which was best, open up the issue of concurrent receipt, address the 100 percent combat-disabled veterans, and then all of a sudden Michael Bilirakis and I were being attacked because we didn't do it for everyone. And Mike always took on these issues with great humor, self-deprecating humor, and for that I have great respect for him.

He also fought for the Survivor Benefit Plan and improvements for the widows of military retirees, dependency and indemnity compensation and survivors' benefits, veterans' equitable resource allocation, benefits and health care for former prisoners of war, hospice care for veterans, as well as the designation of the National Women Veterans Recognition Week.

Additionally, Congressman Michael Bilirakis sought and obtained funding for the following projects to serve veterans within his congressional district in the State of Florida. The Port Richey Outpatient Clinic, the Spinal Cord Injury Center at the James Haley VA Medical Center. We have the Florida National Cemetery, the Land O'Lakes Nursing Home, and the Sub-Regional Veterans Office in Tampa, Florida. Among his top priorities was obtaining the funding and resources for the Spinal Cord Injury Center located at the VA Medical Center in Tampa, Florida.

Mr. Speaker, for all of his outstanding work on behalf of our Nation's veterans, it is most appropriate today that we consider this legislation to name the Spinal Cord Injury Center after Michael Bilirakis.

I had the opportunity to tour this facility. And I welcome all of my colleagues, if you ever have the chance to be in Tampa, to visit the polytrauma center; go by this spinal cord facility. It is one of the most remarkable facilities that we have in the country in which we care for these veterans. And it's only fitting, since Mike worked so hard on this particular facility, that it be named in his honor.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield such time as the gentleman from Florida (Mr. MILLER) may consume, the ranking member of the Health Subcommittee.

Mr. MILLER of Florida. I thank the ranking member for yielding the time.

As you already know, for 24 years Mike Bilirakis served as a staunch advocate for veterans, not only on the floor of this House, but in the committee room, serving on the Veterans' Affairs Committee, including vice-chairman of the full committee. Mike strongly promoted equitable and improved benefits for all of our Nation's veterans and their families as well.

One of his signature efforts has already been talked about today, and that was concurrent receipt, H.R. 303. We all remember that very well because that was his signature bill that he pushed on the floor of this House. But his work was not just there. I mean, he was instrumental in seeing that the Department of Veterans Affairs took care of surviving spouses, as the ranking member just said, through the Survivor Benefit Plan. He reassured veterans everywhere that they were not forgotten. And as chairman of the Subcommittee on Oversight and investigations, he made sure that the VA carried out its mission through its responsibilities.

Another one of the key accomplishments of Mike's during his tenure was funding for the Spinal Cord Injury Center at the James Haley VA Medical Center. For 12 years, Mike worked tirelessly to see this center come to reality, and I think it's fitting that it be named after Congressman Bilirakis.

When the center opened in February of 2002, some 7,000 veterans from that area finally had a place that they could specifically go that was suited for their needs that they had, those unique needs. So Mr. Speaker, it is only fitting that this facility, providing groundbreaking research such as this one, be named after a person who gave everything that he had to see that veterans receive the care and attention that they deserve.

Veterans always knew they had a voice in Michael Bilirakis. Many of us got to serve with him very proudly here in Congress and applauded his enthusiasm. So it's my pleasure to stand today in support of this piece of legislation.

Mr. BUYER. Mr. Speaker, I now yield such time as he may consume to GUS BILIRAKIS of Florida, the son of Michael Bilirakis.

Mr. BILIRAKIS. Mr. Speaker, I rise today in support of H.R. 4264 to name the Department of Veterans Affairs Spinal Cord Injury Center at the James Haley VA Medical Center in Tampa, Florida, after my father, former Congressman Michael Bilirakis.

I would like to thank Mr. MILLER for introducing this legislation, my colleagues from Florida for their support, and you, Mr. Speaker, as well as Chairman FILNER and Ranking Member BUYER for their leadership. I appreciate all of their hard work in recognizing my father's dedication to providing our veterans suffering from spinal cord injuries with a much needed state-of-the-art facility.

As a veteran himself, my father came to Washington in 1982 to be a strong advocate for our Nation's veterans in the halls of Congress. He served as a member of the House Committee on Veterans' Affairs during all of his 12 terms in office. During the last 6 years of his career, he served as vice-chairman of the full committee. He also founded the Military Veterans Caucus in the 108th Congress.

Through his work on the committee, my father sought to recognize the great contributions of our Nation's veterans and the sacrifices made by their families. He consistently fought to ensure that veterans received the benefits and services that they earned through their military service. In fact, he often said that veterans' benefits were our one true ''entitlement'' because individuals had to earn their benefits by wearing our Nation's military uniform. It took 12 years to secure the funding, but the construction of the new Tampa SCI Center was one of my father's most important achievements in Congress.

There are over 3,000 veterans suffering from spinal cord injury disabilities living within the Tampa VA spinal cord injury service area, as well as another 3,000 to 4,000 veterans with spinal cord dysfunctions living in the region. Before the construction of this facility, the Tampa SCI Unit occupied space originally designed for psychiatric patients and was not well suited for the unique needs of SCI patients. My father made getting this spinal cord treatment center one of his top priorities while in Congress. As a matter of fact, he has dedicated his life to veterans; he is still working for veterans.

In total, he secured $44 million for the construction of this facility, which serves as a much needed addition to the James Haley VA Medical Center. Since opening in February of 2002, it has provided essential services to local veterans suffering from these debilitating injuries.

My father will be so proud—and I appreciate all of you, my colleagues—and honored; he would be honored to have his name attached to the Spinal Cord Injury Center that he worked so hard to establish while in Congress. His leadership and his advocacy on behalf of veterans' issues continues today, as I said, and this bill brings the deserved recognition for one of his great accomplishments and his devoted mission to support our Nation's brave men and women.

Mr. BUYER. Mr. Speaker, may I inquire as to how much time I have remaining.

The SPEAKER pro tempore. The gentleman from Indiana has 11½ minutes.

Mr. BUYER. Mr. Speaker, I yield as much time as she may consume to Dr. ILEANA ROS-LEHTINEN of Florida.

Ms. ROS-LEHTINEN. I thank the gentleman from Indiana, the ranking member of Veterans' Affairs, for this time.

I am so honored to be here tonight congratulating our good friend, Mr. MILLER of Florida, for this bill, and Congressman BILIRAKIS, another Florida colleague, for speaking on this bill as well.

I rise in strong support of House Resolution 4264 to rightfully name the Department of Veterans Affairs Spinal Cord Injury Center in Tampa, Florida as the ''Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center.''

I had the honor and the pleasure of serving with Congressman Mike Bilirakis here in the House for almost 17 years. He was a colleague, a statesman, a fellow Floridian. Mike was and continues to be a strong voice for our country's men and women proudly serving our country. He was also an advocate for Florida's environment, including the protection of our pristine coastlines. But his time here in the House was truly defined by his supreme dedication to veterans, serving on the House Committee on Veterans' Affairs for his entire tenure in the U.S. House.

After 24 years in Congress, this fine public servant retired in 2006. However, we all have the wonderful pleasure to serve with his son, GUS BILIRAKIS, and I'm honored to serve with GUS on our Foreign Affairs Committee. We're delighted to see him follow in his father's footsteps in his passion for our veterans.

Naming this Department of Veterans Affairs after Congressman Mike Bilirakis is certainly a sound tribute to a man who gave so much to his community, to our brave service men and women, and indeed, to our country.

I urge all Members to vote in favor of this resolution that rightfully honors a man such as Congressman Mike Bilirakis, a friend to all, and especially to our veterans.

Mr. BUYER. Mr. Speaker, our good friend, Michael Bilirakis, and his wife, Evelyn, I'm sure are listening right now. And to my good friend Michael, I know this is a little uncomfortable listening to your colleagues say nice things about you while you're alive, so I thank the chairman for doing this bill.

And we recognize you, Michael Bilirakis, because your presence here was significant. You heard a very personal admission on behalf of the chairman. And I think all of us on the committee could say the very same thing that the chairman had said. Michael was very good at keeping and maintaining civility, and it's about who he was as a person.

I also had the opportunity to serve with him on the powerful House Energy and Commerce Committee. And we honor his work, not only on behalf of America's veterans, but I also remember his work on the Health Subcommittee. It worked out very well, his knowledge of Energy and Commerce along with his work on the Health Subcommittee on the House Veterans' Affairs Committee. And he was able to integrate his work with Health and Human Services and NIH and research and met with the VA and research. Your work is highly recognized and remembered by the House.

But I also know that, Michael, if you were still here, you would be just as concerned as I am with regard to the high cost of energy because you voted on a lot of efforts to bring down energy prices for all Americans, which include our veterans.

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So with that I urge all my colleagues to support the legislation before us in naming this spinal cord facility on behalf of Michael Bilirakis.

Mr. Speaker, I yield back the balance of my time.

Mr. FILNER. To the now Congressman BILIRAKIS, you honor your father with your work on the committee and your advocacy, and we look forward to many years of that.

And, of course, Mr. Speaker, this is not an obituary. Mike Bilirakis is very much alive and working for veterans still. His work on the Commission for the Future of America's Veterans is important. It's going to be very timely. It's going to be significant. And I hope we all listen to what he says in his new role on that commission.

And, Michael, if you're watching, I don't always meet your ideal of civility, but I remember your teaching. I remember your example every day.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4264.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H.R. 4264, legislation to designate the ''Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center'' at the James A. Haley Hospital in Tampa.

First, I want to commend my colleague from Florida, JEFF MILLER, a distinguished member of the Veterans' Affairs Committee, for introducing this legislation to honor our former colleague and my friend MIKE BILIRAKIS.

There is no member of this House who devoted more of his time and energy to improve the quality of care for our Nation's veterans than MIKE BILIRAKIS. Long a member of the Veterans' Affairs Committee, he made the establishment of the Spinal Cord Injury Unit at Tampa one of his highest legislative priorities.

As a result of these efforts, we have at Tampa the finest center of its kind anywhere in our Nation taking care of seriously injured veterans. We are thankful that MIKE had the foresight to pursue this project as it has become a critical center in taking care of returning heroes from the war against terrorism in Iraq and Afghanistan.

Naming the Spinal Cord Injury Center for MIKE BILIRAKIS will be a lasting tribute to a man who never forgot our Nation's commitment to our veterans. It is also a special honor to a member of this House who did not seek acclaim or recognition. He just worked hard every day for the people of his district and for the veterans who wore the uniform.

Mr. Speaker, I urge all of my colleagues to join in approving this legislation to honor one of this House's quiet heroes who is a champion of those who bore the uniform in the past, do so now, and will into the future.

Mr. FILNER. Mr. Speaker, I urge my colleagues to unanimously support the bill.

I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 4264.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EURIPIDES RUBIO DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC.

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4289) to name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the ''Euripides Rubio Department of Veterans Affairs Outpatient Clinic''.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4289

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

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, PONCE, PUERTO RICO.

The Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, shall after the date of the enactment of this Act be known and designated as the ''Eurípides Rubio Department of Veterans Affairs Outpatient Clinic''. Any reference to such outpatient clinic in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Eurípides Rubio Department of Veterans Affairs Outpatient Clinic.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

I rise today to offer my support of H.R. 4289, a bill to name the VA outpatient clinic in Ponce, Puerto Rico, after Euripides Rubio.

The Congressional Medal of Honor, Mr. Speaker, is the highest military decoration for bravery beyond the call of duty and action in the face of enemy attack. Euripides Rubio was awarded the Medal of Honor posthumously. His citation reads as follows:

''For conspicuous gallantry and intrepidity in action at the risk of his life above and beyond the call of duty. Captain Rubio, Infantry, was serving as communications officer, 1st Battalion, when a numerically superior enemy force launched a massive attack against the battalion defense position. Intense enemy machinegun fire raked the area while mortar rounds and rifle grenades exploded within the perimeter. Leaving the relative safety of his post, Captain Rubio received two serious wounds as he braved the withering fire to go to the area of most intense action where he distributed ammunition, re-established positions, and rendered aid to the wounded. Disregarding the painful wounds, he unhesitatingly assumed command when a rifle company commander was medically evacuated. Captain Rubio was wounded a third time as he selflessly exposed himself to the devastating enemy fire to move among his men to encourage them to fight with renewed effort. While aiding the evacuation of wounded personnel, he noted that a smoke grenade which was intended to mark the Viet Cong position for air strikes had fallen dangerously close to the friendly lines.

''Captain Rubio ran to reposition the grenade but was immediately struck to his knees by enemy fire. Despite his several wounds, Captain Rubio scooped up the grenade, ran through the deadly hail of fire to within 20 meters of the enemy position, and hurled the already smoking grenade into the midst of the enemy before he fell for the final time. Using the repositioned grenade as a marker, friendly air strikes were directed to destroy the hostile positions. Captain Rubio's singularly heroic act turned the tide of the battle, and his extraordinary leadership and valor were a magnificent inspiration to his men. His remarkable bravery and selfless concern for his men are in keeping with the highest traditions of the military service and reflect great credit on Captain Rubio and the United States Army.''

In the words of the veterans' groups who support this legislation, ''Captain Euripides Rubio's selfless and courageous actions, which earned him the Congressional Medal of Honor, reflect the highest ideals of the United States Army and serve as an inspiration for the people of Puerto Rico, soldiers and civilians alike.'' Today, by passing H.R. 4289, which would designate the outpatient clinic in Ponce, Puerto Rico, as the ''Euripides Rubio Department of Veterans Affairs Outpatient Clinic,'' we honor the bravery and sacrifice of Captain Rubio.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I rise in support of H.R. 4289, a bill to name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the ''Euripides Rubio Department of Veterans Affairs Outpatient Clinic.''

I commend my colleague Mr. FORTUÑO of Puerto Rico for introducing the bill.

I cannot improve upon the words of Chairman FILNER. I urge my colleagues to support this bill and honor the extraordinary valor of Captain Euripides Rubio.

Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4289.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FORTUÑO. Mr. Speaker, it is with great pride that I submit this statement for the record in support of H.R. 4289, which will name the Veterans' Affairs Outpatient Clinic in Ponce, Puerto Rico after Captain Euripides Rubio. Captain Rubio was an officer in the United States Army who fought and, at age 28, died in combat in the jungles of South Vietnam. For the actions that led to his death, Captain Rubio was posthumously awarded the Medal of Honor, one of four residents of Puerto Rico to have earned this supreme honor. By naming the veterans' clinic after Captain Rubio, Congress pays tribute to his courage and, by extension, honors the hundreds of thousands of sons and daughters of Puerto Rico who have served in the armed forces of this great Nation. I thank the Congress, and particularly the Veterans' Affairs Committee, for helping to preserve the memory of an extraordinary American.

It is fitting that Ponce, where Captain Rubio was born in 1938, is known as ''the City of Lions.'' Captain Rubio truly had the qualities of a lion—strength, courage, and fidelity. Those who served alongside him in the 1st Battalion, 28th Infantry remember him as an inspirational leader and as a model soldier completely committed to his country and to his comrades.

It is impossible to read Captain Rubio's Medal of Honor citation without shaking one's head and wondering how the world produces men of such caliber. On the day of his death—November 8, 1966—enemy forces launched an attack against the battalion's defensive position in the Tay Ninh province. Machine gun fire, mortar rounds and rifle-launched grenades exploded within the defense perimeter. Captain Rubio chose to leave the relative safety of his post and ''braved the withering fire to go to the area of most intense action where he distributed ammunition, re-established positions and rendered aid to the wounded.'' In the process, Captain Rubio was wounded twice.

Moments later, when a rifle company commander was medically evacuated, Captain Rubio assumed command. He received a third wound as he ''selflessly exposed himself to the devastating enemy fire to move among his men to encourage them to fight with renewed effort.''

While helping to evacuate wounded comrades, Captain Rubio observed that a smoke grenade, intended to mark the Viet Cong position for U.S. air strikes, had fallen perilously close to friendly lines. Captain Rubio ran to reposition the grenade but was immediately brought to his knees by enemy fire. Despite his many wounds, Captain Rubio picked up the grenade, ran through the deadly hail of fire to within 20 meters of the enemy position, and threw the grenade into the midst of the enemy before he fell for the final time. Because of Captain Rubio's actions, U.S. aircraft were able to identify and destroy the hostile positions.

The Medal of Honor citation ends with these simple and powerful words: ''Captain Rubio's singularly heroic act turned the tide of battle, and his extraordinary leadership and valor were a magnificent inspiration to his men. His remarkable bravery and selfless concern for his men are in keeping with the highest traditions of the military service and reflect great credit on Captain Rubio and the U.S. Army.''

There are many important ways in which this Congress and this country can honor our Nation's warriors. We can—and should—work to ensure they have the proper equipment they need to fight. We can—and should—work to ensure that their families are taken care of during long deployments. We can—and should—work to ensure that, having left the service, our veterans receive the best educational opportunities and medical care available. Simply put, we should fight and sacrifice on behalf of those who have fought and sacrificed for us.

There is something else we can do, too. Something we as a country do not do enough of. And that is to publicly honor the most remarkable instances of bravery on the battlefield displayed by our men and women in uniform. In the last two years, six Americans have won the Medal of Honor for their actions in Afghanistan and Iraq. And yet one must struggle—often in vain—to find stories in the mainstream press about these present-day Euripides Rubios. Had they lived, these heroes would likely have been reluctant to talk about themselves. Such is the nature of soldiers. It is our obligation—and it should be our privilege—to publicly honor their achievements. And H.R. 4289 does precisely that.

Thanks to Congress's actions today, I know that many children in Puerto Rico, looking upon the clinic that bears his name, will ask their parents or grandparents who Euripides Rubio was. It is my fervent hope that, from the answer given, they will learn about this Lion of Ponce, who died far too young, but whose short life was filled with greatness.

Mr. FILNER. Mr. Speaker, I ask my colleagues to approve H.R. 4289.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 4289.

The question was taken; and (two-thirds being in the affirmative) the

rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BRUCE W. CARTER DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. FILNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4918) to name the Department of Veterans Affairs medical center in Miami, Florida, as the ''Bruce W. Carter Department of Veterans Affairs Medical Center''.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4918

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

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, MIAMI, FLORIDA.

The Department of Veterans Affairs medical center in Miami, Florida, shall after the date of the enactment of this Act be known and designated as the ''Bruce W. Carter Department of Veterans Affairs Medical Center''. Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Bruce W. Carter Department of Veterans Affairs Medical Center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Speaker, I rise to offer my support for the bill to name the VA Medical Center in Miami, Florida, after Bruce W. Carter.

I have a biography, but I never knew Mr. Carter and I'm sure Ms. ROS-LEHTINEN knows him best or knows his record the best.

Mr. Speaker, I rise today to offer my support of H.R. 4918, a bill to name the VA Medical Center in Miami, Florida, after Bruce W. Carter.

For his actions during Operation Idaho Canyon in the Quang Tri Province of the Republic of Vietnam in 1969, PFC Bruce W. Carter was posthumously awarded the Medal of Honor in 1971. The citation reads, in part:

Pfc. Carter and his fellow marines were pinned down by vicious crossfire when, with complete disregard for his safety, he stood in full view of the North Vietnamese Army soldiers to deliver a devastating volume of fire at their positions. The accuracy and aggressiveness of his attack caused several enemy casualties and forced the remainder of the soldiers to retreat from the immediate area. Shouting directions to the marines around him, Pfc. Carter then commenced leading them from the path of the rapidly approaching brush fire when he observed a hostile grenade land between him and his companions. Fully aware of the probable consequences of his action but determined to protect the men following him, he unhesitatingly threw himself over the grenade, absorbing the full effects of its detonation with his body. Pfc. Carter's indomitable courage, inspiring initiative and selfless devotion to duty upheld the highest traditions of the Marine Corps and the U.S. Naval Service. He gallantly gave his life in the service of his country.

H.R. 4918, which would designate the VA Medical Center in Miami, Florida, as the "Bruce W. Carter Department of Veterans Affairs Medical Center" honors the service and sacrifice of this Marine Corps hero.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, I yield such time as she may consume to Dr. ILEANA ROS-LEHTINEN of Florida to speak on the bill.

Ms. ROS-LEHTINEN. I thank the chairman and the ranking member.

Mr. Speaker, I am so honored that we have this legislation before us. H.R. 4918 honors a brave soldier, a brave marine, who gave his life for our country. And this legislation to name the Department of Veterans Affairs Medical Center located in my hometown of Miami, Florida, as the ''Bruce W. Carter Department of Veterans Affairs Medical Center'' is a great honor not just to the family and to the legacy that Bruce left, but also it honors the selfless sacrifice of all of our members and all of our veterans.

Bruce was born in New York, and he moved with his family to Texas, then Louisiana, and then they settled in South Florida. He attended Miami Springs Elementary School and then Miami Springs High School before enlisting in the U.S. Marine Corps in Jacksonville, Florida. He was promoted to Private First Class January 1, 1969, and deployed to Vietnam in April of that year, serving as a radio operator with Hotel Company, 2nd battalion, 3rd Marines, 3rd Marine Division.

Sadly, his hopes, his dreams, his lifelong ambitions were brutally cut short in Vietnam. On August 7, 1969, in combat north of the Vandegrift base in the Quang Tri province, Private First Class Carter threw himself on an enemy grenade, giving his life in service to our country so that his fellow Marines could survive.

His sacrifice embodies the honor, the courage, and the commitment to freedom which is characteristic of both a hero and a United States Marine.

On September 19, 1971, at a ceremony attended by his mother, Georgianna ''Georgie'' Carter-Krell and other family members, Private First Class Carter was posthumously awarded the Medal of Honor for his unwavering patriotism and sacrifice. For his valor Private First Class Carter has also received the Purple Heart, the Combat Action Ribbon, the National Defense Service Medal, the Vietnam Service Medal with one Bronze Star, and the Republic of Vietnam Campaign Medal.

However, the legacy of Private First Class Bruce Carter's commitment to our Nation endures. It endures in his mother, Georgie, who has carried on her son's legacy through her leadership in an organization known as the Gold Star Mothers organization. Today Georgie is serving her second term as national president of Gold Star Mothers, an organization committed to paying tribute to the men and women who have made the ultimate sacrifice on behalf of liberty.

I am privileged to represent the 18th Congressional District of Florida, hometown to many servicemen and women who have bravely defended our interests every day. My husband, Dexter, served our country in Vietnam as a U.S. Army ranger and was severely wounded in combat. My stepson Doug and his wife are captains in the U.S. Marine Corps, having served our country in Iraq. And I am deeply and personally interested in all of the affairs related to veterans to make sure that we honor them with the benefits that they so richly have earned through their sacrifice. They have served our country proudly, and they deserve to be treated with great respect.

Those who dedicated their lives to the service of others truly embody the heart and the spirit of all that is best in America. And that can truly be said of Private First Class Carter, of his dedication to freedom and of his fellow Marines, and it must never be lost in the dusty pages of our history book. Through the naming of this medical center, we will be remembering not just Bruce's sacrifice but the sacrifice and service of all of the brave men and women who proudly serve and wear our Nation's uniform.

I thank the chairman of the Veterans' Affairs Committee for this opportunity, and I especially want to thank the ranking member, my good friend from Indiana, for this time.

Mr. BUYER. Mr. Speaker, I would ask all colleagues to support H.R. 4918, a bill to name the Department of Veterans Affairs Medical Center in Miami, Florida, as the ''Bruce W. Carter Department of Veterans Affairs Medical Center.''

I want to thank my colleague Dr. ILEANA ROS-LEHTINEN of Miami, Florida, for introducing the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. FILNER. Mr. Speaker, I also thank the gentlewoman from Florida for telling us so eloquently about Mr. Carter.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 4918.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. I would urge my colleagues to support unanimously H.R. 4918 and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and pass the bill, H.R. 4918.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EXPRESSING GRATITUDE FOR THE CONTRIBUTIONS OF THE AMERICAN GI FORUM ON ITS 60TH ANNIVERSARY

Mr. FILNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1291) expressing gratitude for the contributions of the American GI Forum on its 60th anniversary.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1291

Whereas millions of veterans returning home from World War II looked to the guarantee of educational, medical, housing, and other basic benefits provided by the GI bill;

Whereas these benefits were denied in large part to Americans of Mexican descent and other Hispanics throughout the United States;

Whereas the American GI Forum was founded in 1948 by Army Major Hector P. Garcia, a physician from Corpus Christi, Texas, in response to such inequities;

Whereas the Forum's motto is ''Education Is Our Freedom and Freedom Should Be Everybody's Business'';

Whereas in 1998 the Forum was granted a Federal charter pursuant to an Act of Congress (Public Law 105–231);

Whereas one of the purposes expressed in the Forum's charter is ''fostering and enlarging equal educational opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities for all United States citizens, regardless of race, color, religion, sex, or national origin'';

Whereas the Forum's Veterans Outreach Program is based in San Antonio, Texas, and provides training, employment, and counseling for veterans in the Southwestern United States; and

Whereas the American GI Forum continues to be a beacon of hope and an avenue for involvement for returning veterans and ordinary citizens aspiring to improve conditions within their own communities: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the need for equal access to veterans' benefits for all who have honorably served;

(2) supports the goals, ideals, and deeds of the American GI Forum and its members;

(3) commends the work of the American GI Forum on its 60th anniversary; and

(4) encourages others to join with the American GI Forum to ensure that veterans are never again denied the benefits they rightfully deserve.

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The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. FILNER) and the gentleman from Indiana (Mr. BUYER) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of House Resolution 1291, which comes to us courtesy of Mr. RODRIGUEZ from Texas. I just want to point out that what we are doing here is expressing the gratitude for the contributions of the American GI Forum as it celebrates its 60th anniversary. We all know that the GI Bill of 1944 made an immense impact on the lives of returning veterans by guaranteeing educational, medical, housing, and other basic benefits.

Though this legislation was groundbreaking, it takes much more than words on paper to ensure that institutional goals are implemented. One man who understood this was Army Major Hector Garcia, who realized that the disparate treatment and denial of benefits to many Hispanic veterans must be ended. To carry out this purpose, he inspired to rally around him a group of fellow veterans who formed the American GI Forum.

Their motto is, ''Education is our Freedom and Freedom Should be Everybody's Business.'' The ideals which they stand for, equal education opportunities, equal economic opportunities, equal justice under the law, and equal political opportunities are ingrained in the fabric of American values. Since its inception, branches around the country have reached milestones in veterans' issues, in education, and civil rights.

Knowing the effects of unequal treatment, Army Major Garcia devoted himself to standing up for the isolated Hispanic members of our veteran community. We are happy to honor the organization he founded. We look forward to working with them for the common good and welfare of veterans for many years to come.

The broad-ranging and comprehensive initiatives which the GI Forum has undertaken over the last 60 years include the cofounding of SER-Jobs for Progress, Incorporated, a top-10 national Hispanic nonprofit organization, and the National Veterans Outreach Program, which is designed to assist military veterans in securing affordable housing and provides counseling and employment assistance services.

It is not the years though, however, that the GI Forum has existed, but how much it has accomplished that indicates their impact and why we are honoring them today. Leaders of the forum, from Army Major Garcia, on to the current president, Antonio Gil Morales, have an irrepressible spirit and a dynamic energy, using their benefit for the benefit of others.

Today, the GI Forum continues to challenge disparate policies on behalf of Hispanic veterans by challenging barriers and enhancing understanding. For their support of all veterans, specifically Hispanic veterans, and their leadership in being a beacon of hope and an avenue of involvement for returning veterans and ordinary citizens aspiring to improve conditions within their communities, we take the occasion of the 60th anniversary of their founding to recognize the GI Forum with this resolution as evidence of the high esteem in which it's held by all its members.

Mr. Speaker, I reserve the balance of my time.

Mr. BUYER. Mr. Speaker, House Resolution 1291 recognizes the contributions of the American GI Forum on its 60th anniversary. Mr. Speaker, the work of the founder of the American GI Forum, Dr. Hector Garcia, is one that shows the determination of the American spirit.

Serving during World War II as an infantryman, as a combat engineer, and a medical doctor, he was awarded the Bronze Star Medal with six battle stars and achieved the rank of major. Upon his return from the war, he worked to encourage other Mexican Americans to educate themselves in the Democratic principles, and founded the American GI Forum in 1948 to fight for equal treatment for Mexican American veterans, including proper medical treatment and educational benefits.

In reviewing the current legislative priorities for the American GI Forum, it is evident their efforts have continued to instill in the Hispanic/Latino community the desire to achieve through liberty.

Mr. Speaker, there is one clarification that I think should be made regarding the resolution whereas clauses, and I will take these up in a moment here with the author of the bill. In particular, the whereas clause reads, ''Whereas, millions of veterans returning home from World War II look to the guarantee of educational, medical, housing, and other basic benefits by the GI Bill,'' and, ''Whereas, these benefits were denied in large part to Americans of Mexican descent and other Hispanics throughout the United States.''

By having these two statements like this in the whereas clause, this statement implies systematic denial of benefits as a matter of policy by the VA. Individual accounts of bigotry most likely did in fact occur, but I have great concerns with regard to the drafting of the bill. I was very disappointed that the chairman would not work with the minority on the drafting of this bill.

Those of us who wear and have worn the uniform, we embrace the ideals that veterans benefits are to be extended without regard to race, color, or creed. As I said, I will have some questions of Mr. RODRIGUEZ regarding the clarification of his intent on the whereas clauses.

Mr. Speaker, the work of the veterans service organizations like the

American GI Forum advocates for veterans and assists those of us in Congress and particularly on the committee of Veterans' Affairs to formulate policy that will help guide our country in respect to veterans' affairs. I commend the American GI Forum's work these past 60 years.

I reserve the balance of my time.

Mr. FILNER. Before I recognize the author of the bill, I just want to say that the very definition of institutional racism is the fact that people in the institution don't even recognize its being practiced.

Mr. RODRIGUEZ, you have served us for 10 years. You have been a leader in getting this Congress and this Nation to follow the ideals that we talk about with Mr. Garcia. We thank you for this resolution.

I recognize the gentleman from Texas (Mr. RODRIGUEZ) for such time as he may consume.

Mr. RODRIGUEZ. Thank you, Mr. Chairman, and ranking member.

Let me take this opportunity, first of all, to congratulate the GI Forum on their extraordinary work. These are veterans that came after World War II and continue to give in their communities.

I speak today on behalf of a bill that I introduced, House Resolution 1291, expressing the gratitude for the contributions of the American GI Forum on its 60th anniversary. Some 60 years ago, Dr. Hector P. Garcia, a U.S. Army major and veteran of World War II, established the American GI Forum in Corpus Christi, Texas, to address the concerns of the Mexican American veterans who were segregated from other veteran groups.

Dr. Garcia initially formed the group to request services for the World War II veterans of Mexican descent who were denied medical services by the United States Department of Veterans Affairs. The forum soon spread into nonveteran issues, such as voting rights issues, jury selection issues, and educational desegregation issues, advocating for civil rights of all Mexican Americans.

The GI Forum's first campaign was on behalf of Felix Longoria, a Mexican American private who had been killed in the Philippines in the line of duty. Upon the return of his body to Texas, he was denied burial services in Texas, and Dr. Garcia and the GI Forum were organized around this issue, requesting the involvement of then-Senator Lyndon Baines Johnson, who secured Longoria's burial at the Arlington National Cemetery. This was a soldier whose body had been returned to Texas and was denied burial in a particular cemetery in south Texas.

The case brought the American GI Forum to the national attention and the charters were obtained throughout the country. A large number of GI Forum organizations were organized during that period, and continue to this day.

Ten years later, in 1998, Congress officially recognized the GI Forum with a charter. Its motto is ''Education is our Freedom and Freedom Should be Everybody's Business.'' The forum currently operates chapters throughout the United States, with a focus on veterans' issues, education, and civil rights. Its two largest national programs are the San Antonio-based Veterans Outreach Programs and the Dallas-based Service, Employment, Redevelopment-Jobs for progress.

I want to urge Members of Congress to join me in voting for the resolution and expressing the gratitude for the contributions of the GI Forum.

Let me just also indicate that the resolution that we drafted, at the end says, ''Whereas, the GI Forum continues to be a beacon of hope.'' These individuals continue to work with our veterans. They have a beautiful homeless project that reaches out to our veterans out there, and it's veterans working with veterans.

So it says, ''Now, therefore be it resolved that the House of Representatives recognizes the need for equal access to veterans benefits for all who have honored their service to, support the goals and ideals and deeds of the American GI Forum and its members, and commends the work of the American GI Forum on its 60th anniversary, and encourages others to join with the American GI Forum to ensure that veterans are never again denied the benefits that they rightfully deserve.''

So I will ask for your support.

Mr. BUYER. Mr. Speaker, I have some questions on my time. I would like to inquire of the gentleman regarding his intent on the drafting of the resolution. In particular, the first and second clauses of the resolution. The first clause, ''Whereas, millions of veterans returning home from World War II looked to the guarantee of educational, medical, housing, and other basic benefits provided by the GI Bill''; and, ''Whereas, these benefits were denied.''

As it's drafted, it basically says here are the benefits they looked forward to. And then we say, ''these benefits were denied'' and then ''in large part, to Americans of Mexican descent.''

So in the whereas clause we are saying that here are benefits that millions of veterans coming back from World War II looked forward to, then in the drafting it says, oh, by the way, ''Whereas, these benefits were denied, in large part to Americans of Mexican descent and other Hispanics throughout the United States.''

Now there are other individuals, other forms of odious discrimination of various kinds encountered by veterans, whether they be African American, whether they are women, individuals are Puerto Rican. There could have been many other forms of discrimination and bigotry in which people were subjected to in our country, not only back then but even probably of today.

What I was hoping we could do is that we are actually voting on a resolution on the floor, that this drafting is kind of awkward. I was hoping that we could try to correct that.

What I wanted to do is yield to the gentleman so he can tell us about his intent with regard to the legislation.

I yield to the gentleman.

Mr. RODRIGUEZ. Thank you. The intent, if you look at the final, ''Be it resolved that the House of Representatives recognizes the needs of equal access to veterans benefits for all who have honorably served and continues to support the goals and ideals.''

Now the whereases that are there, those are the founding principles as to why that group got together right after the war. We all know that there was discrimination. We know that people were denied. There were the Mexican schools and the all-white schools. There were places where you couldn't go eat in Texas either if you were a Mexican. So that existed.

So the language is there as a result of the foundation of this group that organized. When that body came back, as a soldier, he was denied burial. We have Mexican burial sites and white burial sites. Unfortunately, we still have them, in some cases. But the reality was that that is the reality of then. So the whereases talk about the time then where the discrimination existed.

Yes, there were other groups that were discriminated and other people that were denied. But this is not about African Americans, this is not about women. It's about the veterans that served at that point in time that came back and experienced that discrimination. That is why the organization was organized.

By the way, the group now does a beautiful job, and if anyone espouses and loves this country more, it is those veterans that are part of the GI Forum, and they are the ones that have a beautiful program for job training, they have some programs that deal with the homeless, and a variety of other types of programs.

□ 1945

Mr. BUYER. Mr. Speaker, reclaiming my time, the chairman and I both have been to Harlingen, we have been in Deep South, Texas. We understand your challenges. We have also met with many of your comrades down there, who have tremendous enthusiasm for our country.

I appreciate your explanation with regard to the ''whereas'' clauses, that these were the foundation of the GI Forum. I just wanted to make sure that we did not have the implication as a policy record of discrimination by the VA. That in fact there were forms of discrimination by individuals, but our country, who was then run by Presidents Roosevelt, Truman, Eisenhower, Kennedy and Johnson, never would have in fact embraced any form of this policy.

Mr. RODRIGUEZ. Remember, we also had discrimination by the military itself. It was there. We can't deny that. It did discriminate, and in some cases it was pretty blatant. It was there.

Mr. BUYER. Okay. I appreciate the gentleman clarifying the intent with regard to the ''whereas'' clauses.

With that, I urge my colleagues to adopt the resolution before the House, and I yield back the balance of my time.

Mr. FILNER. Mr. Speaker, I would yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the chairman of the full committee, Mr. FILNER, for constantly coming down on the side of veterans, and my good friend and colleague, Congressman RODRIGUEZ, who eloquently articulated the importance of the GI Forum on its 60th anniversary. Let me thank the ranking member for participating in this debate, and commend my colleagues to this important resolution.

I would just speak briefly of the GI Forum, that I saw just recently in a Judiciary Committee hearing, looking at the treatment of some of our soldiers who are not yet citizens, and how the burden falls on their shoulders, even though they are on the front lines of fighting for our freedom. So we do know there are inequities. But we appreciate the GI Forum for its leadership over the years, and clearly its founding member, who worked so hard and certainly is someone renowned and respected in Texas.

So let me briefly congratulate the GI Forum in its 60th year, and commend my colleagues to reading about Army Major Hector P. Garcia, who we honored just a few weeks ago by naming the Voting Rights Act of 1965 and then recently reauthorized after Mr. Garcia.

One item that comes to mind is that he moved the GI Forum, after being recognized by Lyndon Baines Johnson, Ronald Reagan as President, and former President Clinton, for his service, he began to move the GI Forum towards civil rights. He questioned some of the inequities, and used this organization with its mighty might of returning veterans to speak on behalf of those who cannot speak for themselves. They did fight for education and civil rights and good health care.

One of the stories that he is well-known for is the story recounted by my good friend from Texas of the soldier who came home from World War II and was not able to be buried in a South Texas funeral home. He thought that to be an unfortunate set of circumstances, and he called then President of the United States and moved this soldier from South Texas to be ultimately buried in the Arlington Cemetery.

So that is the standard of the GI Forum. It is a helping hand for veterans. It is a respected, renowned, national organization, full of patriots who understand as they fought for freedom on the battlefields across the world that they would also fight for freedom here in the United States.

Let me applaud the Veterans Committee and my good friend Congressman RODRIGUEZ for this very astute legislation, recognition of a valid civil rights organization, the GI Forum, and ask my colleagues to vote for this.

Mr. FILNER. Mr. Speaker, in closing, Dr. Martin Luther King, Jr., used to say we have come a long way with regard to civil rights, but we have a long way to go. I would just ask my ranking member from Indiana not to think that any institution in this country, even at a time when we are nominating the first African American of a major political party for President, that discrimination and racism has been cleansed from the American body politic. It exists, it is real, and we have to commit ourselves to continually fighting against it.

That is why this resolution is so important. It reminds us of those who took on the struggle when it was so blatant and so urgent. But that struggle is not over, and we have to recommit ourselves to ending racism and discrimination in any form.

GENERAL LEAVE

Mr. FILNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Resolution 1291.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FILNER. Mr. Speaker, I ask my colleagues to support the resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FILNER) that the House suspend the rules and agree to the resolution, H. Res. 1291.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. FILNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING NATIONAL HOMEOWNERSHIP MONTH

Mr. CLEAVER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1271) recognizing National Homeownership Month and the importance of homeownership in the United States.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1271

Whereas the President of the United States has issued a proclamation designating the month of June 2008 as National Homeownership Month;

Whereas the people of the United States are one of the best-housed populations in the world;

Whereas owning a home is a fundamental part of the American dream and is the largest personal investment many families will ever make;

Whereas homeownership provides economic security for homeowners by aiding them in building wealth over time and strengthens communities through a greater stake among homeowners in local schools, civic organizations, and churches;

Whereas creating affordable homeownership opportunities requires the commitment and cooperation of the private, public, and nonprofit sectors, including the Federal Government and State and local governments;

Whereas homeownership can be sustained through appropriate homeownership education and informed borrowers; and

Whereas affordable homeownership will play a vital role in resolving the crisis in the United States housing market: Now, therefore, be it

Resolved, That the House of Representatives—

(1) fully supports the goals and ideals of National Homeownership Month; and

(2) recognizes the importance of homeownership in building strong communities and families.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLEAVER) and the gentleman from Georgia (Mr. PRICE) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLEAVER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLEAVER. Mr. Speaker, I yield myself 5 minutes.

The month of June is National Homeownership Month, and at a time of growing concern about the foreclosure crisis affecting the lives of too many Americans, Congress has responded with a bipartisan effort to revitalize the housing market.

This year, the President, in one of the proclamations that actually I think spoke for most Members of this body, as well as for most Americans, said, ''For many Americans, owning a home represents freedom, independence and the American dream.''

During National Homeownership Month, we highlight the benefits of owning a home and encourage our fellow citizens to be responsible homeowners. It is difficult to be a responsible homeowner at this time because foreclosure filings last month went up nearly 50 percent compared with a year earlier. Nationwide, this is unbelievable. 261,255 homeowners received at least one foreclosure-related filing in May. That is up 48 percent from the same month last year, and up 7 percent from April. Last week, the Mortgage

Bankers Association reported that about 2.5 percent of home mortgages were in foreclosure during the first quarter of this year, almost double the rate of a year earlier.

I was reading an article in the June 19 Washington Post which suggests that 6.5 million loans will fall into foreclosure within the next 5 years; 6.5 million loans. That means that 8 percent of all homeowners in the United States will be impacted directly. That does not count the people who live on the block where a home is foreclosed, and in the urban core, anywhere around the country, that spells disaster, because you will have a rundown property in an area that is already undervalued by those who make declarations about the value of property.

Nearly 74,000 properties were repossessed by lenders nationwide just in May, while more than 58,000 received default notices. That is according to the New York Times, June 14 of this year.

As a person who did not live in a real home until he was 14, I can speak I think very clearly about the value of homeownership. I lived in a house in Waxahachie, Texas, from the time I was born until I was eight that had no running water, no electricity, no indoor plumbing. My mother, father, three sisters and I lived in this shanty, which at one time served as slave quarters.

We were able to move out of that when I was eight. We moved into public housing. We lived in public housing until my father, working about three jobs, sometimes four at the same time, could buy his own home. He bought a home in a white neighborhood, and so he had to have it moved to the black neighborhood.

That home meant everything to the six Cleavers who lived in it. It meant so much that my father had converted this home into a palace that we considered having been blessed to live in. His lawn can be compared with the lawn of anybody in the country, and some of the neighbors even make fun of him because if you drop a cigarette butt or a piece of paper on the street anywhere near his home, it gets picked up.

Homeownership is valuable, and it does grant us a piece of the American dream. But for many Americans, the American dream has become a nightmare. The subprime lending crisis has devastated communities, but let us not forget it has devastated individuals. 705,446 homes will suffer price declines due to foreclosures nearby.

Mr. Speaker, tonight we lift up the value of homeownership, but we do so with a commitment to do everything that we can possibly do to impact the climate so that we can turn things around from the destructive way in which this Nation is suffering.

The month of June is National Homeownership Month. At a time of growing concern about the foreclosure crisis affecting the lives of too many Americans, Congress has responded with a bipartisan effort to revitalize the housing market. This year the President proclaimed, ''For many Americans, owning a home represents freedom, independence, and the American dream. During National Homeownership Month, we highlight the benefits of owning a home and encourage our fellow citizens to be responsible homeowners.''

''Foreclosure filings last month were up nearly 50 percent compared with a year earlier, according to one company's count released yesterday.'' [Washington Post, June 19, 2008].

''Nationwide, 261,255 homeowners received at least one foreclosure-related filing in May, up 48 percent from the same month last year, and up 7 percent from April, foreclosure listing service RealtyTrac said.'' [Washington Post, June 19, 2008].

''Last week the Mortgage Bankers Association reported that about 2.47 percent of home mortgages were in foreclosure during the first quarter of the year, almost double the 1.28 percent rate of a year earlier, and the highest point since the group began compiling such figures in 1979.'' [Washington Post, June 19, 2008].

''A Credit Suisse report this spring predicted that 6.5 million loans will fall into foreclosure over the next five years, reaching more than 8 percent of all U.S. homes.'' [Washington Post, June 19, 2008].

''According to the RealtyTrac report, one in every 483 U.S. households received a foreclosure filing in May, the highest number since RealtyTrac started the report in 2005 and the second straight monthly record.'' [Washington Post, June 19, 2008].

''Nearly 74,000 properties were repossessed by lenders nationwide in May, while more than 58,000 received default notices, the company said.'' [New York Times, June 14, 2008].

At the end of the first quarter of 2008, there were an estimated 1.27 million properties in foreclosure in the United States. In addition, there were approximately 350,000 subprime mortgages more than 90 days delinquent where foreclosure proceedings had not yet begun.

The Center for Responsible Lending offers the following statistics for Missouri: 42,727 foreclosures predicted for 2008–2009; 705,446 homes will suffer price declines due to foreclosures nearby; a $1.8 billion in home values/tax base; and $2,540 average decrease in home value per unit affected.

''The Federal Housing Administration expects to lose $4.6 billion because of unexpectedly high default rates on home loans.'' [New York Times, June 10, 2008].

''One study estimates that in just 10 states (AZ, CA, FL, GA, IL, MA, MI, MN, NV, NY), lost tax revenue in 2008 will total $6.6 billion due to foreclosures.'' [Global Insight, The Mortgage Crisis: Economic and Fiscal Implications for Metro Areas, November, 2007].

''Further, an estimated 524,000 fewer jobs are projected to be created this year because of the foreclosure crisis.'' [Global Insight, The Mortgage Crisis: Economic and Fiscal Implications for Metro Areas, November, 2007].

Initiatives to help responsible homeowners keep their homes have been launched. The Federal Housing Administration has created the FHASecure program so that flexibility in refinancing mortgages for homeowners who have good credit histories but cannot afford their current payments is just one solution. Furthermore, the HOPE NOW Alliance connects struggling homeowners with lenders, loan servicers, and mortgage counselors to help families stay in their homes.

67.8 percent of Americans own their own homes [Census Bureau].

72.0 percent of Midwesterners own their own homes (the highest percentage in the nation) [Census Bureau].

With an increase in age, comes an increase in homeownership. Americans view homeownership as a mark of success, and as proof that they have at least begun to realize the American dream. The purchase of a first home is a symbol of stability, and often acts as a monument to family life, which is the cornerstone of our culture.

Mr. PRICE of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today on behalf of Representative GARY MILLER to recognize the importance of homeownership in America and to commend him on his resolution.

On May 29, 2008, President Bush designated June as Homeownership Month, as he has done for the past 7 years. To complement this designation, this resolution, H. Res. 1271, provides congressional recognition of National Homeownership Month and the importance of homeownership in the United States.

Owning a home is a fundamental part of the American dream and is the largest personal investment most families will ever make. For millions of families across this country, a home is more than just a symbol of the American dream. It is the backbone of the American way of life.

□ 2000

Despite all that's occurring in the housing market, we need to remember that homeownership has historically been the single largest creator of wealth for most Americans. Not only does homeownership provide economic security by building wealth over time; it also strengthens and builds communities. Affordable housing is vital to resolving the current crisis the United States' housing market has in preserving homeownership.

National Homeownership Month is a reminder of the importance of housing issues in America. This bipartisan resolution, 1271, recognizes the need for National Homeownership Month and for the overall importance of homeownership in America.

I urge my colleagues to join me in supporting this resolution to reinforce our commitment to housing opportunities and to help guarantee the dream of homeownership for more American families.

I reserve the balance of my time.

Mr. CLEAVER. Mr. Speaker, I have no more requests for speakers. If the gentleman from Georgia cares to bring another speaker at this time, I would reserve the balance of my time.

Mr. PRICE of Georgia. I thank my friend for his comments earlier.

I want to, once again, commend Representative MILLER for his resolution. I

think it's important in the context of this discussion, however, to make certain that the Nation understands and that our colleagues appreciate that much work has been done to make certain that individuals are able to remain in their homes. There are remarkable programs that have helped, literally, millions of Americans remain in their homes, programs that we strongly support and encourage the expansion of.

So I want to, once again, commend my friend from California for introducing this resolution, and I want to thank my friend for his comments.

Ms. WOOLSEY. Mr. Speaker, the importance of homeownership can't be underestimated. That's why I support H. Res. 1271, a bill to recognize National Homeownership Month and the importance of homeownership in the United States.

For most Americans, homeownership represents security for themselves and their families. Unfortunately in recent months, homeownership (a cornerstone of the American Dream) has been tarnished by an unscrupulous mortgage industry that has trapped far too many families into paying for homes they can't afford. In my district, all over California, and across the country, we are seeing family after family fall into foreclosure, as their dreams turn to dust, and they hand over their prize possession to the bank.

So, as we consider this bill in support of homeownership, I think it's important that we also don't forget the homeowner . . . those past, present and future, who need the assistance of this Congress to ensure they get a fair deal.

Mr. Speaker, it's my hope that those who vote in favor of this bill, H. Res. 1271, will also join in passing real housing reform to bring about systemic changes to help more Americans be able to achieve the goal of owning their own home, on fair terms, at affordable prices.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 1271, Recognizing National Homeownership Month and the importance of homeownership in the United States, introduced by my distinguished colleague from California, Representative GARY MILLER. This timely legislation helps to highlight the importance of ownership by recognizing homeowners in the United States.

This legislation recognizes June 2008 as National Homeownership Month. We should be very proud that the people of the United States are one of the best-housed populations in the world. This phenomenon has evolved because we are anchored in the belief that owning a home is a fundamental part of the American dream and is the largest personal investment many families will ever make. Homeownership provides economic security for homeowners by aiding them in building wealth over time and strengthens communities through a greater stake among homeowners in local schools, civic organizations, and churches. Creating affordable homeownership opportunities requires the commitment and cooperation of the private, public, and nonprofit sectors, including the Federal Government and State and local governments. In 2007, Texas ranked fourth behind California, Florida, and Illinois in pre-foreclosures. Last year, Texas held the top seat for active foreclosures.

This is why it is important that we reaffirm that homeownership can be sustained through appropriate homeownership education and informed borrowers. Affordable homeownership and maintaining the confidence and morale of current homeowners will play a vital role in resolving the crisis in the United States housing market: Now, therefore, I fully support the goals and ideals of National Homeownership Month, and I recognize the importance of homeownership in building strong communities and families.

H. Res. 1271 recognizes homeowners and only homeowners, not speculators or lenders. This legislation reminds us that we cannot continue to stand by as the housing market continues to deteriorate. U.S. home prices tumbled in April at the fastest rate since a widely-followed index was begun in 2000 with all 20 metropolitan areas posting annual declines for the first time. Texas reported 13,829 properties entering some stage of foreclosure in April, a 16 percent increase from the previous month and the most foreclosure filings reported by any state. The state documented the nation's third highest state combined foreclosure rate—one foreclosure filing for every 582 households.

Many homeowners in my district are worried about missing their next house payment or their next home equity mortgage, or their interest rate going up. These families are under stress and in constant fear of loosing their homes.

This bill should not be the last word in housing legislation nor should it be restricted to the status of symbolic rhetoric. The American people need us to intervene in this housing crisis that is leaving many undeserving families homeless. This bill coupled with Congresswoman MAXINE WATERS' bill, H.R. 5818, the Neighborhood Stabilization Act, provides a good starting point in providing Americans with relief. We must never forget that many of the New Deal programs under President Roosevelt were considered bailouts at that time. And yet, these programs brought our country out of the Depression, rejuvenated our economy, and gave hope as we sought to deal with the War overseas.

We are spending billions of dollars on the war in Iraq. I support our troops but I am dismayed at how our support for a war that needs to become less military and more diplomatic in nature, has disrupted our ability to take care of things at home. Thank you Madam Speaker for your leadership in this area, I urge my colleagues to support recognizing American homeowners by supporting H.R. 1271.

Mr. PRICE of Georgia. I yield back the balance of my time.

Mr. CLEAVER. Mr. Speaker, I have no additional speakers, and so I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLEAVER) that the House suspend the rules and agree to the resolution, H. Res. 1271.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. PRICE of Georgia. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CREDIT UNION, BANK, AND THRIFT REGULATORY RELIEF ACT OF 2008

Mr. KANJORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6312) to advance credit union efforts to promote economic growth, modify credit union regulatory standards and reduce burdens, to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6312

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 ''Credit Union, Bank, and Thrift Regulatory Relief Act of 2008''.

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

Sec. 1. Short title; table of contents.

TITLE I—CREDIT UNIONS

Sec. 101. Investments in securities by Federal credit unions.
Sec. 102. Increase in investment limit in credit union service organizations.
Sec. 103. Member business loan exclusion for loans to nonprofit religious organizations.
Sec. 104. Authority of NCUA to establish longer maturities for certain credit union loans.
Sec. 105. Providing the National Credit Union Administration with greater flexibility in responding to market conditions.
Sec. 106. Conversions of certain credit unions to a community charter.
Sec. 107. Credit union participation in the SBA section 504 program.
Sec. 108. Amendments relating to credit union service to underserved areas.
Sec. 109. Short-term payday loan alternatives within field of membership.
Sec. 110. Credit union governance.
Sec. 111. Encouraging small business development in underserved urban and rural communities.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

Sec. 201. Restatement of authority for Federal savings associations to invest in small business investment companies.
Sec. 202. Removal of limitation on investments in auto loans.
Sec. 203. Repeal of qualified thrift lender requirement with respect to out-of-state branches.
Sec. 204. Small business and other commercial loans.
Sec. 205. Increase in limits on commercial real estate loans.
Sec. 206. Savings association credit card banks.

TITLE III—NOTICE PROVISIONS
Sec. 301. Exception to annual privacy notice requirement under the Gramm-Leach-Bliley Act.
TITLE IV—BUSINESS CHECKING
Sec. 401. Short title.
Sec. 402. Interest-bearing transaction accounts authorized for all businesses.
Sec. 403. Interest-bearing transaction accounts authorized.
Sec. 404. Rules of construction.
Sec. 405. Consumer banking costs assessment.

TITLE I—CREDIT UNIONS

SEC. 101. INVESTMENTS IN SECURITIES BY FEDERAL CREDIT UNIONS.

Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended—

(1) by striking ''A Federal credit union'' and inserting ''(a) IN GENERAL.—A Federal credit union''; and

(2) by adding at the end the following new subsection:

''(b) INVESTMENT FOR THE CREDIT UNION'S OWN ACCOUNT.—

''(1) IN GENERAL.—In addition to the investments authorized in subsection (a), a Federal credit union may purchase and hold for its own account such investment securities of investment grade as the Board may authorize by regulation, subject to such limitations and restrictions as the Board may prescribe in the regulations.

''(2) PERCENTAGE LIMITATIONS.—

''(A) SINGLE OBLIGOR.—In no event may the total amount of investment securities of any single obligor or maker held by a Federal credit union for the credit union's own account exceed at any time an amount equal to 10 percent of the net worth of the credit union.

''(B) AGGREGATE INVESTMENTS.—In no event may the aggregate amount of investment securities held by a Federal credit union for the credit union's own account exceed at any time an amount equal to 10 percent of the assets of the credit union.

''(3) INVESTMENT SECURITY DEFINED.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'investment security' means marketable obligations evidencing the indebtedness of any person in the form of bonds, notes, or debentures and other instruments commonly referred to as investment securities.

''(B) FURTHER DEFINITION BY BOARD.—The Board may further define the term 'investment security'.

''(4) INVESTMENT GRADE DEFINED.—The term 'investment grade' means with respect to an investment security purchased by a credit union for its own account, an investment security that at the time of such purchase is rated in one of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization.

''(5) CLARIFICATION OF PROHIBITION ON STOCK OWNERSHIP.—No provision of this subsection shall be construed as authorizing a Federal credit union to purchase shares of stock of any corporation for the credit union's own account, except as otherwise permitted by law.''.

SEC. 102. INCREASE IN INVESTMENT LIMIT IN CREDIT UNION SERVICE ORGANIZATIONS.

Section 107(a)(7)(I) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I)) (as so redesignated by section 101(1)) is amended by striking ''up to 1 per centum of the total paid'' and inserting ''up to 3 percent of the total paid''.

SEC. 103. MEMBER BUSINESS LOAN EXCLUSION FOR LOANS TO NONPROFIT RELIGIOUS ORGANIZATIONS.

Section 107A(a) of the Federal Credit Union Act (12 U.S.C. 1757a(a)) is amended by inserting '', excluding loans made to nonprofit religious organizations,'' after ''total amount of such loans''.

SEC. 104. AUTHORITY OF NCUA TO ESTABLISH LONGER MATURITIES FOR CERTAIN CREDIT UNION LOANS.

Section 107(a)(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) (as so redesignated by section 101(1)) is amended in the matter preceding subparagraph (A), by striking ''except as otherwise provided herein'' and inserting ''or any longer maturity as the Board may allow, in regulations, except as otherwise provided in this Act''.

SEC. 105. PROVIDING THE NATIONAL CREDIT UNION ADMINISTRATION WITH GREATER FLEXIBILITY IN RESPONDING TO MARKET CONDITIONS.

Section 107(a)(5)(A)(vi)(I) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)(I)) (as so redesignated by section 101(1)) is amended by striking ''six-month period and that prevailing interest rate levels'' and inserting ''6-month period or that prevailing interest rate levels''.

SEC. 106. CONVERSIONS OF CERTAIN CREDIT UNIONS TO A COMMUNITY CHARTER.

Section 109(g) of the Federal Credit Union Act (12 U.S.C. 1759(g)) is amended by inserting after paragraph (2) the following new paragraph:

''(3) CRITERIA FOR CONTINUED MEMBERSHIP OF CERTAIN MEMBER GROUPS IN COMMUNITY CHARTER CONVERSIONS.—In the case of a voluntary conversion of a common-bond credit union described in paragraph (1) or (2) of subsection (b) into a community credit union described in subsection (b)(3), the Board shall prescribe, by regulation, the criteria under which the Board may determine that a member group or other portion of a credit union's existing membership, that is located outside the well-defined local community, neighborhood, or rural district that shall constitute the community charter, can be satisfactorily served by the credit union and remain within the community credit union's field of membership.''.

SEC. 107. CREDIT UNION PARTICIPATION IN THE SBA SECTION 504 PROGRAM.

Section 107(a)(5)(A)(iii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(iii)) (as so redesignated by section 101(1)) is amended by inserting '', and applicable regulations,'' after ''specified in the law''.

SEC. 108. AMENDMENTS RELATING TO CREDIT UNION SERVICE TO UNDERSERVED AREAS.

(a) IN GENERAL.—Paragraph (2) of section 109(c) of the Federal Credit Union Act (12 U.S.C. 1759(c)(2)) is amended to read as follows:

''(2) EXCEPTION FOR UNDERSERVED AREAS.—

''(A) IN GENERAL.—Notwithstanding subsection (b), the Board may approve an application by a Federal credit union to allow the membership of such credit union to include any person or organization whose principal residence or place of business is located within a local community, neighborhood, or rural district if—

''(i) the Board determines—

''(I) at any time after August 7, 1998, that all of the local community, neighborhood, or rural district taken into account for purposes of this paragraph is an underserved area (as defined in section 101(10)); and

''(II) at the time of such approval, that the credit union is well capitalized or adequately capitalized (as defined in section 216(c)(1)); and

''(ii) before the end of the 24-month period beginning on the date of such approval, the credit union has established and maintains an office or facility in the local community, neighborhood, or rural district at which credit union services are available.

''(B) TERMINATION OF APPROVAL.—Any failure of a Federal credit union to meet the requirement of clause (ii) of subparagraph (A) by the end of the 24-month period referred to in such clause shall constitute a termination, as a matter of law, of any approval of an application under this paragraph by the Board with respect to the membership of such credit union.

''(C) ANNUAL CREDIT UNION REPORTING REQUIREMENT.—Any Federal credit union which has an application approved under this paragraph shall submit an annual report to the Administration on the number of members of the credit union who are members by reason of such application and the number of offices or facilities maintained by the credit union in the local community, neighborhood, or rural district taken into account by the Board in approving such application.

''(D) PUBLICATION BY ADMINISTRATION.—The Administration shall publish annually a report containing—

''(i) a list of all the applications approved under this paragraph prior to the publication of the report;

''(ii) the number and locations of the underserved areas taken into account in approving such applications; and

''(iii) the total number of members of credit unions who are members by reason of the approval of such applications.''.

(b) UNDERSERVED AREA DEFINED.—Section 101 of the Federal Credit Union Act (12 U.S.C. 1752) is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(10) the term 'underserved area'—

''(A) means a geographic area consisting of a single census tract or a group of census tracts, each of which—

''(i) meets the criteria for—

''(I) a low income community, as defined in section 45D(e) of the Internal Revenue Code of 1986; or

''(II) an investment area, as defined and designated under section 103(16) of the Community Development Banking and Financial Institutions Act of 1994; and

''(ii) is not a tract in which 50 percent or more of the resident families have annual incomes in excess of $75,000 (as adjusted periodically by the Board, at the discretion of the Board, to reflect changes in the average Consumer Price Index for all-urban consumers published by the Department of Labor); and

''(B) notwithstanding subparagraph (A), includes, with respect to any Federal credit union, any geographic area within which such credit union—

''(i) has received approval to provide service before the date of the enactment of the Credit Union, Bank, and Thrift Regulatory Relief Act of 2008 from the National Credit Union Administration; and

''(ii) has established a service facility before such date of enactment.''.

SEC. 109. SHORT-TERM PAYDAY LOAN ALTERNATIVES WITHIN FIELD OF MEMBERSHIP.

Section 107(a) of the Federal Credit Union Act (12 U.S.C. 1757(5)) (as so redesignated by section 101(1)) is amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18), respectively; and

(2) by inserting after paragraph (15) the end the following new paragraph:

''(16) to make short-term unsecured loans as an alternative to payday loans, in amounts not more than $1,000 each and for a term of not more than 90 days, to nonmembers in the field of membership, subject to the same terms and conditions as are applicable under paragraph (5)(A), including the

interest rate ceiling, with respect to loans to members, to the extent applicable, and to regulations prescribed by the Board.''.

SEC. 110. CREDIT UNION GOVERNANCE.

(a) EXPULSION OF MEMBERS FOR JUST CAUSE.—Subsection (b) of section 118 of the Federal Credit Union Act (12 U.S.C. 1764(b)) is amended to read as follows:

''(b) POLICY AND ACTIONS OF BOARDS OF DIRECTORS OF FEDERAL CREDIT UNIONS.—

''(1) EXPULSION OF MEMBERS FOR NONPARTICIPATION OR FOR JUST CAUSE.—The board of directors of a Federal credit union may, by majority vote of a quorum of directors, adopt and enforce a policy with respect to expulsion from membership, by a majority vote of such board of directors, based on just cause, including disruption of credit union operations, or on nonparticipation by a member in the affairs of the credit union.

''(2) WRITTEN NOTICE OF POLICY TO MEMBERS.—If a policy described in paragraph (1) is adopted, written notice of the policy as adopted and the effective date of such policy shall be provided to—

''(A) each existing member of the credit union not less than 30 days prior to the effective date of such policy; and

''(B) each new member prior to or upon applying for membership.''.

(b) TERM LIMITS AUTHORIZED FOR BOARD MEMBERS OF FEDERAL CREDIT UNIONS.—Section 111(a) of the Federal Credit Union Act (12 U.S.C. 1761(a)) is amended by adding at the end the following new sentence: ''The bylaws of a Federal credit union may limit the number of consecutive terms any person may serve on the board of directors of such credit union.''.

SEC. 111. ENCOURAGING SMALL BUSINESS DEVELOPMENT IN UNDERSERVED URBAN AND RURAL COMMUNITIES.

Section 107A(c)(1)(B) of the Federal Credit Union Act (12 U.S.C. 1757a(c)(1)(B)) is amended—

(1) by striking ''or'' after the semicolon at the end of clause (iv);

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

''(v) that is made to a member, the proceeds of which are to be used for commercial, corporate, business, farm or agricultural purposes in an underserved area if such extension of credit—

''(I) is made to a person or organization whose principal residence or place of business is located within an underserved area (as defined in section 101(10)) served by the credit union, and is not a business, or a local outlet of a business, operating on a nationwide basis (for purposes of the preceding clause, a locally-owned franchise that consists only of local operations shall not be treated as a business operating on a nationwide basis); or

''(II) is secured by real property located within, or is intended to operate as part of a business located within, such underserved area; or''.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

SEC. 201. RESTATEMENT OF AUTHORITY FOR FEDERAL SAVINGS ASSOCIATIONS TO INVEST IN SMALL BUSINESS INVESTMENT COMPANIES.

Subparagraph (D) of section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended to read as follows:

''(D) SMALL BUSINESS INVESTMENT COMPANIES.—Any Federal savings association may invest in 1 or more small business investment companies, or in any entity established to invest solely in small business investment companies formed under the Small Business Investment Act of 1958, except that the total amount of investments under this subparagraph may not at any time exceed the amount equal to 5 percent of capital and surplus of the savings association.''.

SEC. 202. REMOVAL OF LIMITATION ON INVESTMENTS IN AUTO LOANS.

(a) IN GENERAL.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraph:

''(V) AUTO LOANS.—Loans and leases for motor vehicles acquired for personal, family, or household purposes.''.

(b) TECHNICAL AND CONFORMING AMENDMENT RELATING TO QUALIFIED THRIFT INVESTMENTS.—Section 10(m)(4)(C)(ii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the end the following new subclause:

''(VIII) Loans and leases for motor vehicles acquired for personal, family, or household purposes.''.

SEC. 203. REPEAL OF QUALIFIED THRIFT LENDER REQUIREMENT WITH RESPECT TO OUT-OF-STATE BRANCHES.

Section 5(r)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(r)(1)) is amended by striking the last sentence.

SEC. 204. SMALL BUSINESS AND OTHER COMMERCIAL LOANS.

(a) ELIMINATION OF LENDING LIMIT ON SMALL BUSINESS LOANS.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by inserting after subparagraph (V) (as added by section 202(a) of this title) the following new subparagraph:

''(W) SMALL BUSINESS LOANS.—Small business loans, as defined in regulations which the Director shall prescribe.''.

(b) INCREASE IN LENDING LIMIT ON OTHER BUSINESS LOANS.—Section 5(c)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended by striking '', and amounts in excess of 10 percent'' and all that follows through ''by the Director''.

SEC. 205. INCREASE IN LIMITS ON COMMERCIAL REAL ESTATE LOANS.

Section 5(c)(2)(B)(i) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)(i)) is amended by striking ''400 percent'' and inserting ''500 percent''.

SEC. 206. SAVINGS ASSOCIATION CREDIT CARD BANKS.

Section 10(a)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(A)) is amended by inserting ''and such term does not include an institution described in section 2(c)(2)(F) of the Bank Holding Company Act of 1956 for purposes of subsections (a)(1)(E), (c)(3)(B)(i), (c)(9)(C)(i), and (e)(3)'' before the period at the end.

TITLE III—NOTICE PROVISIONS

SEC. 301. EXCEPTION TO ANNUAL PRIVACY NOTICE REQUIREMENT UNDER THE GRAMM-LEACH-BLILEY ACT.

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding the following new subsections:

''(c) EXCEPTION TO ANNUAL NOTICE REQUIREMENT.—A financial institution that—

''(1) provides nonpublic personal information only in accordance with the provisions of subsection (b)(2) or (e) of section 502 or regulations prescribed under section 504(b);

''(2) does not share information with affiliates under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act; and

''(3) has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this subsection,

shall not be required to provide an annual disclosure under this subsection until such time as the financial institution fails to comply with any criteria described in paragraph (1), (2), or (3).

''(d) EXCEPTION TO NOTICE REQUIREMENT.—A financial institution shall not be required to provide any disclosure under this section if—

''(1) the financial institution is licensed by a State and is subject to existing regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands; or

''(2) the financial institution is licensed by a State and becomes subject to future regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands.''.

TITLE IV—BUSINESS CHECKING

SEC. 401. SHORT TITLE.

This title may be cited as the ''Business Checking Fairness Act of 2008''.

SEC. 402. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

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

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

''(b) Notwithstanding any other provision of law, any depository institution may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise.''.

SEC. 403. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.

(a) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

''(i) [Repealed]''.

(2) HOME OWNERS' LOAN ACT.—The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking ''savings association may not—'' and all that follows through ''(ii) permit any'' and inserting ''savings association may not permit any''.

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows:

''(g) [Repealed]''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at

the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 404. RULES OF CONSTRUCTION.

In the case of an escrow account maintained at a depository institution for the purpose of completing the settlement of a real estate transaction—

(1) the absorption, by the depository institution, of expenses incidental to providing a normal banking service with respect to such escrow account;

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in subparagraph (1) or (2) or similar in nature to such action, including any benefits which have been so determined by the appropriate Federal regulator,

shall not be treated as the payment or receipt of interest for purposes of this title and any provision of Public Law 93–100, the Federal Reserve Act, the Home Owners' Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions. No provision of this title shall be construed so as to require a depository institution that maintains an escrow account in connection with a real estate transaction to pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. No provision of this title shall be construed as preempting the provisions of law of any State dealing with the payment of interest on escrow accounts maintained in connection with real estate transactions.

SEC. 405. CONSUMER BANKING COSTS ASSESSMENT.

(a) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating sections 30 and 31 as sections 31 and 32, respectively; and

(2) by inserting after section 29 the following new section:

"SEC. 30. SURVEY OF BANK FEES AND SERVICES.

''(a) BIENNIAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain biennially a sample, which is representative by type and size of the institution (including small institutions) and geographic location, of the following retail banking services and products provided by insured depository institutions and insured credit unions (along with related fees and minimum balances):

''(1) Checking and other transaction accounts.

''(2) Negotiable order of withdrawal and savings accounts.

''(3) Automated teller machine transactions.

''(4) Other electronic transactions.

''(b) MINIMUM SURVEY REQUIREMENT.—The biennial survey described in subsection (a) shall meet the following minimum requirements:

''(1) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

''(A) Monthly and annual fees and minimum balances to avoid such fees.

''(B) Minimum opening balances.

''(C) Check processing fees.

''(D) Check printing fees.

''(E) Balance inquiry fees.

''(F) Fees imposed for using a teller or other institution employee.

''(G) Stop payment order fees.

''(H) Nonsufficient fund fees.

''(I) Overdraft fees.

''(J) Fees imposed in connection with bounced-check protection and overdraft protection programs.

''(K) Deposit items returned fees.

''(L) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

''(2) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

''(A) Monthly and annual fees and minimum balances to avoid such fees.

''(B) Minimum opening balances.

''(C) Rate at which interest is paid to consumers.

''(D) Check processing fees for negotiable order of withdrawal accounts.

''(E) Fees imposed for using a teller or other institution employee.

''(F) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

''(3) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

''(A) Monthly and annual fees.

''(B) Card fees.

''(C) Fees charged to customers for withdrawals, deposits, and balance inquiries through institution-owned machines.

''(D) Fees charged to customers for withdrawals, deposits, and balance inquiries through machines owned by others.

''(E) Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.

''(F) Point-of-sale transaction fees.

''(4) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

''(A) Wire transfer fees.

''(B) Fees related to payments made over the Internet or through other electronic means.

''(5) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be appropriate to meet the purposes of this section.

''(6) FEDERAL RESERVE BOARD AUTHORITY.—The Board of Governors of the Federal Reserve System may cease the collection of information with regard to any particular fee or charge specified in this subsection if the Board makes a determination that, on the basis of changing practices in the financial services industry, the collection of such information is no longer necessary to accomplish the purposes of this section.

''(c) BIENNIAL REPORT TO CONGRESS REQUIRED.—

''(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.

''(2) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of any discernible trend, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution and the size of the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.

''(3) SUBMISSION TO THE CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an biennial report to the Congress not later than June 1, 2009, and before the end of each 2-year period beginning after such date.

''(d) DEFINITIONS.—For purposes of this section, the term 'insured depository institution' has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term 'insured credit union' has the meaning given such term in section 101 of the Federal Credit Union Act.''.

(b) CONFORMING AMENDMENT.—

(1) IN GENERAL.—Paragraph (1) of section 136(b) of the Truth in Lending Act (15 U.S.C. 1646(b)(1)) is amended to read as follows:

''(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, from a broad sample of financial institutions which offer credit card services, credit card price and availability information including—

''(A) the information required to be disclosed under section 127(c);

''(B) the average total amount of finance charges paid by consumers; and

''(C) the following credit card rates and fees:

''(i) Application fees.

''(ii) Annual percentage rates for cash advances and balance transfers.

''(iii) Maximum annual percentage rate that may be charged when an account is in default.

''(iv) Fees for the use of convenience checks.

''(v) Fees for balance transfers.

''(vi) Fees for foreign currency conversions.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2009.

(c) REPEAL OF OTHER REPORT PROVISIONS.—Section 1002 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and section 108 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 are hereby repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. KANJORSKI) and the gentleman from California (Mr. ROYCE) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania.

GENERAL LEAVE

Mr. KANJORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks as to this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KANJORSKI. Mr. Speaker, I yield myself 4½ minutes.

(Mr. KANJORSKI asked and was given permission to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I rise today in strong support of H.R. 6312. This bill will make a number of statutory improvements in the laws concerning credit unions, banks and thrifts. It will also help consumers assist businesses, ease paperwork burdens and promote economic development in underserved communities.

In developing this bill, we have sought to identify an appropriate balance between competing interests. I am

especially pleased that this legislation contains a number of important provisions affecting credit unions. Some of these provisions have previously passed the House, including the sections concerning the treatment of loans made by credit unions to nonprofit religious organizations, the authority of credit unions to invest in high-grade securities and the governance of credit unions.

The bill also contains a number of new provisions based on the proposals first set out in the Credit Union Regulatory Improvements Act, or CURIA. The inclusion of these provisions in this bill is an important step forward in our legislative debates about how best to ensure that credit unions can better serve their members.

One provision found in CURIA and contained in this bill we are now considering will permit all Federal credit unions, regardless of charter type, to expand services to eligible communities that the Treasury Department determines meets income, unemployment and other distress criteria. This change fixes a drafting error made nearly a decade ago when the Congress passed H.R. 1151, the Credit Union Membership Access Act.

Like CURIA, we also make in this bill important and sensible modifications to the definition of an ''underserved area.'' Moreover, the legislation will allow credit unions to help underserved communities in two other important ways:

First, at the request of the chairman of the Financial Services Committee, it will permit credit unions to provide short-term, unsecured loans to anyone in their field of membership. Second, it will exempt loans made to small businesses operating in underserved areas, consensus tracks from the existing member business lending caps. Together, these two provisions will help to promote economic development and will provide a stable source of funds for businesses and individuals.

Another provision in this bill that permits financial institutions to pay interest on business checking accounts will also help small business growth. I have worked for more than a decade on this issue, and have previously introduced legislation to implement the recommendations first made by regulators in 1996.

Before closing, Mr. Speaker, I want to thank several of my colleagues for their assistance in bringing this legislation forward today: The gentleman from Massachusetts (Mr. FRANK) provided essential guidance and assistance in developing this legislative product. Additionally, the gentleman from California (Mr. ROYCE) has stood with me for 5 years as we have worked on a bipartisan basis to update the laws governing credit unions. I am grateful for his support. The gentleman from Kansas (Mr. MOORE) also provided important contributions to the package before us, especially regarding the reduction of paperwork burdens and the collection of needed information about consumer banking services and costs.

In sum, Mr. Speaker, this bill will help credit unions to provide better services and to promote economic growth in underdeveloped areas. Moreover, H.R. 6312 is, without question, the most significant piece of credit union legislation considered in the House in nearly a decade. H.R. 6312 will also appropriately ease regulatory burdens but will still protect the interests of consumers. It also addresses some of the concerns of banks and thrifts.

Because it is a balanced product, I urge all of my colleagues to support H.R. 6312.

I reserve the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

I rise also in support of this legislation. This is the Credit Union, Bank and Thrift Regulatory Relief Act that we have before us.

As our capital markets continue to change and continue to evolve, the regulatory model overseeing our financial institutions must adjust as well. This legislation today is a small example of this effort to improve the regulatory structure overseeing the banks and the credit unions and the thrifts. By reducing the regulatory burdens, H.R. 6312 allows credit unions and banks and thrifts to devote more resources toward better servicing their customers and toward better serving those who use these institutions.

Since the 108th Congress, as Mr. KANJORSKI mentioned, he and I have coauthored the Credit Union Regulatory Improvements Act in an effort to modernize the regulatory model overseeing America's credit unions. We have made tremendous strides over the years. That bill, which is called CURIA now, has the support of 150 Members of this Chamber, and while today's legislation may not go as far as some would like, it is important that we not let the perfect be the enemy of the good. The Credit Union, Bank and Thrift Regulatory Relief Act has several worthwhile provisions which deserve consideration.

Among other things, this measure clarifies the intent of the Credit Union Membership Access Act, which is that all federally chartered credit unions should be allowed to serve underserved areas around the country. By increasing the field of membership and by exempting member business loans made in these underserved areas, this provision will allow credit unions to extend credit to these areas. Following a hearing in the Financial Services Committee, this provision was adjusted to ensure those areas that benefit are, indeed, underserved.

Additionally, this bill would support the community development work of nonprofit religious institutions by excluding such loans from credit union business lending caps. I introduced legislation to do just this back in 2003 with the intent of closing a longstanding liquidity gap between creditors and nonprofit organizations.

I believe the other major provisions contained in CURIA and which are not in today's legislation are important, and I believe they should not be forgotten. In particular, I am going to continue to push to modernize the capital requirements for our credit unions because we must replace the current one-size-fits-all leverage capital requirement with a more rigorous, two-part, net worth structure that will more closely monitor actual asset risk. This will put credit unions' capital requirements on par with those of other FDIC-insured institutions.

One hundred fifty Members of this Congress have signed on to CURIA, and it will remain the ultimate objective for those of us trying to bring the regulatory structure of overseeing credit unions into the 21st century.

Today's legislation joins regulatory relief for credit unions with improvements geared towards thrifts and towards banks. Representative MOORE's reg relief bill, much of which has been incorporated into this measure, will remove several unnecessary regulatory burdens faced by these financial institutions, allowing them to better serve their customers.

Among other things, the bill provides savings institutions with greater lending flexibility by removing limits on small business and on auto loans. The bill also increases the ability of savings associations to invest in small business investment companies and to make commercial real estate loans. Furthermore, this measure 6312 authorizes banks and thrifts to pay interest on business checking accounts for their customers.

Again, I would like to thank Chairman KANJORSKI, and I would like to thank Representative MOORE for their work on this legislation. This bill is an important step toward removing some of the unnecessary regulatory burdens placed on our Nation's financial institutions.

I have no further speakers on this side, and I yield back the balance of my time.

Mr. KANJORSKI. I yield 5 minutes to the gentleman from Kansas (Mr. MOORE).

Mr. MOORE of Kansas. I thank my friend, Mr. KANJORSKI, for yielding me time.

I also want to congratulate Mr. KANJORSKI and Mr. ROYCE on their hard work in crafting a bipartisan bill to provide reg relief to credit unions.

As you know, the legislation before us today combines important provisions from credit union regulatory relief legislation previously introduced by Mr. KANJORSKI and Mr. ROYCE with provisions from my legislation H.R. 5841, the Bank and Thrift Regulatory Relief Act of 2008.

At a time when many businesses are having difficulty obtaining access to credit, H.R. 5841 will provide important credit opportunities for small- and medium-sized businesses. Among other

provisions, this legislation would remove the existing limits on small business lending for thrifts, thereby enhancing the role of savings associations as community leaders. The Homeowners Loan Act currently caps the aggregate amount of commercial loans other than small business loans at 10 percent of a savings association's assets, and it permits commercial lending, including small business lending, of up to 20 percent of assets.

According to the Small Business Administration's Office of Advocacy, smaller businesses have experienced difficulty in obtaining relatively small loans from large commercial banks that set minimum loan amounts relatively high. Savings associations are increasingly important providers of small business credit and communities throughout the country.

This change, Mr. Chairman, will allow savings associations to continue to serve their small business customers and to further diversify their assets while also providing businesses with greater choice and flexibility to meet their credit needs.

Additionally, this proposal will significantly reduce the amount of time financial institutions spend filling out paperwork, and it will free up resources for the thousands of institutions on the front lines of community lending.

For example, the legislation would provide relief to community banks and financial institutions from requirements under the Gramm-Leach-Bliley Act to provide annual privacy notices to their customers, detailing their privacy policies and the way they share information.

While I have consistently advocated for increased protection of sensitive financial information, there should be targeted exemptions from this requirement to relieve the burden from small banks that do not share information with their affiliates and that have not otherwise changed their privacy policies.

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This change, Mr. Speaker, will save small businesses millions of dollars in compliance costs while also protecting consumers from unnecessary and duplicative notices.

The legislation also contains important provisions that would repeal the prohibition against the payment of interest on business checking. This prohibition was enacted during the Depression as part of the Banking Act of 1933, to protect banks in the heat of competition from offering interest levels on deposit balances that might be sustained through risky investments.

In their 1996 report ''Streamlining of Regulatory Requirements,'' the Federal banking regulators concluded, however, that the statutory prohibition against paying interest on business accounts no longer serves a valid public purposes. For example, large financial services companies have devised products, such as ''sweep accounts'' that, in effect, provide interest on deposit accounts, giving them a competitive advantage over small community banks that may not have the capability to offer such accounts.

In addition, most small business owners don't have the minimum balances necessary to maintain a sweep account so they are forced to keep vital cash in zero-interest checking accounts. Making this small change would make a huge difference for small businesses.

Furthermore, every provision in this bill providing regulatory relief for banks and thrifts has been approved previously by Congress in one form or another. The bipartisan support for this bill shows just how important it is for both businesses and consumers that Congress pass this meaningful legislation.

America's financial services industry is the most effective and competitive in the world and my proposal will help us stay out in front. Reducing regulatory burdens on businesses and consumers is simply the right thing to.

Mr. Speaker, I thank Chairman KANJORSKI and the staff, and I look forward to passage of this legislation today.

Mr. KANJORSKI. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. I thank the gentleman.

Mr. Speaker, there are over 90 million members of America's credit unions, including more than 168,000 in the district I represent. Each of them will benefit from passage of this bill, which I strongly support. It is a bipartisan piece of legislation that is an excellent first step towards improving the regulatory framework for our Nation's credit unions and banks.

Credit unions serve a broad and diverse membership, including many low and moderate-income individuals who would otherwise be unable to access the services provided by financial institutions. This bill will allow Federal credit unions to better serve consumers and provide them with greater access to financial products and services.

I ask my colleagues to support this commonsense and long-overdue legislation.

Mr. KANJORSKI. Mr. Speaker, I yield to the gentleman from Kansas (Mr. MOORE) who wishes to enter into a colloquy.

Mr. MOORE of Kansas. As one of the cosponsors of this legislation, I would like to engage its primary sponsor, you, Mr. KANJORSKI, in a colloquy on two questions related to section 111. This section concerns the encouragement of small business development in underserved urban and rural communities.

First, I have a question about the meaning of the provision that exempts business loans made by credit unions in underserved areas from the existing cap on member business lending. Is it the intent of this provision that the proceeds from exempt loans will be used to support business operations inside underserved areas?

Mr. KANJORSKI. Yes, the provision would exempt from the cap those loans that are used to support business operations in an underserved area in order to stimulate economic growth in these areas.

Mr. MOORE of Kansas. Thank you, Mr. KANJORSKI, for that clarification.

Section 111 of the bill also includes language that member business loans in an underserved area underwritten by a credit union for a business, or a local outlet of a business, operating on a nationwide basis, shall not be eligible from exemption from the business lending cap.

It is the phrase ''operating on a nationwide basis'' where I have a question. For the purpose of this section, it would seem that a business located in an underserved area that meets the other criteria, like a small family-owned business but which has a Web site that sells their goods to anyone who visits it, would not be treated as a business operated on a nationwide basis for the purpose of this section, as the economic benefit from those sales is going to that business in the underserved area.

Have I correctly characterized the intent of this section?

Mr. KANJORSKI. Yes, you have. As the title of the section indicates, the intent of this section is to promote economic growth by encouraging small business development in underserved urban and rural communities. We want to help businesses and business owners that have a presence there, like a mom-and-pop operation with an Internet store. Moreover, we have taken steps in the legislation to ensure that a locally owned franchise that consists only of local operations shall not be treated as a business operating on a nationwide basis.

Mr. MOORE of Kansas. Thank you for this clarification, Mr. KANJORSKI. I agree with your assessments.

Mr. KANJORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. KANJORSKI) that the House suspend the rules and pass the bill, H.R. 6312.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GOSPEL MUSIC HERITAGE MONTH

Mr. CLAY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 370) expressing support for designation of September 2008 as ''Gospel Music Heritage Month'' and honoring gospel music for its valuable and longstanding contributions to the culture of the United States.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

H. CON. RES. 370

Whereas gospel music is a beloved art form unique to the United States, spanning decades, generations, and races;

Whereas gospel music is one of the cornerstones of the musical tradition of the United States and has grown beyond its roots to achieve pop-culture and historical relevance;

Whereas gospel music has spread beyond its geographic origins to touch audiences around the world;

Whereas the history of gospel music can be traced to multiple and diverse influences and foundations, including African-American spirituals that blended diverse elements from African music and melodic influences from Irish folk songs and hymns, and gospel music ultimately borrowed from uniquely American musical styles including ragtime, jazz, and blues;

Whereas that tradition of diversity remains today, as the influence of gospel music can be found infused in all forms of secular music, including rock and roll, country, soul, rhythm and blues, and countless other styles;

Whereas the legacy of gospel music includes some of the most memorable voices and musical pioneers in the history of the United States, such as Thomas Dorsey, Mahalia Jackson, James Vaughan, Roberta Martin, Virgil Stamps, Diana Washington, Stamps Quartet, The Highway QCs, The Statesmen, The Soul Stirrers, Point of Grace, Smokie Norful, Terry Woods, James Cleveland, Billy Ray Hearns, Rex Humbard, Joe Ligon and The Mighty Clouds of Joy, Kirk Franklin, V. Michael McKay, Theola Booker, Yolanda Adams, Edwin and Walter Hawkins, Sandi Patty, The Winans, Kathy Taylor, and Brenda Waters, Carl Preacher, Shirley Joiner of B, C & S;

Whereas many of the biggest names in music emerged from the gospel music tradition or have recorded gospel music, including Sam Cooke, Al Green, Elvis Presley, Marvin Gaye, Aretha Franklin, Whitney Houston, Little Richard, Ray Charles, Buddy Holly, Alan Jackson, Dolly Parton, Mariah Carey, Bob Dylan, and Randy Travis;

Whereas, regardless of their musical styles, those artists and so many more have turned to gospel music as the source and inspiration for their music, which has blurred the boundaries between secular and gospel music;

Whereas, beyond its contribution to the musical tradition of the United States, gospel music has provided a cultural and musical backdrop across all of mainstream media, from hit television series to major Hollywood motion pictures, including ''American Idol'', ''Heroes'', ''Dancing with the Stars'', ''O Brother, Where Art Thou?'', ''Sister Act'', ''The Preacher's Wife'', ''Evan Almighty'', and more;

Whereas gospel music has a huge audience around the country and around the world, a testament to the universal appeal of a historical American art form that both inspires and entertains across racial, ethnic, religious, and geographic boundaries; and

Whereas September 2008 would be an appropriate month to designate as ''Gospel Music Heritage Month'': Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress supports the designation of ''Gospel Music Heritage Month'' which would recognize the contributions to the culture of the United States derived from the rich heritage of gospel music and gospel music artists.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the House Committee on Oversight and Government Reform, I gladly join my colleagues in the consideration of H. Con. Res. 370 which expresses support for the designation of September 2008 as ''Gospel Music Heritage Month'' and honors gospel music for its valuable and longstanding contributions to America's culture.

H. Con. Res. 370 was introduced by the gentlewoman from Texas (Ms. JACKSON-LEE) on June 10, 2008, and is cosponsored by 53 House Members. The bill before us was reported favorably from the Oversight Committee on June 12, 2008, by voice vote.

Gospel music is a unique national art form that truly exemplifies the American ''melting pot'' concept. Its diverse influences include African-American spirituals, traditional African music, ragtime, jazz, and blues, as well as Irish folk songs and hymns.

While some originally deemed the fusion of secular music with sacred lyrics, which characterizes gospel music, to be unconventional, gospel music has quickly grown into an integral part of American culture. The influence of gospel music extends throughout practically all forms of secular music performed today, including rock and roll, country, soul, and rhythm and blues.

Gospel music has motivated innumerable musicians over the years, including such greats as Tommy Dorsey, who is sometimes credited as the ''Father of Gospel Music,'' James Vaughan, Diana Washington, Smokie Norful, Yolanda Adams, Sam Cooke, Mahaliah Jackson, Elvis Presley, Marvin Gaye, Ray Charles, Buddy Holly, Bob Dylan, and the list goes on.

Mr. Speaker, it is important that we as a Congress honor the enormous and beautiful contributions that gospel music has given to not only America, but to the world by designating September 2008 as Gospel Music Heritage Month. I urge the swift passage of this bill.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

The legacy of gospel music is an American art form that continues to uplift and comfort people throughout this country and world. Therefore, I ask my colleagues to join me in support of this resolution in recognition of this national treasure.

Gospel music is a cultural and international art form that fosters an outpouring of deep spiritual beliefs. It has developed over the years in the United States but its blend of diverse cultures and music styles give us songs that transcend borders and beliefs.

It is a fitting tribute to this uniquely American music that September be designated as Gospel Music Heritage Month as it has touched millions of people throughout the world. It has been enjoyed in many different mediums such as books, television and motion pictures which has increased the enjoyment for many in varied cultural venues.

The style of gospel music has expanded from its roots to include Urban, Christian Country and Southern Gospel further broadening the appeal of this music to more people. The Gospel Music Channel has played an important role in bringing the diverse types of gospel music to many fans. Some of the music greats such as Aretha Franklin, Whitney Houston, Ray Charles, Buddy Holly, Alan Jackson and even Elvis Presley are among the many recording artists that have their roots in gospel music and have recorded significant gospel music albums. Their ability to bring their personal inspiration from gospel music to their millions of fans with varied musical styles is another tribute to this wonderful music genre.

The legacy of gospel music is an American art form that continues to uplift and comfort people throughout this country and world. Therefore, I ask my colleagues to join me in support of this resolution in recognition of this national treasure.

Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, at this time I would like to recognize the sponsor of the resolution, the gentlewoman from Texas (Ms. JACKSON-LEE) for 3 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the manager of this legislation, Mr. LACY CLAY, and my special appreciation to the chairperson of the full committee, Chairman WAXMAN. He expressed a great deal of appreciation and sensitivity for this legislation; and to the ranking member, Mr. TOM DAVIS, to the staff of the committee for their untiring work and dedication, and certainly to the manager on the minority side on this legislation.

I am delighted to see a number of Members on the floor of the House, and I am especially appreciative of the gospel singers and advocates who have helped encourage this legislation to move forward.

Let me also thank Senator BLANCHE LINCOLN who authored this legislation in the Senate, along with Senator HUTCHINSON and my cosponsor, Congresswoman BONO MACK.

We understand that this Congress has an opportunity on many occasions to celebrate and commemorate important historical cultures of this Nation. Gospel Music Heritage Month is that, for it is not with respect to race, color or creed, or even religion. As I was told by one artist singing in Japan, singing gospel music borne out of the seeds of slavery, that those in Japan were celebrating and clapping to that gospel music.

Gospel music has been woven into the fabric of American society for centuries, deeply impacting hundreds of generations, from rock and roll, country, the blues, R&B, and even hip-hop. And so H. Con. Res. 370 designating the month of September is intended to offer to America an opportunity to pause for a moment and be able to celebrate gospel music.

According to the Gospel Music Channel, which has been very helpful with this legislation, gospel music sales now account for nearly 8 percent of all music purchased in the United States, selling seven CDs for every 10 purchased in country music.

Regardless of their musical styles, artists have turned to gospel music as a source of inspiration for their own music. And we recognize in this legislation a number of those cited, such as Tommy Dorsey, Mahalia Jackson, James Vaughan, Roberta Martin, and many more. And others who got their start through gospel music, Elvis Presley, Marvin Gaye, Aretha Franklin, Buddy Holly, Whitney Houston, Ray Charles, Dolly Parton, Mariah Carey, Bob Dylan, and Randy Travis, to mention a few.

We know that Mahalia Jackson reigned as a pioneer interpreter of gospel music, and I know that she will be discussed with great admiration. I loved to hear her sing.

And yes, of course, one of our other great and wonderful stars that we have here, the famous James Cleveland, someone that everyone knew, born in Chicago, Illinois, but no one can offer a voice likes James Cleveland, leading choirs, inspiring others, recognizing that choir rehearsals were the cause of the inspiration of music in our churches. As we recognize James Cleveland, we are still reminded of the great work he has done.

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The SPEAKER pro tempore. The gentlewoman's time has expired.

Mr. CLAY. I yield the gentlewoman 2 additional minutes.

Ms. JACKSON-LEE of Texas. James Cleveland was, of course, the choir director's choir director. It was in one of these rehearsals that James was singing, and he was noticed and made a choir mascot. The choir director, Thomas A. Dorsey, wrote a song for him which launched the career of what was to be a long line of performances. Through Dorsey's teaching and directing, James was influenced in a great way, and James Cleveland became himself, the great teacher, the great choir director, the great musician, and boy, he could move your spirit. James Cleveland will be remembered, and we will be able to celebrate him and his music in this wonderful month.

Many of us know the wonderful songstress of Sandi Patty, still bursting with creative energy and magnetic talent three decades into her career. The Gospel Music Hall of Fame inductee with 39 Dove awards, 5 Grammy awards, and an armload of platinum and gold albums has seen professional peaks and personal valleys alike while in the spotlight, all of them tempered by the grace of God. Sandi Patty is one that will be a light as we honor Gospel Music Heritage Month.

And then our own hometown girl, Yolanda Adams, who debuted her song, ''Just As I Am'' in the 1980s. I remember sitting on the seats of many churches and seeing Yolanda, a tall, regal young teacher, sing in the choir. And then when she came to her own and began to sing and win all of these awards being reminded of her songs, ''Mountain High . . . Valley Low,'' and of course many other songs that she had sung, winning many awards having that wonderful regal ability to convey her spirit, and particularly her song, ''I need you now.''

Yolanda Adams, along with Mary Mary, Kurt Carr, V. Michael McKay, Kathy Taylor, and many others in and around the State of Texas and elsewhere, are well to be remembered. Brenda Ward, Carl Preacher, and Shirley Joiner, as Gospel greats of BC&S.

So many have offered a joy to this Nation. That is why I ask my colleagues to support this resolution celebrating and stopping for a moment in the month of September every year to commemorate gospel music heritage. Remember, it is not a respect of color or creed or religion; it is an opportunity to feel your spirit. So let me ask my colleagues to support this legislation.

I thank Mr. CLAY for his time. I thank my colleagues.

Mr. Speaker, I rise today in strong support of my legislation, H. Con. Res. 370, Expressing support for designation of September 2008 as ''Gospel Music Heritage Month'' and honoring Gospel music for its valuable and longstanding contributions to the culture of the United States. I am delighted to stand on the floor of the House today to honor, recognize, preserve, and promote the legacy and contributions that Gospel music has made to our society.

Gospel music has been woven into the fabric of American society for centuries, deeply impacting hundreds of generations. From rock and roll, country, the blues, R&B, and even hip hop, Gospel's musical roots can be heard throughout many musical genres that we love today. Not only has Gospel music entertained the masses, but its spiritual roots have spread the Gospel of Jesus Christ to millions, giving it the unique ability to minister to souls around the world.

It is very important that we recognize and celebrate the vital role Gospel music has played in music history and also in contemporary times. That is why I am so proud of my legislation, H. Con. Res. 370, Designating September as ''Gospel Music Heritage Month.'' This bill recognizes Gospel music's contributions in American culture by celebrating its rich heritage and artists for a full month. I urge my fellow Members of Congress to support this vital legislation.

As we know, Gospel music is an American art form that has spanned throughout hundreds of years. Its musical elements can be heard melodiously infused in many genres that we love today. It has grown beyond its roots to achieve pop-culture and historical relevance, touching audiences around the world. According to the Gospel Music Channel, ''Gospel music sales now account for nearly 8 percent of all music purchased in the United States, selling seven CDs for every ten purchased in country music.''

Regardless of their musical styles, artists have turned to Gospel music as the source and inspiration for their own music, which has blurred the boundaries between secular and Gospel music. Gospel music has provided a cultural and musical backdrop across all of mainstream media, from hit television series to major Hollywood motion pictures, including ''American Idol,'' ''Dancing with the Stars,'' ''Sister Act,'' and more.

The history of Gospel music can be traced back to African American spirituals that blended diverse elements from traditional African music, folk songs and hymns, and ultimately borrowed from other American musical styles including ragtime, jazz, and blues. Let us not forget that the legacy of Gospel music includes some of the most memorable voices and pioneers in American history, such as Thomas Dorsey, Mahalia Jackson, James Vaughan, Roberta Martin, and many more. Gospel music has paved the way for legendary recording artists such as Elvis Presley, Marvin Gaye, Aretha Franklin, Buddy Holly, Whitney Houston, Ray Charles, Dolly Parton, Mariah Carey, Bob Dylan, and Randy Travis just to name a few.

Let us now take a look at some of Gospel's most influential, recognizable artists:

Mahalia Jackson reigned as a pioneer interpreter of gospel music whose fervent contralto was one of the great voices of this century. Both gospel and rhythm and blues had their roots in the sanctified church, but whereas blues and R&B departed on secular paths that led to rock and roll, gospel stayed the spiritual course. Nonetheless, the influence of gospel on R&B and rock and roll, especially through such force-of-nature voices as Jackson's, is inescapable. Little Richard has cited Jackson as an inspiration, calling her ''the true queen of spiritual singers.''

No other Christian artist at work today is better suited to sing about life's journey than Sandi Patty. Still bursting with creative energy and magnetic talent three decades into her career, the Gospel Music Hall of Fame inductee with 39 Dove Awards, five Grammy Awards, and an armload of platinum and gold albums has seen professional peaks and personal valleys alike while in the spotlight, all of them tempered by the grace of God.

The Winans are a contemporary Christian music group formed by four brothers, Marvin, Carvin, Ronald and Michael Winans, from Detroit, Michigan, USA. The family has additionally produced two well-known solo/duo gospel performers, BeBe and CeCe Winans. After having sung in gospel choirs all their lives the brothers began their professional career in the early 80s. Staying close to their gospel roots but always maintaining a distinctive, jazzy sound, their reputation saw them work and perform with leading artists including Vanessa Bell Armstrong, Anita Baker and Michael McDonald, the latter pair both appearing on their 1987 album, Decision. Their two QWest albums of the early 90s, Return and All Out, saw the Winans attempt to convert their popularity into mainstream R&B success. Even this,

however, was motivated by moral concerns: ''The whole purpose was to win over young people who might have been on the verge of going into a life of crime or going off track,'' Ronald Winans told Billboard magazine in 1995.

Ever since her late-80s debut Just As I Am, Yolanda Adams has triumphantly carried the torch for contemporary gospel and inspirational music via 12 glorious albums. Stunningly beautiful, exceptionally educated, filled with the spirit and blessed with one of the most powerful voices in any genre of music, this Houston-native and one-time school teacher has been a stately beacon of God's light, earning numerous accolades and awards for her shining efforts; including the first American Music Award for Contemporary Gospel Artist, four Gospel Music Association Dove Awards and four National Academy of Recording Arts and Sciences Grammy® Awards (including 1999's Best Contemporary Soul Gospel Album for Mountain High . . . Valley Low which featured her secular breakthrough hit ''Open My Heart,'' and 2005's Best Gospel Song for ''Be Blessed,'' for which she was a co-writer).

Since his debut, 1993's Kirk Franklin & the Family, Kirk Franklin has been one of the brightest stars in contemporary gospel music. The album spent 100 weeks on the gospel charts (some of those on top), crossed over to the R&B charts, and became the first gospel debut album to go platinum. His second album, Kirk Franklin & the Family Christmas, became the genre's first Christmas album to make it to number one, and his 1996 album Whatcha Lookin' 4 went gold as soon as it was distributed. With such phenomenal success, it is small wonder that some have hailed him ''the Garth Brooks of gospel.'' Still, despite all the adulation and brouhaha, Franklin remains a humble, devout Christian, eschewing the title ''entertainer'' in favor of labeling himself as just a ''church boy.''

The Reverend James Cleveland was born in Chicago, Illinois, on December 5, 1931, to Rosie Lee and Benjamin Cleveland during the height of the greatest depression. James' grandmother attended Pilgrim Baptist Church, where she was a member of the choir. James had no choice but to attend these rehearsals with his grandmother and found himself sitting through these choir rehearsals—bored stiff! Eventually James decided he would conquer the boredom through attempting to sing along with the choir. It was in one of these rehearsals that James' singing was noticed and he was made choir mascot. The choir director, Thomas A. Dorsey wrote a song for him which launched the career of what was to be a long line of performances. Through Dorsey's teaching and directing young James was influenced in a great way. Reverend Cleveland will never be forgotten as one of the world's foremost leaders and pioneers of gospel music and his gospel music ministry will live on. Literally every black gospel artist today has been influenced by James Cleveland.

It's not hard to divide the world of Gospel quartet music into categories. In fact, there are really only two. There's the Mighty Clouds of Joy, and then there's everybody else. After 44 years and 35 albums, three Grammys and trophy-case full of almost every award imaginable; shows that have run a gamut from the church-house to the White House, and top-billings with a dazzling roster of superstar artists from nearly every genre of popular music (the Rolling Stones, Aretha Franklin, James Brown, Earth, Wind & Fire, Luther Vandross, Ray Charles, and Paul Simon are but a few), The Mighty Clouds of Joy are more than a Gospel legend. They are nothing less than a national treasure. Still, one must choose his words carefully when describing the Clouds. ''Icons?'' Absolutely. ''Pioneers?'' Without a doubt. ''Venerable?'' Most certainly. ''Forefathers'' of modern Gospel, R&B, rock and pop? It's just the straight fact of the matter; but don't let founding member and lead vocalist, Joe Ligon, or any of the other five Clouds hear you referring to them with any synonym that even hints at greatness in the past tense.

Perhaps the most interesting story in modern Gospel music over the past few years has been the emergence from nowhere of Smokie Norful. Virtually unheard of when he released his debut album, I Need You Now, in early 2002, Norful became Billboard Magazine's #1 Gospel Artist of 2003 and also won the coveted 2003 Stellar Awards for both Best Male Vocalist and Best New Artist. It is encouraging to find new artists like Norful that are blending the rhythms and production quality of modern soul with the lyrical depth of modern Gospel. It also is encouraging that Urban Adult Contemporary radio was willing to embrace an obviously spiritual song such as ''I Need You Now.'' And while great Gospel artists such as Mary Mary and even Yolanda Adams had difficulty finding continuing broad crossover sales following their smash 2000 albums, fans of quality Soul will continue to hope that strong future material by artists such as Smokie Norful will lead to sustained mainstream success for spiritual music.

Let me speak now, of some Gospel music that is particularly important to me: The Soul Stirrers, formed by Roy Crain in 1926, which became one of the most popular and influential gospel groups of the 20th Century and was the first Gospel group inducted into the Rock and Roll Hall of Fame; Joe Ligon and The Mighty Clouds of Joy, another quartet that got their start here in Houston; Don Robey's Peacock Records, which in its 1960s' gospel heyday, featured such artists as The Dixie Hummingbirds, Rev. Cleophus Robinson, The Loving Sisters and with its subsidiary label, Song Bird Records, released recordings from the legendary Inez Andrews and other Gospel Greats; BC&S (Brenda Waters, Carl Preacher & Shirley Joiner), the nucleus of what would become Southeast Inspirational Choir, the vehicle that launched the prolific solo career of Yolanda Adams; V. Michael McKay, one of the most prolific songwriters of our time, with songs like The Potter's House, The Battle is the Lord's, and Broken, But I'm Healed; Kathy Taylor, whose anointed voice is heard from the sanctuary of Windsor Village to places all around the world; Kirk Franklin, who in a decade brought Gospel Music out of the Church and back into the streets of the young people of America and the world, while revolutionizing the genre in the process; Kurt Carr, whose artistry demands the attention of the world, while at the same time, the heart of God . . .

Psalm 150 states: ''Praise God in his sanctuary; praise him in his mighty heaven! Praise him for his mighty works; praise his unequaled greatness! Praise him with a blast of the ram's horn; praise him with the lyre and harp! Praise him with the tambourine and dancing; praise him with strings and flutes! Praise him with a clash of cymbals; praise him with loud clanging cymbals. Let everything that breathes sing praises to the Lord!''

Praising the Lord is at the core of Gospel music and today we honor the many Gospel musicians who have dedicated their lives to praising the Lord. Their messages of faith, hope, and wisdom continue to encourage in times of hardship, and express joy in times of prosperity. Gospel musicians use their talents to motivate listeners to live positive life styles grounded in love, patience, goodness, kindness, self-control, gentleness, peace, and joy; all of which we know as the Fruit of the Spirit.

Today, Gospel music has a vast audience around the country and around the world. This is a testament to the universal appeal of a historical American art form that both inspires and entertains across racial, ethnic, religious, and geographic boundaries.

Without a doubt, Gospel music deserves national recognition and I urge my colleagues to expediently pass this vital piece of legislation. By supporting H. Con. Res. 370, the Members of Congress will finally honor the great contributions of Gospel music artists of the yesteryears and years to come. Let us recognize the significant cultural contributions of Gospel music to the fabric that weaves together the patchwork of American society, by designating September as ''Gospel Music Heritage Month.'' I am grateful for the help of the Gospel Music Channel, the Grammys and my Gospel artists. I also appreciate the work of Gospel Music advocate Carl Davis.

I would like to thank Senator BLANCHE LINCOLN for her great leadership in the Senate in getting this resolution passed. I am proud to support H. Con. Res. 370 and to provide Congressional support for the designation of ''Gospel Music Heritage Month'' which would recognize the contributions to the culture of the United States derived from the rich heritage of Gospel music and Gospel music artists. I strongly urge all my colleagues to do the same.

Mr. CLAY. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. I thank the gentleman for yielding.

Today I rise in strong support of H. Con. Res. 370, the Gospel Music Heritage Month resolution. I thank Congresswoman SHEILA JACKSON-LEE and Congressman CLAY for bringing this measure to the floor.

My region has a strong connection to Gospel music. It is home of ''The Queen of Gospel Song'' Mahalia Jackson. Ms. Jackson was born in New Orleans, more specifically in the Carrollton neighborhood of Uptown in 1911 and grew up singing, starting in the Plymouth Rock Baptist Church before moving to Chicago as a teenager.

Like so many gospel singers, she struggled to get a career going, laboring as a domestic but soon became a prolific soloist at churches and funerals in the Chicago area. The world took notice, and her voice became a soundtrack for the civil rights movement of the fifties and sixties. Her commanding contra-alto voice rang out in song for Presidents Eisenhower and Kennedy and before Dr. Martin Luther King, Jr's, I Have a Dream speech. At the

March on Washington, she sang ''I Been 'Buked and I Been Scorned'' at Dr. King's request. Dr. King is recalled as having said about Mahalia Jackson, ''A voice like this comes, not once in a century, but once in a millennium.''

Fittingly, she won a Lifetime Achievement Award Grammy in 1972, was inducted into the Rock and Roll Hall of Fame in 1997 and was honored with a U.S. Postal Service stamp in 1988.

The gospel music of Mahalia Jackson, as has all gospel music, inspired music of other genres, in particular jazz, blues, and rock and roll. Little Richard, indeed, names her as one of his biggest influences. ''She was my inspiration,'' he says. ''She could sing.''

Gospel music expresses all that is important in the human experience: our trials, our fears, our faith, our hope for salvation.

Today, the gospel tradition started in New Orleans by Mahalia Jackson continues. Through the inspirational singing and award-winning performances of Bishop Paul S. Morton, Trin-I-Tee 5:7, the Zion Harmonizers, the New Orleans Spiritualettes, Tara Alexander, and many others, God is powerfully glorified.

New Orleans is truly a bedrock of gospel music and gospel music the cornerstone of hope and spirituality for our Nation. Gospel music deserves, Mr. Speaker, and its artists deserve to have the recognition that this resolution affords. And I urge its adoption.

Mr. CLAY. Mr. Speaker, I would like to recognize the gentleman from New Jersey (Mr. PAYNE) for 3 minutes.

(Mr. PAYNE asked and was given permission to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, let me join in with my colleagues in expressing support for the designation of September 2008 for Gospel Music Heritage Month. And let me commend the sponsor, Ms. SHEILA JACKSON-LEE, for her initiative to make the gospel music national art form as we've seen with jazz in the past.

And let me thank the gentleman from Missouri (Mr. CLAY) for his support of this legislation.

Let me say that this resolution certainly recognizes gospel music's contribution in American culture by celebrating its rich heritage and artists for the entire month of September. It is very important that we recognize and celebrate the vital role gospel music has played in music history and also in contemporary times.

Gospel music has been woven into the fabric of American history spanning generations from rock and roll, country, to blues, R&B, and even hip hop. Gospel music roots can be many musical genres, and we love that today. Not only has gospel music entertained the masses, but its spiritual roots have spread the hope to many souls around the world.

As you know, the history of gospel can be traced back to the African American spirituals that blended diverse elements from traditional music, folk songs, and hymns and ultimately borrowed from other American musical styles including ragtime, jazz, and the blues.

The first Negro spirituals were inspired by the hardship of slavery yet enlightened by the hope and faith of God. They were used to send messages to express personal feelings and uplift broken spirits. They told a story of a generation, and each era's sense of belief, hence the word ''gospel.''

As traditional Negro spirituals continued to be sung, new spiritual songs were created. The lyrics of these songs were sung and they dealt with the praise of the Lord with personal improvement and with brotherly community life. Many of them were inspired by social problems, segregation, lack of love, and the list goes on and on.

Words from traditional spirituals were slightly changed and adapted to special events. For example, the words of ''Joshua Fought the Battle of Jericho (and the walls came tumbling down)'' was changed into ''marching around Selma.''

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. CLAY. I yield the gentleman 1 additional minute.

Mr. PAYNE. Instruments would later be infused in the culture influencing some of the most memorable voices, and we heard them, in particular Mahalia Jackson and Roberta Martin, and many, many others. Later we heard Marvin Gaye and Elvis Presley and Aretha Franklin.

But in our local town of Norton, we had people at New Hope Baptist Church where Sissy Houston is still the head of music there, and Sissy Houston came out of our New Hope Baptist Church and Dionne Warwick preceded them, all in the same choir at New Hope Baptist Church.

So therefore without doubt, gospel music deserves national recognition, and that is why I rise in strong support of H. Con. Res. 370, designating September as National Gospel Music Heritage Month.

Mr. CLAY. Mr. Speaker, I wholeheartedly support House Concurrent Resolution 370. I urge my colleagues to support it.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 370.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. FOXX. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EXPRESSING HEARTFELT SYMPATHY FOR THE VICTIMS AND THEIR FAMILIES OF THE RECENT IOWA TORNADO

Mr. CLAY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1283) expressing heartfelt sympathy for the victims and their families following the tornado that hit Little Sioux, Iowa, on June 11, 2008.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 1283

Whereas the Boy Scouts attending the Little Sioux Scout Ranch for the annual Pohuk Pride Junior Leadership training course suffered through a horrific tornado;

Whereas, on June 11, 2008, the tornado hit the Little Sioux Boy Scout Ranch near Little Sioux, Iowa, at 6:35 p.m., killing 4 youths and injuring 43 other people at the camp;

Whereas Little Sioux Boy Scout Ranch, which spans 1,800 acres, is located in the Loess Hills in western Iowa, close to the border with Nebraska, about 40 miles north of Omaha;

Whereas the tornado caused a giant rock chimney to collapse in the bunkhouse where the Boy Scouts were seeking shelter;

Whereas the devastation of the tornado resulted in the deaths of Sam Thomsen, Josh Fennen, Ben Petrzilka, and Aaron Eilerts;

Whereas Sam Thomsen of Omaha, Nebraska, was 13 years old and the son of Sharon and Larry Thomsen;

Whereas Sharon Thomsen referred to Sam as the family's ''miracle'' baby, as he was born more than 3 months premature, but luckily had no lasting health problems;

Whereas Sam Thomsen, who loved camping, Jesus, football, and the Nebraska Cornhuskers, as a member of Troop 26 and wanted to eventually become an Eagle Scout;

Whereas Sam was about to turn 14 years old on June 16, 2008, and he had asked his parents for tickets to the College World Series as his birthday present;

Whereas Josh Fennen of Omaha, Nebraska, was 13 years old, had just finished the 8th grade, and was the son of Charles and Dorothy Fennen;

Whereas Josh Fennen, a member of Troop 331, was confident and inquisitive, with natural leadership abilities;

Whereas according to Josh Fennen's middle school principal, Josh was a ''good student, a hard worker, and he was always trying to be creative'';

Whereas Ben Petrzilka of Omaha, Nebraska, was 13 years old and the son of Bryan and Arnell Petrzilka;

Whereas Ben Petrzilka had just finished 7th grade at Mary Our Queen Catholic School and often spent time fishing and hunting with his father;

Whereas Ben Petrzilka had been a member of Troop 448 for 3 years and had reached First Class rank, 3 steps below Eagle, and was assistant leader of the Ninja Patrol of Troop 448;

Whereas Aaron Eilerts of Eagle Groove, Iowa, was 14 years old and a member of Boy Scout Troop 108;

Whereas Aaron Eilerts was always doing things for others, whether it was creating

brightly colored pillowcases for patients at local hospitals, making fleece blankets for dogs at the Humane Society, or making table centerpieces for the senior citizen dining center in Eagle Grove;

Whereas Aaron Eilerts, an aspiring chef with an obsession with Elvis, was very involved in his community, as he often performed ''The Star Spangled Banner'' at local sporting events, participated in football, ran cross country, and was involved in both band and choir;

Whereas Sam Thomsen, Josh Fennen, Ben Petrzilka and Aaron Eilerts all lived by the Scout Oath, ''On my honor, I will do my best to do my duty to God and my country and obey the Scout law, to help other people at all times, to keep myself physically strong, mentally awake, and morally straight'';

Whereas all the Boy Scouts exhibited extraordinary leadership by executing techniques they had recently been taught in a mock emergency drill just a day before the tornado hit;

Whereas the Boy Scouts removed stones that had fallen onto fellow Scouts, tied tourniquets around the limbs of the wounded, helped pull the injured out of the rubble, carried the injured on stretchers, and kept their composure in the face of disaster;

Whereas the 43 injured people were taken to 5 hospitals: Creighton University Medical Center in Omaha; Mercy Medical Center in Sioux City, Iowa; Burgess Health Center in Onawa, Iowa; Community Memorial Hospital in Missouri Valley, Iowa; and Memorial Community Hospital in Blair, Nebraska;

Whereas the majority of those injured and sent to area hospitals received treatment and were released;

Whereas first responders and officers of the Little Sioux Volunteer Fire Department, Monona Country Emergency Management, Decatur Volunteer Fire Department, Fort Calhoun Volunteer Fire Department, Monona County Sheriff's Department, Harrison County Sheriff's Department, Iowa State Patrol, Iowa National Guard, Red Cross, and Mercy Air Care arrived at the Little Sioux Boy Scout Ranch within 10 minutes and walked through the rain on a muddy road to reach the campers, as fallen trees in the heavily timbered park blocked their vehicles;

Whereas, on June 12, 2008, Iowa Governor Chet Culver and Nebraska Governor Dave Heineman met with families of the victims, expressed their condolences, and thanked those who helped during the disaster;

Whereas Department of Homeland Security Secretary Michael Chertoff toured the camp on June 12, 2008, and said it appeared that the Boy Scouts ''didn't have a chance'' and that the tornado came through the camp ''like a bowling ball''; and

Whereas the Boy Scout community will grieve the loss and celebrate the lives of those who died in this horrific natural disaster for months and years to come: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses its heartfelt sympathy for the victims and their families of the tornado in Little Sioux, Iowa, on June 11, 2008; and

(2) conveys its gratitude to the city and county officials, police, fire department, sheriff, volunteer, and emergency medical teams who responded swiftly to the scene to treat the wounded.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

As a member of the House Committee on Oversight and Government Reform, I rise in support of House Resolution 1283 which expresses our heartfelt sympathy for the victims and the families following the tornado that hit Little Sioux on June 11.

At 6:35 p.m. on June 11, a tornado touched down at the Little Sioux Boy Scout Ranch near Little Sioux, Iowa. The tornado, which tore through the ranch with the greatest force of nature, caused a rock chimney to collapse into the bunkhouse where the Scouts sought shelter. In the aftermath of the tornado's destruction, 43 individuals were injured, and four, Sam Thomsen, Josh Fennen, Ben Petrzilka, and Aaron Eilerts, were tragically killed.

Mr. Speaker, the Boy Scout community and America at large will grieve the loss of the four Scouts whose lives ended so suddenly. With this bill, we have the opportunity to commemorate the lives of these individuals and to convey our gratitude to all those who so swiftly responded to the disaster, and I urge the adoption of this resolution.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on Wednesday, June 12, a vicious cluster of tornadoes ripped through the Midwest ending lives and destroying homes in Minnesota, Nebraska, Kansas, and Iowa. Though the storms devastated families everywhere they touched down, one storm in particular that touched down at the Little Sioux Scout Ranch in Loess Hills, Iowa, wounded the heart of our Nation a little more. And in a moment, I will recognize some of our colleagues who were directly involved and are here to share their thoughts on this tragedy.

Mr. Speaker, I reserve the balance of our time.

Mr. CLAY. Mr. Speaker I continue to reserve.

Ms. FOXX. Mr. Speaker, I now yield to my colleague from Nebraska (Mr. TERRY) such time as he may consume.

□ 2045

Mr. TERRY. I appreciate you yielding me the time.

I rise today to pay tribute to four boys who lost their lives after a tornado destroyed their Boy Scout camp near Little Sioux, Iowa, on Wednesday, June 11. And as the gentlelady from North Carolina mentioned, it was a string of storms all the way from Iowa through Omaha, Nebraska, all the way down into Manhattan, Kansas.

The boys were at this camp in Little Sioux, Iowa, Boy Scout camp, learning leadership skills and were definitely on the right path to be leaders in their future endeavors. Unfortunately, their lives were cut short by a fierce and destructive storm, an F–3 tornado.

Interestingly, it was just the day before where the Scouts practiced how to react to a disaster like a tornado, and we can be very proud of the Scouts and how they acted after the storm.

This tornado killed four boys, injured almost 50 others. Killed in the storm was 13-year-old Ben Petrzilka, 13-year-old Sam Thomsen, and Josh Fennen. Those three boys were all from Omaha. Ironically, all three of them were only a few miles from where my wife and my family live.

Ben Petrzilka has been described as a caring and a natural leader. He was a member of Boy Scout Troop 448 and earned more than 20 merit badges, truly amazing.

Sam Thomsen was born more than 3 months premature, adopted by a caring and loving family. They called Sam their ''miracle boy.'' His pastor said he was ''great kid'' and always had a smile on his face.

Josh Fennen, a great student and hard worker as he was described by his school principal, had a knack for exploring and was a natural leader.

Aaron Eilerts was a member of Boy Scout Troop 108 in Humboldt, Iowa, loved music, especially Elvis. For merit badges, he created pillowcases for local hospitals and made blankets for the humane society. He truly lived the Boy Scout Oath of: ''On my honor I will do my best to do my duty to God and my country and to obey the Scout Law; to help others at all times; to keep myself physically strong, mentally awake, and morally straight.''

All of these boys lived the Scout Oath, something their family, friends and fellow Scouts can be extremely proud of. I know I am.

I'm proud of all the Scouts and how they reacted. The stories of heroism from these four fallen boys' colleagues are truly moving.

So God bless them, their families and Scouts everywhere.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. I rise to support this legislation of Mr. TERRY and to offer my deep sympathy.

I serve on the board of the Boy Scouts in the Houston-Galveston area and have worked with the Boy Scouts for a very, very long time. And so I want to offer to the families of those who lost their life the deepest sympathy of those from Texas and to be able to express my appreciation for the organization of Boy Scouts that teaches character and leadership and empathy.

And listening to the testimonies of those who survived and listening to the testimony of those boys who then

helped others survive, I know that even in the loss of these young heroes other young boy Scouts will learn the lessons even better of leadership and challenge.

I'd like to add my sympathy to the families and to the community. As we look over the Midwest, this has been an enormously tragic time. Families have lost their homes. They've lost loved ones, but this was particularly heartwrenching, and many of us know the service that Boy Scouts give across America.

And so I ask my colleagues, along with the Members who have come to the floor today to support H. Res. 1283, to recognize the great loss that we've experienced. We have to champion the organization of Boy Scouts that teaches leadership and service, but also begins to build the building blocks that allows those young men to be courageous as they were to help others in their time of need.

Mr. Speaker, I ask support of the legislation.

Ms. FOXX. Mr. Speaker, I yield as much time as he may consume to my colleague from Iowa (Mr. LATHAM).

Mr. LATHAM. I thank the gentlewoman from North Carolina for the time.

Mr. Speaker, I rise to express my sympathy to the families who lost their boys in the tornado in Little Sioux, Iowa, earlier this month.

As a parent, I know that no words uttered on this floor will ease the pain of losing a child. I only hope today's statements will serve as a timeless reminder that America's heart broke upon the news of this tragic loss. As a Nation, we are all so very sorry for your loss.

I'd like to take a moment to talk about Aaron Eilerts of Eagle Grove, Iowa. Aaron was 14 years old. He was the only son of Bob and Carol Eilerts. He was a dedicated member of Boy Scout Troop 108.

Although I didn't have the honor of knowing Aaron, many people in the town of Eagle Grove were touched deeply by this outstanding young man. After reading the many tributes to Aaron Eilerts, I was struck by what a special person he was.

Aaron had taken it upon himself to make pillowcases for children who were sick and confined in hospitals. He made dozens of colorful pillowcases, including one for his cousin who was recovering from losing his leg serving our country in Iraq.

Aaron will be remembered for his generosity and his big heart. He enjoyed making people happy and had a special gift for making folks smile.

It should be noted that Aaron was a distinguished member of Scouting's National Honor Society, The Order of the Arrow. Aaron was elected to the Order by his peers because he best exemplified the Scout Oath and Law in his daily life.

I will recite the Scout Oath and Law in Aaron's memory, and I hope it will give people a sense of what kind of a person he was and what we should all aspire to be.

The Scout Oath reads: ''On my honor, I will do my best to do my duty to God and my country and to obey the Scout Law; to help other people at all times; to keep myself physically strong, mentally awake, and morally straight.''

The Scout Law requires each Boy Scout to be trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.

We should all follow Aaron Eilerts' example. He lived a good life, doing good things for people in need.

Mr. CLAY. Mr. Speaker, I continue to reserve.

Ms. FOXX. Mr. Speaker, I yield as much time as he may consume to my colleague from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentlelady from North Carolina for yielding.

I rise with my colleagues this evening to pay tribute to the Scouts who were lost in that storm of June 11, 2008, and to those also who survived and set such a fine example for Scouts everywhere and for all time to follow.

The location of the tragedy is a few miles west of where I live, I suppose about 25 miles as the crow flies over our beloved Loess Hills, some of us call them the bluffs, yet a unique soil type that exists in only one other place in the world.

And in those Loess Hills is an 1,800-acre wilderness park, the Boy Scout camp, where sometimes there are as many as 8- to 900 Scouts camping. On that fateful evening of June 11, there were about 93 Scouts on the location, along with about 25 leaders.

And in this disaster, as I have been on the site the second morning after the tragedy, as well as went over it last Saturday morning to take a look at that from the air to try to make sense of it and put it in a concept where I can at least explain it, this tornado came across the Missouri riverbottom, and it ripped through a small treeline down on the flat part of the riverbottom and then over an irrigation system and flipped it over and went directly to the ranger's house, the ranger who lives into the first finger valley in the bluffs in his home with his wife and three small children.

That tornado went directly at his home, which had no basement, slab on-grade, about the same kind of architecture as the shelter house that the Boy Scouts were in, and took his house and tore it to shreds. They huddled in an interior closet and ended up underneath the rubble from their fireplace, trapped there, the ranger, his wife and the three children. And they were all trapped and laying underneath the blocks and the stones.

And the tornado then went on up the valley and just jumped over a little ridge and dropped right down on the shelter house where 40 to 50 of the Scouts had gone to for shelter.

And I want to emphasize, Mr. Speaker, that there's nothing more the Scouts could have done, no place that they could have gone that was better than where they went, with 93 of them scattered out in these finger valleys, and they were living in small pup tents that were pitched along the valley. As I came in there, many of those tents were crushed underneath the trees. If they had stayed in their tents they would not have survived.

Some of them didn't get into the shelter house and had to lay on the ground. Those that survived, the tornado miraculously sucked the air out of their lungs, but 40 to 50 went into the shelter house, Mr. Speaker. And they did the only thing they could do which is get the kind of shelter that they could.

The velocity of the wind was such that it picked up a pick-up truck that was sitting about 100 feet on the one side of the building and blasted that vehicle through the building, through the fireplace, through the chimney. And that vehicle landed about 150 feet the other side of what was left of the building, which wasn't much at all. And the Scouts that we lost were lost underneath the rubble that was knocked down by that pick-up truck that was blown through.

This lasted about 8 seconds. Scouts being always prepared, one of them punched the stopwatch on his wristwatch and timed the storm while it was there and shut the stopwatch off. Eight seconds was how long the terror lasted.

And immediately after that was over, some of the Scouts rose up from the rubble and began to help the others and triage and do as their first aid training had taught them.

Some of them ran down not quite a half a mile to the ranger's home, where they began frantically tearing the rubble off of the ranger and his three children and his wife and who were trapped underneath there and would have eventually suffocated. They pulled them all out, and they all walked away, the ranger and his family.

Some of the Scouts ran up to another location on the wilderness campsite and went into a building and got a couple of small ATVs and all the chainsaws they could get their hands on. By the time the emergency personnel arrived—that was within 7 minutes—they were sawing logs out of the way to make room for the emergency workers.

These Scouts not only had trained the day before, but 2 years and 2 months earlier, they had trained in April for a similar kind of a drill. They were surprised at 5 o'clock in the morning by the Scout leaders and the local EMT workers who had set up this training drill. They had issued the Scouts first-aid kits, light boxes or clear plastic boxes, with gauze and other type of first-aid equipment in those kits. These Scouts who had trained 2 years earlier and 1 day earlier

for a similar disaster, found themselves with the first-aid kits that they had been issued, giving first aid to their fellow Scouts and some to their Scout leaders.

As I walked that site on the Friday morning following the Wednesday afternoon, some of these first-aid kits were scattered out around the site where they had been used up helping each other. It's a powerful example of the training that the Scouts had gone through and how they used that training.

Mr. Speaker, they did everything they could have done from a training standpoint. They did everything they could have done from a reaction standpoint. They did all of the right things in the aftermath of the tornado, and I believe that this tragedy of losing the four Scouts, as sad as it is—and we pay tribute to them and their lives and we offer our prayers and our shared grief to their families and the families of all of those who feel this pain—as sad as that is, I believe that there is a silver lining to this cloud.

First, I'm confident that there will be a memorial built on that location for those four Scouts.

□ 2100

And I believe that there will be a day soon where the training drills of the Scouts will incorporate the things that they learned there, the things that they did there, and I believe there will be Scouts that come to this camp, this 1,800-acre wilderness camp, from all over the United States over time who will train on the very location where we lost the four Scouts.

Before I conclude, Mr. Speaker, I do want to read the list of the local volunteer organizations that I know are at least on this list—and I'm convinced it cannot be all of them—the Little Sioux, Iowa, Volunteer Fire Department on the site quickly, along with the Monona County Emergency Management people, the Decatur Volunteer Fire Department of Decatur, Nebraska, Fort Calhoun, Nebraska Volunteer Fire Department, Monona County Sheriff's Department, Harrison County Sheriff's Department, the Iowa State Patrol, Iowa National Guard, Red Cross, Mercy Air Care, and the Little Sioux Boy Scout Ranch. They all began to arrive there within 7 minutes of the time that this tornado concluded.

I congratulate them for their courageous response, for the example that they've set, for the inspiration that they are. I hope to be there to dedicate the memorial when that day comes. I offer my prayers and sympathy to the Scouts and their families. May God continue to bless the Boy Scouts of America.

Mr. CLAY. Mr. Speaker, I urge the adoption of this resolution and I yield back the balance of my time.

Ms. FOXX. Mr. Speaker, from our darkest trials, Americans consistently display their true heroism. The horrible events on the night of June 11 were no different. No one is surprised to learn that the Scouts themselves displayed leadership skills and composure in the face of danger above and beyond their years. Had these courageous young men not lived up to their motto, ''Always Be Prepared,'' it is likely that this tragedy would have been magnified.

I pray that all involved with Scouting will be inspired by the examples of the Scouting community shown through this tragedy, and that our benevolent God grant a sense of peace to all those affected by the tragedy.

Mr. Speaker, I urge all Members to support the passage of H. Res. 1263.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and agree to the resolution, H. Res. 1283.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING A NATIONAL DYSPHAGIA AWARENESS MONTH

Mr. CLAY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 195) expressing the sense of the Congress that a National Dysphagia Awareness Month should be established.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

H. CON. RES. 195

Whereas dysphagia, or difficulty with swallowing, is a medical dysfunction that affects as many as 15,000,000 Americans;

Whereas the Centers for Disease Control and Prevention has estimated that 1,000,000 people in the United States annually are diagnosed with dysphagia;

Whereas the Agency for Healthcare Research and Quality has estimated that 60,000 Americans die annually from complications associated with dysphagia;

Whereas based on Centers for Disease Control and Prevention mortality data, this is more than the total number of Americans dying from all forms of liver disease, kidney disease, and HIV/AIDS combined—and nearly as many as those dying from diabetes, the number 6 killer of Americans;

Whereas the most common complication arising from dysphagia is aspiration pneumonia—caused by food or saliva entering the windpipe and into the lungs;

Whereas one in 17 people will develop some form of dysphagia in their lifetime, including 50 to 75 percent of stroke patients and 60 to 75 percent of patients who undergo radiation therapy for head and neck cancer;

Whereas as many as half of all Americans over 60 will experience dysphagia at some point;

Whereas complications due to dysphagia increase health care costs by resultant hospital readmissions, emergency room visits, extended hospital stays, the necessity for long-term institutional care, and the need for expensive respiratory and nutritional support;

Whereas the cost of managing a patient with a feeding tube, which for many has been the primary treatment option for this condition, is reported to average over $31,000 per patient per year;

Whereas the total annual cost to Medicare just for enteral feeding supplies for outpatients was more than $670,000,000 in 2003, nearly 6 percent of the total Medicare budget for that year;

Whereas including the monies spent in hospitals, the total cost of dysphagia to the health care system is well over $1,000,000,000 annually;

Whereas the condition of dysphagia is a vastly underreported condition and not widely understood by the general public; and

Whereas observing June 2008 as National Dysphagia Awareness Month would raise public awareness about dysphagia and the need for early detection and treatment: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that a National Dysphagia Awareness Month should be established.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Oversight and Government Reform, I am proud to join my colleagues in the consideration of H. Con. Res 195, which expresses the sense of Congress that a National Dysphagia Awareness Month should be established.

Dysphagia, or difficulty swallowing, is a medical disorder currently afflicting nearly 15 million Americans, with another million Americans diagnosed each and every year. Moreover, among those over 60 years of age there is over a 50 percent probability of experiencing dysphagia at some point. Unlike many other medical disorders, dysphagia has not gathered the national attention that it deserves, despite the fact that more than 60,000 American deaths occur annually from dysphagia-related complications.

Mr. Speaker, I urge swift passage of H. Con. Res 195, as it will shed national attention on dysphagia, which is afflicting so many of our fellow Americans and costing us over $1 billion to treat annually.

Mr. Speaker, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend my colleague from Missouri for his excellent presentation on this resolution. I also

commend my colleague, Mr. WAMP from Tennessee, for introducing the resolution and am sorry that a scheduling conflict has prevented his being here to speak.

I urge my colleagues to support H. Con. Res. 195.

Mr. WAMP. Mr. Speaker, I rise today to support H. Con. Res. 195, a resolution designating June 2008 as National Dysphagia Awareness Month. First, I would like to thank my colleague, Congressman GENE GREEN, for being the lead cosponsor of this resolution and for his efforts in helping move this resolution forward. Congressman GREEN is a strong advocate on healthcare issues in Congress and I am pleased to have the opportunity to work with him on the vital issue of raising awareness about dysphagia. In addition, I would like to thank the Dysphagia Awareness Society, the American Speech-Language-Hearing Association, and the American Occupational Therapy Association for their grassroots efforts in building support for the resolution. It truly has been a collaborative effort for an important cause.

Dysphagia is a medical condition incorporating any difficulty with swallowing and affects as many as 15 million Americans. Dysphagia can be caused by any condition weakening or damaging the muscles and nerves used for swallowing, including strokes, nervous system complications, and head injuries. The Centers for Disease Control and Prevention has estimated that 1 million people in the United States annually are diagnosed with dysphagia. According to the Agency for Healthcare Research and Quality, an estimated 60,000 Americans die annually from complications associated with dysphagia.

Dysphagia awareness is particularly important to my home state of Tennessee, where stroke incident rates are relatively high. Dysphagia affects a significant percentage of stroke survivors due to weakness in the muscles of the throat and mouth traditionally caused by strokes. Dysphagia can cause additional life-threatening complications for these stroke survivors, such as pneumonia, malnutrition, dehydration, and airway obstruction.

In addition, complications due to dysphagia increase health care costs by resultant hospital readmissions, emergency room visits, extended hospital stays, the necessity for long-term institutional care, and the need for expensive respiratory and nutritional support. Including money spent in hospitals, the total cost of dysphagia to the health care system is well over $1 billion annually.

Unfortunately, the condition of dysphagia is vastly underreported and not widely understood by the general public. Observing June 2008 as National Dysphagia Awareness Month would raise public awareness about dysphagia and the need for early detection and treatment.

Mr. Speaker, I urge all Members to support the passage of this important resolution.

Ms. FOXX. Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 195.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. FOXX. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NATIONAL CORVETTE DAY

Mr. CLAY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 970) expressing support for designation of June 30 as ''National Corvette Day''.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 970

Whereas the Chevrolet Corvette is America's first sports car;

Whereas the first production Corvette rolled off a Flint, Michigan, assembly line on June 30, 1953;

Whereas the Corvette is now manufactured in Bowling Green, Kentucky;

Whereas the Corvette is the most widely respected production sports car in United States history;

Whereas the Corvette is truly a symbol of American pride;

Whereas General Motors is celebrating its 100th anniversary in 2008; and

Whereas the 30th of June would be an appropriate day to designate as ''National Corvette Day'': Now, therefore, be it

Resolved, That the United States House of Representatives supports the designation of a ''National Corvette Day'' to honor the Chevrolet Corvette.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, being a car enthusiast, this is one bill that gives me great pleasure. And I stand to join my colleagues in the consideration of H. Res. 970, which supports the designation of June 30 as National Corvette Day, offered by my friend from Illinois (Mr. SHIMKUS).

Mr. Speaker, when we think of American-manufactured sports cars, one of the first vehicles that probably comes to mind is the Chevrolet Corvette. The Corvette debuted fresh off of the assembly lines back in 1953 as part of Chevy's new wave sports cars. Since then, the Corvette has become a hallmark in the automobile industry both here in America as well as around the world.

Mr. Speaker, the Corvette has been America's favorite sports car for the past 55 years. And in honor of its performance, prowess and prestige, I urge my colleagues to join me in expressing support for the designation of June 30 as National Corvette Day by voting in favor of H. Res. 970.

Mr. Speaker, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution designating June 30 as National Corvette Day.

In the early 1950s, General Motors' chief designer, Harley J. Earl, began ruminating about a sports car that would cost about the same as an American sedan, the ''poor man's supercar.''

With GIs returning from service during World War II sporting stylish European sports cars, GM wanted to develop an American competitor. At the 1953 Motorama, GM debuted their new supercar, the Corvette. Less refined than European counterparts, but nevertheless a visible portrayal of the American psyche, the Corvette captured American hearts, and the first one rolled off the line in Flint, Michigan on June 30, 1953.

As we honor the 100th anniversary of General Motors, it is only fitting that we honor one of their most successful creations. Over the years, the Corvette has become an American icon and source of national pride. Never straying from its roots, the Vette has a long history of melding exceptional handling and brutal amounts of engine power into an affordable package. Driven by celebrities, national heroes, superheroes, and average citizens, including many in the Fifth District of North Carolina, the Corvette is America. Built in our heartland at the Bowling Green, Kentucky plant for the heart of our country, we rise today to honor this legendary icon of the highways.

With that, Mr. Speaker, I urge my colleagues to support this resolution.

I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I urge my colleagues to enthusiastically support this resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and agree to the resolution, H. Res. 970.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. FOXX. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

HONORING THE LIFE OF ROBERT MONDAVI

Mr. CLAY. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 365) honoring the life of Robert Mondavi.

The Clerk read the title of the concurrent resolution.

The text of the concurrent resolution is as follows:

H. CON. RES. 365

Whereas Robert Mondavi, a much-loved and admired man of many talents, passed away on May 16, 2008, at the age of 94;

Whereas Robert Mondavi will be fondly and most famously remembered for his work in producing and promoting California wines on an international scale;

Whereas Robert Gerald Mondavi was born to Italian immigrant parents, Cesare and Rose, on June 18, 1913, in Virginia, Minnesota, and his family later moved to Lodi, California, where he attended Lodi High School;

Whereas after graduating from Stanford University in 1937 with a degree in economics and business administration, Robert Mondavi joined his father and younger brother, Peter, in running the Charles Krug Winery in the Napa Valley of California;

Whereas Robert Mondavi left Krug Winery in 1965 to establish his own winery in the Napa Valley, and, in 1966, motivated by his vision that California could produce world-class wines, he founded the first major winery built in Napa Valley since Prohibition, the Robert Mondavi Winery;

Whereas in the later 1960s, the release of the Robert Mondavi Winery's Cabernet Sauvignon opened the eyes of the world to the potential of the Napa Valley region;

Whereas Robert Mondavi introduced new and innovative techniques of wine production, such as the use of stainless steel tanks to produce wines, like his now-legendary Fumé Blanc;

Whereas as a tireless advocate for California wine and food, and the Napa Valley, Robert Mondavi was convinced that California wines could compete with established European brands, and his confidence in the potential of Napa Valley wines was confirmed in 1976 when California wines defeated some well-known French vintages at the historic Paris Wine Tasting, or ''Judgement of Paris'', wine competition;

Whereas in the late 1970s, Robert Mondavi created the first French-American wine venture when he joined with Baron Philippe de Rothschild in creating the Opus One Winery in Oakville, which produced its first vintage in 1979;

Whereas the success of the Robert Mondavi Winery, and the many international ventures Robert Mondavi pursued, allowed him to donate generously to various charitable causes, including the Robert Mondavi Institute for Wine and Food Science and Robert and Margrit Mondavi Center for Performing Arts, both affiliated with the University of California, Davis, and the establishment of the American Center for Wine, Food, and the Arts;

Whereas those who knew Robert Mondavi recognized him as a uniquely passionate and brilliant man who took pride in promoting causes that he held close to his heart;

Whereas Robert Mondavi's work as an ambassador for wine will be remembered fondly by all those whose lives he touched; and

Whereas Robert Mondavi will be deeply missed in the Napa Valley, in California, and throughout the world: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress honors the life of Robert Mondavi, a true pioneer and patriarch of the California wine industry.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, representing the Committee on Oversight and Government Reform, I am pleased to join my colleagues in the consideration of H.Con.Res 365, which celebrates the life of Robert Mondavi, a notable winemaker and philanthropist who had a great effect in boosting the economic and cultural well-being of California and the Nation.

Robert Mondavi was born on June 18, 1913 in Virginia, Minnesota to Italian immigrants. In 1965, Mr. Mondavi started his own winery, the Robert Mondavi Winery, in the fertile soil of the Napa Valley and immediately became a passionate advocate for California wines. Through his vineyard, he worked to raise the status of California wines and was successful.

Through his professional and charitable work, Mr. Mondavi's influence on the California wine industry and the Nation at large has been immense and lasting. Therefore, Mr. Speaker, I urge the swift approval of this resolution honoring the life of Mr. Mondavi.

Mr. Speaker, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the proud granddaughter of Italian immigrants, I am always proud to recognize the achievements of Italian Americans.

I also want to say how grateful North Carolina is for the work that was done by Mr. Mondavi and others in creating an appetite for fine wine in this country.

The Fifth District of North Carolina, the district that I represent, has, in the last couple of years, been granted two appellations, the Yadkin Valley and Swan Creek appellations, and we hope some day that those appellations will be spoken of in the same way that the Napa Valley and other appellations are spoken of currently in our country and around the world.

I commend the resolution to my colleagues and urge its approval.

Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I urge my colleagues to join us in adopting this resolution.

Mr. THOMPSON of California. Mr. Speaker, I rise to honor the life and legacy of the late Robert Mondavi, a founding father of the American wine industry.

Mr. Mondavi was born to Italian immigrants in June 1913. He graduated from Stanford University and joined his family in running Charles Krug Winery in my hometown of St. Helena.

Nearly three decades later, he founded the Robert Mondavi Winery to make his dream of creating world-class California wines a reality. Only a few years later, he released a Cabernet Sauvignon that opened the eyes of the world to the potential of the Napa Valley region.

He went on to create the first French-American wine venture, the first of many international partnerships.

His work made him known throughout the world as a premier winemaker and businessman. His pursuit of excellence and passion for winemaking could be found in every sip of a Robert Mondavi vintage.

Through innovation and determination, he redefined American wines and helped propel the birth of one of our Nation's fastest growing industries. Robert Mondavi's leadership is irreplaceable.

But to me and many others, he was best known—and loved—as a dear friend, a pillar of the community, and a much-admired philanthropist.

I was fortunate to know Mr. Mondavi my whole life. I grew up with his children and I later worked with him on issues important to the wine community. Of all his accomplishments, it was his commitment to our community that I found most awe inspiring.

A lifelong student himself, Bob established the Robert Mondavi Institute for Wine and Food Science at the University of California at Davis so that future generations could continue improving his craft.

He also established the Robert and Margrit Mondavi Center for Performing Arts at UC Davis. He was a leading force in the creation of Copia: The American Institute for Food, Wine, and the Arts in downtown Napa. He helped found the Napa Valley Wine Auction, which raises millions of dollars to help many of our local charities. He was also a strong and steady voice for the conservation of our farmlands.

Mr. Mondavi's legacy, can be found throughout the world. But it is most treasured at home. My district would not be what it is today without him.

I will miss him greatly. My thoughts and prayers are with Margrit, sons Tim and Michael, daughter Marcia and his entire family.

Mr. Speaker, it is my hope that this resolution serves as a tribute to the unparalleled life of Robert Mondavi.

Mr. CLAY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res 365.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. FOXX. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 2115

FEDERAL ADVISORY COMMITTEE ACT AMENDMENTS OF 2008

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5687) to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5687

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 ''Federal Advisory Committee Act Amendments of 2008''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Ensuring independent advice and expertise.
Sec. 3. Preventing efforts to circumvent the Federal Advisory Committee Act and public disclosure.
Sec. 4. Increasing transparency of advisory committees.
Sec. 5. Comptroller General review and reports.
Sec. 6. Definitions.
Sec. 7. Effective date.

SEC. 2. ENSURING INDEPENDENT ADVICE AND EXPERTISE.

(a) BAR ON POLITICAL LITMUS TESTS.—Section 9 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

(1) in the section heading by inserting ''MEMBERSHIP;'' after ''ADVISORY COMMITTEES;'';

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

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

''(b) APPOINTMENTS MADE WITHOUT REGARD TO POLITICAL AFFILIATION OR ACTIVITY.—All appointments to advisory committees shall be made without regard to political affiliation or political activity, unless required by Federal statute.''.

(b) CONFLICTS OF INTEREST DISCLOSURE.—Section 9 of the Federal Advisory Committee Act (5 U.S.C. App.) is further amended by inserting after subsection (b) (as added by subsection (a)) the following:

''(c) CONFLICTS OF INTEREST DISCLOSURE.—

''(1)(A) The head of each agency shall ensure that no individual appointed to serve on an advisory committee that reports to the agency has a conflict of interest that is relevant to the functions to be performed by the advisory committee, unless the head of the agency determines that the need for the individual's services outweighs the potential impacts of the conflict of interest.

''(B) If the head of the agency makes such a determination with respect to an individual, nothing in this subsection is intended to preclude the head of the agency from requiring the recusal of the individual from particular aspects of the committee's work.

''(C) In the case of an individual appointed as a representative, the fact that an individual is associated with the entity whose views are being represented by the individual shall not itself be considered a conflict of interest by the agency.

''(2) The head of each agency shall require—

''(A) that each individual the agency appoints or intends to appoint to serve on an advisory committee as a representative inform the agency official responsible for appointing the individual in writing of any actual or potential conflict of interest—

''(i) that exists before appointment or that arises while the individual is serving on the Committee; and

''(ii) that is relevant to the functions to be performed; and

''(B) that, for an individual appointed to serve on an advisory committee, the conflict is publicly disclosed as described in section 11.

''(3) Nothing in this subsection is intended to alter any requirement or obligation for a special Government employee under the Ethics in Government Act (5 U.S.C. App.) or other applicable ethics law, including any requirement to file a financial disclosure report. The head of each agency shall require that each individual the agency appoints as a special Government employee inform the agency in writing of any conflict that exists before appointment or that arises while the individual is serving on the committee to the extent any financial disclosure required by the Ethics in Government Act (5 U.S.C. app.) or other applicable law would not uncover the conflict of interest as such term is defined in regulations promulgated by the Office of Government Ethics to carry out this subsection.

''(4) The head of each agency shall ensure that each report of an advisory committee that reports to the agency is the result of the advisory committee's judgment, independent from the agency. Each advisory committee shall include in each report of the committee a statement describing the process used by the advisory committee in formulating the recommendations or conclusions contained in the report.''.

(c) REGULATIONS.—

(1) REGULATIONS RELATING TO CONFLICTS OF INTEREST.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Administrator of General Services, shall promulgate—

(A) regulations defining the term ''conflict of interest'';

(B) regulations identifying the method by which individuals must disclose conflicts and the period of time for which a representative or special Government employee, or a candidate for appointment as a representative or special Government employee, shall look back in time to determine whether an interest is considered a conflict for the purpose of the notification requirement in subsection (c) of section 9 of the Federal Advisory Committee Act, as added by this section; and

(C) such other regulations as the Director finds necessary to carry out and ensure the enforcement of such subsection (c).

(2) REGULATIONS IMPLEMENTING FACA.—Section 7(c) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by inserting after ''(c)'' the following: ''The Administrator shall promulgate regulations as necessary to implement this Act.''.

SEC. 3. PREVENTING EFFORTS TO CIRCUMVENT THE FEDERAL ADVISORY COMMITTEE ACT AND PUBLIC DISCLOSURE.

(a) DE FACTO MEMBERS.—Section 4 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by adding at the end the following:

''(d) TREATMENT OF INDIVIDUAL AS MEMBER.—An individual who is not a full-time or permanent part-time officer or employee of the Federal Government shall be regarded as a member of a committee if the individual regularly attends and participates in committee meetings as if the individual were a member, even if the individual does not have the right to vote or veto the advice or recommendations of the advisory committee.''.

(b) INTERAGENCY ADVISORY COMMITTEES.—Section 11 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by adding at the end the following:

''(f) INTERAGENCY ADVISORY COMMITTEES.—(1) Any communication between—

''(A) an interagency advisory committee established by the President or the Vice President or any member or staff acting on behalf of such an interagency advisory committee, and

''(B) any person who is not an officer or employee of the Federal Government,

shall be made available for public inspection and copying. Any portion of a communication that involves a matter described in section 552(b) of title 5, United States Code, or that is subject to a valid constitutionally based privilege against such disclosure, may be withheld from public disclosure.

''(2) In this subsection, the term 'interagency advisory committee' means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, established in the interest of obtaining advice or recommendations for the President or the Vice President, that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government and includes officers or employees of at least two separate Federal agencies but does not include an advisory committee as defined in section 3(2) of this Act.

''(3) This subsection is not intended to apply to cabinet meetings, the National Security Council, the Council of Economic Advisors, or any other permanent advisory body established by statute.''.

(c) SUBCOMMITTEES.—Section 4 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by striking subsection (a) and inserting the following:

''(a) APPLICATION.—The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee, including any subcommittee or subgroup thereof, except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise. Any subcommittee or subgroup that reports to a parent committee established under section 9(a) is not required to comply with section 9(e). In this subsection, the term 'subgroup' includes any working group, task force, or other entity formed for the purpose of assisting the committee or any subcommittee of the committee in its work.''.

(d) COMMITTEES CREATED UNDER CONTRACT.—Section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended in the matter following subparagraph (C) by adding at the end the following: ''An advisory committee is considered to be established by an agency, agencies, or the President, if it is formed, created, or organized under contract, other transactional authority, cooperative agreement, grant, or otherwise at the request or direction of, an agency, agencies, or the President.''.

(e) ADVISORY COMMITTEES CONTAINING SPECIAL GOVERNMENT EMPLOYEES.—Section 4 of the Federal Advisory Committee Act (5 U.S.C. App.) is further amended by adding at the end the following new subsection:

''(e) SPECIAL GOVERNMENT EMPLOYEES.—Committee members appointed as special government employees shall not be considered full-time or part-time officers or employees of the Federal Government for purposes of determining the applicability of this Act under section 3(2).''.

SEC. 4. INCREASING TRANSPARENCY OF ADVISORY COMMITTEES.

(a) INFORMATION REQUIREMENT.—Section 11 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

(1) by striking the section designation and heading and inserting the following:

''SEC. 11. DISCLOSURE OF INFORMATION.'';

(2) by redesignating subsection (a) as subsection (d) and in that subsection—

(A) by inserting the following subsection heading: ''AVAILABILITY OF PAPER COPIES OF TRANSCRIPTS.—''; and

(B) by inserting after ''duplication,'' the following: ''paper'';

(3) by striking ''(b)'' and inserting ''(e) AGENCY PROCEEDING DEFINED.—''; and

(4) by inserting before subsection (d), as redesignated by paragraph (2), the following new subsections:

''(a) IN GENERAL.—With respect to each advisory committee, the head of the agency to which the advisory committee reports shall make publicly available in accordance with subsection (b) the following information:

''(1) The charter of the advisory committee.

''(2) A description of the process used to establish and appoint the members of the advisory committee, including the following:

''(A) The process for identifying prospective members.

''(B) The process of selecting members for balance of viewpoints or expertise.

''(C) A justification of the need for representative members, if any.

''(3) A list of all current members, including, for each member, the following:

''(A) The name of any person or entity that nominated the member.

''(B) The reason the member was appointed to the committee.

''(C) Whether the member is designated as a special government employee or a representative.

''(D) In the case of a representative, the individuals or entity whose viewpoint the member represents.

''(E) Any conflict of interest relevant to the functions to be performed by the committee.

''(4) A list of all members designated as special government employees for whom written certifications were made under section 208(b) of title 18, United States Code, a summary description of the conflict necessitating the certification, and the reason for granting the certification.

''(5) A summary of the process used by the advisory committee for making decisions.

''(6) Transcripts or audio or video recordings of all meetings of the committee.

''(7) Any written determination by the President or the head of the agency to which the advisory committee reports, pursuant to section 10(d), to close a meeting or any portion of a meeting and the reasons for such determination.

''(8) Notices of future meetings of the committee.

''(9) Any additional information considered relevant by the head of the agency to which the advisory committee reports.

''(b) MANNER OF DISCLOSURE.—

''(1) Except as provided in paragraph (2), the head of an agency shall make the information required to be disclosed under this section available electronically on the official public internet site of the agency at least 15 calendar days before each meeting of an advisory committee. If the head of the agency determines that such timing is not practicable for any required information, he shall make the information available as soon as practicable but no later than 48 hours before the next meeting of the committee. An agency may withhold from disclosure any information that would be exempt from disclosure under section 552 of title 5, United States Code.

''(2) The head of an agency shall make available electronically, on the official public internet site of the agency, a transcript or audio or video recording of each advisory committee meeting not later than 30 calendar days after the meeting.

''(c) PROVISION OF INFORMATION BY ADMINISTRATOR OF GENERAL SERVICES.—The Administrator of General Services shall provide, on the official public internet site of the General Services Administration, electronic access to the information made available by each agency under this section.''.

(b) CHARTER FILING.—Section 9(e) of the Federal Advisory Committee Act (5 U.S.C. App.), as redesignated by section 2, is amended—

(1) by striking ''with (1) the Administrator,'' and all that follows through '', or'' and inserting ''(1) with the Administrator and'';

(2) by striking ''and'' at the end of subparagraph (I);

(3) by striking the period and inserting a semicolon at the end of subparagraph (J); and

(4) by adding at the end the following new subparagraphs:

''(K) the authority under which the committee is established;

''(L) the estimated number of members and a description of the expertise needed to carry out the objectives of the committee;

''(M) a description of whether the committee will be composed of special government employees, representatives, or members from both categories; and

''(N) whether the committee has the authority to create subcommittees and if so, the agency official authorized to exercise such authority.''.

SEC. 5. COMPTROLLER GENERAL REVIEW AND REPORTS.

(a) REVIEW.—The Comptroller General of the United States shall review compliance by agencies with the Federal Advisory Committee Act, as amended by this Act, including whether agencies are appropriately appointing advisory committee members as either special government employees or representatives.

(b) REPORT.—The Comptroller General shall submit to the committees described in subsection (c) two reports on the results of the review, as follows:

(1) The first report shall be submitted not later than one year after the date of promulgation of regulations under section 2.

(2) The second report shall be submitted not later than five years after such date of promulgation of regulations.

(c) COMMITTEES.—The committees described in this subsection are the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

SEC. 6. DEFINITIONS.

Section 3 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by adding at the end the following new paragraphs:

''(5) The term 'representative' means an individual who is not a full-time or part-time employee of the Federal Government and who is appointed to an advisory committee to represent the views of an entity or entities outside the Federal Government.

''(6) The term 'special Government employee' has the same meaning as in section 202(a) of title 18, United States Code.''.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect 30 days after the date of the enactment of this Act, except as otherwise provided in section 2(c)(1).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 5687, the Federal Advisory Committee Act Amendments of 2008.

H.R. 5687, which I introduced along with Chairman WAXMAN on April 3, 2008, was reported out of the Committee on Oversight and Government Reform on May 15 of 2008. The FACA amendments will improve the balance, transparency, and independence of Federal advisory committees.

Congress passed FACA in 1972 to address the rising costs and lack of accountability among Federal advisory committees. However, FACA has been undermined by loopholes that have been created over the years.

H.R. 5687 strengthens FACA by closing those loopholes. For example, the bill clarifies that FACA applies to subcommittees, ensuring that agencies cannot avoid the requirements of FACA by conducting business through subcommittees. The bill also increases the disclosure requirements for advisory committees and requires agencies to obtain conflict of interest disclosures.

As amended, H.R. 5687 takes into account recommendations made by the Office of Government Ethics and other stakeholders. The amendment makes the conflict of interest restrictions on advisory committee members more workable while preserving the bill's requirement of public disclosure. The amendment also clarifies that agencies have the authority to require advisory committee members to recuse themselves when the committee's work will impact their personal interests.

Mr. Speaker, this legislation will improve the advisory committee process. I urge my colleagues to support passage.

Mr. Speaker, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation will make a number of changes to the Federal Advisory Committee Act, legislation enacted in 1972 to govern the operations, expenditures, and report requirements of advisory committees established to help Federal agencies on policy and other issues.

Specifically, this legislation would further increase the disclosure requirements for advisory committees and minimize the use of political affiliations in making appointments to advisory committees.

Today over 1,000 Federal advisory committees are involved in making key decisions that affect everyone's life on vital issues such as health care, civil rights, and national security. Increasing transparency and public involvement are essential to having a free and open process.

In strengthening the disclosure and transparency requirements of Federal advisory committees, however, we must be careful not to hinder the process by which the President and other executive branch agencies receive expert advice from these committees.

I am cautiously optimistic this legislation strikes a balance between these two priorities, but I trust the majority will continue to work with us as H.R. 5687 moves forward to make sure we do not impose any unnecessary burden upon advisory committees or their members.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I certainly look forward to working with the gentlewoman from North Carolina and her colleagues to perfect this bill and to get it to a point where we can all agree on it.

Mr. Speaker, I continue to reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, H.R. 5687, the Federal Advisory Committee Act Amendments of 2008, makes needed improvements to one of our core open government laws. I want to thank Chairman CLAY for introducing this bill and for his continued leadership in support of open government.

Advisory committees play a critical role in giving the President and agencies advice on complex issues. The Federal Advisory Committee Act, FACA, is intended to make the advisory committee process open and accountable to protect the independence and integrity of these committees. But in recent years, FACA has been undermined by the practices of the Bush administration. This bill is our response to these abuses:

One of my concerns over the last 8 years has been the growth of secrecy. This bill says that White House task forces can no longer operate in total secrecy. They must disclose whom they meet with and what recommendations they receive from special interests.

After President Bush was elected, he put Vice President CHENEY in charge of a task force to develop the administration's energy policy. Vice President CHENEY and his staff met secretly with oil, gas, nuclear, and coal executives. They developed a policy that has enriched the energy companies and their executives at the expense of American consumers, our energy security, and our environment.

This bill says that task forces like the Vice President's energy task force must come out from the shadows.

Another issue the bill addresses is the growing politicization of science. As documented in a Committee staff report in August 2003, the administration manipulated scientific advisory committees by employing political litmus tests and filling advisory committees with members with conflicts of interest. H.R. 5687 says that advisory panels must be independent and requires agencies to obtain conflict of interest disclosures from all prospective committee members. The bill prohibits an agency from appointing an individual with a relevant conflict of interest unless the head of the agency determines that the need for the individual's services outweighs the potential impacts of the conflict. The bill requires agencies to publicly disclose the conflicts of advisory committee members on their Web sites.

H.R. 5687 also prohibits using political loyalty as a basis for making appointments to advisory committees.

H.R. 5687 addresses other loopholes that have emerged in FACA over the years. It says that FACA panels cannot avoid public disclosure by operating through subcommittees. This was the tactic used by the President's Commission to Strengthen Social Security. The legislation also closes the "de facto member" loophole by clarifying that agencies cannot avoid FACA by giving Federal employees the right to vote on an advisory committee but then having private sector individuals participate in the committee as if they were members.

A number of improvements have been made to the bill based on comments from the Office of Government Ethics, OGE, and others. For example, the amendment clarifies that nothing in the bill is intended to weaken existing ethics requirements for special government employees. Under the amendment, a committee member appointed as a special government employee will be required to disclose any conflict of interest, as OGE defines that term, beyond what is disclosed in the member's financial disclosure report. This is intended to prevent special government employees from having to disclose the same conflict twice if they would already be required to disclose it through a financial disclosure report.

The bill leaves it to OGE to determine what disclosures are required beyond what has to be reported in a financial disclosure report. OGE should consider what interests a committee member may have that would not be uncovered in a financial disclosure report but that still may compromise the member's objectivity. For example, a committee member who held a position 2 years ago with an entity that would be affected by a decision of the committee could be considered to have a conflict even though the member's previous position would not be reported in a financial disclosure report.

Last year, we enacted reforms to another important open government law, the Freedom of Information Act. I hope this year we will continue our efforts to improve the transparency and accountability of government by enacting this bill. I urge my colleagues to support H.R. 5687.

I submit the following letters for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, June 24, 2008.

Hon. HENRY WAXMAN,
Chairman, Committee on Oversight and Government Reform, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN: The Committee on Ways and Means applauds your efforts to foster greater federal advisory committee transparency and accountability. However, the Committee has concerns about some potential unintended effects that your bill, H.R. 5687, the Federal Advisory Committee Act Amendments of 2008, might have on the advisory committee system established under the Trade Act of 1974, as amended. While the Committee is still reviewing H.R. 5687, of particular serious concern are sections 2 and 4 of the bill.

The Committee will forgo action on this bill and will not oppose its consideration on the suspension calendar based on our understanding that changes will be made to H.R. 5687 as it moves through the legislative process. These changes will ensure that application of the Federal Advisory Committee Act on the trade advisory committees under the Trade Act of 1974, as amended, is consistent with and does not extend beyond requirements set forth in current law.

This request is made with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or the full exercise of its jurisdictional prerogatives on this bill or similar legislation in the future.

The Committee intends to look for opportunities to improve the transparency and accountability of the federal advisory committees established under the Trade Act of 1974, as amended, in ways consistent with their purpose and aim. We look forward to soliciting your suggestions for reform.

Sincerely,

CHARLES B. RANGEL,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC, June 24, 2008.

Hon. CHARLES B. RANGEL,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN RANGEL: I understand there are special circumstances surrounding the creation and functioning of the advisory committee system established under the Trade Act of 1974, as amended.

As the bill moves through the legislative process, changes to H.R. 5687, the Federal Advisory Committee Amendments Act of 2008, will be made to address fully the concerns raised by the Committee on Ways and Means to your satisfaction.

I look forward to working with the Committee on Ways and Means as this bill moves through the legislative process.

Sincerely,

HENRY A. WAXMAN,
Chairman.

Ms. FOXX. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I urge my colleagues to vote in favor of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules

and pass the bill, H.R. 5687, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 4040, CONSUMER PRODUCT SAFETY MODERNIZATION ACT

Mr. KIRK. Mr. Speaker, pursuant to clause 7 of rule XXII, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Kirk moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4040 be instructed to insist on the provisions contained in the House bill with regard to the definition of ''children's product''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. KIRK) and the gentleman from Louisiana (Mr. MELANCON) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. KIRK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in June of 2007, the United States Consumer Product Safety Commission and toy company RC2 announced the recall of 1.5 million various Thomas & Friends wooden railway toys because they contained dangerous amounts of lead.

Lead poisoning causes vomiting, diarrhea, convulsions, anemia, loss of appetite and abdominal pain, irritability, fatigue, constipation, difficulty sleeping, headaches, and coma. Of course, it can even be fatal. The toys on recall were made in China and retailed throughout our country.

Just about every family with young kids in America knows Thomas the Tank Engine well. And that's why I stand here this evening.

In 2004 the Consumer Product Safety Commission reported 121 United States product recalls. By 2007 that number had fallen to 83. Meanwhile, the commission recorded 148 recalls of products from China. But last year Chinese recalls totaled 287.

Now, last July I joined with Congressman RICK LARSEN, the co-Chair with me of the United States China Working Group, in introducing H.R. 3100, the bipartisan Import Safety Act of 2007, to increase penalties for willful violators of Federal regulations on imported goods and increase our commitment to overseas inspections by the FDA and the commission. Our effort brought needed attention to this critical issue, and the legislation that we are discussing today, H.R. 4040, included provisions to increase penalties for violators.

Last August Congressman LARSEN and I led a delegation to China for intense discussions on product safety. We met with the Vice Minister Wei at China's General Administration For Quality Supervision, Inspection and Quarantine. We told him that we would not stop until China allowed the Food and Drug Administration and the Consumer Product Safety Commission to deploy United States product safety officers to China. When we returned, we made good on our promise. After months of work and intense consultations with the State Department, the FDA, the Chinese Foreign Ministry, and the commission, we are pleased to report that we now can announce the FDA will be deploying eight full-time United States product safety officers to China later this year.

Just a few hours ago, Congressman LARSEN and I met with Mr. Christopher Hickey, who will be America's incoming FDA country director for China. We will continue working with our colleagues to ensure that Mr. Hickey has all of the resources he requires to get his work done and keep families safe. We particularly stressed on him the importance of having a letter from the Secretary of Health and Human Services giving him as country director power to stop a dangerous shipment from being unloaded in a U.S. port if, in his view as a country director, he feels that Americans could be at risk. We feel that this letter will give him important powers and negotiating leverage to make sure that he has access where needed on behalf of the FDA and the Department of Health and Human Services to make sure that Americans are safe.

At a hearing of the Appropriations Subcommittee on Financial Services in March of this year, I pressed Chairman Nord to follow FDA's lead and immediately deploy United States product safety officers from the commission to China. After weeks of intense follow-up discussions, we are pleased to have the commission's commitment to send its first full-time American product safety officer to Beijing. As a member of the Appropriations Subcommittee that will fund this effort, our understanding is that the startup costs for this effort will total $310,000 with reoccurring costs of $550,000 per year to support the commission's deployment to China.

I want to thank our ambassador to the People's Republic of China, Sandy Randt, for working with us to secure the physical space in Beijing and Shanghai and Guangzhou to accommodate these critical deployments, and staffers from the Kirk and Larsen offices on behalf of the China Working Group did inspect those facilities just a few months ago.

Mr. Speaker, on December 19 of last year, the House passed H.R. 4040, the Consumer Product Safety Commission Reform Act, by a unanimous 407–0 vote. This House came together on a bipartisan basis and defined a children's product as a consumer product designated or intended for children, and here's the key phrase, ''up to age 12.''

□ 2130

It would mean that toys for kids up to age 12 would be subject to lead testing. Now our colleagues in the Senate took up a bill and amended this definition and lowered the age requirement to just 7 years.

I take this action tonight on behalf of Americans like Ryan Fischer, age 3, who is now recovering from lead poisoning. Ryan's mother, Beth, came to the Congress to highlight the danger that she faced, among other Americans, including the toys of Ryan's 8-year-old brother that contained lead but would not be covered under the Senate bill. The toy in question in this case was a figure from a Nickelodeon character, Diego, that was among the 17 pounds of toys that had high lead levels in the Fischer home.

Today, I rise to offer what I think is a commonsense motion to instruct conferees on H.R. 4040 to insist on the House definition of a children's product over what the Senate chose.

Now, earlier this evening, I logged onto Etoys.com, a very popular Web site for children's toys. When I clicked on toys for children ages 9 to 12, I found 21 products in the Thomas and Friends line available for sale.

Did our colleagues in the Senate think that dangerous toys coming from China could only harm kids below 8 years of age? If so, the Senate would be out of touch and is not listening to the concerns of many American families.

On May 15, 2008, Linda Ginzel, the co-founder of Kids in Danger, called on conferees to adopt the House definition of a children's product. Linda knows what it's like to lose a child from an unsafe product. In Linda's words, ''Kids in Danger especially urges the conferees to include the definition of children's products that go up to age 12. Stopping at age 7 would effectively stop protecting children in the second grade.'' I agree with Linda, as I think do most Americans. The American Academy of Pediatrics agrees with her as well.

On November 6, 2007, Dr. Dana Best testified before the Congress on behalf of the AAP, issuing the following statement, ''The AAP further recommended that children's products be defined as one used by children under the age of 12 years in order to provide a standard that protects most children throughout periods of rapid brain development.''

In her later testimony, Dr. Best went on to say, ''The AAP further appreciates the fact that this legislation requires lead testing in products designed or intended for use by or with children up to age 12 years. Children's brains develop rapidly throughout childhood, and significant damage would occur from lead exposure at any point during this time. This provision represents a vital protection for child health.''

Now, for some reason, our colleagues in the Senate disagreed with Kids in Danger. Our colleagues in the Senate disagreed with the American Academy of Pediatrics and, in my judgment, the

common sense of the American people. For some reason, our colleagues in the Senate may have never logged on to Etoys.com to find out that products recalled less than 1 year ago because of dangerous lead content targeted children between the ages of 9 and 12.

Mr. Speaker, we should not allow toy manufacturers to stop protecting American children once they hit the second grade.

Mr. Speaker, legislation of this type has now been under consideration in the Congress for almost a year. We passed this very legislation in December. We went to conference on this bill over 4 weeks ago. As we work tonight, it is only 4 months until the Christmas shopping season goes into high gear. Likewise, Hanukkah begins 4 days before Christmas.

Time is quickly running out to send a very clear signal by this Congress in this month that lead standards in toys will not just be a recommendation of major retailers, but will have the force of law and will apply to products for children age 12 and down.

In my view, this is a commonsense, bipartisan issue that the House should insist on as it rapidly concludes its conference. We should maximize protections for our Nation's children.

In this effort, I want to thank Will Carty from Mr. BARTON's staff for helping us out on this; Brian Diffell from Mr. BLUNT's staff for this important motion today; and my key staffers, Richard Goldberg and Patrick Magnuson, for their assistance and work on this effort.

I urge my colleagues to support this commonsense motion to instruct, and reserve the balance of my time.

Mr. MELANCON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, tonight I happened to talk to my 2-year-old grandson, Jackson, in his home in south Louisiana. He is just 2 so we didn't talk a lot of details about his pap and what his pap was going to be doing tonight. But I thought it fitting to call him before speaking in favor of this motion to instruct.

For the next couple of years, he will play with just about anything put in front of him. He will clap blocks together, chip paint off of model cars, and I will bet chew on anything that is handy. We owe it to him, his mother, his dad, his grandmothers, his other grandfather, and to me, to do what we can to make certain the toys he plays with won't make him sick. It's that simple. We have that responsibility, and I believe this underlying bill gets us closer to fulfilling it.

Mr. Speaker, I am proud of this bipartisan bill. It passed out of the committee 51–0 and passed the House 407–0. It bans lead beyond the tiniest amounts in products intended for kids 12 and under. That is an important age, as kids are exposed to so many different toys and products as they grow up. I believe the House bill takes this into account, and I am proud to support it.

Mr. Speaker, this motion is a good one. I thank my friend from Illinois for offering it. I urge that the House support the motion to instruct offered.

Mr. Speaker, I yield back the balance of my time.

Mr. KIRK. Mr. Speaker, I thank my colleague. His State has gone through enough, and I am glad for the attention and time he has spent on this issue.

I think most Americans know with regard to Thomas and other faulty products from China, we have known about this problem for a year, and that the House of Representatives has passed completely bipartisan legislation on this subject 7 months ago. We have been in conference for 4 weeks now.

Quite frankly, our colleagues in the Senate made a mistake by making the protections cover only toys from zero to age 7. We risk having a situation in which parents who do not follow the rigid declarations of what is available on the labeling on the box may make a mistake, and we do not offer protections under the Senate bill; or, that older brothers and sisters may have toys available which clearly fall outside the Senate definition but would come clearly inside the House definition. That is why I think this is a very important motion to instruct.

I think this calls attention to this issue for a piece of legislation which should be rapidly finished to send a clear signal to the holiday-buying public. I think it gently corrects our colleagues in the other body that they made a mistake and they should back down to the House's position.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KIRK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

USE IT OR LOSE IT HOAX

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. I am here on the floor tonight to set the record straight about false claims that Democrats are peddling as a ''use it or lose it'' hoax. With American families and small businesses continuing to feel the pain at the pump, House Democrats have begun offering a series of hollow bills that will do nothing to reduce gas prices.

Today's bill, purportedly meant to address price gouging, serves no purpose other than to provide political cover to Democrats who continue to divide the will of the American people who are calling on Congress to increase the supply of American energy. In fact, today's bill is a rehashed version of a similar price gouging bill passed by the House last year.

Still to come in this week's series of no energy bills, the Democrats' ''use it or lose it'' hoax, with no facts to back up their desperate rhetoric, Democratic leaders continue to make misleading and inaccurate claims with the hope of confusing the American people.

Following are some of the most prevalent examples. Myth. If the American people want increased production of American energy, Congress must force energy companies to use their leased Federal lands to produce oil or lose those leases.

Here's the fact. Use it or lose it is already the law of the land. As a matter of fact, in a bipartisan vote, Speaker PELOSI, Majority Leader HOYER, and Natural Resources Committee Chairman RAHALL each voted for it in 1992. Under the law, Federal energy leaseholders already must produce oil or natural gas within 5 to 10 years after drilling on the land begins, and the Secretary of the Interior has the power to cancel the lease if the energy company fails to comply.

If Representatives PELOSI, HOYER, and RAHALL all had voted for ''use it or lose it'' 16 years ago, then why are they so insistent on forcing another vote on the exact same concept this year? Could it be because they have no meaningful plan of their own to bring down gas prices?

Another myth. Oil companies are sitting on 68 million acres of Federal lands without drilling for oil or gas on any of it. This is another false claim, which has become one of the Democrats' top talking points, but they can't back it up with any facts.

Energy companies already are actively exploring their currently leased lands to find oil or gas. Once they determine that oil or gas is present, only then can they actually begin drilling. The entire process can take years.

As the Independent American Association of Petroleum Geologists noted in a letter to House leaders yesterday, oil and natural gas exploration is not simple and it is not easy. It requires geological ingenuity, advanced technologies, and the time to do the job right.

□ 2145

It also requires access to areas where exploration ideas can be tested. The

greater the number of areas available for exploration, the higher the chance of finding oil and natural gas traps. In other words, energy companies cannot be expected to drill on every acre of land every single day, and the Democrats know it.

Another myth: 4.8 million barrels of oil per day and 44.7 billion cubic feet of natural gas per day may be ''extrapolated'' from the oil companies' unused federally-leased lands. In fact, no Democrat, not Speaker PELOSI, Majority Leader HOYER, Democratic Caucus Chairman RAHM EMANUEL, and not Natural Resources Committee Chairman NICK RAHALL can explain where they got those figures. In fact, Democrats have refused to respond to a written request from Natural Resources Committee Republicans for this information. Did they just make it up?

Mr. Speaker, we know that what will help this problem and our country, the ''Pelosi premium,'' which has driven up gas prices to over $4 a gallon, is to increase the supply. We must increase the supply in order to meet the demand. The Democrats act as though they have repealed the law of supply and demand, the most basic law of economics. They can do a lot of things, Mr. Speaker, but they can't repeal the law of supply and demand. What they have to face up to is the fact that we need additional supply.

Republicans have offered commonsense solutions to this issue. We have many plans and many bills out there that would increase the supply and relieve the burden on working Americans. Democrats need to understand that. They need to stop trying to fool the American people with their hoaxes on use-it-or-lose-it, and help us put together a plan to bring greater supply to the American people and give them some relief.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

NAFTA AND ITS EFFECT ON THE AMERICAN ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, last Friday, Senator JOHN MCCAIN, campaigning for President in Canada, of all places, criticized opponents of NAFTA, the godfather of all troubled trade agreements. Incredibly, the Senator said, ''Since NAFTA was concluded, it has contributed to strong job growth and flourishing trade.'' He didn't say where. He then said, ''Since the agreement was signed, the U.S. has added 25 million jobs and Canada more than 4 million.''

Wherever is he getting his data? Most Americans know this so-called free trade agreement is anything but free. We know it has created huge job losses and trade deficits, and we know the harm it has caused in this country and across our continent.

NAFTA has created a gaping net hemorrhage of jobs, lost jobs and wealth for our country. I beg Senator MCCAIN to look at the discipline of the numbers. Look at the trade accounts. They don't lie.

Since NAFTA's passage in 1993, our country has suffered $1 trillion of NAFTA trade loss, amassing a huge deficit with both Mexico and Canada. The figures get worse every single year. NAFTA has not only cost our country over 1 million lost jobs, we would have added even more economic growth and jobs if we had not allowed all these jobs and production lines to be outsourced.

Robert Scott of the Economic Policy Institute points out that ''growing trade deficits with Mexico and Canada have pushed more than 1 million U.S. workers out of higher wage jobs and into lower wage positions in non-trade related industries. Thus, the displacement of 1 million jobs from traded to non-traded goods industries reduced wage payments to U.S. workers by $7.6 billion in 2004 alone.'' Those are staggering figures.

That loss packs a wallop by any measure. I will place in the RECORD a list of just some of the factories that have outsourced production and relocated to Mexico. They go from A to Z: Allied Signal, Amana, Maytag, you can go all the way down the list, Medtronics, Stanley Works, Zenith. I will place the entire list in the RECORD.

Now, it is interesting where Senator MCCAIN was making his speech. He had not just outsourced himself to Canada to make the speech, he spoke before the Economic Club of Canada, a business organization whose membership cheered his remarks. And they should. They alone have made out handsomely under this lopsided trade agreement.

Listen to what the leader of the New Democratic Party in Canada, Parliamentarian Jack Layton, has to say about what is going on in Canada. In a recent letter to Senator OBAMA, Leader Layton stated clearly: ''Despite the fact that most Canadians are working longer hours, 80 percent of families have lost ground or stagnated in both earnings and after tax returns compared to the previous generation. Real wages have not increased in Canada for more than 30 years. Yet the share of corporate profits in our Canadian economy is at its highest point since 1961.''

Thoughtful leaders in Canada disagree with Senator MCCAIN. They know the income washout that can come from ill-cast trade agreements. He should pay attention to their views.

Before NAFTA, the United States had a trade surplus with Mexico of over $1 billion a year. Jobs were increasing in our country. Today, since NAFTA's passage, the U.S. has racked up an astounding $452.3 billion deficit with Mexico and an even larger $606 billion trade deficit with Canada. At a minimum, our Nation should seek balance and reciprocity, not deficits with these nations.

In Mexico, its civil society has been pleading with us to correct the abuses of NAFTA. Former Mexican Parliamentarian Victor Suarez pleads, ''We want good trade, not free trade.'' He should know well. The Mexican countryside has been devastated as the result of NAFTA as over 2 million poor farm families have been thrown off their land, uprooted in the most cruel of ways. A visible sign of their plight here is their illegal immigration to our Nation out of sheer desperation.

A group of farmers in Mexico calling themselves ''The Countryside Can't Take It Anymore'' literally rode their horses down to the Mexican Parliament to draw attention to the washout of livelihoods of their country men and women.

When NAFTA was first debated, many Members here tried to amend the agreement to avoid these negative consequences on people and communities. Senator MCCAIN didn't lift a finger to help. Senator OBAMA was not a Senator then.

America should advance trade agreements that produce jobs, balances and surplus, not deficits. Deficits are not good, in your checkbook or in America's accounts. Trade should lift all boats, not create a race to the bottom. Good trade means fair trade for all, not ''gotcha'' trade. Good trade means good jobs, living wages, the right to bargain the worth of your labor by contract, a sustainable environment, and sovereign food rights for all people.

For a rich Nation like America, I think good trade also means a conscience for the poorest people on this continent, not exploitation. NAFTA has produced none of this. It has produced negatives. It is time America voted for positives.

A Mexican worker observed to me, on one of my several trips there, that their futures were put at even more risk as these global companies work them for pennies an hour, always threatening to move elsewhere. The worker said to me: ''Poor countries are like crabs in a bucket. Every time one country starts to climb up out of the bucket, another one pulls it back down.''

NAFTA has produced none of this. It has produced negatives for the vast majority, and vast wealth for a few.

For Senator MCCAIN and any others who do not know which outsourced firms have contributed to America's growing trade deficits on this continent with accompanying job and benefit losses, let me place them in the RECORD:

COMPANIES RELOCATED TO MEXICO SINCE NAFTA

20th Century Plastics; 3 Day Blinds; Aalfs Manufacturing; Acer Peripherals; Advance Transformer; Alcoa Fujikura; Allied Signal; Amana; American Olean Tile; American Standard; Ametek; AMP; Amphenol; Anchor Glass Container; Anvil Knitwear; Autoliv

ASP; AZT Sewing; Bali Company, Inc.; Bassett Furniture Industries; Batts; and Bayer Corp./Medsep.

BMW; Borg Warner Automotive; Breed Technologies; Brunswick Bicycles; Burlington Industries; Capital Mercury Apparel; Canon Business Machines; Casio Manufacturing; C-Corps Electronics; Champion Products; Chrysler; Clothes Connection; Commemorative Brands; Cross Creek Apparel; Daewoo; Dayco Products; Dean Foods Vegetable Company; Dyersburg Fabrics; Dixon Ticonderoga; and Eastman.

Eaton Corporation; Kodak/Verbatim; Eberhard-Faber; Eli Lilly Corporation; Emerson Electric; Ericsson; Exide; Federal Mogul; Fisher-Price; Fiskars; Flexel; Ford; Foster Grant; Fruit of the Loom Corporation; General Electric; JVC; General Motors; Gerber Childrenswear; Haggar Clothing; and Hamilton Beach-Proctor-Silex.

Hasbro; Henry I. Seigel; Hershey Chocolate; Hewlett Packard; Hitachi Home Electronics; Honda; Honeywell, Inc.; House of Perfection; Household Perfection; Hughes Aircraft; Hyundai Precision America; IBM; Ithaca Industries; Jeanerette Mills; John Deere; Johnson Controls; Kellogg Company; Kemet Electronics; and KLH Industries.

Kodak Polychrome Graphics; Lee Apparel; Levi Strauss; Lexington Fabrics; Mallinckrodt; Martin Mills; Master Lock; Matsushita; Mattel; Maytag; Maxell Corporation; McCulloch Corp.; Medtronic; Mercedes Benz; Mitsubishi Electronics Corp; Monon Corp.; Motorola; Nissan; and Nokia.

Oneita Industries; Oshkosh B'Gosh; Oxford Industries; Parker Habbifin; Philips; Pioneer Speakers; PL Industries; Plaid Clothing; Ransom Industries; Regency Packing Company; Russell Corporation; Samsonite Corporation; Samsung; Sanyo North America; Sara Lee; Scientific Atlantica; Seton Company; Siemens; Singer Furniture; Smith Corona; and SMTC Manufacturing.

Spangler Candy; Sola optical; Solectron Corporation; Sony Electronics; Square D; Stanley Works; Stony Creek Knitting Mills; Strick Corporation; Stroh Brewery; Sun Apparel; Sunbeam; Texas Instruments; Thomas and Betts; Tiffany; and Toshiba.

Tri-Con Industries; Trinity Industries; TRW, Tultex Corporation; Tyco Electronics; United State Leather; United Technologies; Automotive; Vanity Fair Intimates; VF; VW; Walls Industries; Weiser Lock; Westinghouse; Wilkins Industries; William Carter; Woolrich; Wrangler; Xerox; and Zenith.

MCCAIN CRITICIZES OBAMA'S OPPOSITION TO NAFTA

(By David Espo)

In a cross-border political attack, John McCain said Friday that Barack Obama's opposition to the North American Free Trade Agreement is ''nothing more than retreating behind protectionist walls.''

The Republican presidential nominee-in-waiting added that if he wins the White House, ''have no doubt that America will honor its international commitments and we will expect the same of others.''

McCain did not mention Obama by name as he spoke before the Economic Club of Canada, a business organization whose membership cheered his remarks.

Obama, on the campaign trail in Florida, shot back: ''What's interesting to me is that he chose to talk about trade in Canada instead of in Ohio or Michigan. . . . I think Senator McCain should have shared some of his views there to American voters.''

Obama said he talked to Canadian Prime Minister Stephen Harper on June 9 after he secured the Democratic presidential nomination. ''I believe that the U.S. has an enormous interest in maintaining robust trade relationships with Canada and Mexico, and I expect those to continue under an Obama administration,'' he said.

McCain's trip to Canada was unusual if not unprecedented for a presidential candidate, one that his campaign paid for yet aides insisted was not political.

Democrats criticized plans for a scheduled $100-per-person ''finance event,'' and raised questions about U.S. Ambassador David Wilkins' involvement in the trip. McCain's aides said Wilkins had done nothing wrong. They also countered that the money was to pay the cost of the Economic Club luncheon, then canceled the event without explanation.

The free trade agreement is intensely controversial in the United States, supported by most businesses, opposed by many unions, and has already emerged as a flashpoint in the presidential race.

McCain supports it, while Obama and former rival Hillary Rodham Clinton vied for support among blue-collar workers in the Democratic primaries by stressing their desire to force changes.

''Since NAFTA was concluded, it has contributed to strong job growth and flourishing trade. Since the agreement was signed, the United States has added 25 million jobs and Canada more than 4 million,'' McCain said.

In an unmistakable reference to Obama, he added, ''Demanding unilateral changes and threatening to abrogate an agreement that has increased trade and prosperity is nothing more than retreating behind protectionist walls.''

Aides said that was a reference in part to comments the Illinois senator had made in a Feb. 26 debate during the primaries.

''I will make sure that we renegotiate in the same way that Senator Clinton talked about,'' he said at the time. ''. . . I think we should use the hammer of a potential opt-out as leverage to ensure that we actually get labor and environmental standards that are enforced.''

In his speech, McCain expressed his appreciation for Canada's deployment of 2,500 troops to Afghanistan, and skipped lightly over Iraq, where the government declined to send forces.

''. . . This nation has done all that those differences would allow to help the Iraqi people. In characteristic form, Canada has given generous humanitarian aid and development assistance,'' he said.

Later, at a news conference, he said he hoped officials from the two countries could resolve the issue of Omar Khadr, a young Canadian citizen who is imprisoned at Guantanamo as a detainee in the war on terror.

''I have always opposed torture and any interrogation technique that would be constructed in any way as torture,'' McCain added, unprompted.

McCain has made several trips outside the United States since he became a presidential contender, including European and Middle Eastern countries.

He arrived in the Canadian capital aboard his chartered campaign jet and was greeted on the tarmac by Wilkins. The senator said it was not a political journey, yet told reporters he did not feel it was appropriate to have U.S. taxpayers pick up the cost.

McCain was still on Canadian soil when the Democratic National Committee filed a Freedom of Information Act request with the State Department seeking information about possible violations of federal law in connection with the trip. Under the law, federal officials are limited in their ability to undertake political activity.

Aides said in advance McCain would come to Canada to highlight trade, and there has been widespread speculation that he will soon travel to Mexico and perhaps elsewhere to make the same point as he made before his lunchtime audience.

''Last year alone, we exchanged some $560 billion in goods, and Canada is the leading export market for 36 of the 50 United States,'' the Arizona senator said.

''This country stands as America's leading overall export market, and America is Canada's leading agricultural market. With 60 percent of all direct foreign investment in Canada originating in the United States some $289 billion in 2007—our economies draw strength from one another.''

He also said improvements are needed.

''Complying with NAFTA's rules of origin can be cumbersome and costly. Border delays can pose a serious impediment to trade, the equivalent of a tariff,'' he said.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CALVERT) is recognized for 5 minutes.

(Mr. CALVERT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

(Mr. TANCREDO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

REVISIONS TO BUDGET ALLOCATIONS AND AGGREGATES FOR CERTAIN HOUSE COMMITTEES FOR FISCAL YEARS 2008 AND 2009 AND PERIOD OF FISCAL YEARS 2009 THROUGH 2013

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. SPRATT) is recognized for 5 minutes.

Mr. SPRATT. Madam Speaker, under section 210 and 212(b) of S. Con. Res. 70, the Concurrent Resolution on the Budget for fiscal year 2009, I hereby submit for printing in the CONGRESSIONAL RECORD a revision to the budget allocations and aggregates for certain House committees for fiscal years 2008 and 2009 and the period of fiscal years 2009 through 2013. This revision represents an adjustment to certain House committee budget allocation and aggregates for the purposes of sections 302 and 311 of the Congressional Budget Act of 1974, as amended, and in response to consideration of the bill H.R. 6331 (Medicare Improvements for Patients and Providers Act of 2008). Corresponding tables are attached.

Under section 323 of S. Con. Res. 70, this adjustment to the budget allocations and aggregates applies while the measure is under consideration. The adjustments will take effect upon enactment of the measure. For purposes of the Congressional Budget Act of 1974, as amended, a revised allocation made under section 323 of S. Con. Res. 70 is to be considered as an allocation included in the resolution.

BUDGET AGGREGATES

[On-budget amounts, in millions of dollars]

	Fiscal Year 2008 [1]	Fiscal Year 2009 [1 2]	Fiscal Years 2009-2013
Current Aggregates:			
Budget Authority	2,454,256	2,455,920	n.a.
Outlays	2,435,860	2,490,920	n.a.
Revenues	1,875,400	2,029,644	11,780,107
Change in Medicare Improvements for Patients and Providers Act (H.R. 6331):			
Budget Authority	1,942	6,633	n.a.
Outlays	1,924	6,516	n.a.
Revenues	1	9	156
Revised Aggregates:			
Budget Authority	2,456,198	2,462,553	n.a.
Outlays	2,437,784	2,497,436	n.a.
Revenues	1,875,401	2,029,653	11,780,263

[1] Current aggregates do not include spending covered by section 301(b)(1) (overseas deployments and related activities). The section has not been triggered to date in Appropriations action.

[2] Current aggregates do not include Corps of Engineers emergency spending assumed in the budget resolution, that will not be included in current level due to its emergency designation (section 301(b)(2)).

n.a. = Not applicable because annual appropriations Acts for fiscal years 2010 through 2013 will not be considered until future sessions of Congress.

DIRECT SPENDING LEGISLATION—AUTHORIZING COMMITTEE 302(a) ALLOCATIONS FOR RESOLUTION CHANGES

[Fiscal years, in millions of dollars]

House Committee	2008		2009		2009–2013 Total	
	BA	Outlays	BA	Outlays	BA	Outlays
Current allocation:						
Energy and Commerce	0	0	0	0	0	0
Ways and Means	0	0	0	0	0	0
Change in Medicare Improvements for Patients and Providers Act (H.R. 6331):						
Energy and Commerce	89	81	839	802	3,163	3,157
Ways and Means	1,853	1,843	5,794	5,714	−7,022	−5,227
Total	1,942	1,924	6,633	6,516	−3,859	−2,070
Revised allocation:						
Energy and Commerce	89	81	839	802	3,163	3,157
Ways and Means	1,853	1,843	5,794	5,714	−7,022	−5,227

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. WESTMORELAND) is recognized for 5 minutes.

(Mr. WESTMORELAND addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

AMERICA'S FAILED ECONOMIC AND ENERGY POLICIES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from Texas (Mr. HENSARLING) is recognized for 60 minutes as the designee of the minority leader.

Mr. HENSARLING. Mr. Speaker, 18 months ago, there was an election. The Democrats won. They won fair and square. And for 18 months, Mr. Speaker, they have controlled the economic policies and the energy policies of our great Nation. Let's look back and take a look at what has happened in those 18 months.

Since Democrats have taken control of these policies, the price of bread, Mr. Speaker, has increased 21 percent; milk, 26 percent; eggs, 34 percent; gasoline, the price that we pay at the pump, has increased 71 percent under the energy policies of this new Democrat majority. As an aside, in the last 18 months, the value of one's home has decreased 7 percent under their policies.

Mr. Speaker, tonight many of us have gathered to specifically talk about the energy policies of the Democrat majority and how they differ so greatly from the policies of the Republican party.

All over America, families are going to convenience stores and they are having to make a decision: Do I buy a gallon of milk, or do I buy a gallon of gas? They are having to make decisions about do I take my children to school, or do I go to work? Families are in pain, having seen their gasoline prices increase 71 percent.

What has the Democrat majority brought us in the way of an energy policy? Well, their first policy was to beg. ''Let's beg OPEC. Let's see if maybe we beg them, they will bring down the price of gasoline at the pump.''

Well, that didn't work, Mr. Speaker.

What was their next policy? Their next policy was to sue. ''Let's sue OPEC. If we somehow bring in the trial attorneys, we will lower prices at the pump.''

Well, Mr. Speaker, that didn't seem to work either.

Well, here is another one they want to try. ''Let's tax. Let's tax oil producers, and somehow that will bring down prices at the pump.''

Well, something I remember from my eighth grade economics about supply and demand and cost. You impose another cost on a producer, well, he is going to do his best to put it in the price of the product. Well, in fact, that is what will happen. It almost sounds the like the policies of Jimmy Carter and a Democrat Congress of a bygone era which made us even more dependent upon foreign oil.

Here is another one: ''Let's try to castigate. Let's bring up people who produce energy and let's say nasty things about them and their companies and their families. Surely that will bring down the cost of energy at the pump.''

Well, that hasn't seemed to work either.

The new one we tried today, the Democrat majority, ''well, let's outlaw people who charge unreasonable prices. Let's criminalize that activity.''

What they never have thought of, Mr. Speaker, is why don't we try to produce more American energy in America? I mean, not only have they not thought about it, Mr. Speaker, they are moving in the complete opposite direction. They are passing policies that make it more difficult to produce American energy in America to bring down the cost at the pump.

In fact, in one of the many non-energy energy bills that this Democrat majority has brought to the floor, they passed a provision known as section 526 of Public Law 110–140 that would prohibit Federal agencies, in this case specifically the United States Air Force, from contracting, taking in long-term contracts in order to get energy from oil shale, tar sands, coal-to-liquids, alternative fuels, which is one, one of the ways that we could make ourselves more energy independent and quit relying so much on foreign sources of oil that are driving up the cost of gasoline at the pump.

Because of this section that was introduced in one of the many Democrat non-energy energy bills, or, as one of

my colleagues say, the Democrat lethargy bills, myself and the gentleman from Texas, Mr. CONAWAY, have introduced H.R. 5656, which almost has 100 cosponsors now, that would repeal this section, which would allow the Federal Government to contract for these alternative fuels to try to bring in more energy independence to help jumpstart some of these alternative technologies, which is a huge part of the solution in order to bring down the price of gasoline at the pump.

Mr. Speaker, many of us will come to the floor to talk about this very critical issue to American families, and those who have town hall meetings know it is the number one issue on the minds of our constituents, as it well should be.

Mr. Speaker, I am happy to lead this Special Order tonight. At this time I would like to yield to the coauthor of H.R. 5656, which would repeal this needless section making it more difficult to enact alternative energy policies, I would like to yield to the gentleman from Texas, Mr. CONAWAY, for his opening comments.

□ 2200

Mr. CONAWAY. Well, I thank my colleague from Texas, and I want to say a few things. We'll get to some of our other speakers who are here tonight before we get into the heart of what you and I intend to talk about.

Mr. Speaker, the serious business of providing energy for America, whether that energy is electricity to light the lights in this hall or to run manufacturing facilities or gasoline, whether it is diesel or jet fuel to move people and goods and us around, is serious business. Yet our colleagues on the other side of the aisle are not treating it seriously. This week's get-out-of-town energy strategy included four peripheral bills that are not intended to really deal with it or intended to give cover, political cover, for the folks who voted for these four bills.

Next week, when we all go home to our constituents, we'll have to look them in the eye and tell them that, yes, we've done absolutely nothing to address the cost of gasoline that you're paying. The interesting thing about gasoline is that we may not buy gasoline every single day, but as we drive around, we see the price posted all over town, and I dare say that every single driver looks at the price to check to see what it is. Even though you may not intend to buy gasoline that day, you check those prices constantly. So it's constantly in front of our minds as it is when we have town halls or telephone town halls.

The get-out-of-town strategy included a price-gouging bill—again, puffery—because seven DOE and Federal Trade Commission price-gouging studies over the last decade have shown absolutely no evidence whatsoever of price gouging. This serious business of providing gasoline to consumers at prices that they can afford has been reduced to sloganism: ''Use it or lose it.'' ''We can't drill our way out of these problems.'' They're casual, offhand, flippant comments that don't do the seriousness of this issue justice. A 30-second sound bite works well on a television commercial, but at the heart of the matter, these are complicated issues that deserve and that should get serious consideration on both sides of the aisle.

The solutions aren't Republican. The solutions aren't Democratic. The solutions are what are best for America. To the extent that we can begin to delve deeper into what the issue might be and into what the solution might be, the better off we are, but as long as we're just very cavalier about what we're doing with the get-out-of-town energy policy or with the sloganism that seems to permeate everything that we do with respect to energy, we will not solve this issue.

Gasoline prices will continue to rise. Electricity costs will continue to go up as natural gas prices rise and as we use more and more natural gas to generate electricity. So we are not about the good work of trying to find solutions. We are simply about the bad work of being very casual, very cavalier and very unthoughtful, quite frankly, about this particular issue.

So I look forward to hearing the comments from the other two speakers we have with us tonight, and then I look forward to delving a little deeper into things that I've already talked about.

With that, I yield back.

Mr. HENSARLING. Well, I thank the gentleman for his opening comments, and I certainly thank him for his leadership and for working with me in coauthoring this critical piece of legislation to help us really start, jump start, some of the alternative fuels that will help us bring down the cost of gasoline at the pump.

At this time, Mr. Speaker, I want to yield time to one of the real workhorses in Congress, to one of the outspoken advocates of trying to produce American energy in America. The gentleman from Georgia (Mr. GINGREY) is recognized.

Mr. GINGREY. Mr. Speaker, I thank my colleague for yielding time.

I wanted to, first off, say that I am a very proud cosponsor of the legislation introduced by Mr. HENSARLING from Texas and by Mr. CONAWAY also from Texas, H.R. 5656, which he referred to at the outset of this hour.

I want to talk specifically about that particular bill because it's so important, but before I get into the discussion about 5656, I want to make sure that we put it into perspective in regard to the discussion tonight.

We first heard from our colleague from North Carolina, Ms. FOXX, who was talking for 5 minutes about the issue of supply and demand. She was saying that that is a basic economic principle, and I think we all know that. As she pointed out, Mr. Speaker, our Democratic colleagues cannot legislate away the basic principle of supply and demand.

So what we're talking about and will talk about during this hour is, I guess, the opportunity lost if we continue this folly of not going after petroleum products in our own country. We call it and we refer to it, of course, as domestic production. A lot of the focus is on ANWR—that frozen tundra on the North Slope of Alaska, that very small area where we know, as the geologists have already told us, there are something like 10 billion barrels of petroleum. At full production, we would be producing 1.5 million barrels of additional domestic oil every day from that one source.

That is a small amount compared to what is available if we were not handcuffing ourselves off of our coasts—off both our east coast and our west coast—and off the eastern part of the Gulf of Mexico in what is known as OCS, or the Outer Continental Shelf. There are literally trillions of cubic feet of natural gas there which is part of our, the United States', territorial waters on the Outer Continental Shelf for which we could be drilling. There are tens of billions of gallons of petroleum. Yet the Democratic majority, Mr. Speaker, continues to prohibit, continues a moratorium which has existed since, I think, maybe, back to 1990.

Today, what we're talking about, of course, is the price of a gallon of regular gasoline. In the year and a half since the Democrats assumed the majority of not only this House but also the majority of the United States Senate, the price of a gallon of gasoline has gone from $2.60 to $4.08. Mr. HENSARLING, of course, pointed that out very well at the beginning of this hour.

I want to ask my colleagues to just take a look at this one poster that I want to show you. I think it's very important. I think it's very instructive. This basically is the courtesy of Representative JOHN PETERSON from Pennsylvania, who is retiring this year. He is a great Republican Member of this body who has spoken so well on this issue of giving us the opportunity to go after that natural gas and oil in the Outer Continental Shelf off of our coastline.

On this poster, it shows here that, off the Pacific coast, the amount of oil in the Outer Continental Shelf is 10 billion barrels. The amount of natural gas is estimated to be 18 trillion cubic feet. That's off the Pacific coast. Off of the Atlantic coast, the amount of oil is 2.3 billion barrels, and the amount of gas is 28 trillion cubic feet. The eastern part of the Gulf of Mexico is also off limits: Oil, 3.58 billions of gallons. Natural gas, 12 trillion cubic feet.

Mr. Speaker, that's bad enough, but now lets get to 526. I want to just take a little time before I yield back to my colleagues, who are the real experts on this.

Last year, the Democratic majority passed a bill. They called it the Energy

Independence and Security Act of 2007. It doesn't give us independence, and it darn sure doesn't give us security. What they did in that particular bill is they put in a section, section 526, that the Hensarling-Conaway legislation, H.R. 5656, would repeal that section 526.

Why is that important?

Well, section 526 literally prohibits our Government, any agency of our Federal Government, from contracting for any petroleum product that is not conventional fuel if that product, that nonconventional petroleum source, yields one scintilla—by the way, my colleagues, a ''scintilla'' is a very, very small amount—of an increased carbon dioxide footprint.

Now, ladies and gentlemen of the House, that may have made sense when the price of gasoline was $2.60 a gallon and when we had this expectation and this hope that it would drop down to $1.50, but on June 24, 2008, when the price of gasoline has now gone up 75 percent—not down—and it's $4.08 a gallon, does it make any sense to prohibit our Federal Government from contracting for other sources of petroleum? They are in this country in abundance.

The reason I have this poster is I want to point out to my colleagues—and it doesn't show the exact spot, but in the western States, in the Rocky Mountain States—and there are about five of them—there is this rock product called shale, S-H-A-L-E. It is estimated by the geologists, by the experts, that within that rock is 1.3 trillion barrels of petroleum. Yet our Federal Government is prohibited from mining that shale and from getting this petroleum source because it might, just might, result in a little bit more carbon dioxide.

To put it in perspective, Mr. Speaker, the Federal Government actually uses 380,000 barrels of refined product every day, and most of that is used by the Department of Defense, and 75 percent of their usage is by the Air Force in jet fuel. Just think about that and the cost. Well, I'm going to tell you exactly what it is.

For the year 2008, this year, it's estimated that our Air Force will spend an additional $9 billion on jet fuel at the cost of $135 a barrel of petroleum. Yet all of this oil and natural gas and this petroleum that we could get from shale in the Midwest, in the Rocky Mountain States, sits there, and there it remains trapped in rock because of this senseless section 526 that the Democrats passed last year in their energy bill, in their so-called Energy Independence and Security Act.

It is time, as Mr. HENSARLING, as Mr. CONAWAY and as the many other cosponsors, including myself, have said, to say, look, that doesn't make any sense today. We're all concerned about global warming—of course we are—and about the environment and about clean air, but we're not going to die tomorrow from that. We are about to starve to death, and this country is about to go bankrupt when people can't get to work and when they can't get to the grocery store. When they get to the grocery store, they can't afford to buy food because of this senseless ethanol conversion from corn to ethanol. That's a whole different issue. I'm just here tonight to weigh in with my colleagues. I thank them for giving me the time.

I sit on two committees—on the House Armed Services Committee and on the Science and Technology Committee. This year, of course, we reauthorized the National Defense Act of 2009, and we reauthorized the NASA, the National Aeronautics and Space Administration, Act. Both of these agencies of the Federal Government utilize a lot of jet fuel. I tried to take the Hensarling-Conaway bill and make it as an amendment to strike that section or at least to grant a waiver from that restriction of 526.

This Democratic leadership refused to even make those bills in order so that the men and women, the commonsense men and women on both sides of the aisle in this Chamber, would have an opportunity to vote up or down in these trying economic times when we're losing jobs and when people can't even afford to go to work.

So I thank the gentleman for letting me join with the Texas delegation, if you will—my three classmates—who know so much about this issue and about the many other issues of supply and demand as Ms. FOXX said earlier. So I look forward to the rest of the hour.

I yield back to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. I thank the gentleman from Georgia for joining us, and I certainly appreciate his illuminating comments.

Mr. Speaker, I hope people listened very carefully to what the gentleman had to say.

First, again, since the Democrats took over the Nation's energy policies 18 months ago, the price of gasoline, as almost every working family in America knows, has increased, roughly, 70 percent in just 18 months. How does that impact working families in America?

Well, Mr. Speaker, I have the privilege of representing the Fifth Congressional District of Texas, and I go out of my way to make sure that I reach out to my constituents and understand the challenges, their hopes and aspirations, and I hear from them frequently.

I have recently heard from the Thomas family in Mesquite, Texas. They wrote to me.

''Dear Congressman, to make up for the rising prices, we calculate the use of the car to make the gas last a week. Some things we no longer can buy. We have had to cut back on our groceries. We rarely have three meals a day anymore.''

□ 2215

Mr. Speaker, I know they don't mean to do it. I know there are men and women of good intentions, but under the Democrat energy policies, people in Mesquite, Texas, can no longer have three meals a day. That is the result of these policies.

Again, as they have tried to beg, castigate, tax and criminalize their way into lower gas prices, they have failed each and every time. What they want to do is produce American energy in America. As the gentleman from Georgia pointed out, under their policies, Mr. Speaker, 85 percent, 85 percent of our deep-sea resources are put out of bounds, out of bounds. And 75 percent of our onshore resources, out of bounds.

The Arctic area of Alaska where more than half of America's proven energy reserves reside, no, can't produce American energy there. Why wouldn't you want to do that when people are suffering?

Now there are so many different things that we need to do, but the most important thing that we need to do, Mr. Speaker, is produce American energy in America. I just read today where there was a huge discovery of petroleum off the coast of Brazil. In Brazil, they celebrated. What a wonderful thing, we have these huge new energy reserves. America must be the only country in the world that when we discover great energy reserves, it is a cause for mourning. Oh, no, we have oil. Oh, no, we have natural gas. Quick let's go out, let's make sure nobody can touch it. It is a point of shame. We can't have these natural resources helping working American families.

I mean, what a fouled-up policy, Mr. Speaker.

I am very happy that we have been joined tonight by the gentleman from Texas (Mr. CARTER) who knows all too well what the Democrat majority has done to put all of this energy out of bounds and who will speak to us more about what needs to be done in leasing our deep-sea resources and the Arctic area of Alaska. I am very happy to yield time to Mr. CARTER.

Mr. CARTER. I am honored to be here with my colleagues from Texas. As I start, I am sure there is someone somewhere who is saying, yes, there are three Texans on the floor from the largest petroleum-producing State in the Nation, and of course they want to talk about oil and gas. Well, of course we do.

Also, I think most of us who are here tonight have lived with this industry in our homes and our hometowns in our State. And there seems to be some kind of mystery about terminology that our colleagues on the other side of the aisle I assume are confused about but I don't think that they would intentionally use sloganism to misadvise the American public. But they are in charge of the House, and it is their responsibility to know what we mean when we say lease space for production of oil and gas.

Now the concept of leasing is not a tough concept. This House is full of lawyers, but it doesn't take a lawyer to

talk about a lease. Most Americans know what a lease is. Most Americans some time in their life have leased a home or leased an apartment. Some Americans have leased a house for their family or they have leased a car over a period of time.

Now when they lease, let's say, a car, they say I will pay you so much money for the ability to have this car in my possession and use it as I see fit for a period of time. And I am going to use it for transportation. But they don't have to use it for transportation. They can park it in the garage if they want to, but they would be economically stupid to park it in the garage when they are spending good money for the right to use that leased car. But they certainly would be entitled to do that. If they were doing it for business purposes, they certainly would lose money on that business.

There is no difference, really, between an oil and gas lease and any other sort of lease. The concept is the same concept. A company goes and bids to lease from the Federal Government a certain amount of land for the production of oil and gas and petroleum products. And they pay money to the Federal Government for the right to be able, for a period of time, 5 or 10 years, to explore and ultimately drill for and produce petroleum on that land. If they haven't done that within the period of time of that lease, then the lease is void and goes back to the government. I suppose the government can lease it to somebody else.

Now, we have a term that has come out ''use it or lose it'' which is nebulous, to say the least, because every single oil and gas lease that I have ever heard about from the Federal Government is a use-it-or-lose-it lease. The terms of the lease say you have the right to explore for and produce on this property for a set period of time, say 5 years. After that period, if you haven't done that, if you haven't explored and you haven't produced, the lease goes back because that's the purpose of your using this land. You either use it for that or after 5 years, the terms of the lease that you paid for, you lose it.

Now the oil companies spend billions of dollars for these leases because there is something peculiar about oil, and I think most people in this country understand this. The peculiarity is that it is not everywhere. It is sometimes in your backyard, and sometimes the nearest place is five States away. So the oil companies are speculating based upon sort of known concepts, but they use very highly technical equipment and procedures to give them an indication of whether or not there is oil or gas underneath a piece of property.

For my lifetime they have been using seismic measurements to determine whether or not there is the possibility of a formation below the ground that would be producing oil or gas. This seismic thing is not really fancy. It is vibrations through the earth and they use explosives to make it. Now from the time when I was a kid when I tried to get a job on a seismic crew, that was pretty old-fashioned technology. Today I am sure it is digital and high tech and much better than it was in those days. And I just recently learned they are using some kind of magnetic survey that the big companies are working on that give them other indications where it might be. But the bottom line is it is either there or it is not, and they have to look for it and spend money to see if it is there. So they lease large parts of the country or the offshore area, and they go out and they spend lots of money to look and see if there is oil. And you know what, if they don't see any good indications for production that will pay for itself, they are in the business of oil and gas. So just like you wouldn't lease something you wouldn't use, they won't continue to lease a lease that they can't produce on.

But to say use it of lose it for the leases that are out there, believe me, every oil company that is in the business of producing petroleum products is going to utilize the money they spent on those leases to try to make discoveries to find oil and gas products.

So to come up this slogan that means nothing because it is already in the contract, it doesn't make sense. It is not a good way for us to stand up for the American people. The Democrats are in charge of this House. They have to be willing, as we were when we were in charge, to take the heat for the things that are happening in this country. And quite frankly, the heat right now is the price of gasoline. It has gone up $1.75 or so since they got in office, and they have to take the heat.

What we Republicans are saying is basically what we have been saying since 1990: America has the potential to produce its own energy in multiple forms and we support all those forms that are clean, can be produced environmentally safely, and oil and gas falls within those parameters. And we should be using American energy that we can produce in America.

I would like to tell you, there is an issue about ANWR. ANWR is the frozen tundra area in the far north part of Alaska. You can probably see the pictures of those pristine mountains in the distance if you use a telescopic lens to make it look like they are in your backyard. But most pictures you see of actual ANWR, it kind of looks like this table but it is marshy and frozen.

And this is a good example so you know what we are talking about. I think every American knows what a football field looks like. If they don't, they know what a soccer field looks like. If you take a book of matches and toss it out on the football field, that book of matches would represent the area that is being sought to drill the well to produce in ANWR, and the football field would represent ANWR.

So when they are talking about destroying the wildlife preserve, we are talking about a tiny bit of a place the size of South Carolina. That's what we are looking to drill on, that is what we are looking to produce on. And the track record is undisputable as far as drilling is concerned. Drilling is environmentally safe and almost spillproof. Last year we spilled one tablespoon of oil in the drilling process. Remember, I said the drilling process. So one tablespoon of oil worldwide producing oil through drilling. So yes, there is a little spillage, but that ain't bad. That is pretty good, and I think we could do that without even spilling a drop in ANWR.

So these issues that are making so much noise come down to basic, sound principles that we can't afford $4 or $5 or $6 a gallon gas until we start making some common sense about American policy towards oil and gas.

I don't even want to mention because I happen to be blessed to live down in a State where at least in my part of the State it doesn't get real cold in the wintertime. But I have been in Congress long enough to know that the minute it starts getting cold up here in the northern clime, people start getting real cold when they don't have heating oil to heat their homes. And then they start running to Congress and asking us to give them money to supplement their heating bills because the price of oil is through the roof. Well, they haven't seen the price of oil through the roof until they look at this $138 or $139 a barrel price for crude oil. And the heating cost that is going to be hitting the northeast and the midwest and the far west and the mountain areas of this country come cold weather time is going to make this problem with driving our automobiles look like a walk in the park for people in that cold weather.

So let's start dealing with this issue now so that we can, as we show the courage to do what is right and not block what is right, then those people who are speculating, and also just bidding in competition with us on the futures that are available in the oil market, will realize that America is serious about producing its own energy. And when they see us serious, they will know that we won't be the big players to drive up the market, and I believe they will start to dump those holdings they are holding now. As they dump those holdings into the market, the price will go down. It is the argument that everyone has said here today, the law of supply and demand. Right now we are short on supply, certainly short on domestic supply. As we show the will to seek domestic supply, our competitors will realize we are going to have our own supply which will make that international trading in the market less valuable to them and they will start to dump their oil before they start to lose money on their speculations. So I think this is common sense. This is easy. This is economics 101. I hope that everybody will remember that leasing is just exactly what it is.

There is nothing magical about an oil and gas lease. It is paying money for the use of land for a period of time. That's what we are talking about here. So this use it or lose it idea is really strange.

In addition, there are some facts that have been thrown out that I want to mention, and then I will yield back my time.

Democrats are saying that 4.8 million barrels of oil per day and 44.7 billion cubic feet of natural gas per day may be extrapolated from the oil company's Federally leased land that they already hold today. This is not true.

□ 2230

No Democrat, not Speaker PELOSI, HOYER, RAHM, any of them can give us one source where they got that number, and it's been specifically requested by the Republicans in the Natural Resources Committee to ask them where they got that number and how they extrapolate it, and there's been nothing forthcoming. I can't imagine that they just made it up.

But the reality is if it is there, it has got to be found. If it has got to be found, there's going to be hundreds of millions of dollars spent to find it. And believe me, they're not going to waste their money. If it's there, they're going to go get it. And so this is simple stuff. And I hope the American people and the Members of this Congress know it's simple stuff.

Mr. HENSARLING. I thank the gentleman from Texas for joining us this evening. I thank him for the valuable leadership that he provides us in the Republican Congress, and I particularly appreciate his comments, his illuminating comments on leasing and what it is that we can do as a Nation to provide more American energy in America.

Again, Mr. Speaker, elections have consequences. Since the Democrats took over the energy policy of this Nation 18 months ago, when they took it over, gasoline was selling at a national average of $2.33 a gallon. Today we know, Mr. Speaker, it is well over $4 a gallon in just 18 months. I'm not sure if history shows us any greater increase in the price at the pump in such a short period of time under the policies, again, of this Democrat majority.

Now, that's having a devastating impact, Mr. Speaker, on working families. And yet the Democrat majority refuses, refuses to do anything to produce more energy in America. And I think sometimes, Mr. Speaker, they forget about how their policies are impacting hard working American families.

Again, I have the privilege of representing the Fifth Congressional District of Texas. And I hear from my constituents often about the challenges they're facing having to pay this Pelosi premium, having to pay all of this extra money for gas. I recently heard from the Forest family of Mesquite, Texas. And they wrote to me, Dear Congressman, we cannot continue to operate this way. We have now canceled our life insurance policies, canceled our cable, scaled down our automobile insurance, and buy only the necessities at the grocery store. No movies or other luxuries. My son and his daughter have had to move in with us because he can no longer pay rent, day care, buy food, and pay for his auto insurance and gas to go to work.

Again, Mr. Speaker, I know they don't mean to do it, but the Democrat majority has got to wake up on how their no energy, no production policies are hurting working Americans.

People in Mesquite, Texas, are having to cancel their life insurance policies and take in their adult children back into their homes because they refuse, refuse to produce any American energy in America to bring down the cost of gasoline at the pump. That is a travesty, Mr. Speaker, a travesty.

And for further comments on the energy policies that we need in the Nation, and the need to repeal this Section 526 that for all intents and purposes will make it almost impossible to develop oil shale, tar sands, and coal-to-liquid technology, I once again want to yield to the coauthor of H.R. 5656, the gentleman from Texas (Mr. CONAWAY).

Mr. CONAWAY. Mr. Speaker, I thank my colleague for hosting this night's hour. I hope that it helps some of our colleagues learn a little bit more about the oil business. One of the things that is true in almost every area is that before you begin to regulate something, before you begin to try to control something, you really ought to understand it first. And the lack of understanding, not malicious, but it's not in their professional background. But the lack of understanding of most of our colleagues about the oil business and how it happens is—most of that information is limited to the ''Dallas'' TV show and J.R. Ewing, which was anything but the truth.

The interesting thing about Section 526 is that it basically says the Federal Government can't buy fuel from unconventional sources unless it can be proven that the lifecycle greenhouse emissions are less for the unconventional source than under the conventional source.

What this mechanically does is it takes a tremendous buying power of the Federal Government out of the development phase of getting to unconventional and new sources of ways to drive our cars that are better. The Federal Government has great capacity to buy and buys great quantities, particularly the Department of Defense, and we've now pushed that market aside in terms of being able to use that market to be able to develop these alternatives.

In addition, we've said that rather than buying fuel from tar sands in Canada, which no one can prove whether or not the lifecycle of greenhouse gases is more or less under those circumstances, we can't buy that fuel, but we can buy fuel and crude oil from countries that are, at best, not our allies.

In fact, we have recently passed on the floor of this House, hopefully it won't get any further in the Senate, the opportunity for Americans to sue OPEC to increase OPEC production. Again, an example of how the wrong-headed energy policy has become under the leadership that currently runs this House.

On the one hand, we will sue OPEC to increase production, on the other hand, we say it is not in our best interest to have oil and gas production from stable sources like the Outer Continental Shelf of the United States or the Rocky Mountains of the United States. We don't want to produce those resources, but we want to sue OPEC to force them to produce more crude oil that we would, in fact, buy.

I'm also anxious to see how OPEC is going to respond to that by allowing—setting in place the mechanisms to allow their citizens to sue America to force America to produce its own energy. And the reason they would do that, of course, is that crude oil is a worldwide market, and to the extent that America is withholding her crude oil from the market, she is, in effect, pushing up the price of crude oil worldwide. So on the one hand, we want to sue OPEC, force them to produce their barrels, but on the other hand, we don't want to produce our own barrels which would go into the worldwide supply and would help bring down that cost.

Now, I suspect there is some crafty Federal Trade Commission lawyer that would look at America as creating some sort of a tort within that system by withholding specifically supplies off the market in order to push up the price of crude oil. I think that you could be arguing with that.

I wanted to walk through the energy work that we're going to take up this week.

One of them we've already taken up was the price gouging bill. Price gouging is an interesting phenomenon. There's no real good definition for it. It's pretty vague and in the eye of the beholder. But the price gouging bill that we took up today would have penalized gasoline retailers for trying to adjust their prices during a time of emergency to equalize supply shortages and demand circumstances in those shortages. The market is the best allocator of that resource, and it happens to be on price.

So what we were setting our retailers up for, must of which are mom-and-pop shops or small convenience store chains, or corporations like Valero, which is simply a refiner and also a retailer of gasoline, for the fall of this deal because if this bill had passed today, the Federal crime that would have been committed was ill-defined.

And I want to read briefly from a CRA international study done back in 2007 talking about price gouging.

It says, Under legislation that threatens to punish acts that are defined vaguely and ambiguously, the behavior of the enforcing agencies is inherently unpredictable. And businesses potentially affected by the legislation could form expectations of prosecutorial conduct that could discourage the efficient functioning of markets. Excessively harsh penalties for setting the wrong price could give pause to market decisions that are critical to alleviate shortages, especially if individuals, unsure about the actions of the enforcers, were to adopt very conservative behavior so as to ensure compliance with the law.

The result would be exactly the opposite to the good intentions of the legislation's authors, disincentives to provide additional . . . the waste occasioned by gas lines and the failure to allocate supplies to those who benefit the most.

And then finally, this FTC study is in fact only the most recent assessment of claims of gasoline price gouging. In the last decade, the United States Department of Energy and the FTC have investigated all of the numerous incidences of regional price spike—gasoline price spikes. Their conclusion in every case has been that gasoline prices increases—gasoline price increases were due to the operation of supply and demand in light of an interruption of supply and that the magnitude of price increases was consistent with the magnitude of the loss of supply. There has never been a finding that gasoline price increases were caused by manipulation of the markets.

And yet we continue to hammer away at price gouging, the second time at least that this bill has come up, and it failed again today.

There is also a title of a bill that will deal with speculators in the market. And as of early this afternoon, we've not seen the actual language of that bill. But it is an attempt to go after speculators. Now, it's interesting that the ag committee that I serve on, the full committee had a hearing today in which Walter Lukken, who's the acting chairman of the CFTC, the Commodities Futures Trading Corporation, which oversees the speculative market in crude oil, among other things, testified today that while he is constantly on the lookout for potential manipulation by speculators and/or other participants in the market, that they have seen no evidence that those speculators are having undue influence on the price of crude oil. And then in fact the price of crude oil is set by supply and demand as best they can tell it.

But they are on the lookout every single day. And again, Mr. Lukken feeds his family trying to protect markets from manipulation like the speculators might have an impact on.

The other bill is a ''use it or lose it'' that my colleague from Texas has already talked about. One of the other facts—it's interesting. If we say facts around here, if you say a wrong fact often enough, and often enough as we clearly do, it becomes legend; and that 68 million acres is tossed about by every member of the Democratic leadership, 68 million acres. We have asked how they came up with that number. The Bureau of Minerals Management can't figure out how they've come up with it. The Department of Interior can't figure out how they've come up with it. And we've gone to the leadership and said, We don't know if that number is right or wrong. Tell us how you got to that number. And much like the extrapolated production numbers that our colleagues just talked about, they won't tell us.

All they'll say is that the majority staff of the Natural Resources Committee came up with this number. Now, we don't know if it's good or bad without knowing what it is. So we're having to defend against a number that may have just been flat-out made up. But our colleagues across the aisle won't come forward with their methodology to help us understand what they've done.

And it's a pretty clear statement. If you're going to beat us about the head and shoulders with a number of 68 million acres, then you need to prove to us what that is and how you came to it and whether or not we should be beat about the head and shoulders with it.

And then the final bill which we take up is something referred to as the Saving Energy Through Public Transportation Act of 2008. This is an attempt to help Federal employees cope with these higher commuting costs through public transportation and reimbursements for that, which is not a bad thing, but it clearly shows how tone deaf our colleagues across the aisle are.

They will listen to their employees who are saying we're having a hard time getting to and from work and we need help to reimburse that, but not being able to understand that that is going on across the United States, that that's not limited to just Federal employees.

So they've taken the position that it's a good thing to try to help Federal employees help deal with and cope with these higher gasoline prices, but let's ignore the rest of America who are actually paying the taxes that would have to be used to pay for those commuting costs.

So looking forward to my colleagues' continued comments on these and other issues, the 526 bill, Section 526 repeal is important. We've made several attempts at it. We've included with that a refinery siting bill that would ask the President or require the President to locate no fewer than three potential unused military bases for sitings of refineries, go through all of the proper evaluation and permitting processes, and the governor of the States involved would have a veto.

But nonetheless, an attempt to say, Here are some places we can build refineries to help alleviate the strategic vulnerability that this country has. And so far, we've just been shut out on any attempt to move towards actual more and new production of crude oil and natural gas that would, in fact, deal with this issue of higher prices.

□ 2245

Mr. HENSARLING. Again, I thank the gentleman from Texas for his leadership. I thank him for working with me and co-authoring, I think, a very important piece of legislation.

Again, Mr. Speaker, since the Democrats took control of the energy policy of this Nation 18 months ago, the price of gasoline has increased 70 percent to over $4 a gallon, having a terrible impact on working families all across America and the Fifth District of Texas that I represent.

I recently heard from the Gardner family of Dallas who wrote me: ''Dear Congressman, I am the proud father of an Eagle Scout. I know you are an Eagle as well. I have a younger son in the Scouting program. In order to afford sending our youngest to summer camp, we have had to cancel any summer family trips in order to afford the increased cost of fuel of sending our youngest to camp in Colorado.''

Mr. Speaker, I salute this family for their commitment to Scouting, their commitment to their son, but under the Democrat energy policies that have seen gasoline go to over $4 a gallon, families all across America are having to cancel their summer vacation plans.

Mr. Speaker, what's the answer? Well, I wish there was just one magic button or one magic wand that we could wave to get this done. There is not, but it has a lot to do with, again, producing American energy in America, and it is not just oil and gas. It is renewables. It is alternatives.

I am proud to say that our Republican Party has constantly, constantly supported renewable energy. In the Energy Policy Act of 2005 was almost $4 billion for the hydrogen fuel cell program, with the goal of launching hydrogen fuel cars by the year 2020; $3 billion dedicated to developing affordable, efficient and renewable energy technologies. We supported extending the renewable electricity production credit, the H Prize that would offer cash prizes for achievements in the development of hydrogen energy technologies, millions for biomass research, millions for solar research. Renewables are part of the equation.

Mr. Speaker, before I came to Congress, I was an officer in one of the Nation's leading retailers of green electricity. I'm committed to it. Mr. Speaker, I'm the father of a 6-year-old daughter and a 4-year-old son, and I hope one day that they are driving in hydrogen-powered cars. I hope that one day they will have solar cells on their roofs and no longer be tied to the electricity grid.

But in the meantime, Mr. Speaker, every day in America somebody needs to drive to work today. Every day in

America somebody needs to take an elderly parent to see a doctor. That's today. Somebody has to take their child to school. That is today.

There are wonderful renewable technologies, but I can tell you as one who has worked in the industry, for these to be commercially viable, for them to be scalable, these technologies are easily 10 years away, perhaps 15, and in some cases, 20.

Another part of the answer, Mr. Speaker, is diversification. China is building two to three nuclear plants a year. In America, we haven't built a new nuclear plant and we haven't had any new permits in 30 years, and yet we know nuclear power has zero emissions, no impact, no carbon footprint whatsoever. We need diversification.

Another thing we need to do, Mr. Speaker, under the Republican plan to bring down the price of fuel at the pump is reduce the number of boutique fuels. There was a time in America's history where if you drove from Spokane, Washington, to Kansas City, Kansas, to Dallas, Texas, to Miami, Florida, there's only one gasoline you bought. Now it may be as many as a dozen, which drives up the price and leads to spot shortages.

Mr. Speaker, not only have we doubled, we are twice as dependent on foreign sources of energy today as we were at the height of the Arab oil embargo. Not only are we importing more oil, we are now having to import refined gasoline. Why? Because we haven't built a refinery in a generation because of this worshipping at the altar of radical environmentalism.

And Mr. Speaker, sometimes I think my friends on the other side of the aisle have forgotten that people are part of the environment, too, and they're struggling. They're struggling to keep their job, pay their rent, fill up their cars. We have to expand American refining capacity.

And then we have to produce the energy we have. Mr. Speaker, we are blessed with great energy resources. We are the Saudi Arabia of coal. That's why I and the gentleman from Texas have introduced this bill to ensure that Federal agencies can contract to help to develop these promising technologies in coal-to-liquid. It's already being done in Britain, in Saudi Arabia. We can do it now if the Democrat majority would get out of the way and let us produce.

And our oil resources, Mr. Speaker, the Outer Continental Shelf, our deep sea resources, why is 85 percent of that outlawed? Why is it off the board? Why can't we produce there?

There are decades and decades and decades of energy just sitting there for the take, and again, the radical environmental left that helps control our Democrat majority won't let it happen.

The arctic area of Alaska, half of our proven petroleum reserves sit there in an area of America where almost no one lives.

Mr. Speaker, I get to represent a large portion of East Texas, and I can tell you, somehow man, nature and pump jack can coexist. They can coexist peacefully, and it can be done in Alaska as well.

So, Mr. Speaker, I would hope that something as challenging as the high price of petroleum, that we could come together as Republicans and Democrats and work for the betterment of all the people in America.

But Mr. Speaker, you cannot outlaw supply and demand. You cannot do it. Demand has increased precipitously over the world, particularly in areas like China and India, and we're sitting on these great supplies, and we're the only Nation in the world that I'm aware of who sits on so much energy and refuses to produce it.

And instead, what does our Democrat majority offer us? Beg OPEC, sue OPEC, tax oil companies, castigate oil companies, impose a form of price controls. That does nothing, nothing to help American families.

The Republican plan will, and with that, I would be happy to yield to the gentleman from Texas.

Mr. CARTER. I thank the gentleman for yielding, and I hope that everybody is listening in detail to what my colleagues are talking about here today.

You know, I spent a long time as a district judge and watching lawsuits. It is very fascinating, this sue OPEC argument that's out there, because as I understand it, the lawsuit would be you are not producing enough, therefore, you're fixing the price and we're suing you. And I would see a lawyer for the Saudi Arabians or whomever we had sued, they would say, well, wait a minute, you're not producing, therefore, you're influencing the price of oil; so I'm going to counter-sue you under this lawsuit, and now, America, let's see who's not producing the most.

I'm afraid we'd lose because we're not producing anything on the east coast, anything on the west coast, anything in half of the Gulf of Mexico and anything in a quarter of Alaska, where they can argue that they're producing everything they can pump. It's just how fast they turn up the pumps. So that lawsuit might turn its back on us right there, and that concerns me. But that's all speculation.

It's not speculation that that family's not getting to go on a vacation. You know, it's not speculation the people who worry about how they're going to get their children to their schools and their after-school activities come the start of school in the fall.

I talked to a lady two-and-a-half years ago when the Democrat minority, when we were in the majority, were criticizing us for $2.40 a gallon, $2.50 a gallon gasoline. They were criticizing us, and I went and pumped gas in a gas station for about 3 hours and talked to the people as I filled up their tank.

And the lady who told the most compelling story was the one who said, I have to get my kids to their various recitals, practices, after-school activities and make sure they get to school on time. They go to three different schools. I'm a single mom, with three kids in three different schools in three different parts of town. And I have to choose between what we eat or if we eat and whether I get to drive the car to get these kids.

That was at $2.50 a gallon of gas. We have now got $4.07 a gallon of gas, and I can't help but think about that lady every day and wonder—I'd like to actually hear from her—wonder how she's doing.

Also, the trucker that hauled a load from Houston to San Diego and got paid $1,800, and his fuel costs were $1,700, how is that man going to make a living?

This is about making a living, living the American dream, just being good Americans, and we're being kept from that by the Democrats' energy policy. It's time to wake up and produce American energy for America.

Mr. HENSARLING. I thank the gentleman, and for our final closing comments, I yield to the other gentleman from Texas.

Mr. CONAWAY. I want to thank our two colleagues for being with us tonight to talk about this.

What you're really talking about is an attack on the American lifestyle. We have built a Nation predicated on cheap gasoline because it has always had cheap gasoline, and we've built suburbs. We've expanded into rural areas. We've built a lifestyle that demands low gasoline prices.

And what we are telling Americans is that this Democratic-led Congress wants high gasoline prices and wants to attack the American lifestyle.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. CHRISTENSEN (at the request of Mr. HOYER) for today and June 25 on account of official business in district.

Mr. PENCE (at the request of Mr. BOEHNER) for today on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. KAPTUR) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SPRATT, for 5 minutes, today.

(The following Members (at the request of Ms. FOXX) to revise and extend their remarks and include extraneous material:)

Mr. TANCREDO, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, today, June 25 and 26.

Mr. WESTMORELAND, for 5 minutes, today.

Ms. FOXX, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3180. An act to temporarily extend the programs under the Higher Education Act of 1965; to the Committee on Education and Labor.

BILLS PRESENTED TO THE PRESIDENT

Lorraine C. Miller, Clerk of the House reports that on June 18, 2008 she presented to the President of the United States, for his approval, the following bills.

H.R. 3179. To amend title 40, United States Code, to authorize the use of Federal supply schedules for the acquisition of law enforcement, security, and certain other related items by State and local governments.

H.R. 3913. To amend the International Center Act to authorize the lease or sublease of certain property described in such Act to an entity other than a foreign government or international organization if certain conditions are met.

ADJOURNMENT

Mr. CONAWAY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 56 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 25, 2008, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7284. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting a letter regarding the Department's report on the amount of purchases from foreign entities for Fiscal Year 2007, pursuant to Public Law 104-201, section 827 (110 Stat. 2611); to the Committee on Armed Services.

7285. A letter from the Under Secretary of Defense, Department of Defense, transmitting a letter on the approved retirement of General Richard A. Cody, United States Army, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

7286. A letter from the Secretary, Department of Defense, transmitting letter on the approved retirement of General Robert Magnus, United States Marine Corps, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

7287. A letter from the Secretary, Department of Defense, transmitting letter on the approved retirement of General William R. Looney III, United States Air Force, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

7288. A letter from the Principal Deputy Assistant Secretary of the Navy, Department of Defense, transmitting notification that the Department proposes to donate the submarine ex-DOLPHIN (AGSS 555) to the Maritime Museum of San Diego, California, pursuant to 10 U.S.C. 7306; to the Committee on Armed Services.

7289. A letter from the Director, Naval Reactors, transmitting copies of the Naval Nuclear Propulsion Program's latest report on environmental monitoring and radiologicial waste disposal, worker radiation exposure, and occupational safety and health, as well as a report providing an overview of the Program; to the Committee on Armed Services.

7290. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-B-7780] received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7291. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7292. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-8021] received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7293. A letter from the Secretary, Department of Defense, transmitting the report on Measuring Stability and Security in Iraq pursuant to Section 9010 of the Department of Defense Appropriations Act, 2007, Pub. L. 109-289, as amended by Section 1308 of Pub. L. 110-28 and Section 1224 of Pub. L. 110-181; to the Committee on Foreign Affairs.

7294. A letter from the Office of the Coordinator for Counterterrorism, Department of State, transmitting a letter detailing necessary corrections in the Department's annual report, ''Country Reports on Terrorism 2007''; to the Committee on Foreign Affairs.

7295. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a proposed removal from the United States Munitions List of tires originally designed for use on the M977 Heavy Expanded Mobility Tactical Truck, pursuant to Section 38(f)(1) of the Arms Export Control Act; to the Committee on Foreign Affairs.

7296. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a proposed removal from the United States Munitions List of tires originally designed for use on Heavy Expanded Mobility Tactical Wheeled Vehicles, pursuant to Section 38(f)(1) of the Arms Export Control Act; to the Committee on Foreign Affairs.

7297. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a proposed removal from the United States Munitions List of tires primarily used on military heavy trucks, pursuant to Section 38(f)(1) of the Arms Export Control Act; to the Committee on Foreign Affairs.

7298. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to Section 620C(c) of the Foreign Assistance Act of 1961, as amended, and in accordance with section 1(a)(6) of Executive Order 13313, a report prepared by the Department of State on the progress toward a negotiated solution of the Cyprus question covering the period April 1, 2008 through May 31, 2008; to the Committee on Foreign Affairs.

7299. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation that was declared in Executive Order 13159 of June 21, 2000; to the Committee on Foreign Affairs.

7300. A letter from the Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report of the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001; to the Committee on Foreign Affairs.

7301. A letter from the Chief Financial Officer, Library of Congress, transmitting activities of the United States Capitol Preservation Fund for the six-month period which ended on March 31, 2008, pursuant to 40 U.S.C. 188a-3; to the Committee on House Administration.

7302. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan [Docket No. 030221039-6294-33; I.D. 110806C] received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7303. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — List of Fisheries for 2005 [Docket No. 041108310-5347-04, I.D. 100104H] (RIN: 0648-AS78) received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7304. A letter from the Acting Assistant Administrator, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Sea Turtle Conservation; Modification to Fishing Activities [Docket No. 060405097-6161-02; I.D. 033006E] (RIN: 0648-AU10) received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7305. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Right Whale Protection; Southeast U.S. Gillnet Closure [Docket No. 061107293-6293-01; I.D. 103006B] (RIN: 0648-AU95) received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7306. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan [Docket No. 030221039-6295-34; I.D. 110806D] received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7307. A letter from the Secretary, Department of Labor, transmitting a copy of a draft bill to establish authority for the Secretary of Labor to impose a fee on employers submitting applications to the Department of Labor for the certification of temporary employment of non-immigrant aliens in the United States under the H-2B non-agricultural worker visa program; to the Committee on the Judiciary.

7308. A letter from the Director of Operations, Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 2007, pursuant to 36 U.S.C. 1101; to the Committee on the Judiciary.

7309. A letter from the Chief Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Assistance Program Under the 9/11 Heroes Stamp Act of 2001 [Docket ID FEMA-2005-0001; Legacy ID DHS-2005-0006] (RIN: 1660-AA34) received June 18, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7310. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Partner's Distributive Share [TD 9398] (RIN: 1545-BD70) received May 19, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7311. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Guidance Under Section 7874 for Determining the Ownership Percentage in the Case of Expanded Affiliated Groups. [TD 9399] (RIN: 1545-BE93) received May 19, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7312. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — 26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability. (Also Part 1, 860D, 860F, 860G, 1001; 1.860G-2, 1.1001-3, 301.7701-2, 301.7701-3, 301.7701-4) (Rev. Proc. 2008-28) received May 19, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7313. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Also Sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.) (Rev. Rul. 2008-24) received May 19, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WELCH of Vermont: Committee on Rules. House Resolution 1297. Resolution providing for consideration of the bill (H.R. 6275) to amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes (Rept. 110–731). Referred to the House Calendar.

Mr. HASTINGS of Florida: Committee on Rules. House Resolution 1298. Resolution providing for consideration of the bill (H.R. 2176) to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community (Rept. 110–732). Referred to the House Calendar.

Ms. SUTTON: Committee on Rules. House Resolution 1299. Resolution providing for consideration of the bill (H.R. 3195) to restore the intent and protections of the Americans with Disabilities Act of 1990 (Rept. 110–733). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FATTAH:

H.R. 6352. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for contributions to a trust used to provide need-based college scholarships; to the Committee on Ways and Means.

By Mr. STUPAK (for himself, Mr. SMITH of Texas, Mrs. BONO MACK, Mr. DANIEL E. LUNGREN of California, Mr. GALLEGLY, Mr. FEENEY, Mr. CHABOT, Mr. WALZ of Minnesota, and Mr. BOUCHER):

H.R. 6353. A bill to amend the Controlled Substances Act to address online pharmacies; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA:

H.R. 6354. A bill to require an immediate adjustment of the thrifty food plan to increase the benefits provided under the supplemental nutrition assistance program; to the Committee on Agriculture.

By Mr. OBERSTAR (for himself and Mr. COSTELLO):

H.R. 6355. A bill to amend title 49, United States Code, to provide for improvements in the quality of airline services, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BARTON of Texas (for himself and Mr. STEARNS):

H.R. 6356. A bill to reform the collection and distribution of universal service support under the Communications Act of 1934; to the Committee on Energy and Commerce.

By Mr. DINGELL (for himself, Mr. BARTON of Texas, Mr. PALLONE, Mr. DEAL of Georgia, Mr. GORDON, Mr. HALL of Texas, Mr. TOWNS, Mr. UPTON, Mr. ENGEL, Mrs. WILSON of New Mexico, Mr. GONZALEZ, Mr. GINGREY, and Mrs. BIGGERT):

H.R. 6357. A bill to amend the Public Health Service Act to promote the adoption of health information technology, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Science and Technology, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California:

H.R. 6358. A bill to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes; to the Committee on Education and Labor.

By Mrs. BIGGERT:

H.R. 6359. A bill to amend title XVIII of the Social Security Act to enhance beneficiary protections under parts C and D of the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUHL of New York:

H.R. 6360. A bill to provide public safety officer disability benefits to officers disabled before the enactment of the Federal public safety officer disability benefits law; to the Committee on the Judiciary.

By Mr. WEINER:

H.R. 6361. A bill to strengthen the liability of parent companies for violations of sanctions by foreign entities, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BERMAN (for himself and Ms. ROS-LEHTINEN) (both by request):

H.J. Res. 95. A joint resolution providing for the disapproval of the Congress of the proposed agreement for cooperation between the United States and the Russian Federation pursuant to the Atomic Energy Act of 1954; to the Committee on Foreign Affairs.

By Mrs. CUBIN:

H. Con. Res. 378. Concurrent resolution expressing support for designation of September 6, 2008, as Lousia Swain Day; to the Committee on Oversight and Government Reform.

By Mr. GEORGE MILLER of California:

H. Con. Res. 379. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mrs. MALONEY of New York (for herself, Mr. DELAHUNT, Mr. MCDERMOTT, Mr. HINCHEY, Mr. FARR, Ms. BORDALLO, Mrs. CHRISTENSEN, Mr. SERRANO, Mr. MCGOVERN, Mr. KUCINICH, Mr. FATTAH, Mr. BRADY of Pennsylvania, Ms. MCCOLLUM of Minnesota, Mr. MORAN of Virginia, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GRIJALVA, and Ms. LEE):

H. Con. Res. 380. Concurrent resolution recognizing the 63rd anniversary of the United Nations; to the Committee on Foreign Affairs.

By Mr. PAYNE (for himself, Ms. CORRINE BROWN of Florida, Mr. JEFFERSON, Mr. RUSH, Ms. WATSON, Ms. LEE, Mr. HASTINGS of Florida, Mr. CONYERS, Mr. CARSON, Mr. TOWNS, Ms. NORTON, Mr. AL GREEN of Texas, Mr. WATT, Mr. MEEK of Florida, Mr. SCOTT of Georgia, Mr. JOHNSON of Georgia, Ms. JACKSON-LEE of Texas, Mr. CLEAVER, Mr. DAVIS of Alabama, Mrs. CHRISTENSEN, Mr. CUMMINGS, Ms. MOORE of Wisconsin, Mr. DAVIS of Illinois, Mr. SCOTT of Virginia, Mr. BISHOP of Georgia, Mr. THOMPSON of Mississippi, Mr. ELLISON, Ms. CLARKE, Ms. KILPATRICK, Mr. LEWIS of Georgia, Mr. BUTTERFIELD, Mr. FATTAH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RANGEL, and Mr. MEEKS of New York):

H. Con. Res. 381. Concurrent resolution honoring and recognizing the dedication and achievements of Thurgood Marshall on the 100th anniversary of his birth; to the Committee on the Judiciary.

By Mr. CALVERT (for himself and Ms. LORETTA SANCHEZ of California):

H. Res. 1296. A resolution supporting the designation of a National Child Awareness Month to promote awareness of children's charities and youth-serving organizations across the United States and recognizing their efforts on behalf of children and youth as a positive investment for the future of our Nation; to the Committee on Education and Labor.

By Mrs. MCCARTHY of New York (for herself and Mrs. EMERSON):

H. Res. 1300. A resolution supporting efforts to raise awareness, improve education, and encourage research of inflammatory breast cancer; to the Committee on Energy and Commerce.

By Mr. SCHIFF:

H. Res. 1301. A resolution calling upon the Government of Zimbabwe to postpone the run-off presidential election scheduled for Friday, June 27, 2008; to the Committee on Foreign Affairs.

By Mr. TANNER (for himself and Mr. SHADEGG):

H. Res. 1302. A resolution honoring the life and mourning the death of John Berthoud, Ph.D; to the Committee on Ways and Means.

By Mr. WOLF (for himself, Mr. BURTON of Indiana, Mr. SMITH of New Jersey, Mr. FRANKS of Arizona, Mr.

FOSSELLA, Mr. KIRK, Mr. MCCOTTER, Ms. SCHAKOWSKY, Mr. SOUDER, Mr. DAVIS of Illinois, Mr. PITTS, Ms. WATERS, Mr. PENCE, Mr. MCGOVERN, and Mr. GOODE):

H. Res. 1303. A resolution calling on the Egyptian Government to respect human rights and freedoms of religion and expression in Egypt; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 245: Mr. PORTER.
H.R. 423: Mr. TERRY.
H.R. 471: Mr. STUPAK.
H.R. 693: Mr. GRIJALVA.
H.R. 861: Mr. SPACE and Mr. KAGEN.
H.R. 1050: Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 1076: Mr. GUTIERREZ.
H.R. 1108: Mr. BROWN of South Carolina.
H.R. 1172: Ms. HERSETH Sandlin.
H.R. 1194: Ms. LEE.
H.R. 1228: Mr. KENNEDY, Mr. HARE, and Mr. TERRY.
H.R. 1292: Mrs. CAPPS.
H.R. 1373: Mr. MEEKS of New York.
H.R. 1524: Mr. STUPAK.
H.R. 1665: Mr. LATHAM.
H.R. 1781: Ms. NORTON.
H.R. 1881: Ms. MATSUI.
H.R. 2020: Mr. ROTHMAN.
H.R. 2455: Mr. KLINE of Minnesota.
H.R. 2472: Mr. EHLERS, Mr. REGULA, and Ms. DEGETTE.
H.R. 2493: Mr. BROWN of South Carolina and Mr. HASTINGS of Washington.
H.R. 2578: Mr. COLE of Oklahoma.
H.R. 2677: Mr. GONZALEZ; Mr. MEEKS of New York, and Ms. HOOLEY.
H.R. 2721: Ms. SOLIS.
H.R. 2818: Mr. PASCRELL.
H.R. 2851: Ms. WATERS, Mr. Childers, Mr. MCNERNEY, and Mr. SPACE.
H.R. 2915: Mr. MILLER of North Carolina.
H.R. 2923: Mr. FILNER and Mr. Foster.
H.R. 2933: Mr. LUCAS.
H.R. 2965: Mr. WELLER and Ms. SOLIS.
H.R. 3014: Ms. ESHOO.
H.R. 3289: Mr. NADLER, Ms. HERSETH SANDLIN, and Mr. MCNERNEY.
H.R. 3818: Mr. KUHL of New York.
H.R. 3861: Ms. BEAN.
H.R. 3934: Mr. MILLER of Florida.
H.R. 3995: Ms. TSONGAS, Mr. JOHNSON of Illinois, and Mr. BARROW.
H.R. 4054: Mr. SALAZAR.
H.R. 4066: Mr. FORTENBERRY and Mr. PLATTS.
H.R. 4087: Mr. SALI.
H.R. 4174: Mr. FARR.
H.R. 4245: Mr. HERGER.
H.R. 4457: Mr. CHILDERS, Mr. PICKERING, and Mr. TAYLOR.
H.R. 4461: Mr. ELLISON and Mr. KING of New York.
H.R. 4652: Mr. SESTAK.
H.R. 4776: Ms. BEAN.
H.R. 4789: Mr. WAMP.
H.R. 4840: Mr. KLINE of Minnesota.
H.R. 5244: Mr. CUELLAR and Mr. RANGEL.
H.R. 5268: Mr. AL GREEN of Texas, Ms. JACKSON-LEE of Texas, Mr. SERRANO, and Mr. LEVIN.
H.R. 5435: Mr. GRIJALVA and Mr. HINOJOSA.
H.R. 5447: Mr. PALLONE.
H.R. 5454: Mrs. LOWEY.
H.R. 5513: Ms. JACKSON-LEE of Texas.
H.R. 5534: Ms. RICHARDSON, Mr. FRELINGHUYSEN, and Mr. GUTIERREZ.
H.R. 5575: Mr. FILNER.
H.R. 5656: Mr. HASTINGS of Washington, Mr. CAMPBELL of California, and Mr. CRENSHAW.
H.R. 5734: Mr. MCNERNEY.
H.R. 5737: Mr. BARTON of Texas, Mr. TIM MURPHY of Pennsylvania, and Mr. BISHOP of Georgia.
H.R. 5741: Mr. INSLEE.
H.R. 5766: Mr. BRADY of Pennsylvania, Ms. MATSUI, Ms. NORTON, and Ms. HIRONO.
H.R. 5772: Mr. HINOJOSA.
H.R. 5782: Mrs. SCHMIDT.
H.R. 5809: Ms. ZOE LOFGREN of California.
H.R. 5842: Mr. BLUMENAUER.
H.R. 5843: Mr. BLUMENAUER.
H.R. 5854: Mr. ROTHMAN and Mr. TERRY.
H.R. 5868: Mr. BARTON of Texas and Mr. GOODLATTE.
H.R. 5874: Mr. THORNBERRY.
H.R. 5892: Mr. BLUMENAUER, Mr. WEXLER, and Mr. PETERSON of Minnesota.
H.R. 5925: Mrs. TAUSCHER.
H.R. 5935: Mr. FORTENBERRY and Mr. SPACE.
H.R. 5949: Mr. BOREN and Mr. SARBANES.
H.R. 6018: Mr. YOUNG of Alaska.
H.R. 6030: Mr. REICHERT and Mr. GERLACH.
H.R. 6092: Ms. WASSERMAN SCHULTZ.
H.R. 6104: Ms. HARMAN, Mr. FOSTER, Mr. PALLONE, Mr. BERMAN, Mr. SIRES, and Mr. POMEROY.
H.R. 6122: Mr. SIRES.
H.R. 6129: Mrs. DRAKE.
H.R. 6130: Mr. BUYER, Mr. PLATTS, and Mrs. BACHMANN.
H.R. 6131: Mr. BROWN of South Carolina.
H.R. 6132: Mr. FOSSELLA, Mrs. BACHMANN, and Mr. POE.
H.R. 6133: Mr. FOSSELLA.
H.R. 6135: Mr. FOSSELLA.
H.R. 6136: Mr. FOSSELLA.
H.R. 6137: Mr. FOSSELLA.
H.R. 6138: Mr. BROWN of South Carolina, Mr. POE, Mr. FOSSELLA, and Mr. SALI.
H.R. 6139: Mr. FOSSELLA and Mr. BROWN of South Carolina.
H.R. 6166: Mr. GOODE.
H.R. 6168: Mr. CLAY.
H.R. 6169: Mr. CLAY.
H.R. 6185: Mr. SHAYS and Mr. GOODE.
H.R. 6199: Mr. REYNOLDS, Mr. KUHL of New York, and Mr. WEINER.
H.R. 6205: Mr. BLUMENAUER, Mr. STUPAK, Mr. PASCRELL, and Mr. LOEBSACK.
H.R. 6208: Mr. CLAY.
H.R. 6209: Mrs. BOYDA of Kansas, Ms. HARMAN, Ms. SOLIS, Mr. ENGEL, Mr. GENE GREEN of Texas, Mr. HALL of New York, Mr. GEORGE MILLER of California, Mrs. TAUSCHER, Mr. DOYLE, Mr. WEINER, Mr. MOLLOHAN, Ms. WASSERMAN SCHULTZ, Ms. SCHWARTZ, and Mr. EMANUEL.
H.R. 6210: Mr. CAZAYOUX.
H.R. 6220: Mr. SMITH of Nebraska.
H.R. 6233: Mr. FORBES and Mr. MCHENRY.
H.R. 6251: Mr. KILDEE, Ms. SUTTON, Mr. BRALEY of Iowa, Mr. BUTTERFIELD, Mr. ALTMIRE, Mr. HODES, Mr. MURPHY of Connecticut, Mr. GORDON, and Mr. VAN HOLLEN.
H.R. 6255: Mr. GONZALEZ.
H.R. 6256: Mr. HIGGINS and Mr. VAN HOLLEN.
H.R. 6274: Mr. WALBERG, Mr. SENSENBRENNER, and Mr. MILLER of Florida.
H.R. 6307: Mr. CONYERS, Mr. CARDOZA, Ms. JACKSON-LEE of Texas, and Ms. LINDA T. SÁNCHEZ of California.
H.R. 6341: Mr. PALLONE, Mr. BRALEY of Iowa, Ms. JACKSON-LEE of Texas, and Mr. JONES of North Carolina.
H.J. Res. 79: Mr. MILLER of North Carolina, Mr. LEWIS of Georgia, and Mr. SESTAK.
H.J. Res. 89: Mr. TAYLOR.
H. Con. Res. 24: Mr. JEFFERSON and Mr. PAYNE.
H. Con. Res. 73: Mr. JONES of North Carolina.
H. Con. Res. 244: Mr. PALLONE.
H. Con. Res. 296: Mr. SALI.
H. Con. Res. 338: Mr. JOHNSON of Georgia.
H. Con. Res. 342: Mrs. BOYDA of Kansas and Mr. GOHMERT.
H. Con. Res. 357: Mr. SHIMKUS, Mr. GARY G. MILLER of California, Mr. WAMP, Mr. MILLER of Florida, Mrs. CUBIN, and Mr. HENSARLING.
H. Con. Res. 362: Mr. BOOZMAN, Mr. KIND, Mr. BERRY, Mr. BISHOP of New York, Mr. LINCOLN DIAZ-BALART of Florida, Mr. BARRETT of South Carolina, Mrs. SCHMIDT, Mr. SCALISE, Mrs. GILLIBRAND, Mr. HODES, Mr. RUPPERSBERGER, Mr. NUNES, Mr. MCHENRY, Mr. MAHONEY of Florida,
Mr. GINGREY, Mr. ISSA, Mr. KLINE of Minnesota, Mr. COOPER, Mr. MCINTYRE, Mr. FRANKS of Arizona, Mr. MARIO DIAZ-BALART of Florida, Mr. LINDER, Mr. PUTNAM, Mr. PALLONE, Ms. LORETTA SANCHEZ of California, Mr. BARROW, Mr. HIGGINS, MRS. CUBIN, Mr. VAN HOLLEN, Mr. HALL of Texas, Mr. JOHNSON of Georgia, Mr. INGLIS of South Carolina, Mr. JOHNSON of Illinois, Mr. THOMPSON of California, Mr. KING of Iowa, Mr. ROSS, Mr. SPACE, Mr. FOSSELLA, and Mr. DAVIS of Alabama.
H. Res. 373: Mr. LANGEVIN.
H. Res. 655: Mr. SCOTT of Virginia, Ms. WATSON, Mrs. CHRISTENSEN, Mr. PAYNE, Ms. CORRINE BROWN of Florida, Ms. CLARKE, Mr. CONYERS, Mr. SESTAK, and Mr. GONZALEZ.
H. Res. 757: Mr. WATT.
H. Res. 771: Mr. HINCHEY.
H. Res. 985: Mr. DICKS.
H. Res. 1143: Mr. MCHUGH.
H. Res. 1244: Ms. HOOLEY, Mr. TOWNS, Mr. COHEN, Mrs. SCHWARTZ, Mr. WU, and Mr. SNYDER.
H. Res. 1258: Mr. FARR.
H. Res. 1267 Mr. SHULER and Mr. MYRICK.
H. Res. 1286: Mr. GRIJALVA, Mr. HASTINGS of Florida, Ms. LEE, Mr. COHEN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CONYERS, Mr. TOWNS, Mr. SCOTT of Georgia, Mr. BISHOP of Georgia, and Mr. PAYNE.
H. Res. 1287: Mr. SPACE, Mr. BARTON of Texas, Mr. CHABOT, Mr. MOORE of Kansas, Mr. MILLER of Florida, and Mr. MICHAUD.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

OFFERED BY MR. OBERSTAR

The amendment # to be offered by Mr. OBERSTAR of Minnesota, or his designee, to H.R. 6052, the ''Saving Energy Through Public Transportation Act of 2008,'' does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits, as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

H.R. 6355, the ''Air Service Improvement Act of 2008,'' does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

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PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, SECOND SESSION

Vol. 154 WASHINGTON, TUESDAY, JUNE 24, 2008 *No. 105*

Senate

(Legislative day of Monday, June 23, 2008)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

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

Let us pray.

Grant, O God, that our lawmakers may move forward today as those who are heirs of eternal life. Give them the wisdom to learn contentment with Your purposes, enabling them to experience the eternal here and now. As they move through this day with its shades and shadows, give them freedom—not from difficulties but strength for the challenges that greet them. As they encounter setbacks, may they trust the unfolding of Your loving providence. In the face of misfortunes, empower them to surrender to Your will. Lord, give them the humility to be more concerned about being on Your side than recruiting You to be on their side.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER 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, June 24, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

PROGRAM

Mr. REID. Mr. President, we have a very busy schedule this week. We have some work we need to complete. We have, of course, FISA, the Foreign Intelligence Surveillance Act; we have the supplemental appropriations bill; we have the tax extenders; we have Medicare we need to complete; and, of course, we are on housing today. Regarding that, following any remarks I make and those of the Republican leader, we will return to the House message to accompany H.R. 3221, the housing reform legislation. There will be up to an hour of debate equally divided and controlled between the two leaders or their designees prior to a vote on the motion to invoke cloture on the Dodd-Shelby substitute with respect to the housing reform bill. Senators have until 10:30 a.m. today to file amendments to the Dodd-Shelby substitute.

By virtue of the previous order, the Senate will be in recess from 12:30 until 2:15 today for our weekly business luncheons.

Mr. President, let me say a couple of other things. We are going to do a number of judges this afternoon, the exact number of which we don't have worked out just yet, but we are going to do three circuit court judges and some district court judges. I have to confer with Senator LEAHY on the number of district court judges.

I would also say to my friend the distinguished Republican leader that I spoke to Senator FEINGOLD this morning regarding the FEC nominations, and it appears very clear we should be able to do them today. In regard to that, I wish to underscore my desire—our desire—to constitute the Federal Election Commission so it is working.

Just a brief history, Mr. President. Before Memorial Day, there were four FEC nominations pending—two Republicans, two Democrats. At that time, we offered to confirm those nominees by unanimous consent. The Republicans did not take me up on that offer. There would have been five FEC Commissioners today had that been done. In fact, it would have been prior to that recess. There would have been enough to conduct all official business. There was a thought, I assume, on the part of the Republicans that they wanted a full six, and I understand that. So they rejected the offer I made. They wanted to wait until a replacement for the failed nomination of Hans von Spakovsky was received in the Senate. I told the Republicans in December that von Spakovsky would not be approved by this body. Someone should have been cleared to replace him long before now. Nonetheless, I pledged to swiftly move that new nominee, and we have done that. I implored my Republican colleagues to confirm the four who were ready to go so there would be five to restore the agency so it would be workable. That offer was not accepted. The new nominee has now been nominated, and we have waived both the hearing and the mark-up to speed this up. That makes good

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

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on the pledge we made to swiftly review the nominee, and we did that, again without a hearing and without a markup.

As I discussed on Friday, Senator FEINGOLD—I didn't mention his name at the time, but it is out in the press since then—would like to meet with each of the nominees. That will be completed today. These meetings are important to the Senator. He has the right to do that. I certainly compliment him for caring so much. Four of the five FEC nominations now pending are relatively new to the Senate, and it is certainly within Senator FEINGOLD's right to speak with them prior to their confirmation. This is not unusual. So I look forward to completing that, unless something comes up that I don't understand, and we should be able to do that today. It is very important.

There has been some concern raised by my colleagues on the other side of the aisle that the Democrats have set out to delay this FEC being reconstituted so that the Democratic National Committee's lawsuit against Senator MCCAIN may be heard in the court. The DNC sued MCCAIN, alleging that he violated campaign finance laws in the treatment of his primary campaign funding. The court dismissed that suit without prejudice, saying the DNC needed to give the FEC 120 days to act on its complaint before coming to court. The 120 days expires today, June 24.

There is simply no truth to the argument that we are playing this game with the FEC. Democrats have been trying to get the FEC running since it went dark in December. Repeatedly, the Republicans have objected to consent request after consent request. This lawsuit of the DNC's has been out there many months. The decision for setting the deadline for FEC action was made prior to our Memorial Day recess, and the offer to confirm the pending nominations was made before that time.

What this means is that Democrats offered to confirm the four pending FEC nominees—which would have stopped the DNC suit—before Memorial Day. If we were trying to help the DNC's suit, would we have made that offer? I don't think so. Would we offer to waive the hearing and the markup for both Republican nominees so it would be moved quickly? The answer would be no. Of course we wouldn't have done that, Mr. President. As I have told my colleagues, Democrats want a functional agency as soon as possible. That could have happened in May. It could happen today. We want to do everything we can to reconstitute the FEC. It is extremely important to do that.

I have mentioned the matters we need to complete, and, of course, the one thing I didn't mention was the FAA extension. I asked unanimous consent to do that, and that was objected to yesterday by my friend Senator KYL on behalf of Senator DEMINT. I hope we can get that done. The House is going to pass that today as a temporary extension.

We also are going to bring before the body, within the next 24 hours, the PEPFAR legislation. What is that? It is the AIDS legislation that the President is in favor of and which we have been trying to move. It has been held up on the other side by a Senator or two, and we hope we can complete that. Again, I will ask unanimous consent that be passed today. It is my understanding, having spoken with Senator ENZI, that he and Senator BIDEN have worked something out on that, and hopefully the Senator on the other side who is objecting to this will no longer object to it.

RECOGNITION OF THE MINORITY LEADER

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

FEC NOMINATIONS

Mr. MCCONNELL. Mr. President, with regard to the Federal Election Commission, let me first say that my good friend the majority leader is correct that I was not inclined to reconstitute the FEC with a three-to-two Democratic majority, and that would have been, of course, the case had we gone forward on some but not all of the FEC nominations back before Memorial Day. So it is a fact that, in addition to objecting to Republican nominees of the FEC, which has become something of a tradition around here, there was an additional attempt to gain a majority on the FEC by acting prematurely, before we could confirm a full complement.

Now we have the opportunity to confirm a full complement, and there have been various efforts, it appears, to delay in order to give the DNC an opportunity to file a lawsuit today. Maybe I will be proven wrong today. Maybe they won't file that lawsuit, and then I will feel comforted that the effort to delay confirming all six—or the four additional FEC members whom we are confirming—was not somehow related to litigation being proposed by the DNC. So I hope they will not file that lawsuit, and I guess that will be the best evidence of whether there was an effort underway here to delay it.

I am encouraged by the fact that the majority leader indicates we can confirm these nominees today, and I have given him advance notice that I would like to propound a unanimous consent agreement that we do just that.

Mr. President, I ask unanimous consent that the Senate proceed, at some point today mutually agreeable to the majority leader and the Republican leader, to executive session for the consideration of the following Federal Election Commission nominations: Calendar No. 306, Steven T. Walther; Calendar No. 624, Cynthia L. Bauerly; Calendar No. 625, Caroline C. Hunter; and Calendar No. 626, Donald F. McGahn; and the nomination of Matthew S. Petersen, which is to be discharged from the Rules Committee.

I would further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and finally, the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I hope in a matter of hours that we can agree to the consent request proposed by my friend, the distinguished Republican leader. I don't know what time the last meeting is that Senator FEINGOLD has with the last individual, but as soon as I get word on that, I will immediately come to the floor and accept the offer of the distinguished Republican leader. So I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MCCONNELL. Mr. President, I appreciate the comments of my good friend the majority leader, and I hope we will be able to confirm these nominees today. Also, hopefully the lawsuit by the DNC will not be filed today, further raising the suspicion that the delays of the majority were related to facilitating that legal action.

Mr. President, let me say with regard to this week that this is a week when the Senate, hopefully, can make significant progress. There are three very significant pieces of legislation we hope to deal with this week, as the majority leader indicated.

After a failed attempt to address the housing crisis without Republican input, Democrats finally agreed last week to allow our input. As a result, we now have a bipartisan housing bill that addresses many of our concerns. I think it could be made even better with some further amendments, which I am hopeful we will have an opportunity to offer, even if cloture is invoked, because as much as I would like to see this bill move forward, there are some housing-related amendments that have been shut out of the process so far, and I am hoping the majority leader and I can discuss how we might be able to dispose of those expeditiously before we clear that bill here in the Senate this week.

We must also complete two important and long overdue national security measures—the supplemental troop funding bill that the President first requested more than 500 days ago and an updated terrorist surveillance bill that the Senate first approved last August but which expired more than 4 months ago, after House Democratic inaction. It is worth noting that on both national security measures, Democrats will be approving something Republicans have supported all along.

Regarding the supplemental, Republicans have argued for the past year

and a half that Congress has a solemn duty to fund our troops while they are on the field of battle. Regarding FISA, Republicans have argued for more than a year that the intelligence community should have the tools it needs to listen in on conversations between terrorists overseas and that companies that may have allowed them to do so should not be punished for helping.

I remain hopeful the Senate will be able to get these important issues accomplished this week, and maybe a bipartisan Medicare agreement as well, and other matters that can be dealt with. It is interesting how quickly the Senate can move when there is a broad bipartisan consensus behind measures. It may have taken a while for our friends on the other side to come around to our view and the view of most Americans on these issues, but for the sake of our troops, our families, and our security, we are glad they finally did. I hope the majority leader and I, working together, can figure a way through this massive amount of legislation in a very few days that allows us to reach a successful conclusion on many legislative fronts that will give both sides an opportunity to leave here at the end of the week believing this was a week of significant accomplishment for the Senate and for the American people.

AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 3221, which the clerk will report.

The assistant legislative clerk read as follows:

A message from the House of Representatives to accompany H.R. 3221, an act to provide needed housing reform and for other purposes.

Pending:

Reid (for Dodd/Shelby) amendment No. 4983 (to the House amendment striking section 1 through title V and inserting certain language to the Senate amendment to the bill), of a perfecting nature.

Bond amendment No. 4987 (to amendment No. 4983), to enhance mortgage loan disclosure requirements with additional safeguards for adjustable rate mortgages with an initial fixed rate and loans that contain prepayment penalty.

Dole amendment No. 4984 (to amendment No. 4983), to improve the regulation of appraisal standards.

Sununu amendment No. 4999 (to amendment No. 4983), to amend the United States Housing Act of 1937 to exempt qualified public housing agencies from the requirement of preparing an annual public housing agency plan.

Kohl amendment No. 4988 (to amendment No. 4983), to protect the property and security of homeowners who are subject to foreclosure proceedings.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour of debate equally divided between the two leaders or their designees prior to the vote on the motion to invoke cloture.

Who yields time?

Mr. SHELBY. I yield the Senator from Idaho 10 minutes.

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

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside temporarily the pending amendment and call up amendment No. 5009 to delay for 1 year the merchant card reporting requirement.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside temporarily the pending amendment and call up amendment No. 5010, my amendment to strike the merchant card reporting requirement.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside temporarily the pending amendment and call up amendment No. 5002.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CRAPO. Mr. President, I ask unanimous consent to set aside temporarily the pending amendment and call up amendment No. 5003, my amendment to eliminate the FHA reverse mortgage cap.

Mr. REID. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CRAPO. Mr. President, like many of my colleagues, I am frustrated that we have not been allowed to call up germane amendments for the past few days. This is a substantial piece of legislation and Senators should have had the opportunity to have up and down votes. I have filed four amendments and I would like to talk briefly about two of them that deal with the merchant card reporting requirement.

In an effort to find revenue offsets, I am concerned that Congress is rushing to adopt a flawed merchant card reporting proposal that establishes a new tax compliance burden on small business and does not provide enough time to develop and implement this new system. Little is really known about the true costs of this proposal and the Finance Committee hasn't had an opportunity to have the IRS demonstrate in a hearing that the information collected could be used in a meaningful way to drive tax compliance.

The merchant card reporting proposal would require that the institution that makes the payment to the merchant—payment facilitator—for a payment card—both credit cards and debit cards—report annually to the Internal Revenue Service—IRS—the name, address, and aggregate amounts of payments for the calendar year of each participating merchant. Additionally, the payment facilitator or the electronic payment organization must validate the taxpayer identification number—TIN—of the participating merchant. If the number does not match, then the payment facilitator or the electronic payment organization must withhold 28-percent from the merchant.

This unprecedented level of reporting to the Federal Government will likely impose substantial implementation costs that will be passed on to many compliant small business taxpayers. Small business owners will also have to ensure that their records conform with the additional information reported by the merchant card processor. This is an additional compliance step, which will add to the already high cost of tax compliance for small business owners, who currently spend on average over $74 per hour to meet tax paperwork and compliance burdens that already exist.

The structure of the merchant card system does not make complying with the proposal feasible in a couple of years. Merchants are not currently identified in systems by social security numbers or taxpayer identification numbers. Instead, merchants are generally assigned a merchant identification number. If implemented, this proposal would require institutions to spend several years trying to match merchants to social security numbers of taxpayer identification numbers.

I appreciate the fact that the underlying legislation extends the effective date for reporting to December 31, 2011, and the effective date for backup withholding to December 31, 2012. However, I do not believe this provides enough time to make the changes to existing systems and processes, build and test new reporting systems, perform taxpayer identification number matching, and hire and train the personnel needed to implement and comply with the new reporting requirements.

In addition, a higher dollar reporting threshold is necessary to eliminate reporting on casual sellers rather than persons engaged in business, and it should be granted to all payment settlement entities.

My preference would be that we strike this section until we identify the costs to business, the total costs of implementing the new reporting regime with the IRS, and the ability of the IRS to use the information in a meaningful way to close the tax gap. If that amendment is defeated, then the Senate should provide an additional year to implement this system. But as I indicated, we will not have an opportunity to vote on these amendments or other amendments that other Senators want to bring because we have been stopped from calling up germane amendments as we move forward on this legislation.

As I indicated, I also tried to bring up several other amendments—an amendment to reduce the $300 billion loan authority to $68 billion, which is the number that CBO expects the FHA refinancing program to actually utilize, and the number that was used to

calculate the score of the new program. Yet we will not be allowed to match the projections to the reality of the legislation.

I also asked permission to bring up my amendment, No. 5003, to eliminate the FHA reverse mortgage cap, something which this Senate floor has already voted to do and which was in the FHA modernization legislation that this Senate has already passed. Yet it is now not included in this legislation, and we are not going to be given an opportunity, once again, to include it.

There is important material in this legislation that needs to move forward, but the legislation also contains serious flaws. I am concerned that the process we are following has not allowed this Senate to truly work its will on this legislation as it moves forward.

I yield the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

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

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

Mr. SHELBY. I ask unanimous consent that the time be equally divided, charged against each side equally.

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

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

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

Mr. ENSIGN. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment so I may offer amendment No. 5020.

Mr. SHELBY. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

AMENDMENT NO. 5020

Mr. ENSIGN. Mr. President, I am sorry to see objection has been raised. This is the amendment that we are trying to get brought up on the housing bill that passed with an 88-to-8 vote in the Senate the last time we were considering the housing bill. This is the tax bill that will extend the renewable energy tax credits for the United States. It includes solar, wind, geothermal, and many other forms of renewable energy that are so important at this time of high energy prices in the United States. It seems absolutely ridiculous to this Senator that with an amendment that passed 88 to 8 in the Senate, one of the few bipartisan actions we have taken for a long time around here, that there would be objection to adding it onto this bill.

So over the next couple of days, I want to let the managers of this bill know that there are some procedural things that can go on so it is going to take them a little more time to get this bill done than they would otherwise have liked to have done.

I alert them this Senator will be exercising his full rights to try to get this renewable energy tax credit put on this bill.

So it is a critical piece of legislation. It is not only critical to get it done, it is critical to get it done soon, because a lot of jobs in the United States are going to be lost if these contracts cannot be let out for a lot of the projects in renewable energy across the country. There are a lot of people out there right now, whether they get their financing put together or not, who are looking to see if the Senate will extend the renewable energy tax credits.

This is an amendment Senator CANTWELL and I have worked on together. We are pushing this any way we can to get this thing done. I applaud her for her efforts. But it is absolutely critical that this body act at a time when we can create jobs, we can produce more green energy for the United States, and we can become less dependent on foreign sources of energy.

This is a small part of the energy package but an important part of the energy package that we need to put together. We are going to continue to work on this.

I see my colleague from the State of Washington, Senator CANTWELL, is on the floor. I will yield the floor so she can make some comments.

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

Ms. CANTWELL. Mr. President, I actually applaud the Senator from Nevada in trying to move this amendment onto this bill. I say that knowing some of my colleagues on this side of the aisle are frustrated, but the American people are frustrated with the high costs of energy. They want us to be doing all we can to try to help alleviate those energy bills that are going to be affecting them not just this summer but next winter as they see higher home heating bills.

The Senator from Nevada and I are trying to say to our colleagues, it is important not to have this energy legislation tied up in a larger bill that is not currently moving before we adjourn for the July recess.

We are already seeing jobs being canceled, projects being canceled, people laid off, and generation not being ready to be put onto the grid to help assist with high energy costs, particularly in the area of natural gas.

The underlying amendment Senator ENSIGN and I are talking about giving tax credits to individual homeowners so they can make improvements to their homes, and it can result in more than a 20-percent savings in their heating bills this winter. Those are improvements, I guarantee you, we need to be making because many people in the Northeast are not going to be able to afford the high energy costs they are going to be seeing.

In addition, it puts additional megawatts onto the grid, not just in 2008, 2009, but for many decades to come. We need to diversify off the high costs of natural gas. The point is that natural gas costs are continuing to rise with other pressures. We need to diversify off of natural gas and coal as the primary source for our electricity grid. The fact is this produces and saves about $20 billion in natural gas because of the production we would get onto the electricity grid. We need to be doing this now.

We already know the result of our delay, that we have cost jobs in America, projects have been canceled, people have been laid off. We already know it is costing us in lost time and investment to stimulate our economy, and now we know it is also going to cost us in higher energy rates to our consumers. So I am for any plan that will get this energy legislation untangled from other bills and actually approved by the House and the Senate. My colleague and I are willing to work across the aisle and across the Rotunda with people who have any ideas how to get this done—either paid for or not paid for.

But we simply cannot stand here today and say this is a vehicle that should move without trying to put this housing and energy package together, since it is the underlying bill, and we do think it is stimulative to the economy.

I say to my colleagues that the return on investment of this investment in energy is a far greater ROI than some of the other stimulative activities we have done. So if we want to be true to our consumers' anxiety about the high cost of energy they are seeing, not only in gasoline but what they think is coming ahead, then we need to move. We need to stop holding up good energy legislation while we are trying to use it to get other legislation.

I hope we can pass this bill out of the Senate before we leave for the July recess.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SANDERS. 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. SANDERS. Mr. President, for a number of months now I have been trying, with the help of both Democrats and Republicans, to bring a LIHEAP bill onto the floor. The reason for that

is, with the energy crisis we are now facing and the cost of home heating fuel and electricity escalating, there is no doubt in my mind that both in warm-weather States this summer and cold-weather States next winter, there are going to be people struggling for their lives.

Without air-conditioning, people—old people, frail people, sick people—are going to have a hard time when the temperature gets above 100 degrees. What we are seeing all over this country are unprecedented numbers of homes being shut off from electricity because people cannot pay their bills.

We remember some years back, in Chicago, hundreds and hundreds of elderly people died from heat exhaustion because of the heat in their apartments. We must not allow that to happen again.

LIHEAP, of course, pays electric bills to help people keep their air-conditioning on when the temperature becomes very high. Clearly, in my State of Vermont and throughout the whole northern tier of this country, there is great fear right now—I should tell you that—not just about $4.10-a-gallon gas prices today—people worry about that, but they worry about what is going to happen next winter when the price of home heating fuel is soaring.

So I have tried, and will continue to try, working with people in a bipartisan manner to get a vote on the floor. The simple truth is, we have a lot of support from Republicans and Democrats, progressives and conservatives. People understand the significance of this issue. We are going to do our best to get a vote on the floor as soon as we possibly can.

In the last couple months, we have had large numbers of Republicans and Democrats coming together on bipartisan legislation. We are going to keep up that effort.

So I wished to mention to my friends this is an issue of great importance, I believe, to the American people all over this country. People are fearful about what happens when the weather goes down below zero, and people are worried about what happens when the temperature goes up over 100 degrees.

In this country, we do not want to see people dying of heat exhaustion and we do not want to see people freezing to death. With the cost of home heating fuel soaring, electricity soaring, we have a moral obligation to significantly expand LIHEAP funding. I will continue to do my best to make sure, finally, we get a vote on the floor of the Senate to do that.

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

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

The bill clerk proceeded to call the roll.

Mr. 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, I understand I have 6 minutes; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DODD. I thank the Chair.

Mr. President, let me make a couple observations.

First of all, I see my colleague from Vermont in the Chamber. I, once again, commend him for his strong interest—a shared interest I have—in the Low-Income Home Energy Assistance Program, and our effort to, one way or another, get to this matter, given the importance of this issue to all of us.

Let me, if I can, review the bidding a little bit as to where we are. This morning, there are two new reports out that relate directly to the subject matter that is before the Senate: the housing crisis, which is at the heart of the economic crisis; the foreclosure issue is, of course, the heart of the housing issue.

As I pointed out over the last number of days, we now have a staggering number of foreclosure filings on a daily basis in the country. The latest report shows that 8,427, on average, filings for foreclosure are occurring on a daily basis—not on a weekly or monthly basis. But every single day in this country between 8,000 and 9,000 people are filing for foreclosure on their homes. This is obviously a statistic that is deeply troubling and an indication of broader problems in our economy.

In fact, this morning, one report has the consumer confidence levels at the lowest since they have been recorded in 1967—40 years. People's anticipation about the future, about the well-being of their children or their grandchildren, their ability to own a home, to raise a family, to be able to meet their obligations, to be able to retire with dignity, to be able to afford higher education—all these things working families in this country historically, for the most part, have been optimistic and confident about, today, are showing the lowest level in 40 years.

So the issue we are grappling with is not one that is necessarily going to guarantee we are going to right the problems overnight, but it is a reflection that this body—made up of Democrats, Republicans, and Independents—can, in fact, come together and do something constructive and positive at the epicenter of our economic problems.

That is the opportunity we are going to have in a few short moments, to decide whether to go forward and adopt legislation that would allow us to begin to put a tourniquet on the hemorrhaging of foreclosures in this country with the adoption of the HOPE for Homeowners Act, to be able to do something about the government-sponsored enterprises and to see to it we have a strong regulator, and to establish, for the first time ever, a permanent affordable housing program.

There is a lead story in the New York Times this morning that talks about families who have had their children going to four and five and eight different schools in a school year in some cases because they have had to move out of rental properties as the costs have moved up. So the affordable housing issue, while it is not directly related to the foreclosure crisis, does deal with the issue of affordable, decent shelter in this country. The fact that families are having to move as frequently as they do and their children are having to go to as many different schools in a year as they do because of the cost of housing is a problem we address with this legislation as well.

There is nothing that is as important as this bill for the country at this moment. That is not to say there are not other issues we ought to be grappling with. But there is a great danger we will miss the opportunity of doing something about housing in this country.

The Case-Shiller index now indicates—and I quote them this morning:

> The S&P/Case-Shiller home-price indexes, a closely watched gauge of U.S. home prices, show price declines continued to get steeper in April, with prices in every region surveyed now showing year-over-year drops.

Those predictions indicate we may have as much as a 30-percent decline in home values. That is evaporating the long built-up equity people have acquired as a result of purchasing their homes and holding on to them.

So that idea of selling your home one day after your children are grown to provide for your long-term security, to deal with the cost of higher education, to deal with an unpredictable health care crisis that could emerge—today we have almost 15 million homes in this country where debt exceeds equity, and those numbers are predicted to grow steeper and steeper, as the Case-Shiller report this morning indicates.

So the level of optimism, the declining value of homes, and the serious problems in rental housing—all this is contributing to the most serious economic crisis we have had in decades.

What Senator SHELBY and I and the other 19 members of our committee have tried to do is to put together, on a bipartisan basis, with a 19-to-2 vote out of our committee—not a highly divided committee, having held almost 50 different hearings over the last year as to what we ought to do to get our hands around this issue—our best recommendation to the Members of this body. Those of us on the committee, working together—all 21 of us on this committee—have tried to fashion and cobble together a proposal that deals with the heart of this issue.

So with the remaining minutes we have to debate this subject matter before the vote at around 11:15—in the next 5, 6 or 7 minutes—I urge my colleagues to join with us. We are not telling you what we have written is perfect. We are not telling you it is going to solve all the problems. If it does nothing more than to restore some

confidence the American people ought to have in their Congress, that in itself will be an achievement.

Beyond that confidence and optimism, we think we have recommended some specific ideas that can very well begin to treat the problem of growing foreclosures, declining values in our homes, and the spread and contagion effect this is having on student loans, municipal finance, corporate finance, and the rest, in our Nation and around the world as well. This issue is going beyond our own shores.

So we urge our colleagues to join with us, and over the remainder of today, as these various amendments are offered, to keep our eye on the ball. The idea is to get a bill done, to work out our differences with the other body, and then to give a bill to the President of the United States, I would hope, by the Fourth of July, by Independence Day. What better gift on independence could we give the American people than a sense that this, their Congress of the United States, can come together, despite political differences, and craft legislation to make a difference for our country.

I urge the adoption of the motion when the question is asked.

With that, Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama controls the remaining time.

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

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The bill 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, I believe all time has been yielded back. We are prepared to move forward.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The bill 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 concur in the amendment of the House, striking section 1 and all that follows through the end of title V, and inserting certain language, to the amendment of the Senate to H.R. 3221, the Foreclosure Prevention Act, with amendment No. 4983.

Harry Reid, Christopher J. Dodd, Daniel K. Inouye, Jeff Bingaman, Max Baucus, Patty Murray, Mark L. Pryor, Barbara Boxer, Benjamin L. Cardin, Sherrod Brown, Jon Tester, Bill Nelson, Bernard Sanders, Maria Cantwell, Tom Harkin, Frank R. Lautenberg, Charles E. Schumer.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call is waived. The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment striking section 1 and all that follows through the end of title V, and inserting certain language to the Senate amendment to H.R. 3221, the Foreclosure Prevention Act, with amendment No. 4983, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Colorado (Mr. ALLARD), the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN).

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

The yeas and nays resulted—yeas 83, nays 9, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—83

Akaka	Feingold	Murray
Alexander	Feinstein	Nelson (FL)
Baucus	Graham	Nelson (NE)
Bayh	Grassley	Pryor
Bennett	Gregg	Reed
Biden	Hagel	Reid
Bingaman	Harkin	Roberts
Boxer	Hatch	Rockefeller
Brown	Hutchison	Salazar
Burr	Inouye	Sanders
Byrd	Isakson	Schumer
Cantwell	Johnson	Sessions
Cardin	Kerry	Shelby
Carper	Klobuchar	Smith
Casey	Kohl	Snowe
Chambliss	Landrieu	Specter
Cochran	Lautenberg	Stabenow
Coleman	Leahy	Stevens
Collins	Levin	Sununu
Conrad	Lieberman	Tester
Corker	Lincoln	Thune
Cornyn	Lugar	Voinovich
Craig	Martinez	Warner
Dodd	McCaskill	Webb
Dole	McConnell	Whitehouse
Domenici	Menendez	Wicker
Dorgan	Mikulski	Wyden
Durbin	Murkowski	

NAYS—9

Barrasso	Crapo	Enzi
Bond	DeMint	Kyl
Bunning	Ensign	Vitter

NOT VOTING—8

Allard	Coburn	McCain
Brownback	Inhofe	Obama
Clinton	Kennedy	

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 83, the nays are 9. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, for the knowledge of all the Senators here, we are trying to wrap up a number of items today. Today is Tuesday. We have to get out of here by Friday or Saturday, we would hope, at least. We have a lot to do. We need to complete what we are working on now, the housing legislation. We have a number of issues we are trying to work out on judges. We also have to confirm the FEC nominees. We hope to do that later today. We have FISA that we have to work out. We have a supplemental appropriations bill. We have the doctors fix on Medicare. We have the tax extenders. We are working on all these things, so a lot of balls are in the air. I hope Members would be cooperative and try to work through this.

The Republican leader talked to me today, I have spoken to the manager on our side on the housing legislation, and he has spoken to the other manager, Senator SHELBY—I haven't had that opportunity—and what we are trying to work out on that is, apparently, there are a number of Senators who asked that consideration be given by the managers to having a finite number of housing-related matters, reviewed by the two managers. That is something we are trying to do to see if we can work out something to speed up the work we are doing on the housing bill. I hope we can do that. If we have the cooperation of Members, we can do that. If people dig in their heels and say we are not going to do that, we might be in a situation where we don't finish the housing legislation. That would be a shame, but that is certainly possible. There is the potential to still have a number of other cloture votes on the housing legislation. So we are trying to work that out. I hope we can do that. The two managers I talked about before have experience and understand what we are trying to do.

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

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

OIL EXPLORATION

Mr. DOMENICI. Mr. President, fellow Senators, I have spoken extensively over the past several months about the growing threat of our dependence on foreign oil. Two weeks ago, we were reminded of the threat by new trade deficit numbers showing a $4.4 billion deficit increase in just 1 month as a result of growing oil prices and growing oil imports. Last week, the Wall Street

Journal reported that six Arab economies took in $400 billion in oil and gas revenues last year alone. The Journal also reported that petroleum-producing states are investing more of their oil wealth at home, triggering an investment and spending boom in the Middle East.

But as our reliance on foreign oil grows, 85 percent of our offshore acreage in the continental United States is still off limits for leasing, as are 62 percent of onshore oil reserves. Let no one tell you that we have plenty of American acreage leased for energy development because compared to the rest of the world, we are falling behind, and it is making us poor and poorer and poorer. Since the Senate last voted on my proposal to increase production, it was estimated that America likely sent about $50 billion overseas to import oil.

What is particularly troubling to me is that after rejecting a proposal I submitted on behalf of myself and 20 other Senators to open new areas for production, the majority has come up with excuse after excuse for not taking any action.

First, without any evidence to back them up, they claimed that price gouging was the reason for high prices. At the same time, they said high prices were not caused by supply-and-demand issues, they told America that we must stop filling the Strategic Petroleum Reserve because the 70,000 barrels a day that went into it were raising the price of gas. Suspending the SPR fill is something I have supported, but I also said we need to do much more. It alone is practically nothing. Unfortunately, advocates of this SPR suspension in the majority rejected a proposal to open areas of production that would bring online more than 2 million barrels of oil a day.

Now the other side has apparently settled on an argument that first originated with the Wilderness Society. They claim oil companies are sitting on their leases and that if those companies just developed in those areas, we would not need to open new areas. If only that were true, Mr. President. The other side is now saying the oil companies must use it or lose it when it comes to their leases. They propose adding a tax on companies to punish them for not producing fast enough.

This Wilderness Society argument demonstrates a fundamental lack of understanding of how we explore for oil and gas in this country, and the fact that this argument originates with a group that has led four major lawsuits in the last 4 years to prevent development in the very same area speaks to how disingenuous it really is. Part of the reason it takes so long for companies to produce is because groups such as the Wilderness Society keep throwing up roadblocks. They know it; we know it.

Today, I am going to tackle this idea that companies are choosing to sit on their leases, and I will debunk that once and for all.

First, let's consider the logic. Companies are paying a lot of money for the right to explore on a lease and are given a short period of time to produce oil. With the cost of oil now at $135 a barrel, why on Earth would a lessee intentionally sit on a lease and choose not to make money on it? Why would a company pay money essentially to rent a tract of land and then not use it?

I have heard the claim that 41 million acres are leased on the Outer Continental Shelf and of that acreage, 33 million acres are not being produced. The use of this statistic shows a fundamental lack of understanding of the long, risky procedure and process that begins even before bidding on a lease and hopefully ends with production. The other side is saying that unless oil is literally coming out of the ground on an acre, it doesn't count, even if that acre is being explored or is in the process of getting environmental permits or in any other part of a process that is very long and tedious. Additionally, the use of this argument by groups who consistently go to court to prevent developing on existing lease areas speaks volumes about the intent here.

Congress currently restricts access to 574.2 million acres of OCS. In actuality, it is clear by any measurable assessment that the majority in Congress is sitting on far more oil than the oil companies themselves. Let me repeat that. It is clear by any measurable assessment that the majority in Congress is sitting on far more oil than the oil companies themselves.

Let's focus on offshore Federal leases for a moment. Simply examining the number of acres leased and the number of acres producing during a snapshot of time is deceptive. There are many different steps for producing oil and gas. At any given moment, a lease may not be producing, but it is active and under development. In the 5, 8, or 10 years that a company holds a lease—and they are given a specific period of time—environmental assessments could be underway, lessees could be trying to secure permits, the leasing agency could be challenged in litigation, and the lessee could be reviewing seismic data. In fact, any number of preproduction processes could be underway. These take time. These require experts. These cost money.

I do not hear critics suggest that we speed this up or that we waive or shorten environmental requirements—and I am not suggesting that either. But critics do want to impose new costs on U.S. producers under the guise of ''speeding up leases.'' This tax and spend solution to a supply and demand problem makes no sense. And, once again, the other side proposes a solution that threatens our competitiveness with nationalized oil companies who are after the same commodity around the world. My friends on the other side of the aisle are fond of saying that we can't drill our way out of the problem—and they are right. But my message back to them is that we can't tax our way out of the problem either, and that is exactly what they keep proposing to do.

Second, there are many up-front costs that leaseholders take on to acquire an oil and gas lease. Bonus payments and pre-production rental payments often cost millions of dollars and these capital investments are only being made for the ultimate development and production of oil to return a profit on investment. Simply put, if oil is not produced from a lease, companies lose money on it.

Third, using these acreage numbers to claim that companies are ''sitting on'' $135 oil simply ignores the historical fact that simply because you lease lands does of necessarily mean that you are able technically or economically to produce on them—or even that there is oil under your lease. Hence the term: ''exploratory well.''

Ironically, some of the very same people who are arguing that these leases are not being developed also opposed an inventory of new areas that would clearly speed the development process when they are opened.

To suggest that companies are not diligently developing their leases on the American deep sea is to simply ignore the facts. Over the past decade, more than 100 new discoveries have been announced and since the passage of the Deepwater Royalty Relief Act 13 years ago, offshore oil production has increased by 535 percent. Over the past months, three major sales for OCS oil and gas leases have taken place and together raised more than $9 billion in federal revenues. Under the oppositions argument—that is a lot of money companies are paying to sit on leases.

I have had the opportunity to review the data provided by one company that holds leases—BP. BP has 124 leases that are actively producing. Those are the only ones that the majority is counting when they give you their statistics of producing leases. But BP also has 459 leases that are in the exploration phase, So 65 percent of BP's leases are under exploration so that BP can produce from them in the future, yet the majority would have you believe that BP is ''sitting on'' those leases instead of actively working toward producing on them. This is about as deceptive an argument as I have ever heard. It is either totally deceptive or it is absent knowledge and information—which is impossible. This information is readily available.

We have severely limited our access to the American deepwater, and the situation is only getting worse. In 1982, nearly 160 million acres of land were being leased for exploration. Today, its less than 40 million. Why? Because we are running out of available land and we are restricting access to our own resources in favor of foreign oil. According to the MMS, only 2.4 percent of the total offshore acreage is currently being leased and about 85 percent of our continental offshore is under moratorium. As we debate about the use of

43 million acres available for development, we must recognize that Congress has placed 574.2 million acres under moratorium—and the majority has supported continuing to do so. Only 6 percent of total lower—48 OCS is currently leased. This does not demonstrate a lack of progress in the deepwater, it demonstrates a lack of progress on energy policy in Congress.

The American people have had enough with excuses and they are looking for leadership. Two-third of Americans are asking us to produce American oil, but the majority in the Senate is blocking it. I urge my colleagues to look at the facts and take action.

There is no question in my mind that the excuse that is being used is that we cannot drill our way out of the crisis. I submit that is not the issue, whether we can drill our way out of the crisis. The issue is whether we can produce more American oil or oil alternatives so we spend less overseas and keep more of our money at home. We are spending ourselves broke. We are spending ourselves into economic oblivion by sending so much of our resources overseas every day, every month, every year, for the acquisition of crude oil from foreign countries.

I have an editorial from the Albuquerque Journal of Sunday past called ''It Takes Black Gold To Get to Green Future.'' It states:

With all due respect to Al Gore, there is an urgent, new ''inconvenient truth.'' Unless Congress acts quickly to expand domestic oil supplies, the nation could face economic destruction long before it sees the environmental fallout of global warming.

For decades it has been easy for most Americans to dodge the truth about our foreign oil dependence and to just keep driving—but $4-a-gallon gas has finally snapped the trance. Reality is sobering. The United States has put its economic survival in the hands of unstable foreign powers and volatile commodities markets. At any time, a major disruption in foreign supply could bring the enormous, transportation based U.S. economy to a standstill.

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

Mr. DOMENICI. I ask unanimous consent the editorial and a Washington Post editorial called ''Drill Deeper'' be printed in the RECORD.

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

[From the Albuquerque Journal, June 22, 2008]

IT TAKES BLACK GOLD TO GET TO GREEN FUTURE

With all due respect to Al Gore, there is an urgent new ''inconvenient truth.'' Unless Congress acts quickly to expand domestic oil supplies, the nation could face economic destruction long before it sees the environmental fallout of global warming.

For decades it has been easy for most Americans to dodge the truth about our foreign oil dependence and just keep driving—but $4-a-gallon gas has finally snapped the trance. Reality is sobering: The United States has put its economic survival in the hands of unstable foreign powers and volatile commodities markets. At any time, a major disruption in foreign supply could bring the enormous, transportation-based U.S. economy to a standstill.

The U.S. trade deficit jumped to its worst level in more than a year in April, driven primarily by oil imports. Not only does this empower anti-American regimes, it siphons off money consumers could be spending or saving or investing.

''I have never been more frightened for America's future than I am right now;'' Sen. Pete Domenici said last week, urging Congress to remove the ban on off-shore drilling and open the Arctic National Wildlife Refuge to oil companies.

President Bush—in a speech laced with counter-productive partisan rhetoric—called on Congress last week to open up several domestic oil fields that have been off-limits since the 1980s. ANWR could yield 27 billion barrels; the Atlantic and Pacific coasts contain 17 billion barrels, and the Gulf Coast could produce another 72 billion. There is strong evidence this can be done in an environmentally responsible way.

Democratic presidential candidate Barack Obama has so far ignored polls that show a majority of Americans rallying around calls for domestic drilling. He continues to argue that the answer to foreign oil dependence lies in wind, solar and nuclear technologies. The inconvenient truth, however, is that climate-friendly technologies will take decades to develop. We look forward to the day when we can all plug our green cars into an electrical grid powered by something other than coal.

Until then, we're going to have keep buying gas. Even if we achieve a dramatic 20 percent reduction in oil consumption, some experts estimate that oil will still cost $200 a barrel by 2012. So here's another inconvenient truth: New drilling isn't about returning to cheap gas. It's about economic survival.

The United States needs to organize a Manhattan Project for alternative energy, addressing the threats from both global warming and foreign dependence. We need to vigorously pursue those, along with a crash course in conservation.

These are monumental undertakings, and to succeed they must transcend party lines or individual egos. Sen. Jeff Bingaman was on-target Wednesday when he faulted President Bush for injecting ''election-year politics'' into the Rose Garden speech. As chairman of the Senate energy committee, Bingaman will be a key player on both fronts of the effort to chip away at America's-dangerous level of dependence on foreign oil.

The way ahead is not easy. Fuel costs are impacting food and retail prices. Truckers are parking their rigs. School bus operators and closing up shop. Airlines are laying off thousands and perhaps are heading for prices that will put air travel out of reach for the middle class. The idea of the family flying to Disneyland, for example, would be out of the question. Even a family vacation by car could look like a luxury.

Americans have never backed down from a challenge, however. Once we know the truth, no matter how inconvenient it may be, we like to get to work. In this case, the work involves a drilling rig, and the self-confidence to use it.

[From the Washington Post, June 22, 2008]

DRILL DEEPER

If there is a silver lining in the price of gasoline shooting past $4 a gallon, it's that it has sparked an intense debate in the United States about its energy security—or lack thereof. President Bush and Sen. John McCain (R–Ariz.) have given the impression that relief for drivers lies in off-shore drilling and the construction of nuclear power plants. In fact, those solutions wouldn't produce results for years. But if this level of passion and debate continues through the fall election and is followed up by action, the nation will be better off.

Mr. McCain, the presumptive Republican Party nominee for president, kicked things off last Tuesday when he reversed himself in a speech to a Houston audience and announced that the moratorium on drilling on the Outer Continental Shelf that has been in effect since 1981 should be lifted. He got a Rose Garden assist the next day from Mr. Bush, who called on Congress to allow states the option of drilling off their coasts to tap the estimated 18 billion barrels of oil underneath. On Wednesday, Mr. McCain said that if elected president he wanted 45 nuclear reactors built by 2030 ''with the ultimate goal of 100 new plants to power the homes and factories and cities of America.''

The mantra from the Democratic Party—from the presumptive presidential nominee, Sen. Barack Obama (Ill.), on down—has been a variation on ''We cannot drill our way out of this energy crisis.'' Considering that the U.S. is estimated to have 3 percent of the world's oil reserves, that's certainly true. But it if is acceptable to drill in the Caspian Sea and in developing countries such as Nigeria, where environmental concerns are equally important, it's hard to explain why the United States should rule out careful, environmentally sound drilling off its own coasts. Like Mr. McCain, we do not support drilling in the Arctic National Wildlife Refuge, which Mr. Bush advocated Wednesday. That pristine area, with its varied and sensitive ecosystems, should be preserved.

Washington has done a poor job of telling the public that energy security will be achieved not from one source overnight but from many over years and that there are no easy solutions and no cheap ways to break this nation's dependence on oil. There will be trade-offs and sacrifices that have yet to be considered. So far, the focus has been on biofuels, solar power and wind energy. But all this talk of drilling, squeezing oil out of shale, as Mr. Bush proposed, and pushing for more nuclear power is a welcome widening of a larger and necessary discussion.

I yield the floor.

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

Mr. ENZI. Mr. President, I will return the discussion to housing. I do thank the Senator from New Mexico for his comments on energy. I know from traveling around Wyoming last weekend, the biggest thing on everybody's mind is $4-plus gas. I got a lot of comments on ways it could be fixed. What we are working on right now, of course, is fixing housing.

I am going to discuss the Federal Housing Finance Regulatory Reform of 2008. That is what we just had the vote on. I do not support this legislation.

I opposed this legislation in the Senate Banking Committee and I continue to oppose it today. As the national housing market continues to suffer from falling home sales, housing starts, and skyrocketing foreclosure rates in some parts of the country, the Senate has an opportunity today to restore confidence in the principles of good government to our economy. These principles include limiting taxpayer liability, ensuring a sustainable housing market in the future, and preventing a Federal Government bailout of big

banks that made unaffordable loans or investors who made bad investments. Unfortunately, the bill ignores these principles and ignores irresponsible actions at the expense of responsible homeowners and hard-working taxpayers.

This bill contains a title called ''The HOPE for Homeowners Act.'' The program included in this title would create a $300 billion taxpayer loan guarantee program.

Let me repeat that. It would create a $300 billion taxpayer loan guarantee program—taxpayer guarantee program—doubling the size of the Federal Housing Administration. This expansion will be accomplished by taking the worst performing and the most risky loans made by banks, shifting 100 percent of the liability of foreclosure onto the American taxpayer. The loans I am talking about have made a lot of press in the past few months—adjustable rate, interest only, low documentation or no documentation; loans that in many cases the lender made with no regard for the borrower's ability to repay.

The Congressional Budget Office estimates that 35 percent of these loans will default, placing a huge liability on the FHA and ultimately the taxpayer for guaranteeing these loans. Even FHA Commissioner Brian Montgomery believes this is a dangerous proposition. On June 9 he stated:

The FHA is not designed to become Federal lender of last resort, a mega-agency to subsidize bad loans.

But that is exactly what this bill does. In past years, banks continued to make record profits by pushing these unaffordable mortgages. Investors, homeowners, bankers, and realtors bet heavily on the tidal wave of ever increasing home prices. If a rate adjustment made monthly mortgage payments unaffordable, homeowners and mortgage investors could count on home equity to bail them out. In other words, the value of the price of the home would go up sufficiently to cover the costs homeowners could not. As the Senate's only accountant, I can tell you this practice does not make good financial sense. It is completely unsustainable. However, most of industry ignored the warning signs and continued to make record profits from unaffordable loans.

Now these same banks and investors are in trouble. They have discovered that unaffordable mortgages can be, shockingly, unaffordable. Complicating this matter is that the housing market cycle is now on a downswing and people can no longer rely on home equity loans to bail them out of a mortgage rate hike. Banks and speculators now expect Congress to reward this irresponsible behavior with a taxpayer bailout. They expect the Federal Government to turn its back on responsible lenders and borrowers and renters waiting to become first-time homeowners, and support those groups that have pushed our housing market into decline with bad loans and bad investments. This bill is a Federal Government bailout and that is why I oppose it.

I will also note there are separate provisions of the legislation I do support. A separate title of this bill would create a new regulator for the government-sponsored enterprises, Fannie Mae and Freddie Mac, and the Federal Home Loan Banks. This world-class regulator will have the authority necessary to ensure that these entities are adequately capitalized and are operating safely within the secondary mortgage market.

The GSEs, government-sponsored enterprises, are the most important factors in our mortgage market and play an increasingly influential role in our global credit markets.

The regulators created by this legislation must support the housing market by allowing Freddie and Fannie to buy and securitize mortgages, thereby increasing credit at lower rates and restoring investor confidence. While I continue to oppose the affordable housing trust fund included in the bill, I support a strong regulator that will allow the secondary mortgage market to operate more effectively, to the benefit of our economy.

I support the deliberate and safe conversion of the GSEs into the jurisdiction of the new agency included in this legislation. It is past due. As these massive entities are brought under new supervision, I trust the transition will be done in a way that ensures that no disruptions occur in our housing and our credit markets.

There are also several tax provisions that are important to Wyoming and the Nation. Currently, Wyoming receives approximately $2 million per year in low-income housing tax credits to encourage developers and contractors to develop affordable rental housing projects. This bill will provide a temporary 2-year increase of approximately $50,500, a 2.5-percent increase to the Wyoming Community Development Authority. It will also increase access to the Mortgage Revenue Bond Program, another helpful tool for Wyoming housing infrastructure development.

Unfortunately, the good provisions of this legislation are not enough to outweigh the bad ones. Pushing liability onto the Federal Government by bailing out irresponsible lenders and investors is not good government. I cannot support a bill that puts reckless investors and lenders ahead of hard-working Wyoming taxpayers.

I yield the floor.

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

Mr. DODD. Mr. President, I want to take a couple of minutes, if I can. We had a very strong vote again this morning on the housing proposal. I thank my colleagues. This morning I believe that vote was 83 to 9 to invoke cloture, to begin the 30 hours of debate on this aspect of the bill.

I would remind my colleagues, going back a little bit to the end of last year on the FHA modernization bill, the Senate voted 94 to 2, in December of 2007 on the Foreclosure Prevention Act in April, we voted 84 to 12; then the government-sponsored enterprises, HOPE for Homeowners vote out of committee, which included the affordable housing program, as well as the GSE reform and the HOPE for Homeowners, passed 19 to 2 in our committee, an overwhelming vote on a controversial bill involving substantial resources and ideas to deal with the housing problem.

Then late last week, we had amendments to strike the affordable housing program. That was defeated 77 to 11. An amendment basically to stop or cut out the HOPE for Homeowners Act was defeated 69 to 12.

The point I make with these votes is it is quite clear that this body, both Democrats and Republicans, believes it is important that we craft and move forward with a major housing bill. I cited earlier this morning in the discussion the two recent reports dealing with consumer confidence and the value of homes in America.

The value of homes in America reported by the Case-Shiller Index, which is the most respected index on home values in our country, has reported yet further decline in housing values. In fact, Professor Shiller has predicted we may have as much as a 30-percent decline in home values. That would be the most significant drop nationally since the Great Depression, to the point where now we have millions of homes where the equity in the homes is exceeded by the debt. Of course, for families, that home ownership has not only been a stable environment for them and their families, but it has also been a source of wealth creation; that is, building up the equity in that home to provide for the retirement years, where that home can be sold and the value, the increased equity, can be a source for financial support.

For many families that has been one source of additional income for middle-income families to provide that higher education they promised their children since the day they were born. If you work hard, do the right things, your family is going to stick with you. When that cost of education comes up, for college or community college or a technical school, we are going to be there to help you because the equity in our home is going to give us some additional cash to make that possible.

Let me tell you what it is like for that family today, those 15 million homes across our country where that debt exceeds equity. They turn to that child and say: We can no longer do it because our financial obligations exceed the value of our house because it has declined because of the foreclosure crisis, where more than 8,400 homes are filing for foreclosure every single day in the country.

So we have done what we can in our committee, and our colleagues have

supported these ideas. The HOPE for Homeowners Act, the GSE reform, the affordable housing ideas have been embraced by overwhelming majorities. So what we need to do today, if we can, is to come over. The amendments have been suggested. I want to work out as many amendments on housing as I can. There are some we can work out and accept. Some I will not be able to accept, obviously, working with Senator SHELBY and others who are involved. But we need to get this done.

If we go again into the middle of July—and just remember that if we take next week off, which we do, we will go back to our respective States. While we are back there walking in our parades and celebrating Independence Day, every day we are there, somewhere between 8,000 and 9,000 of our fellow citizens, on Independence Day, will be filing foreclosure on their homes. So we may leave here Friday or Saturday without having gotten this done, but as you are flying back home and visiting your States and celebrating Independence Day, remember if we did not get this done many more Americans are going to be paying an awful price.

So I urge my colleagues with amendments, give us a chance to work these out. For those who want to offer amendments that are not directly related to this but are terribly important, I do not minimize it. I beg your indulgence to spare us the opportunity of having to engage in that debate on this bill. That does not minimize the importance of your idea. But if you put it on this bill and it is not paid for, the House will reject it, and you will lose both ideas—both your idea and this idea that we are trying to move forward. So some discipline is needed, some understanding is needed. This is the issue of the hour. This is the problem that is causing so much depression in terms of people's aspects of their future.

That report this morning about consumer confidence is so alarming. That, more than anything else, is what I worry about: the optimism and confidence of our fellow citizens. It is at the lowest since data has been collected on consumer confidence. It is at a 40-year low; 40 years have transpired since the confidence and optimism of our fellow citizens have been as low as it is today.

We bear responsibility more than anything else to offer a future, some hope for our fellow citizens and people who count on us. I think this housing proposal gives us a chance to do that. It is not going to solve everyone's problems, but it can make a difference in saying to the American people: We hear what you are saying, and we are doing something about it.

I have often cited historically those first 100 days from March of 1933 to June of 1933, the beginning of the Franklin Roosevelt administration when the country was in a deep depression, millions had lost their jobs, homes were being foreclosed. In that 100 days, there were a lot of ideas that were posed to get us back on our feet again. Many of them never went anywhere; some did.

The most important thing, more than anything else that the Congress or the President achieved in those 100 days, was the American people saw a government that had rolled up its sleeves and gone to work on their behalf. That, more than anything else, was what was needed in those days to give people a sense of hope and optimism and confidence that their Government, their President, their Congress was going to work on their problems and give them a chance to have a better day. And that is as much as what is needed today.

We need to demonstrate to the people of this country who have lost an awful lot of faith in almost everything but certainly in ourselves here, that we can get something done, that we can put aside differences and make a difference in their lives. That is the opportunity that Senator SHELBY and I are offering to our colleagues in the remaining hours of this debate.

So we need your help to come over and bring people together so we can wrap this up and send a bill to the House which, hopefully, they can accept. I am confident they will. Not that they are going to agree with everything that we have done, but I believe BARNEY FRANK, the Congressman from Massachusetts, the chairman of the Financial Services Committee; NANCY PELOSI, the distinguished Speaker of the House—they get this, they understand this. They understand the difficulties we have over here procedurally to deal with things, to deal with matters that are different from the House of Representatives.

But they also understand we basically embrace three of the major concepts: HOPE for Homeowners, affordable housing, GSE reform. That is the centerpiece of what we are trying to achieve. The Presiding Officer, as a member of the Banking Committee, has been tremendously helpful, and I thank him for it, as well as other members of the committee, putting aside our own specific ideas of how we would do this to come up with a product that could be embraced by 19 of our 21 members of that committee to bring the bill forward as we have today, with the added provisions that have been included in this bill.

So we urge our colleagues to come over. Senator SHELBY and I are more than happy to entertain ideas. Where we can accommodate them, we will do so. If we cannot, we will be candid and tell them that we cannot. There is always another day, but we cannot deal with every bill and every idea that people have been waiting for on this bill. We urge our colleagues to do that.

I ask unanimous consent that the time while the Senate is in recess for the conference lunches count under the time postcloture.

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

Mr. DODD. With that, we have had a strong vote. I say this to my colleague from Alabama, through the chair, that 83-to-9 vote, not to mention 94 to 2 on modernization; 84 to 12, the various votes on other matters late last week—all indicate the strong willingness on the part of our colleagues, the overwhelming majority here, to get something done on this issue. That is the best news of all. Now we need to come to closure.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SHELBY. Mr. President, I want to pick up on a few things that the Senator from Connecticut has been talking about. We got a vote a few minutes ago, I believe 83 to 9, on cloture on this bill.

Last week we had three or four well-debated amendments offered by various Senators, and they were overwhelmingly rejected, huge votes.

Where are we now? We have worked on this a long time. We have GSE reform in here, which I have worked on for 5 years on the Banking Committee, as Senator DODD recalled, and the Presiding Officer, a member of the Banking Committee and very involved in the Banking Committee.

This is a very complicated piece of legislation in this title dealing with GSEs, which we have come a long way with. Everybody here knows, I believe on both sides of the aisle, that the GSEs provide a lot of the mortgage funds, most of them today. But they do need to be well regulated. They also need to be well capitalized, considering the risk and so forth, the implicit guarantee of the Federal Government.

I have been told recently that their debt, that Freddie Mac and Fannie Mae debt, exceeds the debt of the United Kingdom and France together. I do not know if that is exactly right. But if it is, that is over $5 trillion.

So we need to get this done. We need to make sure the GSEs survive. We want to make sure GSEs are properly regulated, and we can do it here. Another part of the title of this bill is dealing with housing, as the Presiding Officer knows. This is going to give a lot of people in America an opportunity to refinance some mortgages. It will not save everybody. It should not save everybody.

But there is no specific bailout for any specific mortgage company or banks, as somebody alluded to last week—none of that. The chairman of the committee, the Presiding Officer, as a member of the committee, and I, as a Senator, we would not have that. We would not vote our support for anything like this. But we will create conditions to let people refinance their mortgages, assuming they can work this out, assuming the lender would rather take a haircut—you know, less money than a foreclosure.

The last thing a lender as a rule wants is a foreclosure because the house is vacant in the neighborhood. Senator DODD was talking about that. We do not need four or five vacancies in the neighborhood and the house run down, weeds growing instead of the lawn trimmed.

Everybody knows what that does to the value of their neighbors' property.

Housing is important. What we are trying to do—and one can see the votes we have been getting—is fashion something that will give a lot of people a better opportunity to finance their home, as well as to regulate the GSEs in a meaningful way. Most of the Members of the Senate know that.

If somebody has an amendment, they ought to come down here. I know we can debate this for 30 hours under the rules—I believe that is right—after cloture.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. SHELBY. We are that close to passing a meaningful piece of legislation. We would like to pass it. We would like the House to pick it up quickly—either agree to it, amend it, or whatever, and get it to the President. The sooner, the better.

This is not a perfect piece of legislation, but overall it has a lot of good things in it. I certainly urge my colleagues to support it.

I yield the floor.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008—Continued

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senate is not in a quorum call, I expect.

The PRESIDING OFFICER. The Senate is not in a quorum call.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 10 minutes and that 10 minutes be applied to the 30 hours postcloture.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Mr. President, reserving the right to object, and I will not object, I ask unanimous consent that following Senator VITTER—he is going to speak next for approximately 5 minutes—I then be recognized to speak for up to 20 minutes.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from North Dakota is recognized.

(The remarks of Mr. DORGAN pertaining to the introduction of S. 3183 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DORGAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise to speak on the housing bill before this body now and to speak about an important omission from the managers' amendment that is before the Senate. This is just one piece, one narrow issue, but it is an important one that will affect many folks in the housing market and throughout America. I am talking about the need to provide a transition period for the implementation of the new GSE regulatory structure in the bill.

A large part of this legislation on housing recovery is devoted to GSE regulatory reform. GSE means ''government-sponsored enterprises''—regulatory reform regarding those entities. This is a huge undertaking, with wide-reaching consequences for the mortgage and housing industries and our economy generally.

This GSE reform title would combine the regulatory authority and personnel of three distinct agencies—HUD, the FHLB, and the OFHEO—to create an entirely new GSE supervisor with broad, far-reaching powers over this $3 trillion part of our economy, the housing finance system. The effects of new regulatory powers would not be limited even to the housing industry, as big as it is. The vast global investment in GSE securities and the 8,000 member banks that obtain liquidity and other services from our Federal Home Loan Bank system would also be significantly affected.

Given the far-reaching and very significant impact of this part of the bill—this very significant consolidation of three separate agencies—I think simple common sense would dictate that implementing that sort of measured change should be done with great care and over some reasonable time period. That is why the House in its legislation recognized the need for an orderly transition. Their bill included a uniform effective date of 6 months after enactment to allow the President to begin the appointment process immediately but to give that 6-month transition to a very new regulatory structure.

Unfortunately, the bill before us in the Senate today does not include this transition period in this language.

Under the Senate substitute amendment, the powers of the new agency would be effective immediately, potentially destabilizing our housing market, causing real concerns among many in that important market.

I am very concerned about this. I think it is a significant omission, a significant problem, a significant issue. Making the powers of a new agency effective immediately, before the three existing agencies are combined and before expert personnel can be transferred and this new agency staffed is putting the cart before the horse. At a time of great instability in the mortgage and housing markets, we should use care to preserve consumer and market confidence by ensuring a smooth transition and regulatory stability.

That is why I am strongly urging the adoption of the House approach with regard to this specific issue. It would ensure a gradual transition of no less than 6 months, allowing for careful and efficient consolidation. In our push to make the housing and mortgage markets stronger and more responsive to the American people, let's also make certain we don't break what we didn't need to fix in the first place.

I urge my colleagues in the Senate to adopt this commonsense, reasonable, balanced House approach with regard to a 6-month transition.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, is it necessary that I ask to speak as in morning business? I am taking time off my postcloture time.

The PRESIDING OFFICER. The Senator may be recognized under cloture.

Mrs. BOXER. I thank the Chair.

DRILLING IN PRISTINE AREAS

Mr. President, I am going to discuss, in about a 20-minute timeframe, a couple issues that are swirling around this country and the Senate, and I wish to go on record on both of them. One has to do with President Bush and Senator MCCAIN's proposal to open pristine areas off America's coastline to offshore oil drilling as an answer, they say, to high gas prices. I am going to, hopefully, debunk that argument, and I hope I can do it convincingly.

The second area is going to be my feeling on the FISA bill, which is coming to us tomorrow—the Foreign Intelligence Surveillance Act bill.

I think I can start off where Senator DORGAN ended. He has been brilliant on the point that speculation in oil futures is what is responsible for a good deal of this horrific runup in the price of gas at the pump. We need to do something about these speculators. We have been blocked from doing that by the Republican leadership. I wish to quote Michael Greenberg, a former director of trading and markets for the Commodity Futures Trading Commission, who testified before the Senate Commerce Committee. He said:

> Going after the speculators will bring down the price of crude oil to get at least a 25 percent drop in the cost of oil and a corresponding drop in the cost of gasoline.

Testifying Monday before a House Energy and Commerce Committee subcommittee, Michael Masters, of Masters Capital, said:

> The price of crude oil would drop to a marginal cost of $65 to $75 a barrel, about half of the current $135.

Imagine, the experts are telling us speculation is responsible for about 25

to 50 percent of the cost runup of gasoline. We are trying desperately to close that Enron loophole, to ensure that the speculators are once again regulated. There is a Bill Nelson bill, S. 3134, which would say all energy future contracts will fall within the regulatory format they were at before. So we can do this.

Where are President Bush and Senator MCCAIN on going after the speculators? I don't hear them suggesting that. I don't see my Republican friends embracing this. They have already stopped us a couple times from doing it. If we want to do something about the price of gas, let's go after the speculators, and it will result in a very quick reduction in these outrageous price increases. We have the Strategic Petroleum Reserve which is 97 percent full. George Bush's father took some oil out of there after the first gulf war. President Clinton also took some out of there, and it had the impact of lowering the price. In other words, they are adding a supply from the Strategic Petroleum Reserve. Again, it is 97 percent full. This is the moment when we could tap it. It will make a difference, and it will get to the people, within a few short days. Thirteen days from a Presidential decision, we could have more oil on the market.

Our colleagues agreed with us to stop filling SPR, but we don't have their support for taking some out—and, of course, you would return it at another time.

Here is a big one, and I will show you this chart. Remember, the President and Senator MCCAIN said open all the coastal areas to drilling—these pristine areas. So you have to ask yourself: Well, have we run out of places to drill offshore? The answer is no. What about onshore? No. Oil companies hold leases to nearly 68 million acres of Federal lands that are not producing oil. This land could produce 4.8 million barrels of oil each day—six times the peak production from drilling in the Arctic—and it would double total U.S. oil production. Let me say that again—68 million acres of oil leases are being held today by the oil companies. I say they should use it or lose it. Here we have people saying: Oh, give them more. That is akin to saying to a kid, whom you are trying to get to do something, I will buy you an ice cream cone if you do XYZ; but they are holding two ice cream cones in their hands now.

Let me show you what 68 million acres looks like. First, I will show you the onshore, which is about half of that. Look at the red areas on the map. This is onshore, 34.5 million acres that are unused by the oil companies. They will not drill there, but now they want more leases in the most beautiful parts of America.

This is ridiculous. It is a phony idea. It is not going to bring down gas prices 1 cent, according to the Bush Energy Department. It will have no impact—maybe by 2030. I am looking at some of the Senate pages, and they will be moms and dads by then.

Let's look at the offshore leases. Look at this. These are the offshore leases that the oil companies hold. They are not using them. Yet, still, President Bush and Senator MCCAIN—and this is a flip-flop by Senator MCCAIN; he has always supported protecting the beautiful areas, but they are now saying it is necessary now to sell off the family jewels.

I have to tell you, coming from a State—and the Senator in the chair does as well—where an unspoiled coastline is our ticket to a tourist industry, a fishing industry, a recreation industry, an industry in America that provides, today, $70 billion in a coastal economy—$70 billion and millions of jobs. In my State, it is about $11 billion or $12 billion and a quarter of a million jobs.

So you have to ask this question to the President and Senator MCCAIN: We all want to help our middle class and our working poor pay for the price of gas. We want to bring down the price of gas, or we want to give them alternatives to having to fill their cars; we all want to do that. Let's give real answers. Let's not give an answer that could threaten a huge coastal economy. Our families are having a very hard time paying for gas. Imagine what happens when they lose their jobs because the coastal economy is now going to go. What good is that? Millions of jobs are at stake.

So rather than go after the speculators, rather than look at the Strategic Petroleum Reserve, rather than tell the oil companies, look, you can double production and you are not doing it, rather than ask the Federal Trade Commission to investigate supply manipulation—and I can give you story after story of supply manipulation. In my own State, we had a large company—Shell Oil—try to close down a refinery. They said it wasn't making money and there were no buyers. Untrue. We called our State attorney general. He got involved. We found out they were making money and that there were buyers. They just want to manipulate the supply. Because of our involvement, and especially the attorney general, that refinery was sold. That was 2 percent of our State's supply at the pump.

So these oil companies do not come to this with clean hands. We know it. This administration gives them a pass, saying let the speculation fly, and let the oil companies sit on these leases; forget about using the CFTC, forget about going to the World Trade Organization and lodging a complaint against OPEC because they are anticompetitive. They don't do that. They are not doing anything to extend the tax credit for the most fuel-efficient vehicles. That expired because they put a cap on it, on how many cars would have to be sold before you no longer get this tax credit. They don't do any of the things that would help us now. I don't see them saying: Let's make sure our transportation districts locally have enough funds to add more buses and to add more ferry boats. We could be doing these things now.

What is their answer? Drill, drill, drill, drill, drill. Where? The most pristine areas of our coasts—these areas that are a gift from God. Millions of dollars have gone into setting aside marine sanctuaries. We will put it all at risk because oil companies see it as an opportunity to get more leases, increase their portfolio, and increase the assets on their books.

I have to say I hope the American people will look at this proposal the same way they looked at the gas tax holiday. When that first came up, having a gas tax holiday, JOHN MCCAIN recommended it, saying this is going to mean good news at the pump. The truth is it threatens the highway trust fund because those are the funds that go into the highway trust funds so we can take care of our highways. There was nothing in the proposal that would have led to a lowering of the price of gasoline. Other costs could have been passed right on to the consumer.

So it is amazing to me that we now have another proposal that is basically the same kind of proposal: Drill, drill, drill, and put at risk a $70 billion coastal economy. First, the gas tax holiday put at risk the highway trust funds. This proposal puts at risk a $70 billion coastal economy and millions of jobs that go with it, and it doesn't even account for the fact that there are so many acres—68 million acres—leased to oil companies that they have not produced.

It seems to me the American people will understand that this so-called solution to high gas prices, which the President's own Energy Department says will not save a penny, is another phony solution. It is not real. When we look at the long term, what we know is we have to pass global warming legislation. When we do that, when the private sector puts a price on carbon, we are going to see technologies erupt from America that are going to make us competitive. We will export those technologies.

We know when we take care of our environment, in the long run, our economy gets stronger. We need to invest in transportation. We need to go after OPEC. We have to go after the speculators. We know we will see, with global warming legislation, investments in cellulosic ethanol, which is going to compete with fossil fuel, and we know it is going to work.

So there are short-term answers to these gas prices, and I laid them out, and there are long-term answers, and I laid those out. I am not the only person in the Senate who has these ideas. But to put out a phony solution to a real problem does not help us and it jeopardizes a lot of jobs and a coastal economy.

I look forward to working with my colleagues on going after the speculators and doing all I need to do.

I ask unanimous consent that I be given an additional 10 minutes on my time.

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

Mrs. BOXER. Mr. President, this debate over gas prices and the long-term and short-term solutions is going to go on for a while. I look forward to addressing them, both in my committees of jurisdiction and on the floor.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. President, we are about to get a Foreign Intelligence Surveillance Act bill that is going to come to the Senate probably tomorrow. I know that a lot of my colleagues worked very hard and very long to try to get a compromise on this bill. I have to say that there is a portion of this bill that I believe is egregious and will prevent me from voting for this bill. It is because I believe one of the most basic tenets of our freedom is justice. Looking at justice, we have to see what lies at the heart of justice. And what lies at the heart of justice is the search for the truth. If you block the truth from coming out, if you don't allow a search for the truth, you don't find justice. I worry very much about that.

Throughout our history, whenever the U.S. Government has violated the trust of the American people, we have worked to regain that trust by seeking the truth and allowing for a full examination of the abuses of Government power. We can see that in the history of America. Sometimes these egregious acts take many years to uncover. I am thinking of the Tuskegee experiments. Of course, we have to go back to the days of slavery. Go back to the Jim Crow laws. Go back to the era of the Vietnam war and the tenure of J. Edgar Hoover, who headed the FBI. We knew in that particular case that the CIA and the FBI, under J. Edgar Hoover—he headed the FBI—he engaged in spying on the political activities of American citizens. He was spying on famous, important people, such as Martin Luther King. He was spying on people at the highest levels of Government. He was also spying on the American people. Pictures were taken at rallies where people were trying to argue for an end to the Vietnam war.

In 1975, the Church Committee, which would later become the Senate Committee on Intelligence, looked into allegations of covert and illegal spying by the Federal Government on Americans. What did the committee find? The committee found that, indeed, there had been spying on Americans by the FBI and the CIA.

Here is what is interesting. What did the Congress do when they found out, in horror, that the Government was spying on the people? They passed the Foreign Intelligence Surveillance Act in 1978. It set up a new court with authority to approve electronic surveillance but only on a case-by-case basis. Since that time, we have updated FISA to reflect the changes in the threat we face in America and to reflect the new technologies.

Suddenly, in late 2005, we learned that the U.S. Government—our Government, the Bush administration—had violated the trust of the American people again when the New York Times published a story exposing a warrantless surveillance program authorized by President Bush shortly after 9/11. Since that time, Congress and the American people have been grappling with the disclosure and working, with no help from this administration, to find out what happened. We cannot find out exactly what happened, who was spied upon. Was I spied upon? Were you spied upon? How many people were spied upon? What information was gained?

In putting together the FISA bill, I do believe House and Senate members tried hard to find a balance and figure out a way to get to the truth, but I feel they have fallen short because what we will have before us when this bill comes before us is not only a bill that will deny the court the ability to make a judicial determination as to the legality of the spying program, but it will effectively guarantee immunity for the telecommunications companies that cooperated with the administration and violated the privacy of their customers.

You have to know that we had laws in place that specifically said to telephone companies: You cannot invade the privacy of your customers. What apparently happened was the Government went to them and said: We are asking you to disregard the law.

I understand the predicament of the companies, although there was one company that refused to cooperate. One company refused to cooperate. They said: No, we are not going to do it. But all the others cooperated. And now we have a situation where we know the telephone companies responded to the Government and said: OK, we will disregard that law on your say-so.

I would support granting the telecom companies indemnification—in other words, having the Government step in and be the party that has to pay the price—but this immunity provision that is in the bill blocks us from finding the truth. Remember what I said when I started: The essence of justice is to get to the truth, and we are not going to be able to get to the truth. We are not going to know exactly how this program ran. We don't know enough. The Bush administration, in my view, trampled on the Constitution, and we are not doing anything in this bill to provide accountability. Frankly, if we just left out this provision and passed the rest of the bill, we would let the courts do their job. Fine. But, no, no, we have to add this provision and essentially set up kind of a new law now to deal with this spying operation.

I don't think we can hold up the Constitution when it suits us and set it aside when it hinders us. That is not what the Constitution is.

The supporters of this compromise will say: Wait a minute, Senator BOXER, we have a provision in there that says the telecom companies have to prove they were asked by the Government to do this activity. We know they were asked by them. That is why I don't want to punish the telecom companies.

Mr. President, I tell you what I do want to do: find out the truth. That, the truth, I want to find out. I have to believe that if we don't change Title II of this bill, we are perpetuating a coverup. I use that word advisedly because I don't think we will ever get to the truth of what happened here.

I support giving our country every tool necessary to track down the terrorists. I voted to go to war against bin Laden, and I am disgusted that he is still out there taunting us, all these days, all these years, despite George Bush. Dead or alive, we will get him. Where is he? I want to go after al-Qaida. I want to go after bin Laden. I think we do have to provide all the tools that are necessary, but we also must uphold the Constitution and the rights of our citizens.

This granting of immunity will block the courts from moving forward and learning whose privacy was violated. I want to be able to look in the eyes of my constituents in California, 38 million people, and say: I know you were in that group of people, and I feel terrible, and we are going to make it right for you; or, I know you were not involved in being caught up in this net.

These are extraordinary and difficult times. Our sons and daughters were sent to Iraq to fight for our freedoms. We have to listen to what former Justice Marshall says:

> History teaches us that grave threats to liberty often come in times of urgency, when constitutional rights seem too extravagant to endure.

Our Constitution is not an extravagance. It is the centerpiece, the very essence of a democracy. It is what our sons and daughters are fighting for abroad. How could we say on the one hand to our soldiers: Go fight for our freedoms, go fight for the freedoms in our Constitution, while at home we are covering up the erosion of those freedoms?

The bill was improved upon, and I am glad Title I improved the way we go about protecting the rights of our citizens and balances it with the need to get this information. I am very pleased with that. But it seems to me, if you believe in the truth, then I don't see how you grant this type of immunity.

Again, I would substitute the Government, I would indemnify these companies. I am not interested in hurting them. But I want to get to the truth. We have a really good way to do that, which is to strip this part from the bill. We will have our rights protected then. We will have the tools we need to fight terrorism. We must do better than this.

So unless there is some miracle that happens overnight and we see some changes, I will be forced to oppose this bill. I am hoping we will have an opportunity to vote on a substitute that will

keep the rest of the bill intact but eliminate this egregious provision which really is very troubling. Anyone who lived through the days of J. Edgar Hoover and the kind of spying that went on, who understands FISA was passed to protect Americans has to be alarmed.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Missouri.

Mr. BOND. Mr. President, I came to the floor for another subject, but I do wish to tell my friend from California that we will have an opportunity to talk about the FISA bill that was passed. The bill we passed in the Senate with an overwhelming bipartisan majority protected civil liberties of American citizens much further than they have ever been protected even under existing criminal law, we provided more protection.

The Senate committee looked at the essence of the terrorist surveillance program for which we recommended that retroactive immune liability protection be provided for those who cooperated. They cooperated in good faith on the basis of the representation by the intelligence community that there was a Presidential directive authorized by the Attorney General. It was authorized under the clear constitutional authority of article II of the U.S. Constitution, supported by the MOFA that was passed by Congress. We determined that they were entitled to protection.

As a lawyer, I have read all of the documents. I am convinced that the bill we passed does not in any way give away any rights or protections.

Anybody who objects to the granting of this liability protection should know that we do not protect Government officials or the Government itself from lawsuits. If one wants to challenge it, file suit against the Government, file suit against Government officials, but don't ruin the business reputation of those who, in good faith, as good citizens, provided the intelligence that was needed to keep our country safe and to keep our soldiers and marines, such as my son, on the field safe from battlefield attacks. They provided that information, and we owe them better than to haul them before a court to have them exposed to the vengeance of terrorists or people who didn't like what they did. We owe our security in the United States better than to lay out in an open court proceeding all of the things our intelligence community can do to stop terrorist attacks—terrorist attacks which have not occurred in this country since September 11, 2001, which were certainly planned and underway before they were interrupted.

I can't go into any more on the floor. Any Member of the Senate is entitled to have that information in confidential SCIFs where we discuss classified information. I invite them to be briefed, and I will have much more to say about the FISA law when we get on the debate.

MISSOURI FLOODING

But I come to the floor today to share some observations with my colleagues, and anyone else who may happen to be watching, about the natural disaster that is going on right now in my State of Missouri.

If you turn on the television, you will probably see the flooding that is expanding over an area west of St. Louis County and St. Charles County. The Eagle Point levee breached last night, and that is only the latest example. Many other levees have also been breached.

This past weekend, I went to visit the people on the front lines. I met with State and local officials, who are prepared and are responding extremely well, given the prolonged damages, the challenges, and the extensive duration of the flood. This effort, I am proud to say, is a good testament to how bad disasters can be mitigated from becoming worse disasters when competent local and State leaders and volunteers proactively take steps at the immediate scene of the disaster.

At Winfield, MO, on Friday afternoon, right along the Mississippi River, I met with volunteers from the Salvation Army, the Red Cross, Missouri Civil Air Patrol, local law enforcement's emergency planning officials, the Missouri National Guard, and local and surrounding community volunteers. It was inspiring to see how people came together to help protect lives and property. Over 1,000 volunteers—some of my staff members joined with them—filled sandbags and built the levees. They were joining neighbors, church groups, civic groups, and other people coming in to help. By that afternoon, they said they were going to have to call and say: We don't have need for more volunteers now, so wait until there is a problem elsewhere.

As always, the National Guard acted valiantly. Their work has given businesses and families the critical time they need to get important assets out of harm's way where levees are in danger of failing. And so far—knock on wood—we have come through with minimal personal damage. People from all walks of life across Missouri and across the heartland—neighbors came in from Illinois—have pitched in to help. It has truly been an all-hands-on-deck effort, and I couldn't be more proud of them. I thanked them in person, and I come here on the floor to express my thanks to them.

Missourians and our midwestern neighbors have pulled together and, as it turns out, they may be doing too great a job of fighting the floods. Local communities have been burdened with the financial strain that comes with any disaster. Communities along the Mississippi have invested hundreds of thousands of dollars in pumps and sandbags, and untold tens of thousands of volunteer efforts in trying to protect property and lives. While these current investments made are small compared to cleanup costs, our small towns, our communities, still need Federal help.

I come here today to report, regrettably, that despite national news coverage day after day of the destruction in Missouri, FEMA has still not declared Missouri a Federal disaster area. Our families and communities along the Mississippi River are investing every resource they have to mitigate the disaster while FEMA figures out the extent of the disaster.

Not only has this flood destroyed homes, but it is currently saturating tens of thousands of acres of some of our State's most productive farmland. In addition to waiting for the waters to recede, farmers will have to remove the debris the Mississippi River leaves behind before they can plant their crops. I don't know if you have ever been to a flood scene, but it isn't just a whole bunch of land getting wet; it brings in everything you don't want to have on your land, and you can't plow it, you can't even mow it because of all the debris left.

Many have heard the saying ''knee high by Fourth of July.'' That used to be a reference to corn height in Missouri, if you wanted a good crop. Now, in a good year, if it isn't six feet tall, then you are way behind. But this year, regrettably, in talking about the height of corn, there is a lot of land where we are going to be talking about the height of water.

USDA, FEMA, and other Government agencies, I hope and I expect, will provide emergency funds to clean up the disaster. I am pleased I have been joined by my other colleagues from the Midwest to fund these programs in supplemental appropriations bills that will ensure disaster victims receive much needed aid. We have to continue to do our part in the Senate to make sure these flood victims will be able to get their feet back on the ground. I have joined with eight of my colleagues in cosponsoring Senator GRASSLEY's disaster tax package, which will also help.

But, I repeat, none of these actions will provide any relief until Missouri gets a disaster declaration. And with everyone in Missouri doing their part—his and her part—acting responsibly and responding locally, I urge FEMA to do its part and approve the predisaster declarations they asked our State officials to make. We know there is going to be more work in finding out the total extent, but anybody who looks at the pictures on the television and who doesn't believe this is a major disaster, is saying, I am not believing my own lying eyes, because it is right there for them to see. I wish FEMA would start the mechanism rolling.

We know we have a lot of work to do, we have a lot of disaster, but we are thankful in our hearts for minimal human damage and the tremendous human outreach. It is time for the Federal Government's emergency management agency to get off the dime and move.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, first, let me say to my friend from Missouri, we do see the videos of what is happening in his State with the devastating floods, and the people of Maryland agree with the Senator's statements. We want to make sure FEMA does the right thing.

Certainly the Senator is very concerned about the circumstances, and we want to do everything we can to help the people of Missouri and the other States that have been devastated by these floods. It has obviously had a dramatic impact on many lives, and this is when our Nation needs to come together to help those who have been devastated. So the Senator will have our support, and I wanted him to know that.

Mr. President, the bill we are considering now in postcloture is the bill the House sent over to us to deal with the housing crisis. I was very encouraged with the vote earlier today, and I hope we are on the verge of passing this much needed legislation so we can work out our differences between the House and the Senate. I know we still have some procedural hurdles we have to overcome, but I hope my colleagues will act quickly so we can complete our work on this very important housing bill.

The people of Maryland, the people around the Nation, are hurting today because of what is happening in the housing market. We know it was the housing market that triggered our current economic problems. We know throughout the country there has been a large number of these so-called subprime adjustable rate mortgages that were issued over the last several years, and as a result of the declining housing market and the adjustable rate mortgages and subprime mortgages, we have record numbers of foreclosures around the Nation, including my own State of Maryland.

We are not only seeing a record number of foreclosures, we are also seeing circumstances where homeowners' equity in their property is actually negative. That means the money they owe on their mortgage is exceeding the value of their property. And with declining markets, it is becoming more and more difficult for individuals to be able to sell their homes, so we anticipate there could be continued problems of more foreclosures. That means it is very important that this Congress act.

We also know it not only affects the individual whose home is at jeopardy, but it affects the entire neighborhood. When there is a foreclosure in a community, the value of all the homes in that community declines. Local governments are also seeing a dramatic reduction in property tax revenues as a result of the decline of property values. Just at the time we need local government being more active in helping people who are going through tough economic times, they are finding it more difficult to act.

I thank Senator DODD and Senator SHELBY for bringing forward a bipartisan bill, a bill that now stands an excellent chance of being enacted, and a bill that the people of this Nation desperately need. It would do something about the housing problems in this country, so I do thank them for their patience and their work.

I see Senator DODD is on the floor, and I personally thank him for the work he has done. We are now on the verge, I hope, of passing this very badly needed legislation, the key features of which are going to help the people of Maryland and around the Nation.

This bill deals with properties that are in danger of being foreclosed by trying to prevent foreclosure. I think that is one of the things we should be doing here. The HOPE for Homeowners Act will help up to 400,000 or 500,000 homeowners on a voluntary basis get their mortgages refinanced, at no cost to the Government, using FHA, in order to make it affordable and to prevent foreclosure. That, to me, is smart. It is good for the homeowner, it is good for our economy, and it is a great investment for taxpayers because it will save them money by having less foreclosures in their communities.

The legislation also helps communities in desperate need. The CDBG funds are increased to help the communities that have been hardest hit through the numbers of foreclosures, but then, moving forward, we do something about the housing crisis in this country. We provide affordable housing funds, which we desperately need in Maryland and throughout the Nation.

We also provide more money for counseling. I say to Senator DODD that I had a meeting in Baltimore with housing counselors who are overwhelmed. They cannot handle the number of people seeking their help, so the funds provided in this legislation will help them help people who want to get counseling, but the services are not available in so many communities around the country.

The new disclosure requirements will also help people who will be moving forward because they will know what they are doing and have less chance of ending up in trouble in the future.

I also want to comment on the provisions in this legislation that ease the credit crunch. Today, it is very difficult to find affordable mortgages. Obviously, lenders are being much more cautious and it is difficult today, if you live in a minority community or you live in a modest-income neighborhood, to be able to get a mortgage. Yet banks are willing to write mortgages. In the subprime mortgage industry, there were so many people, particularly from minority communities, who were steered into subprime loans. These individuals could have had traditional mortgages and they wouldn't have been in trouble today. Now there are many people who need help in finding an affordable mortgage.

In this legislation, with the GSEs, the government-sponsored entities—Fannie Mae, Freddie Mac, and the Federal Home Loan—and the reforms in the FHA—raising the loan limits and by changing some of the underwriting—they will provide more mortgages to modest-income families in America, so those who are in the market to buy homes and who want to be in the market to buy homes will have a much easier time finding an affordable mortgage in order to move forward. That will be good for home ownership, which is good for our neighbors, and it is going to be good for our economy.

I also thank Senator BAUCUS of the Senate Finance Committee for bringing forward some changes, some amendments to this legislation, which I think are very important. I had a meeting in Baltimore and met with the real estate community, and they told me several months ago we needed to do something to try to get first-time home buyers into the market. If the Federal Government could offer some incentives, it would help in freeing up the market, which is going to be good for our economy. At that time, I filed an amendment that would have provided a first-time homeowner's tax credit. I thank Senator BAUCUS for bringing out a similar proposal in the bill that is before us for first-time home buyers. The Federal Government will help participate in their buying a home and will offer them a credit of up to 10 percent of the cost of the home, up to $8,000, which will ultimately be an interest-free loan that the Federal Government will invest in an individual buying their first home, for modest-income families.

To me, that makes sense. We want to encourage young people who can afford to own homes to buy homes, but they are reluctant to get into the market today because they do not know what is going to happen with the property values. When the Federal Government helps them buy that home, they are going to be more confident this is the right time to come into the market and to buy that home.

I think this provision can make a huge difference, and I appreciate the Senate Finance Committee adding it to the good work of the Banking Committee.

As I said earlier, this is an important bill. Today's vote was an important vote. We are on the path to getting it enacted. I urge my colleagues, let's work out our last differences, and let's get the votes we need to get on the floor of the Senate. Let's move this bill forward. Let's reconcile the differences with the House. Let's get it to the President. Let's get it into law so we can help the housing situation around the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, first, I commend Senator DODD and Senator SHELBY for working so hard to bring this bill to the floor—Senator CHRIS

DODD for his wonderful leadership on the House bill.

I ask unanimous consent to speak as in morning business for 10 minutes and the time be charged postcloture.

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

CREATING AMERICAN JOBS

Ms. STABENOW. Mr. President, I have to say that I was quite amazed and shocked yesterday to hear the proposal that certainly flies in the face of what I believe needs to be happening for Michigan and other States that have been the backbone of the manufacturing economy in our country, the backbone of the middle class. It was a proposal to turn our way of handling American jobs and the economy into a game show. We do not need a game show. We do not need prizes down at the end of some long line for doing what needs to be done in order to create innovation and be able to focus us on the next generation of advanced battery technology or any other technologies. What we need is something thoughtful and sustained, ongoing investments to create jobs in the United States.

The last 8 years we have not seen that. We have not seen a willingness to step up and aggressively invest in advanced battery technology research or any other areas where we would be able to get the kind of jobs and production we need in the United States. I remind the Chair that, as he knows so well, just since January we have lost 325,000 good-paying jobs in America. As the distinguished Presiding Officer and I have both come to the floor to speak about good-paying American jobs, middle-class jobs for middle-class families, we continue to lose jobs.

I am very proud to be a part of a majority that is tackling that, focusing on investments, on jobs rebuilding America, on investments in the future. We passed a budget resolution a little earlier this year that included a green-collar jobs initiatives, which I was proud to offer. It had strong support from our Presiding Officer. Among things that we listed and we put into the budget resolution was advanced battery funding. This is something I know our appropriators are taking seriously. I also know my colleague, Senator LEVIN, is focusing on this in the Department of Defense authorization. I know we are serious about investing in the future now, today—putting dollars in to partner with the private sector to get us to that next generation of vehicle that is so critical.

One of the things about which I am extremely concerned is that other countries have been investing for years, and we have not seen the same kind of investments proposed year after year in the President's budget or supported by our colleagues on the other side of the aisle.

When Toyota first made the Prius, we heard a lot about it. They made this with advanced batteries made in Japan. What is more concerning is when Ford Motor Company first made the Ford Escape Hybrid—and I am very proud they did—they looked around and couldn't find the advanced battery in America. They got it in Japan.

We cannot afford to be on a road to dependency on foreign technology as we are trying to get off of dependence on foreign oil. This needs more than proposals that feel like game show prizes down at the end of a road, a road we may not be able to get to if we are not serious as a country about what we need to do in making investments right now.

Germany has announced a great battery alliance which will invest over $650 million in advanced lithium-ion batteries. It is specifically aimed at helping German auto companies.

South Korea, by 2010, will have spent $700 million on advanced batteries and developing hybrid vehicles.

China has invested over $100 million in advanced battery research and development.

Over the next 5 years, Japan will spend $230 million on advanced battery research. It is spending $278 million a year on hydrogen research for zero emission fuel cell vehicles.

These countries understand they need to step up to compete in a global economy and partnering with their automobile industry. We need to do no less.

We have picked one segment of the economy, the automobile industry, in which we have placed a major new mandate—an $80 billion mandate on fuel efficiency. We need to do everything we can to help them achieve that. But they will not get there unless now—this year, next year, the year after—we are supporting and partnering on efforts for advanced battery technology research and development. Not the basic research, the basic research is being done. Now we are at a point where we need to have the technology developed to deal with issues around the size and the weight of the vehicle and the reliability of the batteries and all of the issues that bring it to the point for marketing and sales. We are very close. But our country needs to be taking this very seriously right now if we are going to have good-paying manufacturing jobs, high-tech manufacturing jobs in this country, particularly in the automobile industry.

I thank our majority leader and our chairman of the Budget Committee who placed dollars into the budget. I thank all of those who will be involved as we move forward to implement our efforts to invest in advanced battery technology research. I only wish the passion that was shown yesterday would be shown on the Senate floor, would be shown in votes for the budget resolution, would be shown in votes for appropriations, would be shown in votes and leadership speaking up as the President, year after year, has woefully underfunded his requests for advanced battery technology research.

We are past time to get this done. It should not be treated as something that is trite but as something that is very serious and very doable if we are willing to step up and partner and make the investments that need to be made, as every other country is doing.

Our companies today are not competing with other companies around the world. They are competing with other countries around the world, other countries that understand that whoever gets to advanced battery technology first will have the edge. Whoever is getting the hydrogen fuel cell technology first will have the edge. Whoever gets to that next technology will find themselves in the position to be the leaders in a global economy. We need to understand that and take that seriously. I am proud to be part of a majority that does, and we are working very hard.

We have moved the ball down the road and have more to do, but I am amazed to hear the kinds of discussions that have gone on in the last 24 hours as it relates to jobs and the economy and prizes. The prize for us is a good-paying job and a strong middle class and keeping advanced manufacturing in this country. We do that by being serious and sustained and thoughtful, by providing dollars on the front end, by making sure we understand the seriousness of the competition around the world, and having a sense of urgency about American jobs.

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

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

Mr. NELSON of Florida. Mr. President, we are on the bill having to do with homes and foreclosures. I want to speak on the bill, and then I would ask unanimous consent that I be allowed to speak thereafter as in morning business.

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

Mr. NELSON of Florida. I will be offering an amendment which I think will be adopted or embraced, approved, cleared by both sides. It is a bipartisan amendment with Senator COLEMAN. It is to give some commonsense relief to homeowners who are trying to stay in their home while their home is under foreclosure.

If a homeowner is there and doesn't have any cash, the homeowner has fewer options of what to do if the bank is foreclosing on the home. But suppose the homeowner has a retirement fund, a private retirement fund, a 401(k) retirement fund. We have allowed, under current law, for the ability of a homeowner to take money out of that retirement fund, without paying the 10 percent penalty, to take it out of the retirement fund before retirement for

the purpose of purchasing a home. But if it is a homeowner with a home that is under foreclosure and they need cash, under current law, if their only source of cash is that retirement fund, in order to pull it out, they have to pay a 10-percent penalty. It seems it is common sense and the kind of public policy that we would want to adopt to give the homeowner the means of avoiding foreclosure by being able to tap into some of their cash in their retirement fund in order to save their home.

That is what the amendment is all about. It is simple. It waives the 10-percent penalty for folks wishing to make an early withdrawal from their retirement fund in order to avoid foreclosure.

We put some parameters, some boundaries around it so it cannot be abused. We say homeowners have to show they are participating in a government- or industry-sponsored foreclosure prevention program, such as the ones we are setting up in this bill, the HOPE NOW or the HOPE for Homeowners programs. Both of those are established in the bill before us today. That is one parameter. Another parameter is, we make this thing limited for 2 years so it will not go on and on. The foreclosure crisis is right now. We want to help homeowners stay in their homes. We limit it for 2 years.

The third parameter, we put a limit of $25,000 on what they can take out of their retirement fund. We are going to give that homeowner, once they take the money out and they save their home, the ability to put that money back into their retirement fund within a 3-year period and not have to pay income tax on that money. A normal retirement fund, you take money out of the fund, you will have to pay income tax on it. If the purpose is to get a ready source of cash to help them stay in their home under foreclosure, we want to give them that opportunity to get it back in their retirement fund and not have to pay income tax. They have to do that—another one of those parameters—within 3 years.

The cost is fully offset. I want to give an example. We all, from our States, get horror stories. I got one from a retired Air Force sergeant who lives in Stuart, FL. He recently lost his job and, in order to stay in his home, pay his mortgage, he liquidated his 401(k) savings and paid the 10-percent penalty. The bill we are considering today gives, in another provision, a tax credit for first-time homeowners to buy their first home. But unless we do it with this provision, we are going to penalize folks such as Wayne who didn't have any source of cash except his 401(k) in order to try to do his best to save his own home using his own money.

It is true that for most people, a home is the greatest single source of wealth. It seems to me it is common sense that we would have this narrowly defined, limited exception to allow homeowners to use every tool available within their power to stay in that home and not have it foreclosed. That is the amendment I will be offering at an appropriate time. I believe we have received clearance from Senator GRASSLEY. I am trying to get clearance from Senator BAUCUS, then the two managers of the bill, and the Banking Committee, to get clearance from them.

OIL FUTURES

Why has oil hit, last week, $140 a barrel, and why is it, within the last couple days, somewhere in the high 130s? We have had testimony now from the president of Shell Oil Company. We have had testimony from an executive of ExxonMobil. The two respective testimonies say that under the normal marketplace for oil, a world marketplace of supply and demand, one of them testified oil ought to be at $55 a barrel, not $140, and the other one testified it ought to be somewhere between $35 and $65 a barrel, not $140. So why is it at $140?

It is true that little ''jitterations'' in the marketplace, any little minicrisis in any part of the world is going to send jitters into the financial marketplace. That is going to cause upward pressure. The fact is that China and India, of course, having so much consumption of oil, makes it tighter. But even so, with all that, they said it ought to be in the range of somewhere between $35 and $65 a barrel.

The reason it isn't is because 8 years ago, in the dead of night just before Christmas in the year 2000, the Senate, adjourning to go home, a provision was slipped into an unrelated bill that deregulated energy futures contracts. It was called the Enron loophole because it benefited Enron. We saw that a couple years thereafter in electricity contracts in California having been bid up and bid up and bid up, and that caused a great crisis that ultimately caused blackouts in California. Then, when Enron unraveled financially, we found out about that. But nothing was done to reregulate the agency, the Commodity Futures Trading Commission, the CFTC.

A lot of our colleagues here think we just reregulated them last Thursday night in the farm bill. But we only partially reregulated them when we passed the farm bill over the President's veto. What that was, was new power of the CFTC to go in on an ad hoc basis on an individual oil contract, with certain other limitations, to examine it and then determine if it wants to regulate it. I don't want to do that.

The bill I have filed—and I have Senator DORGAN, Senator OBAMA, and Senator BOXER as cosponsors—takes us back to the status quo before the Enron loophole was passed, which is the trading mechanisms attached to the United States have to be regulated if it is energy futures contracts. It is very simple. As a matter of fact, my bill is only two words. It inserts the words ''or energy'' in there to reregulate energy futures contracts.

What is regulating? That Commission would decide, for example, that they are going to require that if you are going to bid on these future contracts for oil, you are going to have to use that oil. It is people now who don't have any intention of using oil who go into these markets and speculate and bid up the price. It is believed that if we plugged this loophole, the price of gasoline will drop by half. That is pretty dramatic. Yesterday, the House of Representatives had testimony that the price of oil per barrel would drop by over half. That is pretty dramatic.

People are hurting. Every Senator knows that. Our people are hurting. This $4 gas is hurting our people financially. They are not able to make financial ends meet. So if we want to do something, we have to get to where we can do something about it.

Why did the price of oil futures jump $11 in 1 day? Do you know what the airline industry has told us? That 1-day jump of $11 a barrel cost the airline industry $4 billion extra. They can't survive like that. This is an entity we want to survive. They transport us about the country and the world. We can do something about it, if we have the political will.

This Senator is going to continue to pound on this issue to try to get the attention, and we are getting some heft, when DORGAN and OBAMA and BOXER all start signing up. It is a very elegant, very simple thing. You go back and plug the loophole that was unplugged back in December of 2000 and allow the Government to do what it ought to do by saying that the commodity exchanges have to regulate the trading of oil futures contracts.

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

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

Mr. DODD. Madam President, to inform my colleagues and others interested, we are making progress on various amendments that people are proposing to the housing bill. As the majority leader has indicated, the only amendments we are going to consider are housing amendments. This is a housing debate. These are the issues on which people are anxious to see resolution so we can begin to make some serious movement on the foreclosure crisis in our country.

I have a long list of potential amendments, some 44 of them. I am not sure all are going to be offered. Some, because we are in a postcloture environment, might fall. But I strongly urge those who have amendments, Democrats and Republicans, to come to the floor to meet with staff to try to resolve their amendments if at all possible, to reach some compromise on

them so they can be agreed to or in some cases clarity as to how to proceed so we can begin to organize how these amendments can be handled.

It is my intention shortly on a couple of amendments—a Democratic amendment and a Republican amendment—where we have reached agreement and compromise, to propose those, as my colleague from Alabama will, and to agree to those amendments, and then at some point my hope is to try to propose a unanimous consent proposal to accommodate those who insist on floor votes, to accommodate those with time agreements so we can have some clarity as to how the rest of this bill will unfold.

There are complicated procedural hurdles we have to weave our way through, but I think, given the overwhelming vote of 83 to 9 on cloture, there is a strong bipartisan desire to complete this housing measure. We have the opportunity to do that. I need Members or staff, whomever they designate, to come over with their amendments to give Senator SHELBY and I an opportunity to try to resolve them, to declare whether they are going to qualify for working out some agreement. That would be a great help. There are some, I know, to which we can agree. There are other matters that Members want to bring up on this bill, but I know there is going to be strong resistance—and properly so—by the majority leader to entertain ideas that are not pertaining to housing. There will be other opportunities, and there have been other opportunities, for the consideration of such ideas, but they are not going to be a part of this bill, knowing that when we go to the other body with provisions that will not be accepted by the other body, they will kill those ideas, as well as this one, the housing bill.

So for reasons that are very practical, not political, we have to stay on the theme we are dealing with, housing, foreclosures, and what we can do to put our housing situation on a far better footing and give the institutions and the regulatory bodies the necessary reforms and tools that allow them to do their jobs. That is fundamentally what is at the heart of this legislation.

The other body has completed their proposals, and we are talking with them in productive meetings, with Congressman FRANK, chairman of the House Financial Services Committee, along with JACK REED, our colleague from Rhode Island, talking about how we might resolve some of these differences on these two bills.

There are a number of efforts ongoing. Even though we have not been engaged in a public debate in this Chamber over the last several hours, there is movement.

Those who have amendments, I strongly urge them to come to the floor, bring their ideas, and see if we can't resolve how we are going to handle them, either a vote up or down to agree to them or inform the authors that they will probably fail in a postcloture environment.

I am grateful to all of our colleagues for their support this morning on invoking cloture and getting us close to adoption of this complicated housing proposal. We had very strong votes beginning in December with the FHA modernization bill, in April with the foreclosure proposals, and most recently 19 to 2 out of our committee on this particular proposal, and, of course, the vote this morning on cloture, 83 to 9. So there is a strong indication that I take from our colleagues' actions that there is a desire to get this bill done. We have the opportunity to do that in the next few hours, a day or so, to complete this process before the Independence Day recess.

The ideas I just suggested, the proposals we are making, will help us come closer to that reality if people will take advantage of them.

Mr. BUNNING. Madam President, I want to speak directly to the folks at home right now. In the last few days, we have heard Senators say that we are in a historical crisis that requires action by the Federal Government. Supporters of this bill say it directs relief to homeowners who desperately need it, and deserve it. But they are trying to sell you on the cover of a book without letting you see what is inside. I like to know what kind of product I am buying before I open my wallet. As U.S. Senators, we have a responsibility to dig through any piece of legislation before we open up your pocketbook.

This bill is over 600 pages long. I have seen portions of it in the Banking Committee and the Finance Committee, but for the first time we are seeing the whole package here on the Senate floor. I am not buying it, and I do not think you, your children, and your grandchildren should have to either. Let me tell you why.

This bill puts you, the taxpayer, at risk. It creates a new, permanent tax on mortgage business done by Fannie Mae and Freddie Mac. That tax threatens the solvency of those institutions and permanently punishes the shareholders, many of which are institutional investors such as pension funds. The tax also reduces the amount of capital these GSEs can provide to the mortgage lending system in a moment of serious liquidity issues in the market.

Furthermore, the FHA is already projecting losses of over $4.6 billion from existing loans, which will wipe out 22 percent of its capital reserves. The Congressional Budget Office has estimated that participants in the FHA refinancing program will re-default at a rate of 35 percent. That is more than one out of every three loans refinanced through the program. We are putting more bad loans on an already broken program that can't handle the risks it currently has. Is that a good idea? Of course not.

The author of this bill says it does not put the taxpayer on the hook. That is just not true. First, the tax on Fannie Mae and Freddie Mac will be paid by ordinary Americans, either through higher costs for future mortgages or through lower share prices in their retirement accounts. Is that fair? No.

Second, taxpayers are on the hook for any losses beyond what is being taken from the GSEs. Supporters of this legislation say that will not happen, but even their own numbers show just how likely it is for this program to be bankrupt in a few years. The CBO score for losses only fits within the GSE tax set aside for the program because they assume less than a third of the refinancing authority is used. I think time will prove all those assumptions wrong. The real question in my mind is when will we have to bail out FHA and who is going to pay for it?

This bill not only creates a dangerous new tax, but also uses that revenue to fund housing initiatives off the books of the Federal Government. Under this bill, Fannie Mae and Freddie Mac will be assessed $500–800 million annually by the Federal Government. At least for the first year, that money will be used to cover the inevitable losses to the FHA from a bailout program for irresponsible and undeserving lenders and borrowers. The balance of that money will pay for a permanent slush fund for housing causes that will end up benefitting partisan groups, some of whom have recently had workers indicted for voter fraud. Additionally, there is an extra $150 million in counseling funds for these partisan groups, with even less accountability attached to those funds.

Another provision that has received little attention is $4 billion in emergency spending to buy foreclosed homes. That is nothing more than a gift to the banks, who by definition are the ones who have foreclosed homes to sell. These funds will have the perverse effect of increasing foreclosures because banks know there is going to be a willing buyer.

And if these tax and spend policies weren't enough, this bill vastly increases an already overreaching Federal bureaucracy. It nearly doubles the size of the FHA. It assigns important decisionmaking responsibilities with regard to this program to a board created of various agency heads, not Congress. It creates a new trust fund for ''affordable housing'' that is permanent and mandatory, outside the normal appropriations process. It requires loan originators to participate in a National Mortgage Licensing System and Registry. If you are a fan of big government, this bill definitely delivers.

But I am only skimming the surface. Unfortunately, it gets much worse. Make no mistake—this bill is a huge bailout for our Nation's lenders. The bill's author has said this bill is going to help the everyday man. Let's take a closer look and see what you think.

The FHA program created by this bill refinances borrowers who have defaulted on their mortgages into government-insured loans. Just how much of those loans does the government insure? One hundred percent. By creating this program, this bill limits how much lenders can possibly lose through mortgage transactions. When you invest in a business venture or in the stock market does the Federal Government cap your losses? No. But when it comes to big banks this bill willingly transfers downside risk of future losses right to the FHA and you, the American taxpayer.

As I said before, CBO estimates at least one in three mortgages refinanced under this bill will default again. Therefore, we have put in motion a scenario where taxpayers take the hit rather than the lenders who made that loan to a risky buyer who bought a house he could not afford, with a mortgage he could not afford. That is a bailout for the lender any way you slice it.

Probably the most glaring flaw is that the bill offers no way to keep out irresponsible and undeserving borrowers. In fact, borrowers are not required to show that they did not lie on their original mortgage application. To qualify for the bailout, borrowers get to sign a piece of paper saying they did not lie the last time they signed for a mortgage. This bill subjects the FHA to another wave of fraud that these no-documentation loans experienced in the primary market.

Borrowers who have not demonstrated an ability to pay can get a bailout because there is no requirement that borrowers have made any timely payments on their original mortgage. There is no income cap on eligibility for the program. As written, this bill would allow homeowners with houses valued at up to $550,000 to qualify for a bailout. In my county in Kentucky, which is one of the most expensive in the whole State, the median home price is $270,000. So this bill would give a bailout to people with homes valued at twice the median price. The American people are compassionate and often willing to help those in need. But I do not think giving a bailout to anyone who owns such an expensive home is fair to the average American. If you recall from the economic stimulus debate, my colleagues on the other side of the aisle vehemently opposed rebates for ''rich'' taxpayers. Now when it comes to bailing out banks that made risky loans, all income classes of borrowers can qualify.

The list of problems goes on and on. Mortgage professionals, people who by definition should have known better, can qualify for the bailout. People who defaulted on government loans before can come back to the trough. People who drained all the equity in their homes to buy flat screen TVs and new cars can qualify. This seems to me like a surefire way to set a program up for failure at a time when the FHA is reporting record losses.

The tax division of this bill also is flawed in several respects. In particular, it includes a $9.8 billion tax increase on small businesses that the Senate Finance Committee has never held hearings to review. This credit card reporting provision will result in a vast increase in paperwork for credit card companies and in millions of confusing and possibly misleading notices sent to the IRS and taxpayers.

Another provision that needs more work is the new limitation on the gain exclusion for the sale of a second home. This provision applies to any second property owned by the taxpayer, including an investment home. That means that taxpayers who lose their principal residence and move into a vacation home or investment property will also lose the benefit of gain exclusion. Is that the drafter's intent? This legislation has not been well thought out. That scenario should be excluded, and I have no doubt it would have been if this bill had followed the normal course through the Senate Finance Committee.

There are a few provisions in this bill which are worthwhile and needed. Most importantly, the bill creates a strong new regulator for Fannie Mae and Freddie Mac. Congress has been trying to pass such a bill for years, and it is sorely needed and worth passing on its own. But the proponents of the bailout are holding those needed reforms hostage to get their bailout.

I and many others hoped to offer amendments to try to mitigate the damage this bill could do. Unfortunately we have been blocked from doing so. On a bill of this magnitude that is irresponsible and unacceptable.

One of my amendments would have made refinancing more affordable for the vast majority of homeowners by allowing them to write off interest points paid on a home mortgage in the year paid. For no good reason, the Tax Code requires homeowners to treat points differently, depending on when they are incurred. If they are incurred in an original purchase financing, the points are deductible, just as they would be under my amendment. If they are incurred in a refinancing, the points can only be deducted ratably, over the life of the loan. The difference is so significant that it will affect the ability of millions of homeowners to afford refinancing.

The whole idea of bailing out people who took a gamble and lost is an irresponsible way to spend the taxpayers' money. I do not think the people back in Kentucky sent me to Washington to bailout speculators, Wall Street executives, and people who drained the equity in their homes to buy flat screen televisions and new cars.

This bill is simply the wrong kind of housing policy for Congress to be engaging in and is fatally flawed. Even the sponsor of the bill has admitted on the Senate floor that he is not even sure it is going to work, but he hopes it will. As the most deliberative body in the world, I think we can do better. In fact, we owe it to our grandchildren to do better. Who is going to bail them out when FHA is left with $300 billion in bad debt? On behalf of the people of Kentucky, this Senator is not buying this bailout bill.

Mr. BROWN. Madam President, I am pleased the Senate has turned to the Housing and Economic Recovery Act, which in large part was the responsibility of three of my colleagues, Senator DODD, Senator REED from Rhode Island, and Senator SHELBY, which will provide much needed relief to our country's homeowners and the communities they live in.

Ohio has been at the center of this storm for a number of years, and after years of neglect from the Federal Government, I am pleased that we are finally about to act. Congress needs to help and it needs to act quickly.

I understand we have an agreement that limited amendments today to those that are relevant. This agreement I hope remains in effect through the consideration of the legislation.

Ohio set a record for foreclosures last year, some 83,000 foreclosures. That is more than 1,000 a week. That is close to 200 a day. More precisely, every week about 1,500 families have lost their homes. The end is nowhere in sight. These families need our help now. They do not need political posturing on unrelated issues. We have seen too much of that. That can wait until we are done with this bill.

This fall, by some estimates, we will see the peak of the subprime mortgage resets. One research firm predicts half the subprime loans made in the fourth quarter of 2006 will fail. That is not lending; that is gambling with someone else's house.

The people who were sold these loans, and the neighborhoods they live in, must be among our highest priorities. The needs of communities are critical because this crisis has an impact far beyond the people who lose their homes. Whenever a home goes in foreclosure, the value of neighboring homes drops by about 1 percent. Crime goes up. Just when property tax revenues are plunging and the resources of a city or town are stretched to the limit, more resources are needed, and there is less ability to deliver to help people.

The Foreclosure Prevention Act which we passed in April has been incorporated in this legislation before us. It will provide close to $4 billion in aid to communities so they can rehabilitate or in some cases knock down abandoned homes in neighborhoods.

The bill will fund more counseling to help people rework unfair loans. Yesterday in Columbus I visited a neighborhood on East 21st Street where the Columbus Housing Partnership has been so helpful in counseling many people. More than 100 people, they say, have had their homes saved because of this counseling. Two of them were with me on East 21st Street yesterday.

This is no easy task. Once upon a time you took out a loan with your local bank to buy a home, you knew people at the bank, they knew you, and the bank had a stake, as much stake in your success as you did.

Today, especially for subprime loans, that is seldom the case. The voice on the phone and the owner of the loan could be anywhere in the world. Help in navigating the mortgage maze is essential. But the problem is too big for one-by-one approaches. No matter how hard counselors and servicers work—and they are doing yeoman work all over the country, Toledo, Cleveland, Dayton, and Springfield, all over my State and all over the country. No matter how hard they work, we need a more comprehensive approach to help homeowners who could afford to stay in their homes if they had a fair mortgage.

The bill before us establishes a temporary program within the Federal Housing Administration that, on a voluntary basis, would allow lenders and borrowers to refinance their mortgages into a more affordable and stable product.

The HOPE for Homeowners Act would help perhaps half a million families. But the impact is far wider, as their neighbors and communities will be helped as well if we can avoid foreclosure for these homes in the neighborhoods.

These provisions are not a bailout for borrowers or lenders. Borrowers get no subsidy from the Federal Government. They will have to pay a mortgage on their property like everybody else. The difference is they will now have a standard 30-year fixed rate loan based on the true value of the property, rather than an exploding adjustable rate mortgage based on an inflated appraisal. Lenders, meanwhile, will have to take a loss by writing down the mortgage below the actual value of the property if they choose to participate.

In many cases it will be in their interest to do so. With bank-owned homes selling at a fraction of the outstanding mortgages on them, many will want to accept a smaller loss. If the program works as we hope, it should provide liquidity to the mortgage market so that lenders will be able to again make prudent loans.

The legislation also creates an affordable housing fund. With our stock of affordable housing both aging and shrinking, this fund will be vital to the many families who are struggling to keep a roof over their children's heads.

Families who are ready to buy a home will be helped in several ways by this legislation. First, it includes a modernization of the FHA program. What we saw over the past several years was an incredible shrinking of the market share for FHA loans as borrowers opted for riskier loans instead. The legislation would update the FHA program, increasing limits for high-cost areas and streamlining its operation. Second, home buyers will be eligible for a credit of $8,000 in the form of a 15-year interest-free loan. This credit is phased out for higher income taxpayers, and it will last 1 year. But it should provide help not only to home buyers but help to stabilize markets around the country.

The bill includes several other noticeable tax provisions. It provides an additional $11 billion of mortgage revenue bonds, so that State housing agencies can respond to the housing crisis in a way that best suits their situation. It provides a measure of property tax relief to people who do not itemize on their taxes, an estimated 28 million taxpayers.

This legislation provides a needed overhaul to the regulation of Fannie Mae and Freddie Mac and the Federal Home Loan Banks. This is an issue that has been debated for years. We have now reached a point where we can move forward. The bill creates a new independent regulator with broad authority equivalent to that of other Federal financial regulators. The new regulator will be able to establish capital standards, management standards, and review and approve new products. It will have teeth too, as it will be able to enforce its orders through various means.

This new regulator will draw from various agencies already in place, and it will be required to undertake rulemaking in several areas. I hope my colleagues will give some attention to the transition from the current regulatory regime to the new one. It has taken us years to get to this point in the legislative process. It is unlikely that a new regulator can be created to do a competent job overnight.

Let me conclude by commending Chairman DODD and Ranking Member SHELBY for bringing us to this point today, and especially to the majority leader for his work in getting there. No one in the Senate wants to help people who engaged in fraud or speculation. But hundreds of thousands of people were sold mortgages designed to fail. These people can stay in their homes with a fair mortgage but will be on the street without our assistance. They deserve our help. They deserve it now.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that notwithstanding rule XXII, the Senate now proceed to executive session to consider Calendar No. 630, the nomination of Helene White to be a United States circuit judge for the Sixth Circuit; that there be 4 hours for debate with respect to the nominations covered under this agreement today, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on confirmation of Calendar No. 630; that if the nominee is confirmed, the motion to reconsider be laid upon the table and that President Bush be immediately notified of the Senate's action; that upon confirmation of Calendar No. 630, the Senate then proceed to the consideration and vote on confirmation of the following nominations in the order listed, Calendar Nos. 631 and 632; that with respect to any vote sequence, there be 2 minutes of debate between votes and that any succeeding votes be limited to 10 minutes each; that upon confirmation, the motions to reconsider be laid upon the table, en bloc, the President be immediately notified of the Senate's action, provided that no further motions be in order, and the Senate then resume legislative session; further, that on Thursday June 26—this coming Thursday—notwithstanding rule XXII, if it is applicable at all, at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to executive session to consider Calendar Nos. 627 and 628; that they be debated concurrently for 1 hour, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on confirmation of the nominations in the order listed, with 2 minutes of debate time equally divided and controlled in the usual form between the votes, and the second vote in the sequence be 10 minutes in duration; that upon confirmation, the motion to reconsider be laid upon the table, en bloc, the President be immediately notified of the Senate's action; further, that if Calendar No. 630 is not confirmed, then all aspects of this agreement are null and void, with no further intervening action or debate, and the Senate then resume legislative session; that any time consumed under this agreement count postcloture, if applicable, provided that no further motions be in order.

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

Mr. REID. Madam President, I ask unanimous consent that in the consent request I initiated, where I read the words ''then all aspect of this agreement are null and void, with no further intervening action or debate,'' the words ''no intervening action or debate,'' which I read into the RECORD, be deleted.

The PRESIDING OFFICER. ''No further intervening action or debate'' shall be deleted from the request.

Mr. REID. That is correct, Madam President.

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

EXECUTIVE SESSION

NOMINATION OF HELENE N. WHITE, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Helene N. White, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Mr. ISAKSON. Madam President, I ask unanimous consent that the time during the quorum be equally divided between the parties, and I suggest the absence of a quorum.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is presently in executive session.

Mr. LEAHY. Am I correct that we are now on a judicial nomination?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Is there a time agreement?

The PRESIDING OFFICER. There is 4 hours equally divided. But the Senate has used some of that time in the quorum call.

Mr. LEAHY. I yield myself such time as I may need in the time allotted to the Senator from Vermont.

Today, the Senate is turning to a package of three nominations for lifetime appointments to the Federal bench in Michigan, including President Bush's nominations of Judge Helene White and Raymond Kethledge to fill the final two vacancies of the Sixth Circuit Court of Appeals.

These nominations are the result of the hard work of Senators LEVIN and STABENOW, who consulted with President Bush to end a decade-long impasse in filling vacancies on the Sixth Circuit. During that time, Senate Republicans had blocked President Clinton's nominees to that circuit, leaving open four vacancies.

I am worried that some on the other side seem intent on preventing us from making this progress. Judge White's nomination should be a consensus nomination. Judge White was nominated by a Democratic President and by a Republican President. When the most partisan President in modern history, one responsible for sending us so many divisive nominations, renominates a Clinton judicial nominee, it actually should send a signal.

Nevertheless, her nomination drew criticism from the Republican leader and opposition from Republicans on our committee. After I expedited a hearing on the Michigan nominees, figuring that 10 years of waiting might have been enough, Republicans objected that we were moving too fast. They peppered her with more questions than any nominee of President Bush that I can recall. At our committee markup, Republicans made the wildly dumbfounding claims that she is not experienced. But after more than 25 years as a Michigan State court judge, including 15 as a State appellate court judge, she is a more experienced judicial nominee than many of those they previously supported.

It is interesting that Republicans did not raise this concern when they were supporting far less experienced nominees such as Jennifer Elrod and Catharina Haynes of Texas to fill circuit court vacancies. In fact, Judge White has been on the appellate bench longer than Mr. Kethledge, the other Sixth Circuit nominee, has been out of law school.

It is ironic that last week several Republican Senators held a press conference with representatives from right wing groups organized by a group calling itself Concerned Women for America. It is Republican opposition to a woman nominee that has been holding up the progress of filling judicial vacancies. Now this woman nominee they seemed concerned about is described on President Bush's White House Web site as ''an experienced and highly qualified judge, who is known for her intellect, work ethic, and demeanor.'' She has been given the highest rating for the position by the ABA. Yet her extensive experience, which is far more than the experience of many supported by my friends on the other side of the aisle, does not seem to meet the sudden last-minute standards set by Republican members of the committee.

As a state judge, she has not been called upon to consider and apply certain Federal statutes. That would be the same with thousands of state judges all over the country. It is understandable. But if you characterize her because of that as unqualified, that would turn back the clock to before the confirmation of Justice Sandra Day O'Connor, who had been a State legislator and a State judge. Justice O'Connor was not experienced in deciding Federal law issues before confirmation as the first woman on the U.S. Supreme Court. I think we should all agree she nonetheless served the Nation well in that capacity. And I agreed with her chief sponsor in this body, my friend and former colleague, Barry Goldwater of Arizona, and I was proud to join with him in voting for Sandra Day O'Connor.

It is also ironic that week after week, as the Senate continues to make progress in filling judicial vacancies, we hear a steady stream of grumbling from Republicans whose main priorities now seem to be to prevent the Senate and the Judiciary Committee from addressing the priorities of ordinary Americans. You would almost think that gasoline has not skyrocketed as the dollar has collapsed in value worldwide because of the huge debt caused by the Iraq war. They do not seem to realize that some of the typical Americans in my State of Vermont and, I suspect, the Presiding Officer's State of New Jersey, are finding it very hard to buy gas to go to work or pick up their children after school or do their grocery shopping or visit an ailing parent. You would not think these were important matters when you hear of the priorities on the other side. You would not be aware there is a huge crisis in the housing industry, where people are losing houses all over this country, hard-working Americans who finally had the American dream of owning their own home and are now losing it. You would think that was not happening by what we hear from the other side.

Republicans are now regularly objecting to hearings before the Judiciary Committee. They seem disappointed when we conclude hearings within the first 2 hours of the Senate's day and they cannot disrupt them.

They objected to Senator FEINSTEIN completing an important hearing on interrogation techniques used against detainees. It is almost as if, if we can block that hearing from happening, these terrible things never would have happened because Republicans foreclosed the ability of Americans to hear what went on in those hearings.

They objected to a hearing highlighting the impact of Supreme Court decisions on the daily lives of all Americans even though that meant cutting short the testimony of two brave women victimized by such a decision, Pennsylvanians who came to Washington to tell how badly they had been hurt by these decisions. The Republicans effectively silenced them to make sure they could not speak and could not testify because they said we should not have these Judiciary Committee meetings. So these two Pennsylvanians had to go back home unable to finish telling their story.

And a few days ago, the Republican minority objected to a hearing that had been requested by Judiciary Committee Republicans to examine the need for additional Federal judgeships throughout the country. This now all too familiar pattern is childish and serves no good purpose.

We will see later this week whether they allow Senator BIDEN to proceed to chair a hearing before the Subcommittee on Crime and Drugs concerning fugitives from justice.

Regrettably, these obstructionist tactics from the other side of the aisle are likely to continue without regard to the real priorities of the struggling Americans I spoke about, the voters who have elected every Senator to serve. Their priorities are being pushed aside.

We read last week another story about the dissatisfaction of right wing

activists and their pressuring of the Republican leadership in the Senate. We witnessed their response this month as they forced a reading of a substitute amendment to critical climate change legislation. They did this for hours and hours, thereby shutting down the work of the Senate.

Two weeks ago, we saw a story in Roll Call that included the headline ''Divided GOP Settles on a Fight Over Judges.'' That headline reminded me of the famous Wolfowitz quote about why the Bush administration settled on supposed weapons of mass destruction as the justification for attacking Iraq even though they knew there were no weapons of mass destruction—it was the rationale they could agree on. They all knew they wanted to attack Iraq, they knew they did not have the facts to attack Iraq, so they found a cover story they could use. And thousands of lives and $1 trillion later they say: Oops, sorry, no weapons of mass destruction, but, boy, we all agreed on the rationale.

The report in Roll Call included discussion by Republican Senators of the politics that fuels their efforts to appeal to ''conservative activists'' and ''ignite base voters'' and find an issue that ''serves as a rare unifier for Senate Republicans'' and their Presidential nominee. That piece mirrored an earlier article in the Washington Times, reporting how this is all part of an effort to bolster Senator MCCAIN's standing among conservatives.

This political song-and-dance would not be so bad if it were not impacting the integrity and the independence of the Federal judiciary, something that in the past both Republicans and Democrats tried to protect.

I had suspected that much of this complaining was because Republican partisans were looking for an issue to energize their political base during an election year. The reports from the media outlets have confirmed my suspicions. I wonder if they realize that liberals, conservatives, Republicans, and Democrats are suffering from having to pay these outrageous gas prices. Wouldn't it be better if they worked on that?

Americans, Republicans and Democrats, in all parts of this country, are seeing their houses disappear and the value they had hoped for their retirement gone. Wouldn't addressing that be something better on which to unite America?

On this date in the 1996 session, another Presidential election year but one in which a Republican Senate majority was considering judicial nominees of a Democratic President, do you know how many judicial nominees had been confirmed? The answer is easy: None, not a single one. That was a session that ended without a single circuit court judge being confirmed.

By contrast, if Republicans will allow the confirmation of Judge White to the Sixth Circuit, we will have today completed the confirmations for 12 judges, including 4 circuit court judges, so far this Presidential election year, compared to 1996, when none had been confirmed at this point.

In addition to today's three nominees, two more judicial nominees already reported by the Senate Judiciary Committee are pending on the Senate's executive calendar. I have placed four more on the Judiciary Committee business agenda for later this week.

It is perhaps the ultimate irony that here, as the Democratic leadership of the Senate takes the extraordinary step of proceeding to two more of President Bush's circuit court nominees in June of a Presidential election year, I am being criticized by Republicans for, of all things, moving too quickly. I had hoped, in light of the discussion between the majority leader and the Republican leader earlier this spring, to have concluded Senate action on this package of Michigan nominees more quickly. I tried to have these votes in May before the Memorial Day recess, but we were thwarted in that effort by Republican concerns about expediting consideration of these Bush nominees. So what we might have done in May, we are now having to do in June.

It reminds me a little bit of the Republican antics and shenanigans earlier this year that cost us progress in February. Rather than making progress, Republicans refused to make a quorum in the Judiciary Committee that entire month so no judicial nominees would come out in March, and then in March, they could give speeches.

So let there be no mistake. If Judge White is confirmed, we will have broken a 10-year impasse on the Sixth Circuit. By contrast, the Republican Senate majority during the Clinton years refused to consider President Clinton's Sixth Circuit nominees for 3 years and left four vacancies on that court.

When, as chairman, I scheduled a hearing and vote for Judge Julia Smith Gibbons of Tennessee and Judge John Marshall Rogers of Kentucky, we were able to confirm the first new judges to the Sixth Circuit in 5 years. The others had been pocket-filibustered by Republicans. I said we would not do the same thing to them, and we did not. We moved quickly on President Bush's nominees to that circuit. The confirmations of Judge White and Mr. Kethledge of Michigan would complete the process by filling the two remaining vacancies on the Sixth Circuit.

Judge White was first nominated by President Clinton to a vacancy on the Sixth Circuit more than 11 years ago, but the Republican-led Senate refused to act on her nomination. She waited in vain for 1,454 days for a hearing before President Bush withdrew her nomination in March 2001. Hers was 1 of more than 60 qualified judicial nominees pocket-filibustered by Republicans. This year, President Bush reconsidered and renominated her, and I applaud President Bush for doing so. He deserves credit for trying to close the door on a sorry chapter. I commend the President for doing it and for what he has said on his White House Web site about Judge White's nomination. I hope the Senate will follow the example of President Bush and confirm Judge White to one of the last two vacancies on the Sixth Circuit.

The Michigan vacancies on the Sixth Circuit have proven a great challenge. I commend the senior Senator from Michigan, chairman of the Senate Armed Services Committee, Senator LEVIN, and his outstanding colleague, Senator STABENOW, for working to end years of impasse. I had urged the President to work with the Michigan Senators. After 7 years, he now has.

We have come a long way since I became chairman in 2001 when the Sixth Circuit was in turmoil because Republicans had blocked nominations for many years. Today we complete that progress by confirming Judge White and Raymond Kethledge.

I yield the floor and retain the remainder of my time. How much time remains to the Senator from Vermont?

The PRESIDING OFFICER. There is 1 hour 32 minutes.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, we are moving forward today on the votes for confirmation of three Federal judges. Among the many very heavy responsibilities of the Senate, the confirmation process ranks very high. Under our system of government, we give to the judicial branch the responsibility of interpreting the Constitution and establishing the rule of law. That has broad implications. It means the courts render decisions where one citizen has a claim against another, which goes to court. It means a claim when the government and a citizen have a controversy which is to be settled by an impartial judicial arbitrator. It also involves some of the historic constitutional confrontations, one of which we will have later this week on the Foreign Intelligence Surveillance Act. Where does the Article II power of the President end as Commander in Chief, and where does the Article I power of the Congress of the United States establish itself under Article I?

It is a very, very high calling. When the framers adopted the Constitution, Article I was given to the Congress. Article II to the executive branch and Article III to the judicial branch. Later, Chief Justice Marshall, in effect, rewrote the order of priority. I think if the Constitution were to be rewritten today, the judicial branch would be No. 1, because the judicial branch has taken over the responsibility, for a variety of reasons, for deciding all of the cutting edge questions.

We have had a great deal of focus of attention on the confirmation process. This attention usually happens when Supreme Court nominations are involved. Then, in the major committee hearing rooms, Senators are all at

their desks. There are not too many Senators at their desks here today. In fact, I don't see anybody at their desk here today, except for the Presiding Officer, which is not exactly his desk. It is the vice president's desk. But, Senator LAUTENBERG from New Jersey looks comfortable in the position. We have had, during the confirmation process of Chief Justice Roberts and Associate Justice Alito, seen the Senate at its best—avoiding the controversy, avoiding the partisanship, and moving forward in dignified hearings.

As I have said before—and it is worth repeating—I compliment the distinguished chairman of the Judiciary Committee for his courageous stand in voting for Chief Justice Roberts. Chief Justice Roberts was confirmed by a vote of 78 to 22. Counting the Independent vote with the Democrats, a majority of the Democrats voted in favor of Chief Justice Roberts, and it was a good, unifying symbol. We moved through that process where there had been some doubt as to how the Senate would perform, a doubt which was occasioned by the very bitter infighting, which characterized the Senate in 2003, 2004, and 2005, when we had the controversy with the filibuster by one side and the threat to invoke a new rule of cloture with the so-called constitutional or nuclear option.

I have the pleasure of having my 14-year-old granddaughter with me this week. She just graduated from the eighth grade and is spending a week as an intern in the Senate. It may be a little early for the job. Her father spent 6 weeks with Senator Hugh Scott many years ago when he was 17. But, in going over the day's itinerary, I sought to explain to my granddaughter, Silvia Specter, what a confirmation is. She is watching, with more interest, the activities of the Senate today because she is onboard. It is my hope, with agreements which have been reached here today to move ahead with the confirmation of three Federal judges today and two more on Thursday, that perhaps we will see a return to at least some basic level of comity in the Senate. We have moved a considerable distance from the tradition of confirmation of Federal judges where, in times gone by, there was merely a review of academic standing, professional standing, and trial practice; now, we go into much more detail of the ideology and philosophy of the nominees. That change has led to some deep concerns over the so-called cultural wars which have, candidly, muddied the waters. However, it is my hope that in the time that remains in the 110th Congress, we will move ahead with the confirmation of judges on up-and-down votes.

The three nominees we are considering today have come to the floor as a result of an arrangement worked out by the leadership on both sides. Originally, there had been a commitment to have these confirmations occur before Memorial Day. When I say ''commitment,'' let me modify that slightly to ''best efforts.'' When the nominees were selected, there was concern on the part of the Republican side of the aisle that there was insufficient time to take up the nomination of appellate court Judge Helene White to be a judge of the Sixth Circuit.

I will ask unanimous consent that the full text of my statement on Judge White's nomination be printed in the RECORD at the conclusion of my remarks.

By including my statement, I can abbreviate my comments now. In my statement, I note that there were only 22 days between Judge White's nomination and hearing, and there was not an opportunity to get into the details of her record, which is a matter not just of procedure, not just of form, but of real substance in terms of the committee's ability to evaluate Judge White. I shall talk about that specifically, in terms of her qualifications and in terms of specific cases which she has decided. The context of the mere 22 days to evaluate her nomination is further illuminated by the fact that there were so many other nominees who had been on the agenda for much longer. A very distinguished lawyer, Peter Keisler, a man who has been praised on the editorial pages, had been waiting for 726 days for a committee vote on his nomination to Circuit Court for the District of Columbia. It is not too often that judicial nominees are praised on the editorial pages, but Peter Keisler has been. A judge in North Carolina, District Court Judge Robert Conrad, who is up for a seat on the Fourth Circuit, has been waiting for a hearing for 343 days. A man named Steve Matthews, also for a seat on the Fourth Circuit, has been waiting for a hearing for 292 days.

It seemed to my Republican colleagues and me that where you had a commitment for confirmations by Memorial Day, and you had people who had been waiting around for this length of time and we were in a position to evaluate them, that they should have been the ones to be considered. But, the majority leader chose otherwise, and now we have before us the nomination of Judge White for a position on the Sixth Circuit.

The status of a circuit judge is extremely important in our judicial hierarchy because the circuit court—for those who are not familiar with the details of Federal procedure—is the appellate court right above the U.S. District Court, which is the federal trial court. When appeals are taken, or, more specifically, a petition for a writ of certiorari is applied for to the Supreme Court of the United States, it is a discretionary matter whether the Supreme Court takes the case. Most of those applications are not heard—the U.S. Supreme Court takes very few cases from the court of appeals. So, when a three-judge panel sits in a circuit court, that is it. Now, sometimes there will be a decision by the circuit court en banc, when the full circuit court will decide, but customarily the decision is only rendered by the three-judge panel, and many decisions are two to one.

One case which illustrates the importance of the circuit court, and especially the Court of Appeals for the Sixth Circuit, was the decision on the constitutionality of the Terrorist Surveillance Program, the program put into effect by the President on warrantless wiretaps. These wiretaps went on for a long time before they were disclosed—a violation of the National Security Act of 1947, which requires the President to inform the Intelligence Committees of such proceedings, and a violation of the Foreign Intelligence Surveillance Act of 1978.

The President has responded to the law that Article II powers are not affected by statute, but that is a matter for judicial decision. A Federal court in Detroit declared the Terrorist Surveillance Program unconstitutional. The case was appealed to the Sixth Circuit, and on a two-to-one decision, the Sixth Circuit decided the plaintiffs did not have standing. That is a complicated legal procedure, which I will not take time to discuss today, but, in short, they do not have a right to challenge it because they are not sufficiently affected by it.

There was a dissent in that Sixth Circuit decision. Then, the Supreme Court of the United States denied certiorari—a decision which I thought was unfortunate. When you have a major constitutional confrontation between the Congress and the President—the most dominant confrontation of this era—it seems to me the Supreme Court of the United States ought to decide the issue and, candidly, not look for a way to duck it.

The doctrine of standing has sufficient flexibility, as illustrated by the dissent in the Sixth Circuit, that the Court could have taken the case. There is a lot of flexibility when the court deals with issues such as standing. Coming back to the point, one judge of the Sixth Circuit made the difference. So, when you have a nominee to the Sixth Circuit Court of Appeals, or any court of appeals, it is an important decision.

Going back to the topic at hand, we had the hearing on Judge Helene White, and we had it in a very hurried fashion. We did not have the rating of the American Bar Association, and, regrettably, we did not have all the materials that should have been available to the committee. When judges write opinions, a good many of them are what are called unpublished. For those who do not know the legal procedures, there are published opinions, which are bound in volumes that are used for precedents. But, the courts make a distinction on what is published and what is unpublished, and a good many of Judge White's opinions were unpublished and reversed, and we never were able to get them.

I asked Judge White at the hearing about a number of her cases because my own sense is to get involved in the specifics. In evaluating judges and evaluating lawyers on their legal skills, it is very revealing to see what they have decided. Perhaps even more revealing than what they have decided is the way they have reasoned through the decision. My questions about her cases were not designed to be so-called ''gotcha'' questions. All the cases I used for questioning were specifically listed on Judge White's Senate questionnaire that she provided to the committee on April 25, just 12 days prior to her hearing. I thought she would at least be familiar with these cases.

One of the cases I questioned Judge White on was captioned People v. Santiago. In that case, Judge White dissented from her colleagues' opinion, where her colleagues—two other judges—upheld a jury conviction of a defendant for first-degree felony murder and armed robbery. Judge White would have reversed the sentence.

In this case, the defendant had driven the other two defendants to the house where the robbery and murder were committed, knowing that the defendants intended to rob and likely kill the victim—a classic example of aiding and abetting. It is a basic, fundamental rule of criminal law that an accomplice in a getaway car is a part of the conspiracy to rob and is responsible for the consequences of a felony murder which follows—very basic fundamental law.

I asked Judge White why she did not agree with her colleagues that the defendant was guilty of aiding and abetting. She could not explain why her decision deviated from the legal standards. I asked her specifically if it was ''standard, clear-cut law that when somebody drives a codefendant to a place where there is a robbery and a murder, that kind of assistance constitutes guilt on the part of the coconspirator, accessory before the fact?'' She commented, unresponsively, that she ''went to law school in Pennsylvania,'' but then continued that ''in Michigan, to be responsible for the principal offense, one has to either share the intent to commit the principal offense or provide aid and support with knowledge that the principal offense was going to be committed.''

Given that acknowledgment, I again asked her why she came to a contrary conclusion. I asked her if she stood by her decision, even though her two colleagues who participated in the case with her on the Michigan Court of Appeals disagreed and the Supreme Court had denied appeal, and she responded that she stood by her original judgment, without providing any legal reasoning to justify that conclusion.

I asked Judge White about another case, captioned People v. Ryan. She participated in the decision affirming the dismissal of a drug dealer's conviction. The conviction had been reversed. The circumstances were that the defendant was arrested by Federal agents but was charged and convicted in a state court. The defendant argued that the decision to pursue a state prosecution rather than a federal prosecution was vindictive. The panel on which Judge White sat found that the trial court's determination that there was vindictive conduct was not clearly erroneous. The Supreme Court reversed stating:

> The mere threat to refer the case for State prosecution does not amount to objective evidence of hostile motive.

The Supreme Court reversed the decision to which Judge White had been a party.

I am sorry for the interruption. Anyone watching this debate on C–SPAN just saw a congenial exchange between the distinguished chairman and the ranking member of the Judiciary Committee. As a matter of fact, we have quite a few such exchanges. The evening is getting late and a lot of colleagues have a lot of commitments, and there has been a request by the majority that I abbreviate my comments. I think I can do that sensibly and will be delighted to do so.

Mr. LEAHY. Mr. President, if the Senator will yield without losing the floor?

Mr. SPECTER. No, Mr. President, I already have yielded.

Mr. LEAHY. Mr. President, I appreciate what the Senator said. I hope people understand who are listening. I know the two Senators from Michigan are going to speak very briefly. But if we wrapped up the comments in, say, the next 15, 20 minutes, we could then go to a rollcall vote on Helene White. I would agree, then, to a voice vote on the other two judges, provided the ranking member had no objection to that, which would probably bring about a huge sigh of relief from Senators on both sides of the aisle that we would not be stuck here with three votes.

Mr. SPECTER. Mr. President, I thank the distinguished chairman for his suggestion. It is almost 6 o'clock—a few minutes before—and I know people have a lot of engagements. I think the course he outlines is a solid one. I think we can handle the Senate's business in that way. As I said earlier, I will expedite my presentation and rely more on what I have in my statement for the RECORD. I do not think I am going to change a whole lot of votes in what I say, but I do think it is important for the Senate to understand that voting against Judge Helene White is not a matter that is done lightly or without cause. There ought to be a statement as to why.

Well, back to the case of People v. Ryan. Quite frequently there is a Federal investigation and a State prosecution. It happens all the time. It was very commonplace when I was district attorney of Philadelphia. That scenario is certainly not the basis for saying it is vindictive or out of order. For one reason or another, it is better suited to pursue the State court. If a State law is violated, you can do it that way. Judge White was wrong, as determined by the appellate court.

There is one other case on which I wish to comment. There is a case called People v. Thomas, which is in the RECORD and which I will incorporate by reference to save some time; however, I do want to specify the case of People v. Hansford, which was an opinion reversed on appeal by the Michigan Supreme Court and was a third case she had summarized in her questionnaire prior to her hearing.

After reading to Judge White in the hearing the defendant's extensive criminal record, which included several counts of larceny and attempted larceny, receiving and concealing stolen property, fleeing and alluding, and violations of probation, I noted that habitual offender statutes are designed to take habitual offenders off the streets. I asked what her reasoning was for determining that a man with an extensive criminal record such as the defendant did not deserve to be off the streets for life.

Once again, her response to my question was that she was not familiar with the case. She further stated that she ''accept[ed] the Supreme Court's decision . . . and accept[ed] that the sentence was appropriate . . . because the Supreme Court has said it is appropriate.''

I again asked her whether she thought her decision was correct in light of the Michigan Supreme Court's reversal, and she said:

> I have to have been wrong . . . The Supreme Court reversed. I was wrong. The Supreme Court reversed.

Well, that is, in my legal opinion, totally insufficient for a nominee to respond in that way to a very important question such as that. You have habitual offender statutes which are designed to take career criminals off the streets. When you have three or more convictions for violent offenses, it has been determined that the criminals ought to have life sentences. Based on the experience I had as district attorney dealing with these cases, I authored the Armed Career Criminal bill, which created a federal life sentence for serious repeat offenders convicted of three or more major felonies. The fundamental part of the criminal law is to protect society. Recidivists commit 70 percent of the crimes so if there is a habitual offender who commits repeat crimes, they ought to be taken off the streets. Here there was one, and the Supreme Court of Michigan said the treatment should have been for a habitual offender. Judge White didn't treat it that way, and she didn't have any justification for why she didn't treat it that way, and she didn't explain the logic of her reasoning.

As delineated in the very extensive floor statement, which I have already had printed in the RECORD, we were not given a great many of Judge White's opinions. It was very difficult—really impossible—to calculate her reversal rate when we didn't have those opinions. Based on the opinions we have,

her reversal rate was in excess of 6 percent, much higher than Judge Robert Conrad's reversal rate—2 cases out of 175, or about 1 percent. The national average is at 8.6 percent; however, Judge Boyle from North Carolina, who was rejected by the Democrats based on his high reversal rate, had a reversal rate which was lower than Judge White's. And I repeat, we still don't know what her reversal rate is. We don't know what her reversal rate is because we had a great many unpublished opinions that were reversed on appeal that we did not have an opportunity to examine because they were not provided to us.

Just a couple of comments in conclusion. It is my hope that we will yet return to some basic comity and have a respectable number of confirmations of Federal judges this year. The statistics show that President Clinton had a significantly larger number of circuit judges and district court judges confirmed than President Bush has had in the last 2 years. Further, President Clinton's overall confirmation numbers are higher than President Bush's. President Clinton had 65 circuit judges and 305 district court judges confirmed, while President Bush has had only 59 circuit judges and 244 district judges confirmed. We have heard several discussions about the so-called ''Thurmond rule''—that is a rule which has been commented upon which, when analyzed, has no real substance. During President Clinton's Administration, Chairman LEAHY commented that the so-called ''Thurmond rule'' was a ''myth,'' and then he proceeded to specify a great many judges who had been confirmed late in past Presidents' terms.

Upon examination, we find that the facts are that in the last 2 years of Presidents' terms, there have been many judicial confirmations. In 1988, President Reagan's last year in office, the Senate confirmed 7 circuit nominees and 33 district court nominees. In 1992, President George H.W. Bush's last year, the Senate confirmed 11 circuit nominees and 53 district court nominees. In 2000, President Clinton's last year in office, the Senate confirmed 8 circuit nominees and 31 district court nominees.

The Thurmond rule allegedly arose when the issue about the confirmation of judicial nominees came up near the end of President Carter's term in office. But, an examination of the facts shows that nominations were not being blocked. In fact, by today's standards, the end of President Carter's term was a rather remarkable situation. President Carter nominated Steven Breyer to be a court of appeals judge for the First Circuit on November 13, 1980, after President Carter had lost the election to President Reagan. We talk about the fights over circuit judges now. The election was gone. We had a new President. But, the Senate confirmed Steven Breyer to the First Circuit, and history shows that he later became a U.S. Supreme Court Justice.

We have had some very troubled times on this Senate floor, and that kind of infighting and partisanship is something which does not add to the luster of the Senate as the world's greatest deliberative body. We have seen very bitter disputes on this Senate floor. The Republican majority, in my opinion, did not act properly on President Clinton's nominees when the Republicans controlled the Senate and the President was a Democrat. I said so on the floor at that time and voted for President Clinton's qualified nominees.

When we had the battle over filibuster versus the so-called nuclear constitutional option, the tradition of this body was strained to the utmost, and we dodged that bullet or cannon or nuclear bomb. So, it is my hope that Senator LEAHY and I can take the lead, as we have in the past. He is the chairman; I am the ranking member. The roles have been reversed. We have a lot of role reversals around here. When PAT LEAHY and ARLEN SPECTER passed the gavel, it was a seamless passing of the gavel. We are not going to filibuster Judge White. I am going to vote against her for the reasons I have given here, and more detailed in my statement. I have not campaigned against her. I think the matter is up for every individual Senator to judge. My expectation is that she will be confirmed. I think there may well be a fair number of votes against her, but I haven't counted the votes. But, I think the important thing is that we have an up-and-down vote, and that we not have a filibuster. We have waiting in the wings the judge from North Carolina, Judge Conrad, and the man from South Carolina, also nominated to the Fourth Circuit. I hope we move on these nominees.

I also have written to my colleagues who are not returning blue slips on nominees from New Jersey and from Maryland and from Rhode Island. I have talked to them and urged them to return their blue slips, urging that we not maintain vacancies in anticipation of the election results. But, essentially, it is my hope that we can move ahead in a way that is in the tradition of the Senate and to discharge our constitutional responsibilities with up-or-down votes.

Mr. President, I now ask unanimous consent that my full statement be printed in the RECORD.

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

SENATOR ARLEN SPECTER, FLOOR STATEMENT, NOMINATION OF JUDGE HELENE WHITE TO THE SIXTH CIRCUIT COURT OF APPEALS

I have sought recognition to discuss the nomination of Judge Helene White to the United States Court of Appeals for the Sixth Circuit, but before I discuss the merits of her nomination, I'd like to remind the members of this Committee of the history behind this nomination.

On April 15, 2008, Majority Leader Reid and Chairman Leahy committed to confirming at least three more circuit court nominees by the Memorial Day recess. Senator Reid said: ''Senator Leahy and I are going to do everything we can to approve three circuit court judges by Memorial Day. . . . Who knows, we may even get lucky and get more than that. We have a number of people from whom to choose.''

The same day as the Majority's commitment, the White House reached an agreement with the Senators from Michigan on nominations to the Sixth Circuit, which broke a decade-long impasse. The impasse began in 1997, when President Clinton first nominated Judge Helene White to a seat on the Sixth Circuit. The Senate did not act on Judge White's nomination prior the end of the Clinton Administration, and as a result, there has been an ongoing feud between the Michigan Senators and the White House, which led to numerous filibusters of Sixth Circuit nominees in 2003 and 2004, and left the Sixth Circuit with an understaffed court for over ten years. The April 15th agreement between the White House and the Michigan Senators specified that the White House would withdraw the nomination of Mr. Stephen Murphy to the Sixth Circuit and would instead nominate Judge White to that seat. In return, the Michigan Senators would return their blue slips on Mr. Raymond Kethledge, another Sixth Circuit nominee who has been blocked for over 700 days, and Judge White. Mr. Murphy was nominated to a Michigan district court seat instead, and the Michigan Senators agreed to return blue slips on his nomination.

On April 29th, when it became clear that the Majority intended to include the recent nomination of Judge White in the promised ''three circuit court nominees confirmed by Memorial Day deal,'' Senator McConnell and I sent a letter to Senators Reid and Leahy advising them of the logistical impossibility of confirming Judge White by Memorial Day. In the letter, we noted the numerous ''time-consuming steps in the judicial confirmation process'' and expressed our concern that ''[g]iven these standard prerequisites and Judge Helene White's recent nomination date of April 15, 2008, we do not believe regular order and process will allow for her confirmation prior to May 23, 2008.'' We further observed the ABA rating for Judge White was not likely to be completed in time, given the ABA's standard timeframe for completing ratings, and noted that the ''Democratic Majority has placed particular importance [on the ABA rating] over the years.'' In fact, the Judiciary Committee has never held a hearing for a circuit court nominee prior to receiving his or her ABA rating.

On May 7th, a mere 22 days after her nomination, the Committee held a hearing on Judge White. Twenty-two days is a very short period of time to evaluate any circuit court nominee's record, but this expedited confirmation process was even more troubling in the case of Judge White. Judge White has been a state court judge her entire career and has participated in over 4500 cases on the Michigan Court of Appeals alone. It has been eight years since her last nomination was pending, and in that time period, she likely participated in over 2000 cases in addition to the 2500 she participated in before 1997. That is quite a record to go through in just 22 days.

As is standard Committee procedure, questions were submitted to both Judge White and Mr. Kethledge after their hearing. Republicans were criticized for submitting these initial questions even though they submitted a total of only 73 questions to Judge White, which is no more than other circuit court nominees have received from Democrats. In fact, several recent Bush appellate nominees and a Department of Justice nominee have received more questions from Democrats than Judge White received from

Republicans. Democrats submitted 108 questions for Judge Jennifer Elrod, a 5th Circuit nominee, 80 questions for Judge Leslie Southwick, another 5th Circuit nominee, and 250 questions for Grace Becker, a nominee to the Civil Rights Division of the Department of Justice. In addition, the Committee had more time to evaluate these other nominees' records prior to their hearings. Contrasted with the mere 22 days the Committee had to evaluate Judge White's record, the Committee had 112 days to evaluate Judge Elrod's record between her nomination and her hearing, 121 days for Judge Southwick, and 117 days for Ms. Becker. I believe these questions for Judge White were particularly warranted given the expedited hearing schedule for her nomination. Both nominees' returned their answers by Wednesday, May 21st, three days before the end of the session, negating the proposition that Republicans' questions slowed these nominations.

As Senator McConnell and I predicted, the ABA did not issue its rating for Judge White prior to the Memorial Day recess, and the Committee was unable to complete its work on her nomination prior to the recess.

The Majority did not fulfill its commitment to confirm three more circuit court nominees by Memorial Day because they chose to expedite the confirmation of a recently submitted circuit court nominee rather than acting on any of the other outstanding circuit court nominees currently pending in Committee whose paperwork has been complete for months or even years longer than Judge White's.

The failed Memorial Day commitment is not the first time the Majority has not fulfilled expectations. At the beginning of this Congress in February 2007, Senator Reid stated: ''[W]e are going to do our very best to make sure this is not our last circuit court judge [confirmation] but the first of a significant number who can at least meet the standards of Congresses similarly situated as ours.'' During the last 20 years, on average, the Senate has confirmed 17 circuit court nominees in the final two years of a president's term, and in President Clinton's final two years in office, the Senate confirmed 15 circuit court nominees. Since Senator Reid made that statement in February of last year, this Senate has confirmed only 8 circuit court nominees, less than half of the historical average, and the Majority has intimated that they may not process any more circuit court nominees this year. Hence, Senator Reid's February statement was the first of many unfulfilled commitments.

Second, in his announcement of the deal, Senator Reid acknowledged the fundamental unfairness of discriminating against circuit court nominees from states with two Republican Senators in favor of nominees from states with Democratic delegations or mixed delegations. He stated: ''[W]e have a number of places from which the Judiciary Committee can move matters to the floor. We have North Carolina, South Carolina, Rhode Island, Maryland . . . Pennsylvania. . . . Virginia. . . . Maryland. We have a wide range to choose from. . . . [N]o, it should not be because you have two from the same party from one State and they are not our party; that should not cause them not to have their nominee approved. . . . I think if you have two Senators from the same party, they should not be discriminated against. I mentioned their names. Their names are Matthews and Conrad.'' Notwithstanding this acknowledgment, the Majority insisted on proceeding with Judge White and Mr. Kethledge rather than moving to other exceptional circuit court nominees from states with Republican Senators such as Steve Matthews of South Carolina and Robert Conrad of North Carolina who had been ready and waiting for Senate action for months longer than Judge White. Once again Senator Reid disregarded his prior commitment not to discriminate against states with Republican delegations, breaking yet another commitment.

Now, I'd like to turn to Judge White's qualifications. Providing advice and consent on judicial nominees is one of the most important duties of a United States Senator. I take my role in the confirmation process very seriously, and I have serious concerns about Judge White's qualifications to be a judge on the Sixth Circuit Court of Appeals. Except for the two years she spent clerking for a Michigan State Supreme Court judge, Judge White has been a state court judge her entire career. She has never litigated a case, she has never handled clients, and she has had extremely limited experience with federal law as a state court judge.

While this lack of certain legal experience by a circuit court nominee certainly would not immediately disqualify the candidate from holding a federal appellate position, given the short time frame the Senate has had to consider Judge White's record, these factors are significant in her case. She had a very limited opportunity to demonstrate her ability to handle her docket and the complicated legal issues that face a federal appellate court judge.

Given her lack of experience with federal law, Judge White was questioned about the types of federal issues that she has handled and was asked to articulate her understanding of some common federal legal principles. She repeatedly responded that she had not dealt with these issues and was unable even to discuss some common federal legal issues and the cases addressing them.

At her hearing, I also asked Judge White several questions about decisions that she had participated in on the Michigan Court of Appeals that were reversed by the Michigan Supreme Court. She repeatedly stated that she was unfamiliar with the cases and did not recall the factual scenarios or her legal reasoning. Even after I had given her the relevant facts of the cases, she was unable even to articulate her legal analysis or reasoning process. My questions about her cases were not designed to be ''gotcha'' questions; the cases I mentioned were all specifically listed in Judge White's Senate questionnaire that she provided the Committee on April 25, just 12 days prior to her hearing. Further, for three of the cases, she had provided the Committee with short summaries of the facts and holdings in her questionnaire. At the very least, I thought she would be familiar with the cases she apparently had reviewed recently in order to provide the Committee with those summaries.

In one case upon which I questioned Judge White, People v. Santiago, she dissented from her colleagues' opinion upholding a jury conviction of a defendant for first degree felony murder and armed robbery. In this case, the defendant had driven the two other defendants to the house where the robbery and murder were committed, knowing that the defendants intended to rob and likely kill the victim—a classic example of aiding and abetting. When I asked her about her dissent which held that the defendant was not guilty of aiding and abetting, she could not explain why her decision deviated from the legal standards for aiding and abetting, as enunciated by the majority opinion and as affirmed by the Michigan Supreme Court when they denied appeal. I specifically asked her if it was ''standard, clear-cut law that when somebody drives a co-defendant to a place where there is a robbery and a murder, that kind of assistance constitutes guilt on the part of the co-conspirator, accessory before the fact?'' She responded first that she ''went to law school in Pennsylvania,'' but then continued that ''in Michigan, to be responsible for the principle offense, one has to either share the intent to commit the principal offense or provide aid and support with knowledge that the principal offense was going to be committed.'' Given that acknowledgement, I again asked her why she came to the conclusion that the defendant was not guilty of aiding and abetting. Again, she could not explain her legal reasoning in the case. I asked her if she stood by her decision even though her two colleagues who participated in the case and heard the same set of facts disagreed with her and the Supreme Court had denied appeal, and she responded that she did.

In another case, People v. Ryan, Judge White participated in a decision affirming the dismissal of a drug dealer's conviction, and the Supreme Court reversed that decision and reinstated the conviction. In this case, the defendant was arrested by federal agents, but was charged and convicted in State court. The defendant argued that the decision to pursue a State prosecution rather than a federal prosecution was vindictive. The panel on which Judge White sat found that the trial court's determination that there was vindictive conduct was not clearly erroneous. The Supreme Court reversed stating: ''The mere threat to refer the case for State prosecution does not amount to objective evidence of hostile motive.'' After reciting these facts to her, I asked Judge White if she stood by her opinion given that the only evidence of vindictiveness was that Federal DEA authorities turned the matter over to State prosecutors, which is a very common practice. In response Judge White cited her unfamiliarity with the case and deferred to the Supreme Court's holding rather than answering my question. She stated that ''because the Supreme Court reversed, it meant that I among others, got it wrong. . . . I stand by the Supreme Court.'' I was concerned by her stated unfamiliarity with the case because this was a case Judge White had cited in her questionnaire for which she had provided a summary. I was equally concerned that she deflected my question about whether she stood by her opinion.

I next turned to another case Judge White had summarized in her questionnaire captioned People v. Thomas. I detailed the facts of the case to Judge White, which included the conviction of a drug dealer who was charged with second-degree murder and was found guilty by a jury of voluntary manslaughter, carrying a concealed weapon, and felony firearm. I asked her whether she stood by her decision to reverse the conviction of this gang member when the Michigan Supreme Court had subsequently overturned her panel's opinion. Once again she deferred to the opinion of the Supreme Court and stated ''I stand by the judgment of the Supreme Court.'' I told her I knew the Supreme Court had the final word, but I wanted to know whether she thought the Supreme Court's decision was right. She again stated that she ''accept[ed] the conclusion of the Supreme Court.'' She did not answer my question. I wanted to evaluate her judgment, but she would not answer whether she thought her opinion was right or wrong.

I also asked her about a Court of Appeals' opinion in which she participated that reversed a sentence for a defendant who was a habitual criminal offender, People v. Hansford. Again, this was an opinion that was reversed on appeal by the Michigan Supreme Court and was a third case she had summarized in her questionnaire. After reading her the defendant's extensive criminal record, which included several counts of larceny and attempted larceny, receiving and concealing stolen property, fleeing and alluding, and violations of probation, I noted

that habitual offender statutes are designed to take habitual offenders off the streets, and I asked her what her reasoning was for determining that a man with an extensive criminal record such as the defendant did not deserve to be off the streets for life. Once again, she claimed not to be familiar with the case. She further stated that she ''accept[ed] the Supreme Court's decision . . .'' and ''accept[ed] that the sentence was appropriate . . . because the Supreme Court has said it is appropriate.'' I again asked her whether or not she thought her decision was correct in light of the Michigan Supreme Court's reversal, and she said ''I have to have been wrong . . . The Supreme Court reversed. I was wrong. The Supreme Court reversed.''

In her answer to my question about the habitual offender, Judge White also noted that the vast majority of her court's opinions are unpublished. At her hearing, I expressed concern about how many of her opinions were unpublished. I am also concerned that copies of a number of her opinions that were reversed on appeal were not provided to the Committee prior to her hearing as required. Question 15(d) of the Committee Questionnaire specifically asks for ''a list of and copies of any of [the nominee's] unpublished opinions that were reversed on appeal or where [the nominee's] judgment was affirmed with significant criticism of [the] substantive or procedural rulings;'' however, Judge White only provided the Committee with copies of 23 cases that were unpublished and reversed on appeal. Three of the cases about which I questioned her were listed elsewhere in her questionnaire, but were not included in those 23 cases that she provided to the Committee and clearly fit into the category of cases she should have provided. The Committee and the full Senate cannot properly evaluate a nominee's record if it does not have key elements of that record. I would have liked to have had access to all of Judge White's opinions that were reversed prior to her hearing so that they could have been analyzed and used as the basis for questioning.

In follow up questions after her hearing, I asked Judge White to provide those missing cases and to explain why she did not provide them initially. She responded to my question by saying it was an ''oversight'' that she did not include them initially and further stated that she can only provide the Committee with a ''partial list of cases in which [she] participated . . . which were reversed'' because the method the Michigan Court of Appeals employs to catalogue cases makes it difficult to locate those cases. She only provided the Committee with an additional 11 cases that were reversed on appeal. I find this response deeply troubling for a number of reasons. First, appellate judges should be held to the highest standards of competence. ''Oversights'' by a judge can lead to defendants being wrongly convicted, criminals being set free, or wronged litigants not receiving justice. Attention to detail and thoroughness are critical qualities in an appellate judge. Second, nominees to the federal courts who have served as judges should provide all of the opinions they participated in that were reversed on appeal or, at least, demonstrate a reasonably robust effort to do so. Democrats have required prior appellate court nominees to provide substantial numbers of their unpublished opinions in addition to the ones that were reversed on appeal. I recall one judge being asked to go to a depository in another state to retrieve copies of unpublished opinions. Judges should make every reasonable effort to provide all of their opinions that were reversed on appeal, not merely the ones that are easily accessible. I am also troubled by Judge White's relatively high reversal rate. A review of Judge White's opinions that are available publicly reveals that 6.7% of her cases have been reversed by the Michigan Supreme Court. That is a pretty high percentage of cases. Further, Judge White's reversal rate may be much higher, but we cannot determine her actual reversal rate because Judge White still has not provided the Committee with all of her unpublished opinions that were reversed on appeal. As comparison, Democrats objected to the nomination of Judge Terrence Boyle to the Fourth Circuit when his reversal rate was 6.2%.

I am troubled by some of Judge White's decisions that were reversed on appeal, but I am more concerned about her inability to articulate her legal analysis and reasoning process in these cases and her lack of experience with complex federal issues. I am also concerned that Judge White has not provided the Committee with a complete record of her judicial opinions upon which we could evaluate her qualifications for this prestigious position.

Given the brief period of time I had to review Judge White's opinions, her apparent unfamiliarity with her own opinions, her inability to articulate her legal reasoning and analysis in those opinions, and her failure to provide the Committee with important elements of her judicial record prior to her hearing, I plan to vote against her confirmation to the Sixth Circuit.

NEEDLESS RUSH TO JUDGMENT ON JUDGE WHITE

A Republican Senate confirmed 15 circuit court judges and 57 district court judges in President Clinton's final two years. Thus far in this Congress, the Senate has confirmed only 8 of President Bush's circuit court nominees and 38 district court nominees.

President Bush is also far behind President Clinton in total confirmations when contrasting their entire terms. President Clinton had 65 circuit court and 305 district court judges confirmed, while President Bush has so far had only 59 circuit and 241 district court judges confirmed.

There are a total of 32 judicial nominees currently pending in the Judiciary Committee: 11 Circuit Court vacancies with 10 nominees; 36 District Court vacancies with 22 nominees.

Judge Helene White was nominated on April 15. Her Judiciary Committee questionnaire was received on April 25, and the Minority did not receive her FBI report until April 29. Her hearing was held on May 7. Responses to Judge White's questions for the record following her hearing were received yesterday.

The mere 22 days that elapsed between nomination date and hearing is a far shorter period of time than is typical for the Committee to perform its standard review of a circuit court nominee's record. The average for Bush's circuit court nominees has been 162 days between nomination and hearing.

The American Bar Association has still not completed its rating of Judge White. The Committee has never held a hearing for a circuit court nominee prior to receiving their ABA rating.

Democrats have accused Republicans of stalling the two sixth circuit nominees. Senator Reid: ''Senators on the Republican side on the Judiciary Committee have delayed consideration of Judge White. . . . following the hearing, [they] asked a total of 73 separate written questions''

In fact, Judge White did not receive more questions than other recent circuit court nominees: Republicans submitted 73 questions for Judge Helene White, 6th Circuit; Democrats submitted 108 questions for Judge Jennifer Elrod, 5th Circuit; and Democrats submitted 80 questions for Judge Leslie Southwick, 5th Circuit.

And, the Committee had more time to evaluate these other nominees' records prior to their hearings. Days from nomination to hearing: White: 22 days; Elrod: 112 days; and Southwick: 121 days.

Judge White has already submitted her answers to the Committee, proving that no delay by Republicans occurred. The delay is due to the importance Democrats' have placed on the ABA rating. In 2001, Senator Leahy stated: ''Here is the bottom line. There will be an ABA background check before there is a vote.'' Senator Leahy reiterated this pledge at Judge White's hearing.

Judge White's nomination has only been pending for 37 days. Meanwhile, Mr. Peter Keisler, D.C. Circuit, has waited 693 days for a Committee vote, Judge Robert Conrad, 4th Circuit, has waited 310 days for a hearing, and Mr. Steve Matthews, 4th Circuit, has waited 259 days for a hearing.

Mr. SPECTER. My final comment, if I may make it while the chairman is on the floor, is that we do have some other Senators who wish to speak. Well, I have just been advised that we don't have Senators who wish to speak. Apparently, Senator LEAHY, your comments about an early conclusion were much more persuasive than mine.

Mr. LEAHY. Mr. President, if the Senator will yield for a moment, when the Senator from Pennsylvania is finished, I know Senator LEVIN and Senator STABENOW wished to speak very briefly. If that was the case, I hope that maybe within the next 10 minutes or so, or that by 6:30, or at 6:30, that perhaps what we can do is this: Let's say at 6:30, if the Senator from Pennsylvania would agree that we might vote at 6:30, then under the previous unanimous consent, if Judge White is confirmed, assuming she is, but if she is under the unanimous consent, then the regular order would be to go to the other two nominees from Michigan. It would be my intent—unless somebody objected—it would be my intent to do those by voice vote. That, of course, is contingent upon her being confirmed under the unanimous consent agreement that I have been shown. Would that be acceptable?

Mr. SPECTER. Mr. President, that is acceptable to this side of the aisle. I think it is an illustration of how the Senate can conduct its business in an expeditious way. We started on a 4-hour time agreement at 5:15. We are 54 minutes into the 4 hours, and we will conclude with a 2-hour-and-45-minute savings. Let this be an example for the balance of the confirmation process and other Senate work.

I yield the floor.

Mr. HATCH. Mr. President, I will vote for all of the Judicial nominees before us today. I want to offer a few comments about one of them and also about the current state of the judicial confirmation process.

The Constitution gives authority to nominate and appoint judges to the President, not to the Senate.

The Senate's role is to check the President's power, to ensure that his nominees are not crooks, cronies, or corrupt.

Too often in relent years, however, Senators have tried to push our role beyond merely checking the President's power to actually highjacking the President's power.

That goes too far and undermines the separation of powers which is so critical to limit government power and to keep our system of government in balance.

For this reason, my perspective on the judicial confirmation process begins with substantial deference to the President, no matter which party occupies the While House or has the Senate majority.

For this reason, I have voted against and worked to eliminate filibusters used to defeat majority-supported judicial nominees.

And for this reason, I have voted against very few nominees during my 32 years in this body and on the Judiciary Committee.

From that perspective of deference, I then look at a nominee's judicial philosophy and qualifications.

Applying these criteria, my decision to support two of the nominees before us today, Raymond Kethledge to the Sixth Circuit and Stephen Murphy to the Eastern District of Michigan, was easy.

My decision to support Judge Helene White's nomination to the Sixth Circuit, however, was a much closer call.

Frankly, I have always believed that a President has the right to appoint judges who reflect his or her judicial philosophy.

I asked Judge White detailed questions designed to explore her judicial philosophy, her understanding of the proper role of Federal appellate judges in our system of government.

I want to share a few of her responses with my colleagues.

I asked Judge White to comment on the notion that judges must make decisions based on the law as enacted by the people and their elected representatives, even if they personally disagree with it.

Judge White agreed with this wholeheartedly, staying that judges ''should be prepared to have no constituency except the law.''

I realize this is straight out of civics 101, but there are many today who believe judges may twist and shape the Constitution and statutes into any form they please in order to achieve results they desire.

In fact, some ray colleagues on the other side of the aisle have said judges must take sides, that they must favor certain ideological interests and serve certain political constituencies.

I also asked Judge White whether judges may decide cases based on their personal views, sense of justice, empathy, or experience.

It would be difficult to come up with a more misguided and even dangerous role for unelected judges in our system of government, but some of my friends on the other side of the aisle have endorsed that approach.

To her credit, Judge White flatly rejected that activist view of a judge's role.

I wanted to share these thoughts with my colleagues because some have questioned whether Judge White is the kind of judge President Bush has said he would appoint.

She was, after all, first nominated to the Sixth Circuit by President Clinton whose nominees generally embraced a more activist judicial philosophy.

President Bush is the first, at least during my Senate tenure, to resubmit an appeals court nominee first offered by a President of the other party.

President Clinton certainly did not do that.

But the Constitution gives each President the authority to make that judgment and I have always believed that there is a high bar for the Senate to withhold its consent on the basis of judicial philosophy.

That perspective of deference and her answers to questions like the ones I described satisfy me on this point.

Let me turn to the question of qualifications.

The American Bar Associations rating of judicial nominees is more important for some than for others.

My friends on the other side have consistently said the ABA rating is the gold standard for evaluating judicial nominees.

I take that back.

They have called the ABA rating the gold standard until they want to obstruct nominees who have received even the highest rating.

Judge White's ABA rating in 2008 is higher than it is in 1997, when she was first nominated to the Sixth Circuit.

At that time, some members of the ABA evaluation committee thought she was not qualified at all.

This time, a majority of the evaluation committee found her well qualified and no one thought her unqualified.

It is a little surprising, however, that after 26 years as a State court judge, 15 of them on the appellate bench, Judge White still has not garnered a unanimous well qualified rating from the ABA.

In fact, Raymond Kethledge, the other Sixth Circuit nominee before us today, received a *higher* ABA rating than Judge White and he has no judicial experience at all.

Judge White has never litigated a case. She has never handled clients. She has virtually no experience with Federal law issues of any kind.

There have been serious concerns about her ability to manage her current docket, let alone the far busier and more complex docket she would face on the Federal bench.

Perhaps these dare some of the issues that kept the ABA evaluators from giving her the highest rating.

Unfortunately, Judge White did not distinguish herself in her hearing and offered the committee little to offset these and other concerns about her qualifications. The distinguished ranking member, Senator SPECTER, and others are detailing some of those concerns on the floor today.

Some of my friends on the other side have responded that this nomination has really been pending for 11 years and that we should somehow already know enough to fill in the blanks and resolve the doubts.

That is ridiculous.

I have served in this body and on the Judiciary Committee for 32 years. I know of no Senator who keeps tabs on the careers, accomplishments, and record of unconfirmed nominees from previous administrations on the off chance that they might some day be renominated.

We must evaluate each nominee on the current record developed through the current process.

And on the question of qualifications, that record satisfies but certainly does not excite me.

I respect the judgment of colleagues, especially on this side of the aisle, who look at these and other issues and conclude that they cannot support Judge White. Voting against a nominee of your own party is a significant step.

There are Senators on the other side who have served here even longer than I have who have never voted against a nominee of their party.

Each of us might make that judgment for ourselves and, though it is indeed a closer call than I would like, I will vote to confirm Judge White.

Before I conclude, I want to make a few observations about the judicial confirmation profess with regard to Judge White's nomination in particular and judicial nominations in general.

When I chaired the Judiciary Committee during the previous administration, Judge White's nomination did not receive a hearing because she lacked support from her home State Senator who served on the Judiciary Committee at the time.

Similarly, Sixth Circuit nominees of the current President, including Mr. Kethledge who is before us today, did not receive a hearing because they too lacked home State Senator support.

I am certainly glad that this issue has been resolve with our distinguished colleagues from Michigan so that these nominees can move forward.

But I remain baffled why my following that longstanding policy is today attacked as a so-called pocket filibuster while the current chairman following that policy is praised for an exercise in senatorial courtesy.

That is one of number of baffling and frustrating futures of the current judicial confirmation process.

There have been seven previous Congresses during my service here that included a presidential election year.

During an average of 313 days in session, 25 appeals court nominees received a hearing and 20 appeals court nominees were confirmed.

Using that as our benchmark, in the current 110th Congress, we are nearly

90 percent finished with our days in session but so far less than one-third as many appeals court nominees have received a hearing and only half as any have been confirmed.

It does not have to be this way, it has not been this way in the past.

I hope that when the nominees before us today ire confirmed, we will turn our attention to the others who are pending some for many months and even for years, and continue doing what the American people sent us here to do.

I yield the floor.

Mr. LEAHY. Mr. President, I yield 5 minutes to the senior Senator from Michigan.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, we are nearing the end, I hope, of what is surely one of the longest judicial nomination sagas in U.S. history. Judge White was previously nominated by President Clinton for a vacancy on the Sixth Circuit of the Court of Appeals starting in 1997. Her nomination was returned to the President without a hearing. Another nominee of President Clinton was also returned without a hearing. That was the nomination of Kathleen McCree Lewis in 1999.

Judge White has been serving as a judge on the Court of Appeals of Michigan since 1993, and I believe she has participated in more than 4,000 decisions. Before that, she served as a judge on the Wayne County Circuit Court from 1983 to 1993, and that is Michigan's top trial court. Judge White, as have our other nominees, has been given a ''well-qualified'' rating by the American Bar Association's standing committee, and President Bush has called Judge White ''an experienced and highly qualified judge who is known for her intellect, work ethic, and demeanor.''

The second nominee for the Sixth Circuit is Raymond Kethledge, currently a partner at the Bush, Seyferth firm in Detroit, MI. Before joining that firm, Mr. Kethledge was a law clerk to Justice Anthony Kennedy on the U.S. Supreme Court and earlier clerked for a judge well known to those of us in Michigan, beloved Judge Ralph Guy of the U.S. Court of Appeals for the Sixth Circuit. Mr. Kethledge also served as judiciary counsel for Senator Spencer Abraham from 1995 to 1997, and he graduated magna cum laude from the University of Michigan Law School in 1993.

Steven Murphy, who is the nominee for the Eastern District position, currently serves as U.S. attorney for the Eastern District of Michigan. Prior to his service as U.S. attorney, Mr. MURPHY was an attorney with the General Motors legal staff in Detroit. He worked for the U.S. Department of Justice for more than 12 years.

I wish to take this opportunity to recognize the life and the work of Kathleen McCree Lewis who, as I mentioned, was nominated by President Clinton in 1999 for a seat on the Sixth Circuit Court of Appeals. Kathy McCree Lewis passed away last year. She never had her hearing and opportunity to be voted on by the Senate. She was dedicated to her profession and to her family. While she is no longer with us, we remember her today.

The seat that Judge White is being nominated for on the Sixth Circuit is the same seat that was held by a wonderful woman, Judge Susan Bieke Neilson. She held that seat for a tragically short period of 2 months. This vote is also a vote to Judge Neilson. Her husband, Jeffrey Neilson, wrote Chairman LEAHY back in April that he believed that Helene White ''will reflect the best qualities of both Susan and Kathleen in the performance of her duties, so that although death has precluded their presence on the Sixth Circuit, they will be there in spirit.

Finally, I thank Chairman LEAHY and our Democratic leader, HARRY REID, for all they have done to make it possible that we can finally, hopefully, resolve this Michigan issue that has been stymied in the Sixth Circuit and Eastern District for far too long, with a bipartisan resolution the President has sent us on these three nominees with his full support in the Senate.

I hope the Senate will give an overwhelming vote to Judge White but also then adopt a voice vote for the other two nominees.

Mr. LEAHY. Mr. President, I had hoped that before the Senate we not would hear unfair criticism leveled at Judge White. Last month, Senator BROWNBACK publicly apologized for his actions at her confirmation hearing, and I commended him for doing so. After Judge White answered the scores of time-consuming questions Republicans sent to her and the committee had received the updated ABA ratings emphasized so much by Republicans in connection with these nominations, I hoped we could move forward with this in a consensus fashion. It is disappointing that some still seem bent on grasping at straws to criticize Judge White, applying a different standard from that which they used to evaluate other Bush judicial nominees.

Judge Helene White has served on the Michigan Court of Appeals for the past 15 years, having been elected by the people of Michigan in 1992. Before that she served for a dozen years on the Wayne County Circuit Court, the Common Pleas Court for the city of Detroit, and the 36th District Court of Michigan. She is described on the Bush White House Web site as ''an experienced and highly qualified judge, who is known for her intellect, work ethic, and demeanor.''

Judge White has been now been nominated by Presidents from both parties, by a Democratic President and by a Republic President. She has served as a Michigan State court judge for more than 25 years. In addition, she has been active as a member of the legal community and of community organizations including COTS, Coalition on Temporary Shelter; JVS, Jewish Vocational Services; and the Metropolitan Detroit Young Women's Christian Association. She should be a consensus confirmation.

Oddly, Republican attacks on Judge White have focused on what they term a lack of experience. Somehow, someone who has been a respected appellate judge for 15 years, who has served as a judge for well over 25 years, and who the ABA rates as well qualified for the Federal circuit court , is in their view not ''experienced'' enough to be a Federal appellate court judge.

Some Senators suggested that her lack of experience with specific Federal issues that never come before even the most experienced State judge was a problem. They ignore the fact that judges always have to learn new areas of the law as new cases come before them, and no one is better prepared to do that than an experienced jurist like Judge White.

Indeed, Mr. Kethledge, President Bush's youthful nominee to the other vacancy on the Sixth Circuit, was gracious enough to concede at the hearing that he, too, lacked experience in the same specific areas of Federal law. Yet his qualifications have not been in called into question by Republican Senators. Judge White has served as a Michigan State appellate court judge longer than Mr. Kethledge has been out of law school, but some are questioning her experience while embracing his relatively lack of experience.

With these criticisms, Republicans risk turning back the clock to before the confirmation of Justice Sandra Day O'Connor, who herself had been a State legislator and State judge. Justice O'Connor was not experienced in deciding Federal law issues before her confirmation as the first female justice of the U.S. Supreme Court. I think we can agree that she nonetheless served the Nation well in that capacity.

Should we conclude from the Republic attacks that no State court judge can be confirmed to sit on a Federal court? Certainly Jennifer Elrod, a State court judge with far less experience than Judge White, who the Senate confirmed to the Fifth Circuit late last year, was not held to that standard by the Republicans. Indeed, recall what Senator CORNYN said about her nomination: ''I would point out that when it comes to experience, most of us, when we apply for a new job, or a nominee, have rarely done that job before. So the question is not whether you have actually done that job before, it's whether you are likely to do a good job, if confirmed.''

Others have pointed to a handful cases in which Judge White was on a panel decision that was reversed. This handful of cases comes from 4,300 cases she heard on the bench. These were cases in which Judge White joined a unanimous panel of her court or in one

instance where she agreed with the rest of the court on the law and differed only on the facts. More to the point, they were cases of such limited precedential value that the decisions were not even published. When asked about each case, Judge White testified that she accepted the Michigan Supreme Court's decision as correct. I hope that in a long career spanning thousands of decisions, she will not be judged by a few unremarkable cases. Republicans have certainly asked us not to focus on a small handful of cases decided by other Bush nominees, even when the cases in question were far more noteworthy.

Republicans have simply not been able to point to anything in Judge White's long and distinguished career that should disqualify her or even justify a negative vote. It is unfortunate that some Republicans seem to be trying so hard to find reasons not to support this particular nominee.

I hope that Republican and Democratic Senators will join together to support her nomination and the entire package of Michigan nominations that President Bush has sent to us after consultation with Senators LEVIN and STABENOW.

I yield the floor.

The PRESIDING OFFICER. The junior Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I rise today to join my friend and distinguished colleague in supporting the nominations of Judge Helene White, Mr. Raymond Kethledge to the Sixth Circuit Court of Appeals, and Mr. Stephen Murphy III to the District Court for the Eastern District of Michigan. I also want to remember those whom Senator LEVIN spoke of as well.

I thank, particularly, Chairman LEAHY for working with us in a very diligent manner, for his patience, and for his commitment and his willingness to work with us to move the President's nominations forward. It has been a very long process—one that started more than 11 years ago for Judge Helene White. In fact, I have been here for 8 years, and she has been waiting more than 11 years for this vote—4½ years, originally, to have the hearing. I find that because of the length of time she has been waiting, it is difficult to say that somehow this was a short-circuited process or a process that happened too quickly. It has, in fact, been more than 11 years. I hope this serves as an example of how we can come together when both sides, with the administration, are willing to work together in a bipartisan manner. I am very pleased we have been able to come to this agreement together. That is what we have done here.

Senator LEVIN and I have worked with the Bush administration, and as a result, we have the three nominees for the Federal bench who are in front of us. In fact, all three of them were rated ''well-qualified'' by the American Bar Association. I urge my colleagues to support them.

First, let me say a few words about Judge Helene White, who brings 30 years of legal experience to the Sixth Circuit Court of Appeals. She is a graduate of the University of Pennsylvania Law School and the Barnard College at Columbia University. Judge White has been a State judge since 1981. She has served on both the 36th District Court for the city of Detroit and the Wayne County Circuit Court. Since 1992, she has served, with distinguished service, on the Michigan Court of Appeals. She has participated in more than 4,400 cases in her time as a judge on the Michigan Court of Appeals. All told, Judge White will bring more than 25 years of bench experience to the Sixth Circuit. While I support all of our nominees, Judge White is the only person who brings that judicial experience, having served on the bench with distinguished service, someone who is respected by all sides for her intellect, her fairness, and her balance. I am so very pleased that we are finally at this point to be able to vote on this important nomination.

Secondly, Mr. Raymond Kethledge, who is also nominated for the Sixth Circuit Court of Appeals, graduated magna cum laude from the University of Michigan and the University of Michigan Law School. I told him that even though I went to a rival school—Michigan State University—I will support his nomination. In fact, my son is a graduate of U of M. I was pleased to see another Wolverine being nominated for this distinguished position. Following law school, he served as Senator Spence Abraham's judiciary counsel. He then went on to clerk for both Judge Ralph Guy, on the Sixth Circuit Court of Appeals, and Justice Kennedy, on the Supreme Court, before eventually becoming a partner at Bush Seyferth Kethledge & Paige in Troy, MI. I am certainly pleased to support his nomination to this position.

Finally, Mr. Stephen Murphy has been nominated for a seat on the District Court for the Eastern District of Michigan. He will bring both academic and Federal law experience to the bench. He has taught at the University of Detroit Mercy School of Law and the Ave Maria School of Law in Ann Arbor. He has practiced as both a Federal prosecutor and a defense counsel. He also practiced business litigation as an attorney for General Motors. Since 2005, he has served as the U.S. attorney for the Eastern District of Michigan.

I urge my colleagues on both sides of the aisle to support the President's nominees. We have worked hard in a bipartisan manner. It has taken a long time to get to this point, but I am very pleased we are here together supporting these nominees for the Sixth Circuit Court of Appeals and the Eastern District of Michigan. I am hopeful that, very shortly, we will confirm each of these nominees.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I listened to Senator SPECTER talk about one of our most important responsibilities; that is, the confirmation process on the President's nominations for our courts, which are lifetime appointments. It is a major responsibility each of us has in the Senate.

I think the way this confirmation process has proceeded with the three judges before us is an example as to how we should be working on the confirmation of judges. First, I think the process under which the Senators worked with the White House on the appointments is a model that should be used, I hope, in more circuits, where there is a real working relationship between the Senators and the White House to come up with the best qualified individuals to serve on the Federal bench. I congratulate Senators LEVIN and STABENOW for the manner in which these nominations were brought forward.

Second is the confirmation process before the Judiciary Committee. I spent a lot of time reading the backgrounds on each of our nominees, as well as the hearing itself. I must tell you that as a result of reading the background material, as a result of the confirmation hearings, I am a strong supporter of Judge White for her confirmation to the court of appeals. I also support Mr. Kethledge for the court of appeals. I must tell you, in reading his background, I was a little concerned because he didn't have any real experience in writing opinions, didn't have experience in trying cases, as far as a judge is concerned, and there wasn't much to judge his ability to reason on the court of appeals by his background. But I must tell you, after listening to the confirmation hearings, I was convinced that he is well qualified to serve on the court of appeals. I am supporting his nomination. That is what the confirmation process should be about.

I listened to Senator SPECTER have concerns about Judge White because of some of her opinions. I must tell you, I am pleased we have before us a nominee who has the experience to go onto the court of appeals or appellate courts. Judge White has served 15 years on the State appellate court. She has written numerous opinions, has participated in over 4,000 cases, served 12 years on the circuit court in Michigan. So she has trial court experience as a judge, and she has appellate court experience as a judge.

Quite frankly, I have been disappointed by a lot of the nominees who have been brought forward by the White House because they have brought forward individuals who do not have experience to go on our second highest court. I think experience is important. I raised those concerns during Judge Elrod's confirmation hearing and Judge Haynes's hearing. I would like to have people with more experience so that we can judge their qualifications.

In Judge White's case, we have that record, and it is a great one. Has she been reversed in her 4,000 decisions? Yes. That is why we have appellate courts. But she has never been challenged as far as her reasoning and her fairness and her demeanor. In fact, she has been rated by the American Bar Association as ''well-qualified.''

One more thing, Mr. President, as to why I strongly support Judge White's confirmation, and that is the manner in which she handled the confirmation hearings. They were not easy hearings. There were tough questions that were asked. She exercised the type of demeanor I want to see in our Federal judges. She exercised the type of response that I think represents the types of qualifications I want to see on our Federal bench. So I am very much supporting her confirmation. I hope she will receive a strong vote on the floor.

I urge my colleagues to support all three of the Michigan judges who are before us for confirmation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I appreciate the comments of my colleagues. First, I commend the two Senators from Michigan, who spent years working out this conclusion for these three nominees to be here. I commend Senator LEVIN and Senator STABENOW for working so hard. Senator CARDIN spent so much time at the hearing with me. I appreciate the amount of time he spent there. His words of calm reasoning, but with questions that cut right to the importance of the hearing, were extremely valuable.

If nobody else is seeking recognition, I am going to suggest the absence of a quorum in a moment. So that Senators will understand, at 6:30 I will call off the quorum, and the time will be yielded back on both sides. Then we will go to a rollcall vote on Helene White.

If Judge White is confirmed, as I fully expect she will be, then we will go to the next two judges, but only if she is confirmed. Again, Senator SPECTER and I have both said we expect she will be. We will go to the next two judges, and I don't know of anyone who will require a rollcall vote on those two judges.

With that, 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. LEAHY. 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. LEAHY. Mr. President, I ask for the yeas and nays on the nominee.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Is all time yielded back?

Mr. LEAHY. I am authorized to yield back all time on both sides. I yield back all time on both sides.

The PRESIDING OFFICER. All time is yielded back. The question is, Will the Senate advise and consent to the nomination of Helene N. White, of Michigan, to be United States Circuit Judge for the Sixth Circuit?

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND) and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 63, nays 32, as follows:

[Rollcall Vote No. 156 Ex.]

YEAS—63

Akaka	Hagel	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Hatch	Pryor
Biden	Inouye	Reed
Bingaman	Isakson	Reid
Boxer	Johnson	Rockefeller
Brown	Kerry	Salazar
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Sessions
Casey	Lautenberg	Shelby
Clinton	Leahy	Smith
Coleman	Levin	Snowe
Collins	Lieberman	Stabenow
Conrad	Lincoln	Stevens
Crapo	Lugar	Tester
Dodd	McCaskill	Voinovich
Dorgan	Menendez	Warner
Durbin	Mikulski	Webb
Feingold	Murkowski	Whitehouse
Feinstein	Murray	Wyden

NAYS—32

Alexander	Cornyn	Inhofe
Allard	Craig	Kyl
Barrasso	DeMint	Martinez
Bennett	Dole	McConnell
Brownback	Domenici	Roberts
Bunning	Ensign	Specter
Burr	Enzi	Sununu
Chambliss	Graham	Thune
Coburn	Grassley	Vitter
Cochran	Gregg	Wicker
Corker	Hutchison	

NOT VOTING—5

Bond	Kennedy	Obama
Byrd	McCain	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table, and the President shall be immediately notified of the Senate's action.

NOMINATION OF RAYMOND M. KETHLEDGE TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. The clerk will report Executive Calendar No. 631.

The assistant legislative clerk read the nomination of Raymond M. Kethledge, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am satisfied with a voice vote on this nominee.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Raymond M. Kethledge, of Michigan, to be United States Circuit Judge for the Sixth Circuit?

The nomination was confirmed.

NOMINATION OF STEPHEN JOSEPH MURPHY III TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

The PRESIDING OFFICER. The clerk will report Executive Calendar No. 632.

The assistant legislative clerk read the nomination of Stephen Joseph Murphy III, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, because of the lateness of the hour, I am willing to forgo a rollcall on this nominee and a voice vote will be sufficient.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Stephen Joseph Murphy III, of Michigan, to be United States District Judge for the Eastern District of Michigan?

The nomination was confirmed.

Mr. LEAHY. Mr. President, I thank my colleagues, I thank the Chair, and I thank the distinguished leader for helping us to get here.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made en bloc, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

The majority leader.

AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008—Continued

Mr. REID. Mr. President, there will be no more votes this evening. If I could, though, have the attention of Senators who are here.

Mr. President, first of all, let me say on this package of judges, we have been working on these for 5 or 6 years. That is how long it has taken. So this is really a step forward. Everyone has cooperated. I appreciate very much the help of the entire Republican caucus. Senator KYL was especially helpful to work through what we have done. We are going to approve two more judges the day after tomorrow, and then we will see where we go from there on judges.

What I wanted to tell everyone here is we wanted to finish the housing bill tonight. Senator DODD and Senator SHELBY have worked very hard to craft a bill that doesn't go back to the House, but when the House signs off on——

The PRESIDING OFFICER. The majority leader will suspend. The Senate will come to order.

Mr. REID. I apologize, it was hard to concentrate on what I wanted to say.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Senators DODD and SHELBY are crafting a bill that can go directly to the President. That is what we are trying to do, craft something on which there has been general agreement with the counterparts of SHELBY and DODD in the House, and it would go immediately to the President. As you know, they can do things very quickly in the House that we cannot do here. That is the goal with housing.

We are going to get there eventually. The problem is the way this is sent to us from the House, the format in which it was sent to us, we are now under cloture. That cloture will run out at approximately 5:45 tomorrow evening. At that time there are two germane amendments that we know of. There are a couple more that are arguably germane. We will see what is the will of the body.

It is my understanding that on those two that are arguably germane, the managers of the bill have worked something out. If there would be no objection, they would accept those. The problem is on the amendments they have worked on up to this time, there has been an objection and we cannot proceed on any of those amendments that DODD and SHELBY have worked out.

Automatically, after the 30 hours is up, we would vote on the germane amendments. No one can stop us from adopting or rejecting those amendments. If we cannot get permission from everyone here as of now—I know of only one holdup on our being able to complete the housing legislation. If we can't get that Senator to sign off on this, then we only have one alternative; that is, we will file cloture on another arm of this housing legislation. We will have cloture on that 2 legislative days later, and then we still have one more to do. That would mean we would have to be here over the weekend. It was not anticipated that we would do that.

In the meantime, having done that, it will hold up our being able to do FISA. We wanted to do a consent agreement on that tonight. I was told that would not be possible.

On that, there are people who do not like the FISA legislation. I recognize that the majority of the Senate does, but some people do not like it. But, in spite of that, I have found the two people who speak out mostly against that—but there are others—are Senator FEINGOLD and Senator DODD who have been very diligent in their opposition to the legislation. But, of course, they understand the Senate very well.

So what we would like to do is have a cloture vote on the motion to proceed to that, but we cannot do that unless it is by consent. Therefore, we are going to have to do cloture on the motion to proceed to FISA at some later time, and then that only allows us to proceed to the bill. Then we still have to do cloture on the bill.

FISA is a product of the administration. It has passed the House, and that is fine. But we are not going to stop people from going home for the Fourth of July recess over FISA. If people do not want to do it, then we are not going to do it. It is not because we are holding it up over here, is what I am saying. It is being held up by the minority.

We are going to proceed, and we are going to stay here and finish this housing bill. The Case-Shiller Home Price Index registered the largest decline in home prices in that index's history. That is more than 40 years. Consumer confidence is at an all-time low.

So we are going to finish the housing bill. It may knock a few people out of parades on July 4, or whatever—however long it takes us to do this.

The other product we have that we want to finish before we go home is the supplemental appropriations bill. Again, there has been a delicately crafted piece of legislation that has come from the House. They worked very hard to get the House leadership to approve that, Democratic and Republican. The President of the United States has signed off on it. Is it everything that I want? Is it everything we want over here? The answer is no. But I think it is something that will pass with a very large margin over here. But we cannot get to it unless people allow us to get to it. So that, too, would have to wait until we get back after the July 4 recess.

I think that would be a shame. We have been told that the Pentagon can pay the bills until about the middle of February. Then they are out of money.

I want the President and all of his people to hear what I am saying. We are not holding up the supplemental. We, the Democrats, are not holding it up. We, the Democrats, are not holding up FISA.

We also have a matter that we need to complete, and that is the Medicare fix. It is the doctors fix. That is what we call it. But, again, today the House passed that by a 350-some-odd margin to whatever makes up 435—passed that overwhelmingly, again, with the sponsorship and leadership of the House leadership, Democrats and Republicans. We are going to take that up before we go. We have to. Not only that, if we do not pass that legislation before we go, we do not have the doctors fix taken care of, but that has a snowballing effect.

What it does is all insurance companies base their reimbursement on what the Medicare Program is. There are two things we have to do before we go home for July 4: Housing and Medicare. We do not have to do it if the Republicans don't want to do it—we don't have to do FISA, and we don't have to do the supplemental. We can do it the week we get back after July 4.

There are other things we would like to do—the FAA extension for 6 months. I tried to move to that yesterday. It was objected to. We want the President and others who have worked so hard on this global AIDS bill—we would like to get that passed. I was told by Senator BIDEN today that should be worked out tomorrow. But we can't do any of this as long as people are holding us up on this housing bill.

One Senator I talked to tonight who I thought was holding up the housing bill—which is true—did not object to our going to FISA. But others have.

I do not know how much more direct I can be. I want to pass the supplemental. I want to pass FISA. I want to pass the Medicare fix. I want to pass housing.

I do not particularly like FISA, and I am going to vote against FISA. But I have an obligation as the majority leader to move legislation that the majority of the body wants to go forward. The majority of Republicans and a significant number of Democrats want FISA to pass. But I am not going to ask people to stay here next week because there is someone over here holding up the President's bill. I am pointing to the Republicans.

I am willing to be as reasonable as I can. I think we showed that on the housing bill when I brought up a piece of legislation that Senator DEMINT and others wanted to move forward on—and Senator BUNNING. We did that to show good faith in reporting this housing bill. But with home prices continuing to fall, foreclosures continuing to rise, 8,800 foreclosures a day—a day—the time to act is now.

I have said on this floor many times, the housing bill is bipartisan. DODD and SHELBY have done a remarkably good job. I hope those people who are trying—I don't know what their message is. To show the power of a Senator? I acknowledge, one Senator has a lot of power. But I think they should recognize they are holding up a lot of stuff.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, let me say on this occasion I almost entirely agree with the majority leader about what needs to be accomplished this week. We do indeed need to do the housing bill. We do indeed need to do the supplemental for the wars in Iraq and Afghanistan. The FISA bill, the Medicare fix—it is a complicated legislative tangle which my good friend, the majority leader, has described, and with which he is trying to deal as we move through the week. But my goal is really the same as his, and we are going to continue talking to each other, continue to sort of run the traps

and hopefully clear the traps in such a way that we can have a highly successful week before the recess.

That is my goal. It is the same as his goal. I will be working with him to see if we can get all of those things done in the next few days.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I would say one final thing. There is a time when we need to work together. The Republican leader recognizes that; I recognize that. This is the time. We need to figure out a way to get from here to there. We are going to do our very best.

I think our messages—we don't need to worry about those next week. We can come back and do that after the break. We really need to try to get this done for the American people. It would be good for the American people if we could do something on one of the major crises we have faced in our country, and that is this housing debacle. It is very difficult.

Everyone knows that I do not throw a lot of bouquets to the administration, but I throw them a bouquet on their willingness to work with us on the supplemental because they were willing to bend a little bit here and there. I repeat, was it everything that I wanted, that we wanted? No, but a tremendous step forward. I compliment and I applaud the President and the people who worked with us to get to the point where we are. I would be ashamed to have to wait until after the Fourth of July to do this bill; that is, the supplemental appropriations bill, because even though what we are going to be voting on only deals with the GI bill of rights and the unemployment compensation and those other things, if we do not act, the war funding doesn't go forward. We do not have to vote on war funding. We have already done that.

As I said, I appreciate the work we have been able to accomplish with the administration on this supplemental appropriations bill. Even though, as I have indicated, I am not going to vote for the FISA bill, there are people who have worked on this FISA matter for 3 months or more. Again, the administration worked with them. Did they, on the FISA bill, move enough to make me vote for the bill? The answer is no. But they moved enough to get a lot of people to vote for this bill, and I appreciate that also.

But we could wind up with all this good work being put off. It will be very anticlimactic, the accomplishments that we have made.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BROWN. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Ohio is recognized.

64TH ANNIVERSARY OF THE GI BILL OF RIGHTS

Mr. BROWN. Mr. President, on Sunday, June 22, we marked an anniversary. On June 22, 1944, President Roosevelt signed the Servicemen's Readjustment Act into law. I come to the floor today to commemorate the 64th anniversary of the passage of this profoundly important bill, better known as the GI bill of rights.

World War II was the largest, most deadly, most terrible war in world history. Before it was over, Americans fought on the continents of Europe, Asia, and Africa, and in the Atlantic and Pacific Oceans. Over 16 million American men and women, including my father, answered the call to serve. Since joining this body, I have held about 100 roundtables across my home State of Ohio, and through these discussions I have had the opportunity and privilege to meet with a number of Ohio veterans from World War II. Getting to know those remarkable men and women has reaffirmed my profound respect for their decision to serve our country. Their service and their sacrifice produced both a stronger nation and a safer world. The ''greatest generation'' earned this Nation's enduring gratitude.

They earned the benefits the GI bill provided and used them to propel this country into a time of unprecedented prosperity. The GI bill was more than a payment to the veterans for their service to our country; it was also a very smart, very pragmatic investment in the social fabric and economic potential of our Nation. The GI bill was designed to help smooth the transition from military service into civilian life. And it did that for millions of men and women who served. It paid for veterans' tuition, books, fees, a monthly stipend, and other training costs. It also provided veterans low-interest mortgages and unemployment insurance.

The GI bill provided veterans in Ohio and the rest of the country the opportunity to realize the American dream. The number of degrees awarded by colleges and universities more than doubled between 1940, the last full year before the war, and 1950.

Veterans were responsible for buying 20 percent of all new homes after the war. The investment in the middle class drove the development and economic expansion of an entire generation.

I yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield my hour post cloture to Senator DODD.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I too yield my postcloture hour to Senator DODD.

The PRESIDING OFFICER. Senators have that right. The time is yielded to Senator DODD.

The Senator from Ohio.

Mr. BROWN. When you think about what happened to the GI bill, it was not only providing opportunity individually to millions of men and women who served, and in that sense a payment they earned; it also created a huge, unprecedented, and unsurpassed sense of prosperity for the country. When all of these men and women came home and were given the opportunity to go to college, regardless of their income or their family status or their wealth or their positions, they were given that opportunity which they earned from World War II.

In recognition of that important anniversary honoring the service men and women, giving them the opportunity and creating the prosperity of millions of newly educated men and women in our country, I call on Congress to renew its commitment to our veterans to recognize this anniversary.

It is our responsibility, our privilege, to uphold the promises our Nation has made to veterans. It is our responsibility and our privilege to advance our Nation's economic goals. Passing the updated GI bill into law is the right way to fulfill both responsibilities. I urge every Member of this body to support that.

The PRESIDING OFFICER. The majority leader.

FEC NOMINATIONS

Mr. REID. Mr. President, I am very pleased that I am finally able to say we are going to restore the Federal Election Commission to a fully functioning six-member body.

The FEC lost a functioning quorum last January when three recess appointments to the Commission expired, leaving only two FEC commissioners. It takes four to conduct official business, so there was no way to conduct business. When the FEC went dark in January, it meant our Nation's campaign finance watchdog was off the beat. It also meant that important provisions of the Democrats' Honest Leadership and Open Government Act would not be implemented.

Most notably, the building of this Federal Election Commission is so very important. I would be remiss to not say that the Honest Leadership and Open Government Act passed on a bipartisan basis. For example, the bundling rules we worked so hard to enact into law were put into limbo. But now with the FEC within a few minutes going to be reestablished, that will not be the case.

Since even before the Commission lost its quorum, I began offering my Republican colleagues votes on the pending FEC nominees, but those efforts were rejected.

Democrats have been united in their desire to have the FEC restored to full power. I am pleased we can finally come together with our Republican colleagues tonight on the nominations.

I would be remiss if I did not speak very briefly about my two Democratic nominees, Steven Walther and Cynthia Bauerly, both outstanding lawyers. I

can tell you even more than that. They are outstanding people and public servants. Steven Walther is from Nevada. He is one of those people who is in public service because he wants to do something to help his country. He has been very active for many years in State bar activities, very involved in the ABA activities, and he gave up a lucrative law practice to come here. He was a senior partner in a major law firm in Nevada. He did this for the right reason.

Both Cynthia and Steven are patient individuals. Steve Walther was first recommended to the President by me for this position on July 6, 2005. That is almost 3 years ago.

He waited almost 3 years for the full Senate to confirm him.

I recommended Ms. Bauerly to the President in July 2007. She has waited for confirmation over 11 months.

I cannot say enough nice things about Steven Walther. I want everyone within the sound of my voice to understand what a man of integrity he is. He is not even a Democrat. He is an Independent. But I have such confidence in his fairness that it did not matter what his party affiliation is. He is a fine individual, has a wonderful family, a son Wyatt who is getting used to the big city of Washington, DC.

I so appreciate Steve waiting since January with basically no job. He has had no paycheck. There has been no FEC. Some people dropped off because they couldn't afford to not have a job. But fortunately, for the FEC and our country, Steven Walther could afford to be unemployed for 6 months.

Again, I want the record spread with my appreciation for Steven Walther's public service and his friendship to me. These two individuals, Bauerly and Walther, have shown exceptional patience which will be an asset to them in their work as Commissioners. I wish them and the FEC very well.

EXECUTIVE SESSION

NOMINATIONS OF STEVEN T. WALTHER, CYNTHIA L. BAUERLY, CAROLINE C. HUNTER, DONALD F. McGAHN, AND MATTHEW S. PETERSEN TO BE MEMBERS OF THE FEDERAL ELECTION COMMISSION

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following nominations: Calendar Nos. 306, 624, 625, and 626; that the Rules Committee be discharged from further consideration of PN 1765, the nomination of Matthew Petersen; that the Senate proceed en bloc to consideration of the nominations; that the Senate then proceed to vote on confirmation of the nominations in the order listed; that upon confirmation of the nominations, the motions to reconsider be laid on the table en bloc, the President be immediately notified of the Senate's action, with no further motions in order, and the Senate then resume legislative session, with no intervening action or debate.

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

The clerk will report the first nomination.

The legislative clerk read the nomination of Steven T. Walther, of Nevada, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Steven T. Walther, of Nevada, to be a member of the Federal Election Commission?

The nomination was confirmed.

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Cynthia L. Bauerly, of Minnesota, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Cynthia L. Bauerly, of Minnesota, to be a member of the Federal Election Commission?

The nomination was confirmed.

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Caroline C. Hunter, of Florida, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Caroline C. Hunter, of Florida, to be a member of the Federal Election Commission?

The nomination was confirmed.

The PRESIDING OFFICER. The clerk will report the next nomination.

The legislative clerk read the nomination of Donald F. McGahn, of the District of Columbia, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Donald F. McGahn, of the District of Columbia, to be a member of the Federal Election Commission?

The nomination was confirmed.

The PRESIDING OFFICER. The clerk will report the last nomination.

The legislative clerk read the nomination of Matthew S. Petersen, of Utah, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Matthew S. Petersen, of Utah, to be a member of the Federal Election Commission?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The majority leader.

MEASURES READ THE FIRST TIME—S. 3186 AND H.R. 6331

Mr. REID. Mr. President, it is my understanding there are two bills at the desk. I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title.

The assistant legislative clerk read as follows.

A bill (S. 3186) to provide funding for the Low-Income Home Energy Assistance Program.

A bill (H.R. 6331) to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

Mr. REID. Mr. President, I am going to object to my own request en bloc, but prior to the Chair accepting my objection, I want everyone to know that S. 3186 is the Warm in Winter and Cool in Summer Act, which is LIHEAP. That is an important piece of legislation. We are going to work very hard to figure out a way to do that within the next 30 days. I would also say that H.R. 6331, the Medicare Improvements for Patients and Providers Act, is a bill that overwhelmingly passed the House of Representatives to take care of the so-called doctors' fix.

I now ask for their second reading en bloc, and I object to my own request en bloc.

The PRESIDING OFFICER. Objection is heard.

The bills will be read for the second time on the next legislative day.

Mr. REID. 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. 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.

MORNING BUSINESS

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

FISA AMENDMENTS ACT OF 2008

Mr. KYL. Mr. President, I rise today to speak in favor of the passage of the FISA Amendments Act of 2008. This is a law that our Nation needs. The most important change made by the pending

bill is to allow immediate and real-time surveillance of overseas targets as soon as they become apparent in the course of a foreign-intelligence investigation. FISA had never been intended to block surveillance of such targets, but a 2007 FISA court decision interpreted FISA to apply to even foreign-to-foreign communications that are routed through the United States. Because of changes in technology and U.S. dominance in the telecommunications industry, even phone calls from Afghanistan to Pakistan could be routed through the United States. As a result, a FISA order could be required before communications between two suspected al-Qaida members outside the United States could be monitored.

This system made overseas surveillance a practical impossibility in many cases and caused valuable intelligence to be lost. Our best tool against al-Qaida and other terrorists is intelligence; it is absolutely critical that we gather whatever intelligence is available.

In the summer of 2007, Congress enacted a 6-month restoration of U.S. agents' surveillance capabilities with the Protect America Act. Today—over 4 months after the PAA expired—Congress finally acts to extend this surveillance authority for another 4½ years. I am heartened to note that the Attorney General and the Director of National Intelligence both strongly support this bill and believe that it provides them with the tools they need to gather intelligence about America's foreign enemies.

Critically, this bill allows immediate and real-time surveillance of foreign targets located overseas whenever the Justice Department and the intelligence community find that, without immediate surveillance, ''intelligence important to the national security of the United States may be lost or not timely acquired and time does not permit the issuance'' of a court order prior to such surveillance. This provision, in a new section 702(c)(2) of FISA, addresses the exact problem that intelligence agencies faced in 2007. Congress expects our intelligence agents to use every tool that is technologically available to monitor al-Qaida and those associated with it. With this reform, we make such surveillance possible.

I also think that it is important that, in new section 702(i), the FISA Amendments Act allows pending surveillance certifications to be immediately amended to allow surveillance of new targets related to or growing out of previous surveillance. This should help to reduce the paperwork burden of FISA, allowing our agents to focus more time on monitoring the enemy and less on filling out forms. Also, the judicial review authorized by this section is appropriately limited and recognizes the intelligence community's primary role in deciding what foreign targets to monitor. The court's role is limited to reviewing whether certifications are procedurally proper and are accompanied by reasonable procedures to limit potential impact on U.S. persons. Thus, courts could block any obviously bad faith or improper use of foreign surveillance that might affect U.S. persons, but courts will not be second-guessing intelligence judgments, and should not be imposing procedures or making demands that will consume intelligence resources and divert agents from their primary mission. This limited role should also allow the FISA Court to decide these cases very quickly, minimizing the burden on both the intelligence community and on those judges who are assigned to the FISA Court.

I should also note that this bill contains important provisions that will allow all of the lawsuits against telecommunications companies to be dismissed upon certification by the Attorney General. Foreign intelligence surveillance is a matter that our Constitution entrusts to the executive in consultation with Congress, not to private litigants and the judiciary. These lawsuits all should have been dismissed immediately; this bill will finally produce that result. Title II is a critical part of this bill that should have been enacted long ago. Frankly, I find it odd that much of the early criticism of this bill has been directed at this of all provisions. Those who are opposed to the President's efforts to monitor al-Qaida's communications after 9/11 should take their argument to the President, not to the private companies that patriotically complied with government requests to help this country. Monitoring of al-Qaida's electronic communications cannot be conducted without the cooperation of private companies. The general rule that private citizens acting in good faith to assist law enforcement are immune from suit has deep roots and serves important public policies. As Justice Cardozo noted in the 1928 case of Babbington v. Yellow Taxi Corporation, the rule ensures that ''the citizenry may be called upon to enforce the justice of the State, not faintly and with lagging steps, but honestly and bravely and with whatever implements and facilities are convenient and at hand.''

Finally, I should note that this bill's so-called ''exclusive means'' provision, like the similar provision in the 1978 FISA, is hortatory verbiage that obviously yields the Constitutional authority of the President. The FISA Court of Review, in its 2002 decision in In re Sealed Cases, made the point:

> The [Fourth Circuit in the Truong case], as did all the other courts to have decided the issue, held that the President did have inherent authority to conduct warrantless searches to obtain foreign intelligence information. . . . We take for granted that the President does have that authority and, assuming that is so, FISA could not encroach on the President's constitutional power.

Indeed, every administration since FISA was enacted—including the Carter administration—has concluded that Congress cannot take away the President's power to monitor foreign enemies of the United States without a warrant, and that to the extent that FISA purports to do so, it is unconstitutional. The Constitution's framers vested the executive with primary responsibility and authority to protect the United States from foreign attack. Section 102 repeats FISA's ''exclusive-means'' claims, yet provides in the same section of the bill, at subsection (c), an amendment to the immunity provisions for electronic communications service providers in 18 U.S.C. 2511(2) to require that certifications conferring immunity identify the ''specific statutory provision'' that allows the surveillance, but only if the certification ''for assistance to obtain foreign intelligence information is based on statutory authority.'' This provision, in the same section making claims of exclusive means, acknowledges that not all surveillance is based on statutory authority, but may, instead, be based on the executive's constitutional authority. If this nation again finds itself under attack as it did on September 11, those in charge of our security should not conclude from the exclusive-means language in section 102 that they may not act in any constitutionally appropriate way to protect this country.

Finally, the ''sunset'' provision in section 403, which will repeal the authorities in the bill at the end of 2012, is problematic. As the Attorney General and the Director of National Intelligence have said: ''[t]he Intelligence Community operates more effectively when the rules governing our intelligence professionals' ability to track our enemies are firmly established.'' The need to modernize FISA has been extensively debated since 2006, including numerous hearings, briefings, and floor debates that ''involved the discussion in open settings of extraordinary information dealing with sensitive intelligence operations.'' As the Attorney General and the Director of National Intelligence have pointed out, ''[e]very time we repeat this process it risks exposing our intelligence sources and methods to our adversaries.''

Despite these flaws, the bill before us is needed. It is very similar to the bill that the Senate passed earlier this Congress and on which the House refused to act. It has passed the House by a 3-to-1 margin, and I expect that we will see a similar margin in the Senate, as the bill already appears to have gained the support of some Senators who opposed last year's bill. I look forward to the passage of this bill.

WORLD REFUGEE DAY

Mr. LEVIN. Mr. President, I would like to take a moment to talk about World Refugee Day, which we recently recognized, and offer some observations on the millions of refugees around the world and our efforts to aid them.

Refugees find themselves in the immensely difficult position of being unable to return to their homeland, yet stuck without any place else to turn. They are often the targets of persecution due to their race, religion, political associations, or other traits that should be worthy of respect rather than a threat on one's life. The theme of this year's World Refugee Day is ''protection,'' with a particular focus on shining a bright light on the plight of refugees around the world, so that the world community takes action to ensure their safety.

While refugees deserving of our attention exist in many places around the world, one area of significant concern is the refugee situation in Iraq. The U.N. estimates that over 4 million Iraqis have been displaced by violence, with 1.5 million living in Syria and over 1 million in Jordan, Iran, Egypt, Lebanon, Yemen and Turkey. It is a staggering humanitarian crisis. As part of the National Defense Authorization Act for Fiscal Year 2008, Congress adopted the Iraqi Refugee Crisis Act, which I sponsored along with a number of my colleagues. This legislation creates a process for Iraqis who have offered assistance to our forces in Iraq to apply directly to the United States for refugee status. It is clear that the United States has a special obligation to help this population. The largest community of Iraqi Christians in the world outside of Iraq is in Michigan, which makes this issue particularly significant for me and my constituents.

The stark reality is that Iraq is just one small part of the tragic refugee situation around the world. Thon Chol, who was one of the ''Lost Boys of Sudan,'' is currently serving as an intern in my Washington, DC, office. He recently graduated with a master's degree in social work from Western Michigan University. His success is hard earned, but his story underscores the point that refugees deserve our attention as well as our aid and protection.

Thon was forced to flee his hometown at age 6. While attempting to reach Ethiopia he was one of thousands who faced dehydration, famine, and attacks from wild animals and Government soldiers alike. He lost most of his family, witnessing many deaths himself. He reached a refugee camp in 1987, was forced back to Sudan due to the civil war in Ethiopia in 1991, and then eventually traveled to live in a refugee camp in Kenya for 8 years before being one of less than 4,000 Lost Boys permitted to settle in the United States and moving to Grand Rapids, MI.

Many are now American citizens. Thon's remarkable educational achievements are in line with others who were in his situation; many have sought degrees beyond high school, ranging from community college to one student who is pursuing a master's degree at Yale University. Thon and others have committed themselves to returning to Sudan to teach democratic values and religious freedom.

There are many challenges even for those very few refugees who have been granted asylum or citizenship in welcoming countries, including cultural adjustments, difficulties in uniting separated families, obtaining work skills, and adapting to an unfamiliar climate. In Michigan, numerous volunteers, community organizations, churches, and businesses have come together to assist refugees who come to our state. On this World Refugee Day, I offer my praise and appreciation for the organizations and individuals—both those local to Michigan and those international in scope—who are committed to helping refugees find some stability and normalcy, and I urge my colleagues to consider what we can do to help the millions who are suffering right now. Individuals who wish to help can begin by visiting the U.N. Refugee Agency website at http://www.unhcr.org.

GASPEE DAY

Mr. WHITEHOUSE. Mr. President, every student of American history knows the story of the Boston Tea Party, the men who crept onto British ships moored in Boston Harbor on December 16, 1773, to destroy shipments of tea that the English sought to tax. They were patriots who yearned for liberty, for ''no taxation without representation,'' and who stepped into history.

Only a few miles south and more than a year earlier, however, another group of men had engaged in another act of patriotism—yet these men are largely forgotten outside my home State of Rhode Island. Every year, in their memory, Rhode Islanders celebrate Gaspee Day. This is their story.

During the buildup to the Revolutionary War, as tensions between England and its American colonies grew increasingly strained, King George III stationed the HMS *Gaspee*, under the command of LT William Dudingston, in the waters off Rhode Island. Its mission was to search incoming ships for smuggled goods and enforce the payment of taxes.

On June 9, 1772—16 months before the tea party in Boston—the sailing vessel *Hannah* was traveling from Newport to Providence when it was intercepted by the *Gaspee* and ordered to stop to allow a search. On board the *Hannah*, Captain Benjamin Lindsey refused and continued on his course, despite warning shots fired by the *Gaspee*. The smaller and more maneuverable *Hannah* then raced up Narragansett Bay and into the safety of Pawtuxet Cove. The hulking *Gaspee* tried to chase the *Hannah* but ran aground in the shallow waters of Namquid Point. The *Gaspee* was stuck, awaiting the higher tides of the following day.

Meanwhile, Captain Lindsey proceeded on his course, and upon arriving in Providence he met with John Brown, a community leader who later founded Brown University. The two men arranged for a meeting of local patriots at Sabin's Tavern, in what is now Providence's East Side, later that day. At the meeting, the assembled group of Rhode Islanders decided that action must be taken. *Gaspee* was a symbol of their oppression, and she was helplessly stranded in Pawtuxet Cove. In short, the opportunity was too good to pass up.

As night fell on June 9, 1772, there was no moonlight on the waters of Pawtuxet Cove. The *Gaspee* lay silent on the sand bar at Namquid Point. But just a few miles away in Providence, a team of about 60 men led by John Brown and Abraham Whipple was preparing for an assault that would soon break that silence. They armed themselves, boarded longboats, and set course for the *Gaspee*.

After paddling the longboats 6 miles down the dark waters of Narragansett Bay, the men reached the *Gaspee* and surrounded it. Brown called out and demanded that Lieutenant Dudingston surrender his vessel. Dudingston refused and instead ordered his men to fire upon anyone who attempted to board the *Gaspee*.

True to form, these brave Rhode Islanders seized the challenge. They forced their way aboard the *Gaspee*, and a struggle ensued. In the melee Lieutenant Dudingston was shot in the arm by a musket ball: Rhode Islanders had drawn the first blood of the American Revolution, right there in Pawtuxet Cove.

Brown and Whipple's men took control of the ship from the British crew and transported the captive Englishmen safely to shore. They then returned to the abandoned *Gaspee* for one final act of defiance to the crown. The men set fire to the *Gaspee* and watched as its powder magazine exploded, leaving the whole ship burning down to the water line. The place was eventually renamed Gaspee Point.

If that is not an act that defines the American struggle for independence, then I don't know what does.

Since that night in June when the *Gaspee* burned, Rhode Islanders have marked the event with celebration. This year, as I do every year, I had the good fortune to march in the annual Gaspee Days parade in Warwick, RI.

And every year, I think about what it must have felt like to be among the 60 men hauling on those longboat oars, as they paddled toward destiny.

While it is doubtful that many of those patriots could fully grasp the place they were about to take in history, there must have been a feeling of deep satisfaction known only to those who, in the face of tyranny, have stood up for home, for family, and for country. It is the same feeling that must have accompanied the soldiers of General Washington as they crossed the Delaware, the delegates of the Continental Congress as they signed the Declaration of Independence, and indeed those men in Boston who emptied a shipment of tea into the ocean. I

hope that the brave Rhode Islanders that gave us Gaspee Day will be remembered with those other giants of the Revolution, and given their due place in our Nation's history.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, earlier this week, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov 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:

TO WHOM IT MAY CONCERN: The rising cost of fuel and food are a big concern for us that live in Northern Idaho. We live in a lightly populated area and the trips to ''town'' are right at 100 miles round trip. We are on Social Security and Social Security doesn't allow a lot of flexibility in what a person can spend. Basic items like home heating and food prices have made huge changes in the way we live.

Recently we had a death in the family in another state (Arizona). After figuring the cost of both driving and flying we determined it would be too much of an expense for us to go. We sent our love and regards—but that doesn't take the place of a hug. The cost of heating our home with heating oil has gone from under a dollar a gallon to 3.97 at the last tank fill up. That is a huge increase for a basic need. Many are worse off then we are and have to choose between being warm and eating. *Something must be done.*

Every day we see our government reaching out with aid to *other* countries. . . .what about those right here in America? I expect the stimulus payment most people received went to catch up on a couple of bills—no one could afford the luxury of just frivolously spending it. We need everyday, down-to-earth practical help so basic needs can be met.

Please stop this ever-increasing price on fuel and food.

Thank you. . . .sincerely,

MR. AND MRS. RAY, *Priest River.*

I normally drive our 1999 Chevy Suburban. It gets 14 MPG on average. With gas prices over $4.00 a gallon I just use this simple rule of thumb to calculate how much a trip on the interstate costs me. It's simple. At normal interstate speed of 65 MPH, it costs me $20.00 an hour to drive. 65 divided by 14 = 4.65 x $4.10 a gallon = $19.00 not including wear and tear. So $20.00 an hour is my rule of thumb.

Now if I lived 1 hour from work and I made $12.50 an hour, I would have to work 3.2 hours more to get my 8 hours pay.

Do the math yourself. This has to be fixed.

A few things that bother me the most:

Hearing that the gas companies have made ''record profits'' again while I'm paying for it; the price of a barrel of oil goes up in the morning then by noon the same day the price of gas goes up even though that gas has been in the underground tank for days; the price of a barrel of oil goes down in the morning but the gas prices stay the same until they can go up again later; relying on foreign oil. That is relying on a foreign people who are not necessarily our friends or care about us; we have oil under our own ground but can't get it? Why?

Here's a question. Since when is not having oil not a national security issue?

AARON, *Caldwell.*

SENATOR: Nightly, I listen to a number of pundits and politicos debate the ''solutions'' to our energy problems. One of the more ridiculous ones is mandating people switch to higher fuel efficiency automobiles (i.e., buy a new car). As a small business owner, our health insurance premiums have just gone up (again), the minimum wage has risen, grocery costs are rising and our 401k is diminishing. The very thought of anyone in Congress telling me I have to replace my ''paid for'' cars, and take out a loan to buy a new (more energy efficient) car is ludicrous!! Gasoline would have to be over $10 a gallon to make economic sense to my family, in lieu of absorbing a car payment.

I support drilling offshore and in ANWAR, as well as shale oil extraction. I think it's time that the world's most technologically-advanced nation illustrate to the world the most technologically advanced means of extracting energy. I'm deeply offended that the United States government, who can't profitably manage Amtrak, the US Postal Service, or even its own Senate cafeteria, has the audacity to pretend to convince me that they know more about ''safe & sound'' energy extraction than the companies that are professionals in this endeavor. I hear people crying about how drilling in the US might ''spoil natural resources''! I'd be willing to wager that if we weren't dependent upon Middle Eastern oil, we could have, most likely, saved about 4,000 US Servicemen and women's lives. *That* cost of natural resource is infinitely greater than a handful of caribou!

Respectfully,

DANIEL, *Boise.*

My mother-in-law (80 years old) had emergency surgery in Grand Junction, Colorado. With increased fuel prices, the air fare to fly my wife to Grand Junction ONE WAY was almost $900. I drove separately to Grand Junction so our car would be available for our use. The total mileage over a week's time was in excess of 1,500 miles and, at over $4.00/gal, our fuel bill (23 miles/gal) exceeded $260.00. I'd like to buy a more fuel-efficient car, but my down payment was significantly reduced!

In eastern Idaho, the cost to go camping, fishing, or hunting will average from 50 miles to 150 miles or more round trip. A weekend outing has increased in cost from $5.00 to $16.00 for someone with a small SUV to $7.50–$22.50 when using the standard pickup and pulling a boat or trailer. This is based on $4.00/gal fuel compared to $2.50/gal a year ago. Summertime costs can easily be $100 per month more for fuel in this area just for simple recreation (long distances and not much else to do). Add a few trips to the store for supplies and the costs can be 50% higher. We can't afford these extra costs.

Some think the answer is E–85 Ethanol from corn, but that does NOT save significant petroleum products and creates additional water pollution in corn-growing states. Additionally, my cost for food for my family has gone up significantly because of the increase in the price of corn. So why, oh why, do you in the government PAY the Midwest ethanol producers $0.51/gal to pollute the water and drive up the cost of food throughout the country, while still using as much oil for tractors in the fields, fuel trucks to transport the ethanol (it can't go in pipelines), fertilizer, fuel the ethanol plants, and other energy costs for something that only has about 68% of the energy content of gasoline? You in the government should get out of the way of the energy industry. They were doing fine before government got involved. Please let the energy sector drill for oil, develop coal and oil shale gasification technologies, mine the off-shore methane deposits, and set as a goal that nuclear power plants will be licensed as fast as they can be built. Government reviews should be minimal and should help instead of hinder our progress. Wind power should be developed in areas which have minimal impact (look at the INL site—huge area where the Idaho wind blows all the time). Small solar installations could easily be developed as the solar energy industry grows. The very best thing that government could do is to GET OUT OF THE WAY!! Maybe a few insects and frogs will die as a result, but it is better than running out of energy and then trying to figure out what to do in the dark

DARYL.

SENATOR CRAPO: I wanted to briefly share some of the impacts the high fuel prices are having on my family. I drive 32 miles one way to work. My car gets about 25 miles per gallon. So it is costing me almost $10 a day just to go to work. My husband is a farmer. We normally purchase 500 gallons of fuel at a time for the farm. We have not been financially able to buy it this spring/summer. He has cut back on the water of the crop because the power bills are so high, which will most likely affect the yield. Fertilizer is skyrocketing. Diesel is ridiculous. Our entire food supply is going to be affected as other farmers face these same problems. We are not buying any extras anymore. Groceries have increased, so non-essentials like chips, candy, boxed cereals, etc. are out. We are not eating out like we used to either. We normally ate out once or twice a week. For the past 18 years, I have planted beautiful potted flowers for the entrance of our home, usually spending around $300. I will not be planting flowers like that this year. We are not buying any new clothes for summer. We'll have to make do.

We live in an area where several years ago BP Petroleum came through and indicated that studies show fuel resources are available, however, nothing that we know of is being done to proceed with any exploration or development.

You would think that a country as great as ours with as many resources as we have would not allow themselves to be held hostage to foreign fuel resources!!!! We would appreciate any help you can send our way.

Sincerely,

MARIE.

PROPOSITION FUEL REFUND AND REFORM

Item 1: There shall be a $4.0 billion one-time charge imposed against each Refinery listed in Item 1 that shall be refunded to all California drivers with a valid California drivers license and age 18 and over. This Charge shall be apply to Exxon Mobil, BP (includes ARCO), Texaco, Chevron, Conoco Phillips, Shell, and Citgo. Each Refinery Charged the refund shall pay their amount to the California State Treasury for disbursement within 60 days of the passage of

this Proposition. The state shall disburse this money within 150 days of the passage of this Proposition. There shall be a daily fine of $10 million a day charged to any Refinery that has not paid its share of the refund in the allotted time payable to the State of California general fund.

Item 2: All Refineries shall sell off all fuel retail establishments within one year of the passage of this proposition. No Refinery or fuel wholesaler shall be allowed to own or control any fuel retail outlets with the passage of this proposition. The price of these establishments must fall within the current market value within its area. Violation of this item will result in a daily fine of 10 million dollars per day payable to the State of California general fund.

Item 3: Any present and future contracts between fuel retail outlets shall be hereby banned and null and void. Any fuel retail establishment shall be able to purchase fuel from any Refinery or fuel wholesaler he or she chooses without restriction. Also any retail outlet shall be able to sell multiple brands of fuel without restriction. Violation of this item by any Refinery or fuel wholesaler will result in a daily fine of ten million dollars per day payable to the State of California general fund until corrected.

Item 4: Each Refinery selling fuel in California shall maintain a stored reserve of fuel within the borders of California equal to 1.5 times the monthly volume of fuel it sells within the State of California. This requirement shall be enforced beginning 1 year from the passage of this proposition by the State of California. Violation of this item by any Refinery or fuel wholesaler will result in a daily fine of 10 million dollars per day payable to the State of California general fund until corrected.

Item 5: Beginning 10 days after the passage of this Proposition and for a period of 5 years, wholesale prices of gasoline and diesel per gallon sold to retail establishments in the State of California shall not exceed 1.2 percent of the average price of oil per barrel on the world market. Violation of this item will result in a daily fine of 10 million dollars per day payable to the State of California general fund.

Item 6: Beginning 10 days after the passage of this Proposition and for a period of 5 years retail prices of gasoline and diesel per gallon sold in the State of California shall not exceed 2.0 percent of the average price of oil per barrel on the world market. Violation of this item will result in a daily fine of 10 thousand dollars per day payable to the State of California general fund.

Item 7: The people of California have determined by the passing of this proposition that the Refineries listed in item one meet the definition of a monoply because of the way fuel prices have risen everywhere in the state of California in unison in the past 4 years, because these refineries dominate the market, and by the documented huge increased, sustained and increasing profits made by these oil refineries. The people of California request the United States department of Justice apply antitrust legal action against the refineries listed in item 1.

Item 8: If any Items listed in this proposition are nullified by court action then all other Items shall remain in effect.

UNSIGNED.

SENATOR CRAPO: Thank you for asking for my opinion. As I interact with my employees as a business executive, with my fellow church members as a church leader, and as a husband and father, I think the real bottom line is this: The great majority of people have no viable alternative to spending additional money on fuel and many other goods and services that also rise with fuel price increases. Most people are just paying more because there is no alternative. This means that bankruptcy, unemployment, and other severe financial strains will be staved off until they cannot be held off anymore, and then it will collapse. The danger signs of energy dependence are so dire, yet congress does not make any moves. I think the future is bleak for individuals on the edge, and a large ''correction'' is due. I also would not be surprised to see your constituents come after congress with pitchforks and torches, but I have doubts that congress will act.

AARON, *Coeur d'Alene.*

DEAR SENATOR CRAPO: Today, we had to make the difficult choice of putting fuel in the car or grocery shopping. You see, we needed milk, bread, and some other staples and we needed a tank of gas. Each purchase was going to amount to around $80, and we had to choose one or the other. So we gassed up the car and decided to try to make it until payday with the food that we had at home.

I have never felt so sick or downtrodden at the one or the other kind of option we faced today. I went home and also deduced through some back bills that our housing heating and cooling has doubled since 2002. In only six years our gas has gone from $67 a month to $112 and our electric from $87 to $167, despite my keeping our heating at 65 day and 60 night in the winter and our cooling at 75 in the summer. We are hard pressed to pay those bills in addition to gas. This spiral has got to stop or I do not know how we are going to manage.

Sincerely,

D., *Boise.*

DEAR SENATOR CRAPO: I commute 52 miles round trip daily to Rexburg from Idaho Falls. Since January I have been car pooling with a co-worker in my department and we are encouraging our employer to let us telecommute at least one day a week. My family has declared two days a week as ''no drive days'' where we don't even turn the key in either of our cars. We save our errands and schedule appointments for other days of the week. This basic routine is helping, but not enough.

We recently had a daughter in the hospital in Idaho Falls for seven and a half weeks, and for another four and a half weeks at the University of Utah Medical Center. Those expenses were of course offset by health insurance, although out of pocket expenses still amounted to thousands of dollars. However during those 12 weeks we had no choice but to drive to the hospital daily while fuel prices were skyrocketing. This created a sudden and unexpected burden on our family budget. With the added cost of fuel forecasted to stay high into the future, our financial recovery is nowhere in sight.

Thanks for listening.

BOB AND BEVERLY, *Idaho Falls.*

SENATOR CRAPO: I own a small retail shop in Salmon, Idaho. Retailers in this area depend on the local economy and on Tourism to make ends. Tourists provide 60% of our sales revenue and the gas prices have dramatically diminished travelers. Whitewater rafting companies are struggling and my retail store is in danger. I am unable to meet my monthly expenses, let alone purchase merchandise to replenish my normal inventory. Consumers cannot afford anything beyond gas and food. Prices have doubled on groceries, shipping and all are related to rising fuel costs. Most of the people I know have no extra from their paychecks and it is killing small businesses all over the Country! Here in the Rocky Mountains we can't drive hybrid cars. The snow, rain and rural homes make cars impossible. We have to have 4 wheel drives and chains just to get out of our driveways and to the grocery store! There is no mass transit and carpooling wouldn't be feasible.

Congress seems to be at a loss as to what to do and if something doesn't happen soon we will be facing a major depression! The Speculators are driving prices even higher and the oil producing nations are unwilling to cut their profits. Most of us feel that Congress and the Senate are in bed with the oil companies.

Something has to be done to open oil and gas production in this Country. We have Anwar, the Bakkan oil in the North Central States and off shore oil pockets. It is time that our government look out for the American People and stop bucking under to the Environmentalists.

Something has to be done quickly. Long-term renewable energy sources will take decades, by that time all the small businesses like mine will be forced to either close or file bankruptcy. Currently my shop is in jeopardy. I am behind on all my bills and my credit has been ruined so I can't even get a loan to get me through the crisis. If our governmental body can't find a solution now, then expect to see small and medium businesses go under. We are the backbone of this land and we need some backbone leadership!!!!

Sincerely

DONNA, *Salmon.*

DEAR SENATOR CRAPO: I would be more than happy to share our story of high energy prices and the toll it is taking on our family and our finances. My husband and I find it outrageous that environmental groups can have SO much pull in this country to put bans on the construction of oil refineries, liquid coal plants and drilling for our own domestic petroleum. At this point, we are dependant on this abundant and efficient fuel. There is no other alternative right now to take the place of petroleum—at least nothing that is practical, efficient and most importantly—affordable!!! To ignore our vast reserves of coal and oil in this country to leave us dependent on Middle East Fuel is ludicrous. There is wonderful technology out there that can turn coal into liquid fuel that burns cleaner than gasoline! But because your average environmentalist does not understand how this technology works—they are against it because traditionally burnt coal is filthy. They would rather grow food crops to fill their tanks up while people and animals starve.

We live in Salmon, Idaho. My husband is a Real Estate Appraiser who frequently travels almost 600 miles in a week simply to reach the properties to do his work. The cost of living necessitates at this point that he take EVERY SINGLE job that crosses his desk—so frequently driving round-trip to Arco and back in a day or over to Missoula, Montana and back in a day is a normal thing. BUT—the drawback is that right now we have an outstanding balance on our Chevron card that is over $1,400 and over limit—so we can't even use the card. We make large payments every month, but with the interest rate we still have not been able to bring the balance low enough to even use the card. So we pay the Chevron bill AND pay for gas out of our regular checking account. The Chevron card went well over limit way back when gas hit $3.50 a gallon, and we have not been able to catch up and bring the balance down. We have a propane bill that is over $1,100 right now that I pay $125 a month on—but this is a balance from an $1,800 fill up of our tank back in November of 2007. I am going to call the gas company this week to see if they will fill the tank now while prices are ''lower''.

So we will probably have a bill that is over $3,000 for heating our home basically 6 months out of the year. If gas goes any higher—we are going to have to figure out how to get even deeper in debt to find a cheaper way to heat our home in the winter. As you know—Idaho gets cold. We HAVE to heat our home!!! Living in Salmon, we HAVE to drive over 300 miles in a round trip either to Idaho Falls or Missoula Montana for doctors, Costco, clothes shopping etc.—as due to there being a lack of logging or mining anymore there is really no local options for shopping, etc. The very lives of people living here depend on big rig trucks bringing our food etc. For MANY years now, we have been hearing of the Idaho Cobalt Project—but because the environmentalists have such a stranglehold on ALL industries in this country—we are still awaiting word of WHEN or IF this project will start. If it does get clearance, Salmon, Idaho will once again have jobs that pay a living wage for a family. We have a house that we moved out of in downtown Salmon in 2005—it has been sitting empty awaiting a buyer since then. It is in a commercial zone—and commercial is dead in Salmon. We filed paperwork with our mortgage company way back in February to give the house back in a Deed in Lieu—and we are still awaiting word!!! Apparently, the mortgage companies are backlogged about 6 months? We can't afford to visit family in California because we can't afford the gas. My husband's mother and father in California got extremely ill this last year, but he was never able to visit because of the debt load we are carrying and how expensive driving or flying is!! We are working to make payments and catch up on our gas bills that are maxed out right now. We stopped making payments on a house that would not sell for 3 years now—that has left us behind in everything. With fuel costs continuing to rise because we have a Democratic Liberal, Anti-American Congress that continues to ban any sort of domestic drilling for our own petroleum deposits—we don't even have a chance to catch up right now as gas prices continue to rise. We are fortunate though. My husband has a busy and successful business and thankfully at least, we are able to work to make our payments. On Father's Day, we decided against a picnic any further than 5 miles out of town because of the cost of fuel. It is sickening to us that our government cares SO little for the average working American. It is sad that our government has allowed itself to be controlled by secular humanist environmentalists who care more for a spotted owl or a tiny snail than the human family. Just ask anyone here in Salmon how we feel about the forests being shut down to logging—yet it is perfectly fine for the forest that is becoming nothing more than a deadfall tinderbox to burn and choke us with toxic, suffocating smoke for 2 months every summer! Something has to change because if it does not soon—this country is going to enter a depression that makes the Great Depression look like the Good Old Days!!!

Sincerely,

BRENT AND KATIE, *Salmon.*

It is very hard to understand why the United States, the most powerful Nation on Earth, is begging the Middle East for oil. We need to immediately increase drilling off shore, in Alaska and other States, plus utilize technology available to extract oil from shale deposits in the Rocky Mountains. We have advanced technology sufficiently to be safe for the environment and yet provide for ourselves rather than being dependent upon the Middle East.

Is it true that China is drilling off the Florida coast, but we can't? In Idaho Falls, the Chamber is bragging about bringing a French company's new uranium enrichment plant and the corresponding jobs to the area to fuel nuclear power for France. WHAT—we have had the capability of generating nuclear power at the INEL for 35 years. My father worked at the INEL for 35 years. You mean to tell me the environmentalists will allow uranium enrichment for France, but we can't utilize an existing US nuclear plant for power for Idaho?

Bio-fuels are not the whole answer, it puts too much pressure on our farmland that we need to crop food crops. The prices of food are going up enough because of the fuel costs.

The US has substantial coal deposits, we need to build more coal fired power plants. Combined with the nuclear and wind, we should be able to have more than enough power to re-charge hybrid cars.

Besides increasing drilling in the US, we need to invest in some updated/additional refineries.

Then, Congress needs to do something about the speculators driving up the price of crude oil. I don't know if you can make it illegal to speculate on oil futures or restrict it, but news media are reporting that $3.00 of every gallon goes to speculators profits buying and selling.

CHRIS, *Idaho Falls.*

DEAR SENATOR: My husband and I own a small business in Lewiston, where we do print advertising and TV/Video productions (among other things). We live close to our business, so although our fuel prices have increased, it's not having a huge impact—YET. However, we frequently have to travel across or out of the state to shoot various jobs, and we are now having to charge such high travel expenses that we are at risk of losing some clients to production companies closer to their location, even though they would prefer to keep working with us. We are bidding on a job right now which falls in that category—a year ago we would have quoted them $200 for mileage, and now we have to quote almost $500. Obviously this will impact our bottom line by the end of the year—something that we really can't afford.

BOBRI, *Lewiston.*

SENATOR CRAPO: I would guess that my story is different than the story you were looking for.

In 1974 I graduated from the University of California with a B.S. in Mechanical Engineering.

The height of the first real Oil Crisis created by OPEC.

Because of the skyrocketing price of gasoline, gas lines, and shortages, I purchased a manual transmission diesel Volkswagen for $7,500. That car on average got 52 miles per gallon. Diesel is a cheap byproduct of gasoline refinement. At that time, it cost ½ the price of gasoline per gallon.

Tell me why it costs more than gasoline now?

A few weeks after graduation, I was granted a full scholarship to continue engineering graduate school at UC.

In 1979 I graduated from UC with a Ph.D. in Mechanical Engineering, my specialty: thermodynamics, energy, and materials science. My thesis was on the extraction of heat energy from hot geothermal brine solutions.

I started working for a startup company purchased by Weyerhaeuser. My project was researching burning lignite (dirty coal) in a fluidized bed reactor to produce clean coal energy. It included the removal of NO_x, SO_x, and high temperature particulate down below the submicron size.

My research burned one train car load of lignite (environmentally the worst coal to burn with the lowest heating value) from West Virginia, in Menlo Park, CA every day 24/7 for nearly 9 months performing experiments under contract with the US DOE. Our work was successful but went no further. During the operation of that combustion system and the associated experiments we passed all EPA combustion gas stream standards. That company years later went bankrupt. I left after 2 years to join Hewlett Packard in their computer systems group. For the past 25 years I've been involved in semiconductor manufacturing.

Thirty years have passed and sadly our government is no closer to a long term proactive energy policy than it was in 1979.

It is a national disgrace and one day will be a national disaster which will make the Great Depression pale in comparison.

PLEASE, wait no longer. Turning food stocks into ethanol, waiting for cheap solar, and looking to the wind to solve this global crisis is beyond ridiculous.

Drill now in ANWR, Drill off the Coasts of Florida, and California, Turn on the clean coal industry and liquefy coal for fuel, build as many nuclear power plants as fast as possible (then maybe we can avoid the energy depression). I don't believe we have another 30 years to gamble away.

Regards,

LARRY, *Eagle.*

MIKE, I really believe that we don't need to find alternative fuels. America is set up to burn petroleum based products and there are so many drawbacks to all of the ''bio'' fuels. We have lots of oil right off of our own coasts and in the Gulf on Mexico, ANWR and North and South Dakota with oil shale.

Our problem to being independent is not supply, Arabs or the environment! It's Congress and the wacko left enviro crowd who would rather see us all on bicycles!

I'm 62 years old and I DO ride a bicycle. However, like you mentioned in your opening letter, bikes don't work all the time in Idaho. Matter of fact between October and June, they suck! We had 2″ of snow in Moscow on June 10th this year.

Congress needs to just get out of the way and let industry do its thing.

Mike, I realize you're only one Senator from a little-known state out West that doesn't matter to everybody East of the Mississippi River but some how we have to find the courage to stand up to the liberal Dems before our economy state and country are turned into a Third World European nightmare like B. H. O is designing.

Sincerely,

DAVE, *Moscow.*

ADDITIONAL STATEMENTS

IN RECOGNITION OF ROBERT LINGENFELTER

• Mr. CARPER. Mr. President, today I recognize Robert Lingenfelter, affectionately known as ''Link,'' for being named Delaware History Teacher of the Year by the Gilder Lehrman Institute of American History and Preserve America. Link has dedicated his life to the thousands of school children whose lives he has touched as a teacher, as a coach and as a mentor.

The History Teacher of the Year Award, now in its fifth year, was designed to promote and celebrate the teaching of American history in classrooms across our Nation. The award honors one exceptional teacher from each State and U.S. territory. The selection of the State winner is based upon several criteria, including a deep

career commitment to teaching American history; evidence of creativity and imagination in the classroom that address literacy and content beyond state standards; and evidence of thoughtful assessment of student achievement. Through Link's 13 dedicated years of teaching, it is clear that he embodies all of these criteria and many more.

After working for years as a night supervisor for what is now AstraZeneca, Link graduated from Wilmington College in 1995 with a bachelor's degree in education on a day that I was privileged to deliver the commencement address there. Three years later, he earned his master's of instruction from Wilmington College, which is now Wilmington University. He was motivated to become a teacher because of his interest in American History, his love of coaching and his passion to motivate children to achieve their true potential.

His interest in American history was increased in part by his work with me as a volunteer photographer over the past 26 years. During that time, Link also has documented a host of important events throughout Delaware. In his own words, he ''created history with his camera lens.''

In addition to teaching, Link has coached high school baseball for 14 years. He developed a love of the game as a child and wanted to see the same passion he felt for the game in the eyes of the children he coached. He stresses individual success for each of his players and he has always believed that once a child experiences success, they start believing that anything is possible. Link tries to foster this ''anything is possible'' mentality in all of his students and players, continually encouraging them to do their absolute best and settle for nothing less.

He has been instrumental in the growth of many children, building their confidence and showing them the path to personal success. His dedication to the children he coached is apparent to all who know him as he teaches his players lessons that will help them in all walks of life, both on and off the diamond.

Noticing his innate ability to connect with students and his drive to help them grow, Link's friends and players' parents suggested he pursue a career in teaching. With their encouragement, he decided to combine his love for American history and his commitment to helping children succeed. He became a teacher.

Link started his teaching career at Stanton Middle School, where he worked from 1995–1998 as a 7th grade social studies and language arts teacher. In 1998, he joined Skyline Middle School where he teaches today. He is an 8th grade American history and social studies teacher and also serves as the social studies department chair. In addition, he works as an adjunct professor at Wilmington University.

Link has been recognized many times as the Social Studies Teacher of the Year by the Red Clay School District and was named the 2002–2003 Teacher of the Year at Skyline Middle School. These awards are a tribute to Link's creative teaching style and his genuine desire to help his students succeed.

Link's teaching style is unique and specifically tailored to helping students not just learn history but relive it. Link and others think of him as more than just a teacher. He is something of an actor, as well. He brings history alive in his classroom with props and costumes and engages his students in a way no textbook can. He and his students hold simulations of historical events, assuming the roles of prominent historic figures and acting out the sequence of the events. His students reenact the Boston massacre mock trial, the Constitution Convention of 1787, slavery and the underground railroad, and even battles of the Civil War. He doesn't simply teach history he engages his students to participate in history, bringing to mind the old Chinese proverb: Tell me, and I'll forget. Show me, and I may remember. Involve me, and I'll understand.

Link also utilizes the historic sites in the area to further instill in his students an understanding of America's past. He takes his students on trips to the Constitution Center in Philadelphia and to Fort Delaware, as well as to any number of sites in Washington, DC. His ''classroom museum'' is a place of interactive learning that is far from a memorization of dates and locations; instead, it is a journey through American history, with stops and detours along the way where students fully embrace America's past and its impact on the present.

Link is a powerful teacher with a deep love for his students and for history. He has a lighthearted attitude that allows him to connect with students on a level that few can. He can always be counted on to have a joke ready to break up the stresses of the students he teaches. Using his sense of humor to his advantage, Link constantly builds a closer relationship with his students to the point where they know they can come to him with anything from a history question to a problem with a friend at school.

Link is a truly remarkable teacher and human being. He encourages his students to reach beyond their limits and settle for nothing less. He instills in them the confidence they need to stand up for principles they believe in and become proponents of change in the future. His teaching philosophy is one to be admired and emulated as it allows students to be participants in history as opposed to mere observers.

Robert ''Link'' Lingenfelter has become one of the finest teachers in Delaware, and he is on his way to becoming one of the finest teachers in America. It is with a genuine sense of honor and joy that I rise today to extend heartfelt congratulations to my good friend for his award. There could not be a more deserving recipient. He will always be a role model, not just to his own students, but to all of us.●

TRIBUTE TO LEROY KOPPENDRAYER

● Mr. COLEMAN. Mr. President, today, I honor the distinguished public career of LeRoy Koppendrayer, retiring chairman of the Minnesota Public Utilities Commission. LeRoy was appointed commissioner in 1998 and chairman in 2003. He has served Minnesotans honorably for 10 years, upholding and protecting the interests of Minnesota's utility ratepayers while enjoying the respect and camaraderie of his fellow commissioners and those who have come to know him.

LeRoy's journey to becoming a commissioner has been filled with a lifetime of experiences anyone would admire. In the 1990s, LeRoy was elected to four terms as a representative in Minnesota's Legislature where he worked successfully on issues ranging from agriculture to energy to education. He also worked for years as a dairy farmer and then as an international agricultural consultant, spending time in South America, Africa, Jamaica, Philippines, and Indonesia, consulting farmers and working to develop and improve their economies and their lives. LeRoy's appointment to the commission caps his decades-long commitment to public service.

LeRoy's work as commissioner includes decisions on a myriad of issues facing Minnesota's utility ratepayers, such as rate cases filed by natural gas, electric, and telephone utility companies, the twin cities metro area code split, the establishment of rules governing reliability standards for electric utilities, renewable energy projects and the citing and routing of energy facilities and transmission pipelines, to name just a few.

LeRoy's committee memberships include the National Association of Regulatory Commissioners, known as NARUC; as liaison to NARUC's International Relations Committee; the NARUC Regulatory Advisory Committee to the Institute of Public Utilities; and the NARUC Committee on Electricity and Subcommittee on Strategic Issues. He has also served as chair of the Nuclear Waste Strategy Coalition and as a member of the board of the Organization of Midwest States, which oversees the Midwest electricity grid.

As chairman, LeRoy has ensured the integrity of the commission's process through thoughtful consideration of issues and a friendly rapport with those who appear before the commission. Whether it is a lawyer representing a utility or a concerned citizen appearing for the first time, LeRoy's approach is the same. He treats everyone with genuine respect and professional courtesy and with a sincere interest in understanding each person's point of view.

And on top of it all, LeRoy recently found time to make a 150-mile bicycle trip with his wife Carolyn and 10 other family members in support of MS research.

LeRoy is a man of loyalty, conviction, and fortitude. He commands great respect and great affection. He has an enviable capacity for warmth and kindness and is driven by his value for hard work. He stands firm in what he believes and yet finds common ground where there are differences, using a welcoming approach and a friendly smile to bring people together. And if all else fails, he'll make you laugh, mostly at his own expense, by poking fun at himself.

Today, at this bittersweet moment, it is with gratitude and admiration that I stand before you to honor LeRoy's longstanding contributions to the people of Minnesota through his years of service as commissioner of the Minnesota Public Utilities Commission.●

125TH ANNIVERSARY OF BELFIELD, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to honor a community in North Dakota that is celebrating its 125th anniversary. From July 11 to July 13, the residents of Belfield, ND, will celebrate their community's history and founding.

Belfield is situated along the banks of the Heart River in western North Dakota. As the westward expansion of the Northern Pacific Railroad progressed, settlers established this community and first identified it as Fort Houston. Belfield is said to have later adopted its current name after Belle Field, the daughter of a railroad engineer.

Belfield offers visitors and residents fresh air and beautiful scenery. From Custer's Trail and Initial Rock, to Belfield Dam and the Maah Daah Hey Trail, Belfield has a wealth of outdoor recreational activities. This gateway to the west is also birthplace of North Dakota Supreme Court Judge Herbert L. Meschke.

To celebrate its 125th anniversary, Belfield is organizing a weekend filled with events such as a parade, class reunions, a demolition derby, a steak fry, historical photo and pottery displays, and games for all ages. Belfield will also be host to the Black Daggers, a U.S. Army Special Operations Command Parachute Demonstration Team. The team will be performing parachute jumps throughout the weekend at various locations. It will no doubt add a breathtaking element to this celebration.

Mr. President, I ask the U.S. Senate to join me in congratulating Belfield, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Belfield and all the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Belfield that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Belfield has a proud past and a bright future.●

125TH ANNIVERSARY OF MENOKEN, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to honor a community in North Dakota that recently celebrated its 125th anniversary. On June 21, the residents of Menoken gathered to celebrate their community and its historic founding.

Menoken is located in Burleigh County, just a few miles from the State capital. Although its population is small, Menoken holds an important place in our State's history. As the first tracks of the Northern Pacific Railroad were being laid across North Dakota, the Seventeenth Siding was marked; later to be known as what is now Menoken. Upon the completion of the railroad, settlers from Maine occupied the territory and named the town Blaine, after Maine Senator James G. Blaine. Once more the town's name was changed to Clark, and then finally secured as Menoken.

The citizens of Menoken take great pride in their community enriched with history. The town is home to the Menoken Indian Village, which is a preserved prehistoric earthlodge village that dates back to the early 13th century A.D. In addition, the battlegrounds of General Sibley's campaign of 1863 are located near Menoken. These two landmarks are among many of the town's sacred keepsakes that resemble the very essence of North Dakota.

The 125th anniversary celebration included a school tour, fashion show, and parade. It was followed by a horseshoe tournament, tractor pull, and old-time music. Once evening set in, people witnessed an exceptional cavalry reenactment. It was no doubt a day unlike any other.

Mr. President, I ask the U.S. Senate to join me in congratulating Menoken, ND, and its residents on their 125th anniversary and in wishing them well for the future. By honoring Menoken and all other towns of North Dakota, we keep the pioneering, frontier spirit alive for future generations. It is places such as Menoken that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Menoken has a proud past and a bright future.●

125TH ANNIVERSARY OF MICHIGAN, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased to honor a community in North Dakota that is celebrating it 125th anniversary. On July 24 through July 27, the residents of Michigan will celebrate their community's history and founding.

Michigan is a small town with a population of 345 residents located in Nelson County in northeastern North Dakota. It was established on January 2, 1883, with the completion of its post office with C.J. Bondurant as postmaster. Soon after its establishment, railroad tracks were completed, and, in March of 1883, the first train reached Michigan. The town quickly became known as a trading center. With the railroads came more people, who built businesses, churches and schools. The settlers began to cultivate the land and raise crops. Agriculture soon became the center of their economy and remains so to this day.

Today, Michigan remains a proud community that has a prosperous economy consisting of farming, manufacturing industries, and retail businesses. Residents of Michigan are known for their honesty, strong work ethic, and living off the land. It is a great place for enjoying the outdoors all year round, including hunting, cross-country skiing, fishing, boating, and camping. Michigan Days is a highlight each summer. During Michigan Days, the residents enjoy live music, a softball tournament, street dances, a tractor pull, and ice cream socials.

As part of the weekend anniversary celebration residents will be able to go to the interesting Dakota Mysteries and Oddities Museum. Michigan will also hold a golf tournament at the Duffers Club and dedicate the Veteran's Memorial Building for all the brave residents of Michigan who have served in past wars. Several other wonderful activities will be taking place throughout the weekend.

Mr. President, I ask the U.S. Senate to join me in congratulating Michigan, ND, and its residents on their 125th anniversary and in wishing them well in the future. By honoring Michigan and all the other historic towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Michigan that have helped shape this country into what it is today, which is why this community is deserving of our recognition.

Michigan has a proud past and a bright future.●

125TH ANNIVERSARY OF MILNOR, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I wish to recognize a community in North Dakota that will be celebrating its 125th anniversary. On July 18–20, the residents of Milnor will gather to celebrate their community's history and founding.

During the summer of 1863, Henry Hastings Sibley and his army camped on the shore of Storm Lake—Camp Buel—and about 20 years later, in 1883, Milnor was established on that historical site. Milnor was named after William E. Milnor, the first telegrapher at the Milnor Station and WM Milnor Roberts, a famous civil engineer of the

day. In October 1883, Milnor's post office was established, and it became a city in 1914.

Today, Milnor remains a small, proud community. Each year, the community gathers in June for its annual Jamboree. The residents celebrate with a BBQ, golf tournament, street dance, parade and many other fun activities. During the summer, many Milnor residents can be found at the local pool, catching up with friends and family, or at the Lakeview golf course playing a few holes. Two National Wildlife Refugees are located near Milnor, the Tewaukon and Storm Lake Refuges. Many residents enjoy camping, fishing, and spotting wildlife at these beautiful sites. Milnor also has many other outdoor recreational areas located nearby, like Buffalo Lake—Kandiotta Lake—and Dead Colt Creek.

To celebrate the 125th anniversary, the residents of Milnor will gather for many fun and exciting activities, including a parade, a street dance, and a time capsule unveiling.

Mr. President, I ask the U.S. Senate to join me in congratulating Milnor, ND, and its residents on their first 125 years and wishing them well in the future. By honoring Milnor and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Milnor that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Milnor has a proud past and a bright future.●

125TH ANNIVERSARY OF MINTO, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased today to recognize a community in North Dakota that will be celebrating its 125th anniversary. On July 25 to 27, the residents of Minto will gather to celebrate their community's history and founding.

Minto is a community of over 600 residents located in the fertile Red River Valley in northeast North Dakota. The Homestead Act brought the first settlers to the Minto area, including a Canadian by the name of Angus Gillespie, Sr., who left his home in Minto Township, Ontario, to farm in North Dakota. Minto was incorporated in 1883. Twenty years later, Minto was recognized as a city. Minto's links with its Canadian forefathers have been renewed as the town of Minto, ND, became the sister city of Minto, Ontario, in 2007.

The community of Minto is host to many businesses and amenities. There are numerous enterprises dedicated to farming, including elevators, implement dealerships, and trucking services. It also offers its citizens many leisure activities. Residents of the town and the surrounding area are able to enjoy a meal at the town's café and have their hair done at one of the salons. Families often gather in Minto's beautiful park, which has a baseball field, tennis court, playground, and picnic area. In the winter, the children of Minto can be found skating or playing hockey at the town's outdoor ice rink.

Current and former residents of Minto will gather to celebrate the 125th anniversary. Events will begin with the telling of area Polish family histories at Minto's new community center. The Walsh County Historical Museum will also be open to the public. Minto's park will host a classic car show, magic show, and community baseball game. Each day of celebration will close with a dance.

Mr. President, I ask the U.S. Senate to join me in congratulating Minto, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Minto and all the other historic small towns of North Dakota, we keep the frontier spirit alive for future generations. It is places like Minto that have helped to shape this country into what it is today, which is why this community is deserving of our recognition.

Minto has a proud past and a bright future.●

NEA'S HONORING OF PAUL MANN

● Mr. HARKIN. Mr. President, in early July, when nearly 9,000 educators are in Washington for the National Education Association's annual Representative Assembly, they will posthumously honor one of Iowa's most dedicated and respected teachers, Paul Mann. Lola Mann, Paul's wife of 38 years, will accept the Applegate-Dorros Award on behalf of her late husband at NEA's annual Human and Civil Rights Awards Dinner on July 2.

The Applegate-Dorros Award is given each year to an individual who has made lasting contributions to the cause of international understanding, and who has encouraged young people to study the world and work for world peace. Over a long and distinguished career spanning nearly four decades as a teacher with the Des Moines public school system, Paul both lived and taught those ideals. He shaped the thinking of generations of students, and he was active on the national stage as a long-time leader of NEA's Midwest Peace and Justice Caucus.

I do not believe that democracy is a spectator sport, and neither did Paul. As his wife Lola said, ''he felt strongly that he was placed on this earth for a purpose . . . that he was here to help make the world a better place.'' He challenged his colleagues and students alike to get involved in campaigns and in the broader political process. His own passion for politics and engagement was infectious.

Paul stood up for social justice and the peaceful resolution of conflict. Just as Gandhi counseled that ''You must be the change you wish to see in the world,'' Paul lived a life that embodied the progressive ideals that he advocated.

Paul Mann was born in Onawa, IA on March 12, 1947, graduated from Central Missouri State University in 1969, and earned a master's in public administration from Drake University in 1981. He began teaching in Des Moines in 1969 and was an energetic, beloved teacher right up until his sudden passing in September of 2006. At the time of his death, he was a teacher of world civilization and government at Central Academy, the magnet school for Des Moines' gifted and talented middle- and high-school students.

As a teacher, Paul was a consummate professional who had a deep personal commitment to ensuring that every child receives a high-quality public education. This commitment led to his activism and leadership within the Des Moines Education Association, including 8 years as president. He served in a various leadership positions at the local, State and national levels within the National Education Association. He was also active in local and State politics.

I have always appreciated what Lee Iacocca said about teachers. ''In a completely rational society,'' he said, ''the best of us would be teachers, and the rest of us would have to settle for something else.'' Fortunately, in Iowa, so many of our best and brightest do go into teaching. And Paul Mann was one of the very finest.

To honor his activism in the cause of world peace and understanding, the Paul Mann Memorial School has been established in Chiapas, Mexico. In addition, he has another living legacy: countless former students who are living the noble ideals that he taught in his classroom and embodied in his life.

Paul Mann lived a life of constant activism and thoughtful action both in and out of the classroom. His life is one worthy of recognition and I commend his family and all of his former colleagues for doing their part in honoring him with the Applegate-Dorros Award.●

125TH ANNIVERSARY OF IPSWICH, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I recognize the community of Ipswich, SD, on reaching the 125th anniversary of its founding. As the county seat of Edmunds County, the rural community of Ipswich is infused with hospitality, beauty, and an exceptional quality of life.

The town of Ipswich was founded in 1883, with the railroad industry jumpstarting the area as a business and transportation center. Ipswich was noted for its many buildings made of native prairie stone, and was eventually given the nicknames: ''the Home of the Yellowstone Trail,'' ''the Arch City,'' and ''the Zinnia City.''

Today, Ipswich has come a long way from its days as a railroad supply center. The town now boasts a variety of businesses, including those in the service, manufacturing, and agricultural

sectors. For the outdoor enthusiasts, Ipswich offers an abundance of local hunting and fishing.

The people of Ipswich celebrated their Trail Days on the weekend of June 13–15, 2008, with an all-school reunion, a parade, a pie-baking contest, a demolition derby and a street dance. South Dakota's small communities are the bedrock of our economy and vital to the future of our state. It is especially because of our small communities, and the feelings of loyalty and familiarity that they engender, that I am proud to call South Dakota home. Towns like Ipswich and its citizens are no different and truly know what it means to be South Dakotan. One hundred and twenty five years after its founding, Ipswich remains a vital community and a great asset to the wonderful state of South Dakota. I am proud to honor Ipswich on this historic milestone.●

HONORING ARROWS RESTAURANT

● Ms. SNOWE. Mr. President, today I honor Arrows Restaurant of Ogunquit, ME, on the occasion of its 20th anniversary and to recognize the tremendous talent and innovative environmental stewardship of its owners, award-winning chefs Mark Gaier and Clark Frasier.

Quite simply, Arrows is one of America's great restaurants. It has received recognition from national publications such as Gourmet magazine, which ranked it 14th on its list of ''America's Top 50 Restaurants in 2006,'' and Bon Appétit, which named Arrows ''one of the country's 10 most romantic restaurants.''

Arrows has also received some of the highest and most consistent ratings in the annual Zagat survey. In addition, Mr. Gaier and Mr. Frasier were nominated as Best Chefs in the Northeast by the James Beard Foundation, a national organization whose annual awards have been deemed the ''Oscars of the food world'' by Time magazine.

Arrows has further distinguished itself by its extraordinary garden, which offers more than 300 varieties of herbs, flowers, fruits, and vegetables. It provides Mr. Gaier and Mr. Frasier with the source of most of the ingredients for their menu and serves as a wonderful illustration of how sensitive environmental stewardship and entrepreneurial spirit can go hand-in-hand. It should come as no surprise that Arrows has been featured on television programs such as PBS's ''Victory Garden,'' and NBC's ''Today Show.''

Like the restaurant, the garden has received tremendous acclaim in the press. Bon Appétit noted that ''[Arrows] helped pioneer the idea of growing your own food and paying attention to what's seasonal in a place that is unforgiving in its climate.'' Earlier this year, the Daily Green—a Web site that reports on the environmental concerns of everyday Americans—praised Mr. Gaier and Mr. Frasier as '' . . . stalwart forerunners of the sustainable movement.''

As ranking member of the U.S. Senate Committee on Small Business and Entrepreneurship, I am eminently proud of all of Maine's small firms, and am particularly impressed by Mr. Gaier's and Mr. Frasier's dedication to making Arrows the premier dining establishment that it has become. These two restaurateurs have helped transform American cuisine, and have brought the world to Maine—as well as Maine to the world. They are truly deserving of our admiration and praise, and I wish them well in all that they do.●

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 sumitting sundry nominations and a withdrawal which were referred to the appropriate committees.

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

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13219 OF JUNE 26, 2001, WITH RESPECT TO THE WESTERN BALKANS—PM 54

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication stating that the Western Balkans emergency is to continue in effect beyond June 26, 2008.

The crisis constituted by the actions of persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia or United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo, that led to the declaration of a national emergency on June 26, 2001, in Executive Order 13219 and to Executive Order 13304 of May 28, 2003, has not been resolved. The acts of extremist violence and obstructionist activity outlined in Executive Order 13219, as amended, are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to the Western Balkans and maintain in force the comprehensive sanctions to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, *June 24, 2008.*

MESSAGES FROM THE HOUSE

At 10:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3403) to promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E911 services, encourage the Nation's transition to a national IP-enabled emergency network, and improve 911 and E–911 access to those with disabilities.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 3403. An act to promote and enhance public safety by facilitating the rapid deployment of IP-enabled 911 and E–911 services, encourage the Nation's transition to a national IP-enabled emergency network, and improve 911 and E–911 access to those with disabilities.

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

ENROLLED BILLS SIGNED

The President pro tempore (Mr. BYRD) announced that on today, June 24, 2008, he had signed the following enrolled bills, previously signed by the Speaker of the House:

H.R. 634. An act to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

H.R. 814. An act to require the Consumer Product Safety Commission to issue regulations mandating child-resistant closures on all portable gasoline containers.

H.R. 5778. An act to preserve the independence of the District of Columbia Water and Sewer Authority.

S. 188. An act to revise the short title of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.

S. 254. An act to award posthumously a Congressional gold medal to Constantino Brumidi.

S. 682. An act to award a congressional gold medal to Edward William Brooke III in

recognition of his unprecedented and enduring service to our Nation.

S. 1692. An act to grant a Federal charter to Korean War Veterans Association, Incorporated.

S. 2146. An act to authorize the Administrator of the Environmental Protection Agency to accept, as part of a settlement, diesel emission reduction Supplemental Environmental Projects, and for other purposes.

At 3:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2452. An act to amend the Federal Water Pollution Control Act to ensure that publicly owned treatment works monitor for and report sewer overflows, and for other purposes.

H.R. 4044. An act to amend title 11 of the United States Code to exempt for a limited period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days.

H.R. 5001. An act to authorize the Administrator of General Services to provide for the redevelopment of the Old Post Office Building located in the District of Columbia.

H.R. 6040. An act to amend the Water Resources Development Act of 2007 to clarify the authority of the Secretary of the Army to provide reimbursement for travel expenses incurred by members of the Committee on Levee Safety.

H.R. 6109. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster hazard mitigation program, and for other purposes.

H.R. 6331. An act to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

H.R. 6344. An act to provide emergency authority to delay or toll judicial proceedings in United States district and circuit courts, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 2. Concurrent resolution expressing the sense of the Congress that children in the United States should understand and appreciate the contributions of individuals from the territories of the United States and the contributions of such individuals in United States history.

H. Con. Res. 372. Concurrent resolution supporting the goals and ideals of Black Music Month and to honor the outstanding contributions that African-American singers and musicians have made to the United States.

The message further announced that pursuant to section 4(a) of the Commission on the Abolition of the Transatlantic Slave Trade (Public Law 110–183), and the order of the House of January 4, 2007, the Speaker appoints the following members on the part of the House of Representatives to the Commission on the Abolition of the Transatlantic Slave Trade:

Mr. DONALD PAYNE of Newark, New Jersey.

Mr. Howard Dodson of New York, New York.

Ms. Evelyn Brooks Higginbotham of Cambridge, Massachusetts.

At 6:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6327. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 379. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4044. An act to amend title 11 of the United States Code to exempt for a limited period, from the application of the means-test presumption of abuse under Chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days; to the Committee on the Judiciary.

H.R. 5001. An act to authorize the Administrator of General Services to provide for the redevelopment of the Old Post Office Building located in the District of Columbia; to the Committee on Environment and Public Works.

H.R. 6109. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster hazard mitigation program, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6344. An act to provide emergency authority to delay or toll judicial proceedings in United States district and circuit courts, and for other purposes; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 2. Concurrent resolution expressing the sense of the Congress that children in the United States should understand and appreciate the contributions of individuals from the territories of the United States and the contributions of such individuals in United States history; to the Committee on Energy and Natural Resources.

H. Con. Res. 372. Concurrent resolution supporting the goals and ideals of Black Music Month and to honor the outstanding contributions that African American singers and musicians have made to the United States; to the Committee on Health, Education, Labor, and Pensions.

MEASURES DISCHARGED

The following measure was discharged from the Committee on Homeland Security and Governmental Affairs by unanimous consent, and referred as indicated:

S. 3145. A bill to designate a portion of United States Route 20A, located in Orchard Park, New York, as the ''Timothy J. Russert Highway''; to the Committee on Environment and Public Works.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 6331. An act to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

S. 3186. A bill to provide funding for the Low-Income Home Energy Assistance Program.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 24, 2008, she had presented to the President of the United States the following enrolled bills:

S. 188. An act to revise the short title of the Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.

S. 254. An act to award posthumously a Congressional gold medal to Constantino Brumidi.

S. 682. An act to award a congressional gold medal to Edward William Brooke III in recognition of his unprecedented and enduring service to our Nation.

S. 1692. An act to grant a Federal charter to Korean War Veterans Association, Incorporated.

S. 2146. An act to authorize the Administrator of the Environmental Protection Agency to accept, as part of a settlement, diesel emission reduction Supplemental Environmental Projects, and for other purposes.

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–6718. A communication from the Director, Naval Reactors, transmitting, pursuant to law, the Naval Nuclear Propulsion Program's latest reports on environmental monitoring and ideological waste disposal, worker radiation exposure, and occupational safety and health; to the Committee on Armed Services.

EC–6719. A communication from the Executive Vice President and Chief Financial Officer, Federal Home Loan Bank of Atlanta, transmitting, pursuant to law, the Bank's management reports and statements on system of internal controls for fiscal year 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–6720. A communication from the Administrator, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, notification of the fact that the cost of response and recovery efforts for FEMA–3285–EM in

the State of Wisconsin has exceeded the limit for a single emergency declaration; to the Committee on Banking, Housing, and Urban Affairs.

EC–6721. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of the discontinuation of service in an acting role for the position of Secretary, received on June 20, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6722. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Guaranteed Loans; Number of Days of Interest Paid on Loss Claims'' (RIN0560–AH55) received on June 20, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6723. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (73 FR 33313) received on June 20, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6724. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (73 FR 33315) received on June 20, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6725. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (73 FR 33317) received on June 20, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6726. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' (73 FR 33311) received on June 20, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6727. A communication from the Vice President and Controller, Federal Home Loan Bank of Des Moines, transmitting, pursuant to law, the Bank's management report for fiscal year 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC–6728. A communication from the Assistant Secretary, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Open and Nondiscriminatory Movement of Oil and Gas as Required by the Outer Continental Shelf Lands Act'' (RIN1010–AD17) received on June 19, 2008; to the Committee on Energy and Natural Resources.

EC–6729. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting a document issued by the Agency entitled, ''Hazard Education Before Renovation of Target Housing; State of Colorado Authorization Application''; to the Committee on Environment and Public Works.

EC–6730. 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; Florida; Prevention of Significant Deterioration'' (FRL No. 8684–4) received on June 20, 2008; to the Committee on Environment and Public Works.

EC–6731. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Exhaust Emission Standards for 2012 and Later Model Year Snowmobiles'' (FRL No. 8684–6) received on June 20, 2008; to the Committee on Environment and Public Works.

EC–6732. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities'' ((RIN2060–AM74)(FRL No. 8684–8)) received on June 20, 2008; to the Committee on Environment and Public Works.

EC–6733. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Nine Metal Fabrication and Finishing Source Categories'' ((RIN2060–A027) (FRL No. 8683–3)) received on June 20, 2008; to the Committee on Environment and Public Works.

EC–6734. A communication from the Deputy Director, National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Technology Innovation Program'' (RIN0693–AB59) received on June 24, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6735. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: HI–STORM 100 Revision 5'' (RIN3150–AI24) received on June 24, 2008; to the Committee on Environment and Public Works.

EC–6736. A communication from the Administrator, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, transmitting, pursuant to law, a report entitled, ''National Alcohol and Drug Addiction Recovery Month''; to the Committee on Homeland Security and Governmental Affairs.

EC–6737. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Assistant Secretary, Office of Postsecondary Education, received on June 20, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6738. A communication from the White House Liaison, Department of Education, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Assistant Secretary, Office of Management, received on June 20, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6739. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report on Federal agencies' use of the physicians' comparability allowance program; to the Committee on Homeland Security and Governmental Affairs.

EC–6740. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report for the period of October 1, 2007, through March 31, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–6741. A communication from the Secretary and Director, Postal Regulatory Commission, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Commissioner, received on June 20, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–6742. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report on the Proposed Personnel Demonstration Project; to the Committee on Homeland Security and Governmental Affairs.

EC–6743. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a discontinuation of service in acting role in the position of U.S. Attorney of the District of South Carolina, received on June 20, 2008; to the Committee on the Judiciary.

EC–6744. A communication from the White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a confirmation for the position of U.S. Attorney of the District of South Carolina, received on June 20, 2008; to the Committee on the Judiciary.

EC–6745. A communication from the Director of Regulations Management, National Cemetery Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Prohibition of Interment or Memorialization in National Cemeteries and Certain State Cemeteries Due to Commission of Capital Crimes'' (RIN2900–AM86) received on June 20, 2008; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2504. A bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes (Rept. No. 110–399).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 2565. A bill to establish an awards mechanism to honor exceptional acts of bravery in the line of duty by Federal law enforcement officers.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

Mr. INOUYE. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS 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.

*Coast Guard nomination of Jeffrey R. Platt, to be Lieutenant.

*Coast Guard nomination of Eileen M. Lutkenhouse, to be Lieutenant Commander.

*Coast Guard nomination of Nakeisha B. Hills, to be Lieutenant Commander.

*Coast Guard nomination of Elizabeth A. McNamara, to be Lieutenant Commander.

*National Oceanic and Atmospheric Administration nominations beginning with Mark H. Pickett and ending with Patrick M. Sweeney III, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 2008.

By Mr. BIDEN for the Committee on Foreign Relations.

*Liliana Ayalde, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

Nominee: Liliana Ayalde.

Post: Ambassador to Paraguay.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses: Stefanie Narvaez, none; Natalia Narvaez, none.

4. Parents: Jaime Ayalde, none; Mercedes Ayalde, none.

5. Grandparents: N/A.

6. Brothers and spouses: Jaime H. Ayalde (brother), none; Julie Ayalde (sister-in-law), none.

7. Sisters and spouses: Maria E. Ayalde (sister), none; Sergio Romero (brother-in-law), none; Gloria Perez-Ayalde (sister), none; Gustavo Perez (brother-in-law), none.

*John R. Beyrle, of Michigan, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russian Federation.

Nominee: John Beyrle.

Post: U.S. Ambassador, Moscow.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self: John Beyrle, 0.

2. Spouse: Jocelyn Greene, 0.

3. Children: Alison Beyrle, 0; Caroline Beyrle, 0.

4. Parents: JoAnne Beyrle, deceased; Joseph Beyrle I, deceased.

5. Grandparents: deceased.

6. Brothers and spouses: Joseph Beyrle II, 0, Kathy Alward, 0.

7. Sisters and spouses: Julie Schugars, 0; Jack Schugars, 0.

*Asif J. Chaudhry, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Nominee: Asif J. Chaudhry.

Post: Moldova.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, N/A.

2. Spouse, $250, February 2004, John Kerry.

3. Children and Spouses: N/A.

4. Parents: N/A.

5. Grandparents: N/A.

6. Brothers and Spouses: N/A

7. Sisters and Spouses: N/A.

*James Culbertson, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Nominee: James B. Culbertson.

Post: Ambassador to the Kingdom of the Netherlands.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, $750, 10/28/2004, Richard Burr; $1,000, 03/10/2005, Virginia Foxx; $2,100, 05/19/2005, Elizabeth Dole; $2,100, 05/19/2005, Elizabeth Dole; $2,300, 05/07/2007, Rudy Giuliani; $250, 10/17/2007, Richard Burr.

2. Spouse: Germaine C. Culbertson, $800, 05/19/2005, Elizabeth Dole; $250, 10/16/2006, Richard Burr; $2,300, 05/07/2007, Rudy Giuliani.

3. Children and spouses: Blair and James W. Robbins, no contributions.

4. Parents: Arthur B. and Siddie Belle Culbertson, deceased.

5. Grandparents: Livi Angus and Mary Braswell Lancaster, deceased; Henry Young and Dora Durham Culbertson, deceased.

6. Brothers and spouses: Arthur B. and Brenda Culbertson, Jr., no contributions.

7. Sisters and spouses: none.

*Rosemary Anne DiCarlo, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

*David F. Girard-diCarlo, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Austria.

Nominee: David Franklin Girard-diCarlo.

Post: Chief of Mission, U.S. Embassy, Rep. of Austria.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, See attached.

2. Spouse, See attached.

3. Children and spouses, none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses: John Girard-diCarlo, none; Pamela Girard-diCarlo, none.

7. Sisters and spouses: Elizabeth Severino, ncone.

1. Contributions for David Franklin Girard-diCarlo: 2,300, 1/16/2008, McCain 2008; 5,000, 2/26/2008, D & G PAC (Dent and Gerlach); 2,300, 3/21/2008, Texans for Senator John Cornyn; 1,000, 3/28/2008, Manion for Congress, *Contribution made after Mr. Girard-diCarlo signed SFRC questionnaire on 3/26/08.

2,100, 1/15/2007, McCain 2008; 1,000, 3/5/2007, Davis for Congress; 2,300, 3/5/2007, Senate Majority Fund; 500, 4/10/2007, Collins for Senate; 2,300, 4/25/2007, Coleman for Senate; 200, 6/1/2007, McCain 2008; 2,300, 6/1/2007, Citizens for Arlen Specter; 2,300, 6/1/2007, Treadwell for Congress; 1,000, 6/19/2007, Team Sununu (R–NH); 1,000, 7/20/2007, Castle Campaign Fund; 1,000, 7/20/2007, People for English; 1,000, 10/2/2007, Ferguson for Congress; 5,000, 10/10/2007, Republican Federal Committee of PA; 2,300, 11/6/2007, Treadwell for Congress; 1,000, 11/7/2007, Collins for Senate; 2,300, 12/19/2007, Re-elect Senator Arlen Specter.

1,000, 2/22/2006, PHILPAC (Cong Phil English); 2,100, 2/22/2006, Kean for U.S. Senate; 2,100, 3/22/2006, Friends of Conrad Burns; 1,000, 3/27/2006, Tom Davis for Congress; 1,000, 3/27/2006, Fitzpatrick for Congress; 25,000, 4/27/2006, Republican National Committee; 4,200, 4/30/2006, Steele for Maryland, Inc.; 1,000, 5/16/2006, Dent for Congress; 5,000, 6/15/2006, Santorum Majority Committee; 2,100, 8/26/2006, Weldon Victory Committee; 2,100, 10/27/2006, DeWine for Senate; 1,000, 10/27/2006, Nancy Johnson for Congress.

1,000, 5/1/2005, Friends of George Allen; 4,200, 5/1/2005, Santorum 2006; 2,100, 5/1/2005, Friends of Don Sherwood; 2,100, 5/1/2005, Talent for Senate; 25,000, 5/11/2005, Republican Regents; 2,100, 6/1/2005, Talent for Senate; 500, 6/9/2005, People with Hart; 1,600, 6/26/2005, People with Hart; 1,000, 7/18/2005, Stevens for Senate Committee; 1,000, 9/12/2005, Senate Republican Majority; 1,000, 9/16/2005, Kyl for Senate; 1,000, 9/22/2005, Friends of Mike Ferguson; 4,200, 9/28/2005, Gerlach for Congress; 2,100, 10/26/2005, Delay Congressional Committee; 5,000, 10/26/2005, McCain—Straight Talk America PAC.

1,000, 3/2/2004, Castle Campaign Fund; 2,000, 3/2/2004, Citizens for Arlen Specter; 2,000, 3/2/2004, Friends of Melissa Brown; 2,000, 3/2/2004, Martinez for Senate; 4,000, 4/22/2004, Bill Shuster for Congress; 25,000, 4/27/2004, Republican National Committee; 2,000, 5/17/2004, Thune for Senate; 2,000, 8/27/2004, Charlie Dent for Congress; 2,000, 8/27/2004, Jim Gerlach for Congress Committee; 2,000, 8/27/2004, Scott Paterno for Congress; 2,000, 8/27/2004, The Richard Burr Committee; 5,000, 10/15/2004, Republican Federal Committee of PA.

2. Contributions for Constance Bricker Girard-diCarlo: 2,300, 1/16/2008, McCain 2008; 5,000, 2/26/2008, D & G PAC (Dent and Gerlach); 2,300, 3/21/2008, Texans for Senator John Cornyn.

2,100, 1/15/2007, McCain 2008; 2,300, 3/5/2007, Senate Majority Fund; 2,300, 4/25/2007, Coleman for Senate; 200, 6/1/2007, McCain 2008; 2,300, 6/1/2007, Citizens for Arlen Specter; 2,300, 6/1/2007, Treadwell for Congress; 1,000, 7/20/2007, Castle Campaign Fund; 1,000, 7/20/2007, People for English; 1,000, 10/2/2007, Ferguson for Congress; 2,300, 11/6/2007, Treadwell for Congress; 1,000, 11/7/2007, Collins for Senate; 2,300, 12/19/2007, Re-elect Senator Arlen Specter.

1,000, 2/22/2006, PHILPAC (Phil English); 2,100, 2/22/2006, Kean for U.S. Senate; 2,100, 3/22/2006, Friends of Conrad Burns; 1,000, 3/27/2006, Fitzpatrick for Congress; 25,000, 4/27/2006, Republican National Committee; 2,100, 4/30/2006, Steele for Maryland, Inc.; 2,100, 5/16/2006, Friends of Don Sherwood; 8,000, 6/15/2006, Santorum Majority Committee; 2,100, 8/26/2006, Weldon Victory Committee; 2,100, 10/27/2006, DeWine for Senate; 500, 12/6/2006, Stevens for Senate Committee.

1,000, 3/9/2005, Dent for Congress; 4,200, 5/1/2005, Santorum 2006; 2,000, 5/11/2005, Senate Victory Fund; 1,000, 5/11/2005, People for English; 25,000, 5/11/2005, Republican Regents; 1,000, 5/19/2005, Young—Alaskans for Don Young; 4,200, 6/1/2005, Talent for Senate; 4,200, 9/28/2005, Gerlach for Congress; 2,100, 10/26/2005, Delay Congressional Committee.

2,000, 1/26/2004, HALPAC; 1,000, 3/2/2004, Castle Campaign Fund; 2,000, 3/2/2004, Friends of Melissa Brown; 2,000, 3/2/2004, Martinez for Senate; 4,000, 3/2/2004, Citizens for Arlen Specter; 1,000, 3/30/2004, Citizens for Bunning (KY); 1,000, 3/30/2004, Citizens for Cochran (MS); 1,000, 3/30/2004, Vitter for US Senate (LA); 4,000, 4/22/2004, Bill Shuster for Congress; 25,000, 4/27/2004, Republican National Committee; 2,000, 5/17/2004, Thune for Senate; 2,000, 6/7/2004, Friends of Don Sherwood; 2,000, 8/27/2004, Charlie Dent for Congress; 2,000, 8/27/2004, Jim Gerlach for Congress Committee; 2,000, 8/27/2004, Scott Paterno for Congress; 2,000, 8/27/2004, The Richard Burr Committee.

John Melvin Jones, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

Noninee: John Melvin Jones.

Post—Georgetown, Guyana.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse, none.
3. Children and spouses: Christie R. and Keenan Aden, Jamal H.M. Jones, none.
4. Parents: Beverly E. and Bertha L. Jones, both decreased.
5. Grandparents: John and Marian Porter, both deceased.
6. Brothers and spouses; Earl B. Jones, decreased.
7. Sisters and spouses: Elaine V. Williams; Jaculyn L. Jones, none.

*Tina S. Kaidanow, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kosovo.

Nominee: Tina S. Kaidanow.

Post: U.S. Ambassador to Kosovo.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, n/a.
4. Parents: Esther Kaidanow, none; Howard Kaidanow, none.
5. Grandparents, n/a.
6. Brothers and spouses: Eric Kaidanow, none; Patricia Kaidanow, none.
7. Sisters and spouses, n/a.

*Philip Thomas Reeker, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Macedonia.

Nominee: Philip T. Reeker.

Post: Ambassador to Macedonia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Philip T. Reeker $250, 12/13/05, Gabrielle Giffords; $250, 03/18/06, Gabrielle Giffords; $250, 06/26/06, Gabrielle Giffords.
2. Spouse: Solveig C. Reeker, none.
3. Children and spouses: N/A.
4. Parents: Larry H. Reeker (father), none; Linda K. Davenport (mother), none.
5. Grandparents: Walter M. & Frances M. Reeker, both deceased; Emery I. Karman and Constance K. St. Clair, both deceased.
6. Brothers and Spouses: David A. and Laura Reeker, none; Greg J. Reeker, none; Seth S. Reeker, none.
7. Sister and Spouse: Christina & Patrick Davenport, none.

*Kristen Silverberg, of Texas, to be Representative of the United States of America to the European Union, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Nominee: Kristen Lee Silverberg.

Post: Ambassador to the European Union.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, Amount, Date, and Donee:

1. Self, President George W. Bush, $2000.
2. Parents: Eric and Rhoda Silverberg, none.
3. Grandparents: Axel Silverberg, none.
4. Sister and Spouse: Lee Silverberg and Lane Duncan, none.

*Rosemary Anne DiCarlo, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations.

* Lezlee J. Westine, of Virginia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2009.

* Lyndon L. Olson, Jr., of Texas, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2008.

* Eric J. Boswell, of the District of Columbia, to be an Assistant Secretary of State (Diplomatic Security).

* Eric J. Boswell, of the District of Columbia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service.

Mr. BIDEN. Mr. President, for the Committee on Foreign Relations 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.

* Foreign Service nomination of Russell Green.

* Foreign Service nomination of Dawn M. Liberi.

* Foreign Service nominations beginning with Matthew Kazuaki Asada and ending with Adam Zerbinopoulos, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 22, 2008. (minus 1 nominee: Tunisia M. Owens)

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DORGAN (for himself, Mr. NELSON of Florida, and Mr. CARPER):

S. 3183. A bill to amend the Commodity Exchange Act to provide oil and gas price relief by requiring the Commodity Futures Trading Commission to take action to end excessive speculation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERRY:

S. 3184. A bill to make grants to States to implement statewide portal initiatives, and for other purposes; to the Committee on Finance.

By Ms. CANTWELL (for herself, Mr. WHITEHOUSE, Mr. SANDERS, Mr. KERRY, Mr. WYDEN, and Mr. NELSON of Florida):

S. 3185. A bill to provide for regulation of certain transactions involving energy commodities, to strengthen the enforcement authorities of the Federal Energy Regulatory Commission under the Natural Gas Act and the Federal Power Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

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

S. 3186. A bill to provide funding for the Low-Income Home Energy Assistance Program; read the first time.

By Mr. BIDEN (for himself and Mr. LUGAR) (by request):

S.J. Res. 42. A joint resolution relating to the approval of the proposed agreement for nuclear cooperation between the United States and the Russian Federation; to the Committee on Foreign Relations pursuant to 42 U.S.C. 2159, for not to exceed 45 calendar days.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BIDEN (for himself, Ms. SNOWE, Mrs. BOXER, Mr. LUGAR, Mr. KERRY, Mr. SPECTER, Mr. MENENDEZ, Mr. BROWNBACK, Mr. BAYH, Ms. STABENOW, and Mr. FEINGOLD):

S. Res. 598. A resolution expressing the sense of the Senate regarding the need for the United States to lead renewed international efforts to assist developing nations in conserving natural resources and preventing the impending extinction of a large portion of the world's plant and animal species; to the Committee on Foreign Relations.

By Mr. NELSON of Nebraska (for himself, Mr. HARKIN, Mr. HAGEL, and Mr. GRASSLEY):

S. Res. 599. A resolution expressing the condolences of the Senate to those affected by the tragic events following the tornado that hit the Little Sioux Scout Ranch in Little Sioux, Iowa, on June 11, 2008; considered and agreed to.

By Mr. REID (for Mr. OBAMA (for himself, Mr. SPECTER, Mr. LEAHY, and Mr. SCHUMER)):

S. Res. 600. A resolution commemorating the 44th anniversary of the deaths of civil rights workers Andrew Goodman, James Chaney, and Michael Schwerner in Philadelphia, Mississippi, while working in the name of American democracy to register voters and secure civil rights during the summer of 1964, which has become known as ''Freedom Summer''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 621

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 621, a bill to establish commissions to review the facts and circumstances surrounding injustices suffered by European Americans, European Latin Americans, and Jewish refugees during World War II.

S. 661

At the request of Mrs. CLINTON, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 661, a bill to establish kinship navigator programs, to establish guardianship assistance payments for children, and for other purposes.

S. 803

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a

cosponsor of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 960

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 960, a bill to establish the United States Public Service Academy.

S. 1232

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1232, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a voluntary policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes.

S. 1410

At the request of Mr. COLEMAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1410, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1661

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1661, a bill to communicate United States travel policies and improve marketing and other activities designed to increase travel in the United States from abroad.

S. 1963

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1963, a bill to amend the Internal Revenue Code of 1986 to allow bonds guaranteed by the Federal home loan banks to be treated as tax exempt bonds.

S. 1970

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1970, a bill to establish a National Commission on Children and Disasters, a National Resource Center on Children and Disasters, and for other purposes.

S. 2042

At the request of Ms. STABENOW, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2042, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 2140

At the request of Mr. DORGAN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2140, a bill to award a Congressional Gold Medal to Francis Collins, in recognition of his outstanding contributions and leadership in the fields of medicine and genetics.

S. 2173

At the request of Mr. HARKIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2173, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 2279

At the request of Mr. BIDEN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2279, a bill to combat international violence against women and girls.

S. 2504

At the request of Mr. NELSON of Florida, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 2504, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 2505

At the request of Ms. CANTWELL, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2505, a bill to allow employees of a commercial passenger airline carrier who receive payments in a bankruptcy proceeding to roll over such payments into an individual retirement plan, and for other purposes.

S. 2618

At the request of Mr. ISAKSON, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2618, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss Facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal muscular dystrophies.

S. 2666

At the request of Ms. CANTWELL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2666, a bill to amend the Internal Revenue Code of 1986 to encourage investment in affordable housing, and for other purposes.

S. 2681

At the request of Mr. INHOFE, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 2681, a bill to require the issuance of medals to recognize the dedication and valor of Native American code talkers.

S. 2731

At the request of Mr. BIDEN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2731, a bill to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S. 2790

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2790, a bill to amend title XVIII of the Social Security Act to provide for coverage of comprehensive cancer care planning under the Medicare program and to improve the care furnished to individuals diagnosed with cancer by establishing a Medicare hospice care demonstration program and grants programs for cancer palliative care and symptom management programs, provider education, and related research.

S. 2818

At the request of Mr. ENZI, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2818, a bill to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to provide for enhanced health insurance marketplace pooling and relating market rating.

S. 2908

At the request of Mr. BROWN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2908, a bill to amend title II of the Social Security Act to prohibit the display of Social Security account numbers on Medicare cards.

S. 3072

At the request of Mr. WICKER, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 3072, a bill to provide for comprehensive health reform.

S. 3122

At the request of Ms. CANTWELL, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3122, a bill to amend the Commodity Exchange Act to provide for the regulation of oil commodities markets, and for other purposes.

S. 3130

At the request of Mr. DURBIN, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 3130, a bill to provide energy price relief by authorizing greater resources and authority for the Commodity Futures Trading Commission, and for other purposes.

S. 3131

At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3131, a bill to amend the Commodity Exchange Act to ensure the application of speculation limits to speculators in energy markets, and for other purposes.

S. 3134

At the request of Mr. NELSON of Florida, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 3134, a bill to amend the Commodity Exchange Act to require energy commodities to be traded only on regulated markets, and for other purposes.

S. 3167

At the request of Mr. BURR, the names of the Senator from Alaska (Mr.

STEVENS), the Senator from South Carolina (Mr. DEMINT) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 3167, a bill to amend title 38, United States Code, to clarify the conditions under which veterans, their surviving spouses, and their children may be treated as adjudicated mentally incompetent for certain purposes.

S. RES. 530

At the request of Mr. DORGAN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. Res. 530, a resolution designating the week beginning October 5, 2008, as ''National Sudden Cardiac Arrest Awareness Week''.

S. RES. 580

At the request of Mr. BAYH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 580, a resolution expressing the sense of the Senate on preventing Iran from acquiring a nuclear weapons capability.

AMENDMENT NO. 4979

At the request of Mr. NELSON of Florida, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Illinois (Mr. OBAMA), the Senator from Illinois (Mr. DURBIN), the Senator from Washington (Ms. CANTWELL) and the Senator from Montana (Mr. TESTER) were added as cosponsors of amendment No. 4979 intended to be proposed to S. 3001, an original bill to authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 5009

At the request of Mr. CRAPO, the names of the Senator from Arizona (Mr. KYL) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 5009 intended to be proposed to H.R. 3221, a bill to provide needed housing reform and for other purposes.

AMENDMENT NO. 5020

At the request of Mr. ENSIGN, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of amendment No. 5020 intended to be proposed to H.R. 3221, a bill to provide needed housing reform and for other purposes.

AMENDMENT NO. 5024

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 5024 intended to be proposed to H.R. 3221, a bill to provide needed housing reform and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. NELSON of Florida, and Mr. CARPER):

S. 3183. A bill to amend the Commodity Exchange Act to provide oil and gas price relief by requiring the Commodity Futures Trading Commission to take action to end excessive speculation, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DORGAN. Mr. President, I rise to introduce a piece of legislation on behalf of myself, Senator NELSON of Florida, and Senator CARPER dealing with the subject of energy speculation. I want to run through a couple charts, and I want to describe the reason for the introduction of this legislation.

This chart shows the price of oil and what has happened to the price of oil. The price of oil has nearly doubled in a year. There is no justification for it, no fundamentals of supply and demand that explain what has happened to the price of oil.

These commodity contracts, by and large, are traded in this country on something called the commodity exchange—NYMEX, it is called. This is what it looks like. They trade back and forth, and there are legitimate reasons to trade on the exchanges. Those reasons to trade on the exchanges are for legitimate hedging for actual physical petroleum products for future delivery. The problem is, with respect to the oil markets, the legitimate hedging has become a smaller part of what is traded. There is now this unbelievable speculation going on in the commodity markets. That speculation has perverted the market, broken the market, causing the price of oil and gasoline to be well above that which is justifiable.

We have an organization in the Government called the Energy Information Administration, the EIA. They are the ones who know what there is to know about energy issues. As shown on this chart, here is what they have told us. Back in May of 2007—last year—here is where they said the price of oil would be. Back in July, they said it would be on this line, as shown on this chart; back in September, on this line. I hope they were not buying any commodities on the basis of their advice—they would be flat broke in a month. Here is what happened to the price. It went straight up. All the while, the EIA did not seem to have the foggiest notion of where the price was going to go. Why? Because the fundamentals do not justify what is happening.

Now I have the EIA coming down to testify before my subcommittee this week. I want to ask them these questions. They insist there is very little speculation in this marketplace. But most experts insist this has become an unbelievable spectacle of speculation that injures America's drivers and consumers, injures our industry, and causes great damage to our economy.

A House study, just in the last few days, from the House Subcommittee on Oversight and Investigations, said here is what has happened to the commodities market with respect to oil. As to the oil futures market: 37 percent used to be speculators in that market. Now it has gone to 71 percent. The speculators have taken over that market.

When the Commodity Exchange Act was passed by the Congress in the 1930s, here is what the congressional report said: This bill authorizes the Commission—the Commodity Futures Trading Commission; that is supposed to be the regulating body—to fix limitations on purely speculative trades and commitments.

Hedging is exempted. But for purely speculative positions, we provided the authority to the Commodity Futures Trading Commission to deal with that because we did not want this market to be taken over by speculators.

I have used these charts many times. This one has to do with Fadel Gheit, the top energy analyst for Oppenheimer & Co. Here is what he says:

> There is absolutely no shortage of oil. I'm convinced that oil prices shouldn't be a dime above $55 a barrel.
>
> I call it the world's largest gambling hall. . . . It's open 24/7. . . . Unfortunately, it's totally unregulated. . . . This is like a highway with no cops on the beat and no speed limit and everybody's going 120 miles an hour.

I will not show all the charts I have shown in the past, but the CEO of Marathon Oil says:

> $100 oil isn't justified by the physical demand in the market.

It was recently reported Americans drove 4.5 to 5 billion fewer miles in the last 6 months than in the previous 6 months. So we are driving 4 or 5 billion fewer miles, using less energy. Four of the first 5 months of this year, crude oil inventories were up—not down, up. So if the supply of the product is going up and the use of the product is going down, the marketplace would have you believe—or at least you would expect—the price would come down. Instead, the price has gone up, which demonstrates this is not about market fundamentals. It is about an unbelievable orgy of speculation in the marketplace that is not justified.

Now the question is, Will Congress do something about it or will it just apply some lip gloss? Is this just something where we act as if we are doing something or are we going to drive the speculators out of this market? I am introducing legislation that is tough and real and will address this issue.

The regulating body here is the Commodity Futures Trading Commission. It has acted like most regulating bodies in recent years. Most of them are run by people who came to the Government not liking Government and not wanting to regulate. It all goes back to Mr. Pitt, back in 2001, in which he said: The Securities and Exchange Commission is going to be a business-friendly place. Well, we have seen a lot of these agencies that are business friendly. They just get out of the way and pretend they are in a deep Rip van Winkle sleep, and they are not going to see anything and they are not going to know anything and they are not going to care much about anything.

This agency is not much different—the Commodity Futures Trading Commission. The fact is, it has been asleep on its feet, just dead from the neck up. It is time for us to say to this agency: It is your job to regulate. The fact is, Franklin Delano Roosevelt, when he signed this legislation some 70, 80 years ago, said:

It should be our national policy to restrict, as far as possible, the use of these exchanges for purely speculative operations.

Franklin Roosevelt knew it. Why doesn't this Commodity Futures Trading Commission know it?

The legislation I am introducing today does a couple things. No. 1, it demands the Commodity Futures Trading Commission by date certain to distinguish between that which represents normal hedging transactions between producers and consumers of a physical product and the rest, which is speculation. It says this market is designed for normal hedging of risks between producers and consumers of a physical product. Others who are engaged in excess speculation are going to be slapped with a higher margin—a 25-percent margin requirement—that is either quadruple or quintuple the current requirement, depending on what is assessed between the 5- and 7-percent rate. But this essentially says to speculators: It is going to cost you more to speculate in this marketplace if you are one of these folks who just want to speculate to make a lot of money.

Will Rogers talked about this long ago. He talked about people buying things they will never get from people who never had it. That is what is going on with investment banks, hedge funds, and a lot of others who are neck deep in this marketplace. They have never seen a barrel of oil. They don't want a barrel of oil. All they want to do is speculate and make a bundle of money. The problem is, it is damaging this country.

My legislation, No. 1, requires the separation of legitimate traders verses speculators. It puts an increased margin requirement on the speculators to try to wring some of that speculation out of the market.

No. 2, it requires position limits that are significant, imposed by the Commodity Futures Trading Commission.

No. 3, it requires the Commodity Futures Trading Commission to revoke or modify any previous actions they have taken in which they have prevented themselves from being able to regulate and see the transactions that exist in this futures market.

Unbelievably almost, the Commodity Futures Trading Commission, which is the regulator, decided, on its own volition, that it would allow, for example, a London exchange, largely owned by American interests, to come in and trade on computer terminals in Atlanta, GA, and pretend they are not American. So the Commodity Futures Trading Commission said: Do you know what, we will do a letter of no action so we can't regulate and can't see it. That is unbelievable, in my judgment. It is an unbelievably irresponsible position for a regulator to have taken. It is taken, I suppose, by those who believe ''regulations'' is a four-letter word. It is not. If ever we wonder about that, take a look at what has happened to the price of oil and gas in a situation where speculators have taken over.

The Commodity Futures Trading Commission is a regulator of this market. It has done a miserable job. It has nearly all the authority it needs to do the right thing. What I propose to do with the Commodity Futures Trading Commission is wring the speculators out of this market. They have distorted the market, broken the market, and we end up in a situation now where the price of gasoline is devastating this economy. The price of oil is not justified by supply and demand. When that happens, there is a responsibility for this Congress to act. It is an urgent responsibility, in my judgment, now for this Congress to say what is happening is wrong, it is hurting this country's economy, it is hurting industries and the American people, and we need to do something about it. The best start, in my judgment, would be to pass this legislation I am introducing today.

One final point. I am reaching out to Democratic and Republican offices in the hopes that this will be a bipartisan piece of legislation that will address a very serious issue on an urgent basis and begin to do something that moderates the price of oil and gas that many experts have told us is 20, 30, and in some cases 40 percent above that which is justified by the marketplace. We should not stand for it. We do not have to. We ought to pass this legislation soon.

By Mr. KERRY:

S. 3184. A bill to make grants to States to implement statewide portal initiatives, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, we must do all we can to ensure that our young people have the skills necessary to compete in today's global economy. My home State of Massachusetts has done an outstanding job ensuring that educators have access to the high-quality tools necessary to adequately prepare our students for the future. In particular, they have been one of a handful of pioneering states that have created a statewide, online education ''portal'', which is a suite of web-based tools that enhance the teaching and learning experience for teachers, parents, and students.

Education portals are a one-stop resource for educators, parents, and students to support teaching and learning, as well as leadership skills. Portals provide access to shared resources and create an entry point to other information and services including: lesson plans; research-based training resources; model classroom examples; engaging interactive media; listservs; and after-school resources. Among other things, a portal allows educators to quickly search for lesson plans or other resources by content standard, grade level, specific student and classroom needs, and/or topic. It also provides a secure, on-line community for educators to collaborate and discuss teaching and learning experiences, as well as providing a vital communication tool between the school and parents.

It is for these reasons, I am sponsoring legislation to help my State and others secure the funding they need to improve their education systems and prepare their students for success. While it is true that Congress has done a lot to promote education technology and set higher standards for teachers, more must be done to address the divide that afflicts so many of our rural and urban schools.

What is missing is a funding source for states to develop and maintain web-based tools for training, communication, collaboration, and curriculum planning. The Empowering Teaching and Learning Through Education Portals Act establishes annual competitive grants that will provide funding on a one-to-one basis for states that wish to implement and maintain best-practice education portals. The legislation also provides new tax incentives to private organizations that support State education portal efforts.

The Empowering Teaching and Learning Through Education Portals Act bridges the urban-rural digital divide by ensuring that all districts have access to the best available resources. It supports high quality teaching, professional development and retention of teachers and promotes an on-line support network and learning community for teachers and administrators. Furthermore, it provides teacher coaching and guidance in order to address the challenges of teaching a diverse student body, and collaborate on winning strategies to address various learning styles, needs, and achievement levels. It offers administrators tools to securely communicate and collaborate with district personnel, as well as with the Department of Education, and gives them access to formative assessments and other resources. Finally, it provides a means to actively engage students in a rich, relevant, multimedia environment that results in improved learning and student retention.

It is imperative that we prepare our children for the sophisticated workforce of the 21st century and an increasingly competitive global economy. This legislation takes some of the brightest ideas for modernizing teaching and learning and matches them with the dollars needed to translate them from paper to practice. That, I believe, is a goal we can all agree on.

I urge my colleagues to support the Empowering Teaching and Learning Through Education Portals Act.

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. 3184

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 ''Empowering Teaching and Learning Through Education Portals Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) 21ST CENTURY SKILLS.—The term ''21st century skills''—

(A) means skills that students need to succeed in school, work, and life; and

(B) includes—

(i) skills related either to core academic subjects or to 21st century themes;

(ii) learning and innovation skills, such as—

(I) creativity and innovation;

(II) critical thinking and problem solving; or

(III) communication and collaboration; and

(iii) life and career skills to prepare students for the global economy, such as—

(I) flexibility and adaptability;

(II) productivity and accountability; or

(III) leadership and responsibility.

(2) CORE ACADEMIC SUBJECTS; EDUCATIONAL AGENCIES; SCHOOLS; STATE.—The terms ''core academic subjects'', ''elementary school'', ''local educational agency'', ''secondary school'', ''State'', and ''State educational agency'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) COVERED EDUCATOR.—The term ''covered educator'' means a teacher, administrator, or other professional staff member, at a covered school.

(4) COVERED PARENT.—The term ''covered parent'' means the parent of a covered student.

(5) COVERED SCHOOL.—The term ''covered school'' means a Head Start agency operating a Head Start program, or a public school that is a preschool, elementary school, secondary school, or institution of higher education (including such an institution offering a program leading to a baccalaureate degree or a program leading to an advanced degree).

(6) COVERED STUDENT.—The term ''covered student'' means a student at a covered school.

(7) COVERED TEACHER.—The term ''covered teacher'' means a teacher at a covered school.

(8) EDUCATION TECHNOLOGY.—The term ''education technology'' means any technology resource that improves the learning, training, and engagement of students or helps teachers learn, improve their knowledge, and practice.

(9) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002).

(10) PROFESSIONAL DEVELOPMENT.—The term ''professional development'' means a resource or training that increases a teacher's skills, content knowledge, or other information that has a positive impact on student learning.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 3. GRANTS.

(a) IN GENERAL.—The Secretary may award grants to eligible States, to pay for the Federal share of the cost of implementing and maintaining education portal initiatives.

(b) AMOUNTS.—The Secretary may award the grants for periods of not less than 1 year and not more than 3 years.

(c) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of the cost described in subsection (a) shall be 50 percent.

(2) NON-FEDERAL SHARE.—The State may provide the non-Federal share of the cost in cash or in kind, fairly evaluated, including plant, equipment, or services. The State may provide the non-Federal share from State, local, or private sources.

SEC. 4. APPLICATIONS AND AWARDS.

(a) IN GENERAL.—To be eligible to receive a grant under this section for an initiative, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(b) CONTENTS.—The application shall contain, at a minimum—

(1) a comprehensive plan for the initiative for which the State seeks the grant, including evidence that the initiative meets the requirements of subsections (a) and (c) of section 5;

(2) information describing how the State will provide the non-Federal share of the cost described in section 3(a), and will continue to provide that share during the implementation of the initiative and the remainder of the grant period;

(3) information describing how the State will meet the maintenance of effort requirements in section 6;

(4) information explaining the protocol the State will use to ensure safe and legal access to the education portal;

(5) an assurance that the State has established or will establish an advisory panel, to provide advice on the implementation and maintenance of the initiative, including representatives of leaders in school districts, leaders at institutions of higher education, State educational agencies, parents, and teachers; and

(6) a plan to ensure sufficient statewide bandwidth capacity and systems access to implement and maintain the State education portal.

(c) AWARDS.—In determining the amounts of grants under this Act, the Secretary—

(1) shall take into consideration the extent to which a State has developed and implemented an education portal initiative prior to the date of the submission of the application involved; but

(2) shall not penalize States that have made greater progress in developing and implementing such initiatives.

SEC. 5. USE OF FUNDS.

(a) REQUIRED USES.—A State that receives a grant under this Act for a fiscal year shall use the funds made available through the grant to implement or maintain an education portal initiative that includes—

(1) collecting and making available—

(A) high quality resources (including data, tools, and digital media content) for covered educators, covered students, and covered parents, that support teaching, leading, and learning, and are, as appropriate, aligned with State education standards; and

(B) information for covered teachers to use in assisting covered students to attain skills such as 21st century skills; and

(2) collecting resources for ongoing and sustainable professional development for covered educators, related to the use of education technology, and making the resources available through the implementation of research-based methods and strategies for teacher coaching, collaborating, or mentoring.

(b) ALLOWABLE USES.—The State may use the funds made available through the grant for such an initiative, for a portal that—

(1) gives covered educators access to formative assessment and other resources to address various student learning styles, needs, and achievement levels;

(2) provides an entry point to other information or services, including information on model examples of effective classroom practices, subscriptions or data systems, content standards, lesson plans, courses of study, engaging interactive media, Web resources, e-mail list management software, online portfolios, after-school program resources, and other educational resources;

(3) provides access to technology-based curriculum resources and tools that promote the teaching and learning of 21st century skills;

(4) enables covered educators to quickly search for lesson plans, professional development resources, model examples of effective classroom practices, or other resources, by content standard, grade level, or topic;

(5) provides an online support network or community for covered educators to collaborate on and discuss teaching, learning, curricula, and experiences, and serves as a communication tool between covered educators and covered parents;

(6) includes digital media content developed by a television public broadcasting entity in coordination with the grant recipient; or

(7) makes available access to 1 or more resource sections of the education portal, subject to the protocol described in section 4(b)(4), by covered education, covered students, and covered parents, from other States (with no requirement for State-specific log-ins), so that those covered educators, covered students, and covered parents can benefit from resources developed in the State, thereby expanding access to the national learning community.

(c) PROVISION OF AND ACCESS TO RESOURCES.—The covered educators, covered students, and covered parents in the State may provide resources and information for the education portal, subject to the protocol described in section 4(b)(4). The resources and information in the education portal shall be accessible statewide by the educators, students, and parents, subject to the protocol.

(d) OTHER FEDERAL FUNDS.—A State that receives a grant under part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) may use funds made available through that grant to maintain (but not implement) the State's education portal initiative under this Act, after the end of the period in which the State receives funding under this Act.

(e) CONFORMING AMENDMENT.—Section 2113(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6613(a)) is amended by striking ''A'' and inserting ''Subject to section 5 of the Empowering Teaching and Learning Through Education Portals Act, a''.

SEC. 6. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—A State that receives a grant under this Act for a fiscal year shall maintain the expenditures of the State for education portal initiatives at a level not less than the level of such expenditures of the State for the fiscal year preceding the first fiscal year for which the State received such a grant.

(b) REDUCTION.—If the Secretary determines that a State, during a fiscal year, expends less than the sum required to comply with subsection (a), the Secretary shall—

(1) determine the difference between the required sum and the expenditure; and

(2) reduce the State's grant under this Act for the following year by the amount of the difference.

SEC. 7. EVALUATIONS AND CONFERENCE.

(a) FEDERAL EVALUATION.—The Secretary shall conduct an evaluation of each initiative funded under this Act. The Secretary

shall submit a report containing the results of the evaluation to Congress.

(b) FEDERAL CONFERENCE.—Not less often than once every 2 years, the Secretary shall hold a conference for advisory panels described in section 4(b)(5), to share information on best practices relating to education portal initiatives.

(c) STATE EVALUATIONS.—Each State that receives a grant under this Act shall conduct an evaluation of the initiative funded under the grant, using funds provided as part of the non-Federal share of the costs described in section 3(a). The State shall prepare and submit to the Secretary a report containing the results of the evaluation.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $100,000,000 for each of fiscal years 2009 through 2012, and such sums as may be necessary for each of the following 2 fiscal years.

SEC. 9. SPECIAL RULES RELATING TO CORPORATE CHARITABLE CONTRIBUTIONS TO EDUCATION PORTAL PROJECTS OF ELIGIBLE STATES.

(a) IN GENERAL.—Paragraph (2) of Section 170(b) of the Internal Revenue Code of 1986 (related to percentage limitations) is amended by redesignating subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE FOR CORPORATE CONTRIBUTIONS TO EDUCATION PORTAL PROJECTS OF ELIGIBLE STATES.—

''(i) IN GENERAL.—In the case of qualified education portal project contributions—

''(I) subparagraph (A) shall be applied separately with respect to such contributions and with respect to other charitable contributions of the taxpayer, and

''(II) in applying subparagraph (A) to such qualified education portal project contributions, subparagraph (A) shall be applied by substituting '50 percent' for '10 percent'.

''(ii) QUALIFIED EDUCATION PORTAL PROJECT CONTRIBUTION.—For purposes of this paragraph, the term 'qualified education portal project contribution' means a charitable contribution in cash—

''(I) to a State (as defined in section 2 of the Empowering Teaching and Learning Through Education Portals Act) which has a grant application approved under section 4 of such Act, and

''(II) for the purpose of paying the non-Federal share of the cost of implementing and maintaining education portal initiatives (within the meaning of section 3 of such Act).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

Mr. BIDEN (for himself and Mr. LUGAR) (by request):

S.J. Res. 42. A joint resolution relating to the approval of the proposed agreement for nuclear cooperation between the United States and the Russian Federation; to the Committee on Foreign Relations pursuant to 42 U.S.C. 2159, for not to exceed 45 calendar days.

Mr. BIDEN. Mr. President, today Senator LUGAR and I introduce, by request, a resolution of approval of the proposed agreement for peaceful nuclear cooperation between the United States and the Russian Federation, which the President transmitted to Congress on May 13, 2008, pursuant to sections 123b. and 123d. of the Atomic Energy Act. Pursuant to section 130i.(2) of that Act, the majority and minority leaders have designated Senator LUGAR and me to introduce this resolution.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 598—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NEED FOR THE UNITED STATES TO LEAD RENEWED INTERNATIONAL EFFORTS TO ASSIST DEVELOPING NATIONS IN CONSERVING NATURAL RESOURCES AND PREVENTING THE IMPENDING EXTINCTION OF A LARGE PORTION OF THE WORLD'S PLANT AND ANIMAL SPECIES

Mr. BIDEN (for himself, Ms. SNOWE, Mrs. BOXER, Mr. LUGAR, Mr. KERRY, Mr. SPECTER, Mr. MENENDEZ, Mr. BROWNBACK, Mr. BAYH, Ms. STABENOW, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 598

Whereas scientists estimate that approximately 1/10 of the world's known biological diversity is currently in danger of extinction, including at least 1/4 of all mammals, 1/3 of all primates, 1/3 of all amphibians, and 1/8 of all birds;

Whereas scientists have concluded that the initial stages of a major worldwide extinction event are occurring now and have estimated that by the end of the 21st century as much as 2/3 of the world's plant and animal species could be in danger of extinction;

Whereas scientists estimate that approximately 3/4 of the world's terrestrial plant and animal species reside in whole or in part in developing nations, where in many cases poor management of natural resources has exacerbated the threat of extinction to many species and directly harmed local communities;

Whereas, in addition to producing 20 percent of the world's carbon emissions, unsustainable forestry practices and illegal logging operations have led to the destruction of vast areas of forested land around the world, which, in turn, has led to species loss, increased flooding, erosion, insect infestations, and higher incidences of malaria and other infectious diseases;

Whereas the degradation of the marine environment and unsustainable fishing practices in many parts of the world have led to dramatic declines of many fish and other marine species;

Whereas the introduction of invasive species threatens natural habitats;

Whereas scientists have concluded that many species could face an increased risk of extinction from global climate change;

Whereas sound natural resource management and the conservation of species and habitats are vital to alleviating poverty for many communities in developing countries that depend on these resources for their livelihoods, food, medicinal compounds, housing material, and other necessities;

Whereas there are significant risks to the global and national economies from the destruction of natural resources around the world and the valuable services they provide, such as water and air purification, soil fertility and erosion control, flood and drought mitigation, protection from storm surges, and the sequestration of carbon;

Whereas human encroachment into natural ecosystems increases opportunities for the emergence and transmission of new animal-borne diseases that could cause high levels of human mortality and affect major global industries including travel, trade, tourism, food production, and finance;

Whereas loss of species can jeopardize important future pharmaceutical discoveries, given that more than 1/4 of all medicinal drugs possess active ingredients from wild species and that at least 1/2 of the most prescribed medicines in the United States are derived from natural compounds;

Whereas natural pollinators and the opportunities of wild and domesticated cross-breeding are vital to world and United States agriculture;

Whereas poverty aggravated by natural resource degradation contributes to political instability, ethnic and sectarian conflict, and the social conditions that can fuel increased violence and terrorism;

Whereas the extinction of plant and animal species raises profound ethical questions, and many religious traditions call upon human beings to act as good stewards of the Earth;

Whereas opportunities for sustainably managing natural resources and conserving viable populations of species and their habitats rapidly diminish every year;

Whereas a substantial body of academic and field research has identified global strategies and market based approaches for better managing natural resources and protecting biological diversity;

Whereas strategic large-scale and site-specific habitat conservation could help to buffer the impacts of climate change on endangered species and human communities;

Whereas an effective international conservation effort that ensures the use of natural resources on a sustainable basis and prevents the worst predicted extinction scenarios from unfolding will require commitment and action from all nations; and

Whereas the United States's traditional role in confronting international challenges, protecting the environment, expanding opportunities for people, and articulating a moral vision for global action gives the Nation the opportunity to lead an international conservation effort: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Government should make full use of Federal laws, regulations and policies, diplomatic agreements, and other appropriate mechanisms to—

(A) identify global conservation goals that help ensure the sustainable use of natural resources and protect biological diversity in terrestrial and marine environments of developing countries;

(B) focus international conservation efforts on natural areas that are important biodiversity conservation priorities and for which there is a good likelihood of success;

(C) raise the international profile of the debate by putting the issue of rapidly declining global biodiversity and poor natural resource management on the agenda of major international decision-making bodies;

(D) work with other donor nations to increase funding and other support for global conservation strategies that focus on achieving each of the goals identified in subparagraphs (A) through (C); and

(E) achieve meaningful progress in the next 5 years toward the goals identified in subparagraphs (A) through (C);

(2) the United States should use diplomatic mechanisms, relevant international institutions and agreements, and other appropriate mechanisms to lead other nations toward the

goals and actions identified in paragraph (1); and

(3) the efforts of Federal agencies should reflect a recognition of the extreme urgency of the problem and recognize that opportunities for increased conservation are rapidly dwindling, by annually providing to the appropriate Committees of Congress progress reports and action plans with regard to the goals and activities identified in paragraphs (1) and (2).

Mr. BIDEN. Mr. President, the evidence is clear. We stand at the brink of major losses among the living species on our planet. By the end of this century, as many as two out of every three plant and animal species could be in danger of extinction. This disturbing trend has many causes, but several are clear and manmade—they are our responsibility and they are within our control.

Our industrial emissions are changing our world's climate and, in so doing, drastically altering habitats—habitats already threatened by deforestation and other landuse changes. Unsustainable fishing and the spread of invasive species due to enhanced global commerce pose similar manmade challenges.

That is why I am introducing, along with Senators SNOWE, BOXER, LUGAR, KERRY, SPECTER, MENENDEZ, BROWNBACK, BAYH, STABENOW, and FEINGOLD, a resolution expressing the sense of the Senate that the United States should take a leadership role in protecting international biodiversity. With one out of every ten species facing extinction, with habitats declining, and with developing countries searching to build a better economic future while protecting their natural environments, now is the time for renewed efforts to protect our living world.

This morning, my colleagues and I hosted a briefing by Dr. Edward O. Wilson, renowned University Research Professor Emeritus at Harvard and author of two Pulitzer Prize-winning books, and Dr. Eric Chivian, who shared the Nobel Peace Prize and is Founder and Director of the Center for Health and the Global Environment at Harvard Medical School. These two eminent scientists made the case that biodiversity is not just a moral, ecological, and economic issue, but also one of major importance to human health.

We often find, Mr. President, that the areas most in danger are in developing nations, which have the least ability to protect them. Developing nations face very real economic and human challenges. Many are struggling to provide enough food for their people, especially given the recent rise in food prices. They now face the choice between feeding their people and preserving their environment. We know how that will turn out. We must give them another choice.

To do that, the United States and other wealthy nations must help. The 10 colleagues with whom I worked on this resolution understand that protecting our global biodiversity is actually in our own national interest. Sustainable agricultural practices promise sustainable economies in the developing world. A stable climate will reduce the threat of water shortages, shifting growing seasons, population movements, and resource wars. Protecting habitats not only protects the rich diversity of life on earth—protecting habitats will preserve some of the most basic building blocks of our economies and societies.

Not least, as Dr. Wilson and Dr. Chivian so persuasively argue, the preservation of biodiversity is an investment in human health. More than a quarter of the world's medicinal drugs possess active ingredients from wild species, and more than half of the most prescribed medicines in the United States are based on natural compounds. If we hope to advance medicine, to ease pain and suffering and to extend lifespans, the bounty of nature offers an indispensable guide and resource.

Finally, we have a moral obligation to protect biodiversity. Ensuring that we can feed and clothe and shelter millions more people while preserving the elaborate tapestry of creation will allow our children and grandchildren to inherit the rich planet that we were bequeathed. Species extinctions are nothing new. But species extinctions that are avoidable, that are within our power to prevent, extinctions due to our greed, or our ignorance, impose on us a special responsibility. Those are mistakes that can never be undone. We must resolve to do all we can to replace greed with a better calculation of our long-term interests. We must resolve to replace ignorance with knowledge and with wisdom.

That is why my colleagues and I are offering the resolution, to express the will of the Senate to redouble United States efforts internationally to protect our world in all its complexity, and diversity.

SENATE RESOLUTION 599—EXPRESSING THE CONDOLENCES OF THE SENATE TO THOSE AFFECTED BY THE TRAGIC EVENTS FOLLOWING THE TORNADO THAT HIT THE LITTLE SIOUX SCOUT RANCH IN LITTLE SIOUX, IOWA, ON JUNE 11, 2008.

Mr. NELSON of Nebraska (for himself, Mr. HARKIN, Mr. HAGEL, and Mr. GRASSLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 599

Whereas, on the evening of June 11, 2008, a tornado struck the Little Sioux Scout Ranch in Little Sioux, Iowa;

Whereas 4 lives were tragically lost, and many other people were injured;

Whereas Boy Scouts and Boy Scout leaders at the camp showed great heroism and courage in providing aid and assistance to their fellow Scouts;

Whereas the first responders, firefighters, and law enforcement, and medical personnel worked valiantly to help provide care and comfort to those who were injured;

Whereas the Boy Scouts of America will continue to feel the loss and remember the courage of the Boy Scouts who were at the Little Sioux Scout Ranch the evening of June 11, 2008;

Whereas the Boy Scouts of America will continue to develop young men who show the character, strength, and bravery that was demonstrated by the Boy Scouts at the Little Sioux Scout Ranch on the evening of June 11, 2008; and

Whereas the people of Nebraska and Iowa have embraced those affected and will continue to offer support to the families of those who were lost and injured; Now, therefore, be it:

Resolved, That the Senate—

(1) expresses its heartfelt condolences to the families and friends of those who lost their lives in the terrible events of June 11, 2008, at the Little Sioux Scout Ranch in Little Sioux, Iowa: Sam Thomsen, Josh Fennen, and Ben Petrzilka of Omaha, Nebraska, and Aaron Eilerts of Eagle Grove, Iowa;

(2) shares its thoughts and prayers for a full recovery for all those who were injured;

(3) commends the Boy Scouts of America for the support the organization has provided to the families and friends of those who were lost and injured;

(4) extends its thanks to the first responders, firefighters, and law enforcement, and medical personnel who took quick action to provide aid and comfort to the victims; and

(5) stands with the people of Nebraska and Iowa as they begin the healing process following this terrible event.

SENATE RESOLUTION 600—COMMEMORATING THE 44TH ANNIVERSARY OF THE DEATHS OF CIVIL RIGHTS WORKERS ANDREW GOODMAN, JAMES CHANEY, AND MICHAEL SCHWERNER IN PHILADELPHIA, MISSISSIPPI, WHILE WORKING IN THE NAME OF AMERICAN DEMOCRACY TO REGISTER VOTERS AND SECURE CIVIL RIGHTS DURING THE SUMMER OF 1964, WHICH HAS BECOME KNOWN AS ''FREEDOM SUMMER''

Mr. REID (for Mr. OBAMA (for himself, Mr. SPECTER, Mr. LEAHY, and Mr. SCHUMER)) submitted the following resolution; which was considered and agreed to:

S. RES. 600

Whereas 44 years ago, on June 21, 1964, Andrew Goodman, James Chaney, and Michael Schwerner were murdered in Philadelphia, Mississippi, while working in the name of American democracy to register voters and secure civil rights during the summer of 1964, which has become known as ''Freedom Summer'';

Whereas Andrew Goodman was a 20-year-old White anthropology major at New York's Queens College, who volunteered for the ''Freedom Summer'' project;

Whereas James Chaney, from Meridian, Mississippi, was a 21-year-old African-American civil rights activist who joined the Congress of Racial Equality (CORE) in 1963 to work on voter education and registration;

Whereas Michael ''Mickey'' Schwerner, from Brooklyn, New York, was a 24-year-old White CORE field secretary in Mississippi and a veteran of the civil rights movement;

Whereas in 1964, Mississippi had a Black voting-age population of 450,000, but only 16,000 Blacks were registered to vote;

Whereas most Black voters were disenfranchised by law or practice in Mississippi;

Whereas in 1964, Andrew Goodman, James Chaney, and Michael Schwerner volunteered to work as part of the ''Freedom Summer'' project that involved several civil rights organizations, including the Mississippi State chapter of the National Association for the Advancement of Colored People, the Southern Christian Leadership Conference, the Student Nonviolent Coordinating Committee, and CORE, with the purpose of registering Black voters in Mississippi;

Whereas on the morning of June 21, 1964, the 3 men left the CORE office in Meridian and set out for Longdale, Mississippi, where they were to investigate the recent burning of the Mount Zion Methodist Church, a Black church that had been functioning as a Freedom School for education and voter registration;

Whereas on their way back to Meridian, James Chaney, Andrew Goodman, and Michael Schwerner were detained and later arrested and taken to the Philadelphia, Mississippi, jail;

Whereas later that same evening, on June 21, 1964, they were taken from the jail, turned over to the Ku Klux Klan, and beaten, shot, and killed;

Whereas 2 days later, their burnt, charred, and gutted blue Ford station wagon was pulled from the Bogue Chitto Creek, just outside Philadelphia, Mississippi;

Whereas the national uproar caused by the disappearance of the civil rights workers led President Lyndon B. Johnson to order Secretary of Defense Robert McNamara to send 200 active duty Navy sailors to search the swamps and fields in the area for the bodies of the 3 civil rights workers, and Attorney General Robert F. Kennedy to order his Federal Bureau of Investigation (FBI) director, J. Edgar Hoover, to send 150 agents to Mississippi to work on the case;

Whereas the FBI investigation led to the discovery of the bodies of several other African-Americans from Mississippi, whose disappearances over the previous several years had not attracted attention outside their local communities;

Whereas the bodies of Andrew Goodman, James Chaney, and Michael Schwerner, beaten and shot, were found on August 4, 1964, buried under a mound of dirt;

Whereas on December 4, 1964, 21 White Mississippians from Philadelphia, Mississippi, including the sheriff and his deputy, were arrested, and the Department of Justice charged them with conspiring to deprive Andrew Goodman, James Chaney, and Michael Schwerner of their civil rights, since murder was not a Federal crime;

Whereas on December 10, 1964, the same day Dr. Martin Luther King, Jr. received the Nobel Peace Prize, a United States District judge dismissed charges against the 21 men accused of depriving the 3 civil right workers of their civil rights by murder;

Whereas in 1967, after an appeal to the Supreme Court and new testimony, 7 individuals were found guilty, but 2 of the defendants, including Edgar Ray Killen, who had been strongly implicated in the murders by witnesses, were acquitted because the jury came to a deadlock on their charges;

Whereas on January 6, 2005, a Neshoba County, Mississippi, grand jury indicted Edgar Ray Killen on 3 counts of murder;

Whereas on June 21, 2005, a jury convicted Edgar Ray Killen on 3 counts of manslaughter;

Whereas June 21, 2008, was the 44th anniversary of Andrew Goodman, James Chaney, and Michael Schwerner's ultimate sacrifice;

Whereas by the end of ''Freedom Summer'', volunteers, including Andrew Goodman, James Chaney, and Michael Schwerner, helped register 17,000 African-Americans to vote;

Whereas the national uproar in response to the deaths of these brave men helped create the necessary climate to bring about passage of the Voting Rights Act of 1965;

Whereas Andrew Goodman, James Chaney, and Michael Schwerner worked for freedom, democracy, and equal justice under the law for all; and

Whereas the Federal Government should find an appropriate way to honor these courageous young men and their contributions to civil rights and voting rights: Now, therefore, be it

Resolved, That the Senate—

(1) encourages all Americans to pause and remember Andrew Goodman, James Chaney, and Michael Schwerner and the 44th anniversary of their deaths;

(2) commemorates the life and work of Andrew Goodman, James Chaney, Michael Schwerner, and all of the other brave Americans who made the ultimate sacrifice in the name of civil rights and voting rights for all Americans; and

(3) commemorates and acknowledges the legacy of the brave Americans who participated in the civil rights movement and the role that they played in changing the hearts and minds of Americans and creating the political climate necessary to pass legislation to expand civil rights and voting rights for all Americans.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5030. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table.

SA 5031. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5032. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5033. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5034. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5035. Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. DURBIN, Mr. COLEMAN, Mrs. MCCASKILL, Mr. BOND, Mr. LUGAR, Mr. BAYH, Ms. KLOBUCHAR, and Mr. OBAMA) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5036. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5037. Mr. BAYH (for himself, Mr. NELSON, of Nebraska, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5038. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5039. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5040. Ms. LANDRIEU (for herself, Mr. GRASSLEY, Mr. HARKIN, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5041. Mr. CASEY (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5042. Mr. WYDEN (for himself, Mr. SMITH, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5043. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5044. Mrs. LINCOLN (for herself and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5045. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5046. Mr. CORNYN (for himself, Mrs. BOXER, Mr. ROBERTS, Mr. PRYOR, Mr. ISAKSON, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5047. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5048. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5049. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5050. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5051. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5052. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5053. Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5054. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5055. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, supra; which was ordered to lie on the table.

SA 5056. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5030. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 615, between lines 2 and 3, insert the following:

SEC. 3083. EXTENSION OF CERTAIN BONUS DEPRECIATION PLACED IN SERVICE REQUIREMENTS.

Section 15345(d)(1) of Public Law 110–246 is amended—

(1) by striking ''December 31, 2008'' in subparagraph (C) and inserting ''December 31, 2010'', and

(2) by striking ''December 31, 2009'' in subparagraph (D) and inserting ''December 31, 2011''.

SA 5031. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 133, strike line 10 and all that follows through page 160, line 17.

SA 5032. Mr. DeMINT submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Beginning on page 615, line 4, strike all through page 623, line 12.

SA 5033. Mr. DeMINT submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 506, strike line 16 and all that follows through page 518, line 3.

SA 5034. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 414, strike line 24 and all that follows through page 415, line 3.

SA 5035. Mr. GRASSLEY (for himself, Mr. HARKIN, Mr. DURBIN, Mr. COLEMAN, Mrs. MCCASKILL, Mr. BOND, Mr. LUGAR, Mr. BAYH, Ms. KLOBUCHAR, and Mr. OBAMA) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3211, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of subtitle A of title III of division C, insert the following:

SEC. _____. TEMPORARY TAX RELIEF FOR AREAS DAMAGED BY 2008 MIDWESTERN SEVERE STORMS, TORNADOS, AND FLOODING.

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to any Midwestern disaster area in addition to the areas to which such provisions otherwise apply:

(1) GO ZONE BENEFITS.—

(A) Section 1400N (relating to tax benefits) other than subsections (b), (i), and (j) thereof.

(B) Section 1400O (relating to education tax benefits).

(C) Section 1400P (relating to housing tax benefits).

(D) Section 1400Q (relating to special rules for use of retirement funds).

(E) Section 1400R(a) (relating to employee retention credit for employers).

(F) Section 1400S (relating to additional tax relief) other than subsection (d) thereof.

(G) Section 1400T (relating to special rules for mortgage revenue bonds).

(2) OTHER BENEFITS INCLUDED IN KATRINA EMERGENCY TAX RELIEF ACT OF 2005.—Sections 302, 303, 304, 401, and 405 of the Katrina Emergency Tax Relief Act of 2005.

(3) OTHER BENEFITS.—Section 3082(a) of this Act (relating to use of amended income tax returns to take into account receipt of certain casualty loss grants by disallowing previously taken casualty loss deductions).

(b) MIDWESTERN DISASTER AREA.—

(1) IN GENERAL.—For purposes of this section and for applying the substitutions described in subsections (d) and (e), the term ''Midwestern disaster area'' means an area—

(A) with respect to which a major disaster has been declared by the President after May 20, 2008, and before August 1, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of severe storms, tornados, or flooding occurring in any of the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, and Wisconsin, and

(B) determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such severe storms, tornados, or flooding.

(2) CERTAIN BENEFITS AVAILABLE TO AREAS ELIGIBLE ONLY FOR PUBLIC ASSISTANCE.—For purposes of applying this section to benefits under the following provisions, paragraph (1) shall be applied without regard to subparagraph (B):

(A) Sections 1400Q, 1400S(b), and 1400S(d) of the Internal Revenue Code of 1986.

(B) Sections 302, 401, and 405 of the Katrina Emergency Tax Relief Act of 2005.

(c) REFERENCES.—

(1) AREA.—Any reference in such provisions to the Hurricane Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to any Midwestern disaster area and any reference to the Hurricane Katrina disaster area or the Gulf Opportunity Zone within a State shall be treated as a reference to all Midwestern disaster areas within the State.

(2) ITEMS ATTRIBUTABLE TO DISASTER.—Any reference in such provisions to any loss, damage, or other item attributable to Hurricane Katrina shall be treated as a reference to any loss, damage, or other item attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(3) APPLICABLE DISASTER DATE.—For purposes of applying the substitutions described in subsections (d) and (e), the term ''applicable disaster date'' means, with respect to any Midwestern disaster area, the date on which the severe storms, tornados, or flooding giving rise to the Presidential declaration described in subsection (b)(1)(A) occurred.

(d) MODIFICATIONS TO 1986 CODE.—The following provisions of the Internal Revenue Code of 1986 shall be applied with the following modifications:

(1) TAX-EXEMPT BOND FINANCING.—Section 1400N(a)—

(A) by substituting ''qualified Midwestern disaster area bond'' for ''qualified Gulf Opportunity Zone Bond'' each place it appears,

(B) by substituting ''any State in which a Midwestern disaster area is located'' for ''the State of Alabama, Louisiana, or Mississippi'' in paragraph (2)(B),

(C) by substituting ''designated for purposes of this section (on the basis of providing assistance to areas in the order in which such assistance is most needed)'' for ''designated for purposes of this section'' in paragraph (2)(C),

(D) by substituting ''January 1, 2013'' for ''January 1, 2011'' in paragraph (2)(D),

(E) in paragraph (3)(A)—

(i) by substituting ''$5,000'' for ''$2,500'', and

(ii) by substituting ''before the earliest applicable disaster date for Midwestern disaster areas within the State'' for ''before August 28, 2005'',

(F) by substituting ''qualified Midwestern disaster area repair or construction'' for ''qualified GO Zone repair or construction'' each place it appears, and

(G) by substituting ''after the date of the enactment of the Housing and Economic Recovery Act of 2008 and before January 1, 2013'' for ''after the date of the enactment of this paragraph and before January 1, 2011'' in paragraph (7)(C).

(2) LOW-INCOME HOUSING CREDIT.—Section 1400N(c)—

(A) only with respect to calendar years 2009, 2010, and 2011,

(B) by substituting ''Disaster Recovery Assistance housing amount'' for ''Gulf Opportunity housing amount'',

(C) by substituting ''before the earliest applicable disaster date for Midwestern disaster areas within the State'' for ''before August 28, 2005'' in paragraph (1)(B), and

(D) determined without regard to paragraphs (2), (3), (4), (5), and (6) thereof.

(3) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER THE APPLICABLE DISASTER DATE.—Section 1400N(d)—

(A) by substituting ''qualified Disaster Recovery Assistance property'' for ''qualified Gulf Opportunity Zone property'' each place it appears,

(B) by substituting ''the applicable disaster date'' for ''August 28, 2005'' each place it appears,

(C) by substituting ''December 31, 2011'' for ''December 31, 2007'' in paragraph (2)(A)(v),

(D) by substituting ''December 31, 2012'' for ''December 31, 2008'' in paragraph (2)(A)(v),

(E) by substituting ''the day before the applicable disaster date'' for ''August 27, 2005'' in paragraph (3)(A), and

(F) determined without regard to paragraph (6) thereof.

(4) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e), by substituting ''qualified section 179 Disaster Recovery Assistance property'' for ''qualified section 179 Gulf Opportunity Zone property'' each place it appears.

(5) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f)—

(A) by substituting ''qualified Disaster Recovery Assistance clean-up cost'' for ''qualified Gulf Opportunity Zone clean-up cost'' each place it appears, and

(B) by substituting ''beginning on the applicable disaster date and ending on December 31, 2010'' for ''beginning on August 28, 2005, and ending on December 31, 2007'' in paragraph (2).

(6) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—Section 1400N(g)—

(A) by substituting ''the applicable disaster date'' for ''August 28, 2005'' each place it appears,

(B) by substituting ''January 1, 2011'' for ''January 1, 2008'' in paragraph (1), and

(C) by substituting ''December 31, 2010'' for ''December 31, 2007''.

(7) INCREASE IN REHABILITATION CREDIT.—Section 1400N(h)—

(A) by substituting ''the applicable disaster date'' for ''August 28, 2005'', and

(B) by substituting ''January 1, 2011'' for ''January 1, 2008'' in paragraph (1).

(8) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO DISASTER LOSSES.—Section 1400N(k)—

(A) by substituting ''qualified Disaster Recovery Assistance loss'' for ''qualified Gulf Opportunity Zone loss'' each place it appears,

(B) by substituting ''after the day before the applicable disaster date, and before January 1, 2011'' for ''after August 27, 2005, and before January 1, 2008'' each place it appears,

(C) by substituting ''the applicable disaster date'' for ''August 28, 2005'' in paragraph (2)(B)(ii)(I),

(D) by substituting ''qualified Disaster Recovery Assistance property'' for ''qualified Gulf Opportunity Zone property'' in paragraph (2)(B)(iv), and

(E) by substituting ''qualified Disaster Recovery Assistance casualty loss'' for ''qualified Gulf Opportunity Zone casualty loss'' each place it appears.

(9) CREDIT TO HOLDERS OF TAX CREDIT BONDS.—Section 1400N(l)—

(A) by substituting ''Midwestern tax credit bond'' for ''Gulf tax credit bond'' each place it appears,

(B) by substituting ''any State in which a Midwestern disaster area is located'' for ''the State of Alabama, Louisiana, or Mississippi'' in paragraph (4)(A)(i),

(C) by substituting ''after December 31, 2008 and before January 1, 2010'' for ''after December 31, 2005, and before January 1, 2007'',

(D) by substituting ''shall not exceed $100,000,000.'' for ''shall not exceed'' and all that follows in paragraph (4)(C), and

(E) by substituting ''the earliest applicable disaster date for Midwestern disaster areas within the State'' for ''August 28, 2005'' in paragraph (5)(A).

(10) NEW MARKETS TAX CREDIT.—Section 1400N(m)—

(A) by substituting ''$300,000,000 for 2009 and 2010'' for ''$300,000,000 for 2005 and 2006'' in paragraph (2)(A), and

(B) by substituting ''$400,000,000 for 2011'' for ''$400,000,000 for 2007'' in paragraph (2)(B).

(11) EDUCATION TAX BENEFITS.—Section 1400O, by substituting ''2008 or 2009'' for ''2005 or 2006''.

(12) HOUSING TAX BENEFITS.—Section 1400P, by substituting ''the applicable disaster date'' for ''August 28, 2005'' in subsection (c)(1).

(13) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q—

(A) by substituting ''qualified Disaster Recovery Assistance distribution'' for ''qualified hurricane distribution'' each place it appears,

(B) by substituting ''on or after the applicable disaster date and before January 1, 2010'' for ''on or after August 25, 2005, and before January 1, 2007'' in subsection (a)(4)(A)(i),

(C) by substituting ''the applicable disaster date'' for ''August 28, 2005'' in subsections (a)(4)(A)(i) and (c)(3)(B),

(D) by disregarding clauses (ii) and (iii) of subsection (a)(4)(A) thereof,

(E) by substituting ''qualified storm damage distribution'' for ''qualified Katrina distribution'' each place it appears,

(F) by substituting ''after the date which is 6 months before the applicable disaster date and before the date which is the day after the applicable disaster date'' for ''after February 28, 2005, and before August 29, 2005'' in subsection (b)(2)(B)(ii),

(G) by substituting ''the Midwestern disaster area, but not so purchased or constructed on account of severe storms, tornados, or flooding giving rise to the designation of the area as a disaster area'' for ''the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina'' in subsection (b)(2)(B)(iii),

(H) by substituting ''beginning on the applicable disaster date and ending on the date which is 5 months after the date of the enactment of the Housing and Economic Recovery Act of 2008'' for ''beginning on August 25, 2005, and ending on February 28, 2006'' in subsection (b)(3)(A),

(I) by substituting ''qualified storm damage individual'' for ''qualified Hurricane Katrina individual'' each place it appears,

(J) by substituting ''December 31, 2009'' for ''December 31, 2006'' in subsection (c)(2)(A),

(K) by substituting ''beginning on the date of the enactment of the Housing and Economic Recovery Act of 2008 and ending on December 31, 2009'' for ''beginning on September 24, 2005, and ending on December 31, 2006'' in subsection (c)(4)(A)(i),

(L) by substituting ''the applicable disaster date'' for ''August 25, 2005'' in subsection (c)(4)(A)(ii), and

(M) by substituting ''January 1, 2010'' for ''January 1, 2007'' in subsection (d)(2)(A)(ii).

(14) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY SEVERE STORMS, TORNADOS, AND FLOODING.—Section 1400R(a)—

(A) by substituting ''the applicable disaster date'' for ''August 28, 2005'' each place it appears,

(B) by substituting ''January 1, 2009'' for ''January 1, 2006'' both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before the applicable disaster date.

(15) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—Section 1400S(a), by substituting the following paragraph for paragraph (4) thereof:

''(4) QUALIFIED CONTRIBUTIONS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified contribution' means any charitable contribution (as defined in section 170(c)) if—

''(i) such contribution—

''(I) is paid during the period beginning on the earliest applicable disaster date for all States and ending on December 31, 2008, in cash to an organization described in section 170(b)(1)(A), and

''(II) is made for relief efforts in 1 or more Midwestern disaster areas,

''(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of section 170(f)(8)) that such contribution was used (or is to be used) for relief efforts in 1 or more Midwestern disaster areas, and

''(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

''(B) EXCEPTION.—Such term shall not include a contribution by a donor if the contribution is—

''(i) to an organization described in section 509(a)(3), or

''(ii) for establishment of a new, or maintenance of an existing, donor advised fund (as defined in section 4966(d)(2)).

''(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.''.

(16) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1), by substituting ''the applicable disaster date'' for ''August 25, 2005''.

(17) SPECIAL RULE FOR DETERMINING EARNED INCOME.—Section 1400S(d)—

(A) by treating an individual as a qualified individual if such individual's principal place of abode on the applicable disaster date was located in a Midwestern disaster area,

(B) by treating the applicable disaster date with respect to any such individual as the applicable date for purposes of such subsection, and

(C) by treating an area as described in paragraph (2)(B)(ii) thereof if the area is a Midwestern disaster area only by reason of subsection (b)(2) of this section (relating to areas eligible only for public assistance)

(18) ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.—Section 1400S(e), by substituting ''2008 or 2009'' for ''2005 or 2006''.

(e) MODIFICATIONS TO KATRINA EMERGENCY TAX RELIEF ACT OF 2005.—The following provisions of the Katrina Emergency Tax Relief Act of 2005 shall be applied with the following modifications:

(1) ADDITIONAL EXEMPTION FOR HOUSING DISPLACED INDIVIDUAL.—Section 302—

(A) by substituting ''Midwestern displaced individual'' for ''Hurricane Katrina displaced individual'' each place it appears, and

(B) by treating an area as a core disaster area for purposes of applying subsection (c) thereof if the area is a Midwestern disaster area without regard to subsection (b)(2) of this section (relating to areas eligible only for public assistance).

(2) INCREASE IN STANDARD MILEAGE RATE.—Section 303, by substituting ''beginning on the applicable disaster date and ending on December 31, 2009'' for ''beginning on August 25, 2005, and ending on December 31, 2006''.

(3) MILEAGE REIMBURSEMENTS FOR CHARITABLE VOLUNTEERS.—Section 304—

(A) by substituting ''beginning on the applicable disaster date and ending on December 31, 2009'' for ''beginning on August 25, 2005, and ending on December 31, 2006'' in subsection (a), and

(B) by substituting ''the applicable disaster date'' for ''August 25, 2005'' in subsection (a).

(4) EXCLUSION OF CERTAIN CANCELLATION OF INDEBTEDNESS INCOME.—Section 401—

(A) by treating an individual whose principal place of abode on the applicable disaster date was in a Midwestern disaster area (determined without regard to subsection (b)(2) of this section) as an individual described in subsection (b)(1) thereof, and by treating an individual whose principal place of abode on the applicable disaster date was in a Midwestern disaster area solely by reason of subsection (b)(2) of this section as an individual described in subsection (b)(2) thereof,

(B) by substituting ''the applicable disaster date'' for ''August 28, 2005'' both places it appears, and

(C) by substituting ''January 1, 2010'' for ''January 1, 2007'' in subsection (e).

(5) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405, by substituting ''on or after the applicable disaster date'' for ''on or after August 25, 2005''.

SEC. _____. ENHANCED CHARITABLE DEDUCTIONS FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) INCREASED AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) (relating to termination) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to contributions made after December 31, 2007.

(b) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 170(b) of such Code is amended by adding at the end the following new paragraph:

''(3) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—In the case of a qualified farmer or rancher (as defined in paragraph (1)(E)(v)), any charitable contribution of food—

''(A) to which subsection (e)(3)(C) applies (without regard to clause (ii) thereof), and

''(B) which is made during the period beginning on the date of the enactment of this paragraph and before January 1, 2009,

shall be treated for purposes of paragraph (1)(E) or (2)(B), whichever is applicable, as if it were a qualified conservation contribution which is made by a qualified farmer or rancher and which otherwise meets the requirements of such paragraph.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

SEC. _____. EXTENSION OF ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) EXTENSION.—Clause (iv) of section 170(e)(3)(D) of the Internal Revenue Code of 1986 (relating to termination) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) CLERICAL AMENDMENT.—Clause (iii) of section 170(e)(3)(D) of such Code (relating to certification by donee) is amended by inserting ''of books'' after ''to any contribution''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2007.

SEC. _____. REPORTING REQUIREMENTS RELATING TO DISASTER RELIEF CONTRIBUTIONS.

(a) IN GENERAL.—Section 6033(b) of the Internal Revenue Code of 1986 (relating to returns of certain organizations described in section 501(c)(3)) is amended by striking ''and'' at the end of paragraph (13), by redesignating paragraph (14) as paragraph (15), and by adding after paragraph (13) the following new paragraph:

''(14) such information as the Secretary may require with respect to disaster relief activities, including the amount and use of qualified contributions to which section 1400S(a) applies, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to any extension) occurs after December 31, 2008.

SA 5036. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROTECTION OF TAXPAYERS.

Notwithstanding any other provision of this Act, title III of Division B of this Act shall not take effect.

SA 5037. Mr. BAYH (for himself, Mr. NELSON of Nebraska, and Ms. KLOBUCHAR) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Beginning on page 573, line 12, strike through page 574, line 14, and insert the following:

''(8) REAL PROPERTY TAX DEDUCTION.—For purposes of paragraph (1), the real property tax deduction is the lesser of—

''(A) the amount allowable as a deduction under this chapter for State and local taxes described in section 164(a)(1), or

''(B) $500 ($1,000 in the case of a joint return).

Any taxes taken into account under section 62(a) shall not be taken into account under this paragraph.''.

SA 5038. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of subtitle A of title III of division C, insert the following:

SEC. _____. TEMPORARY TAX RELIEF FOR AREAS DAMAGED BY 2008 MIDWESTERN SEVERE STORMS, TORNADOS, AND FLOODING.

(a) IN GENERAL.—Subject to the modifications described in this section, the following provisions of or relating to the Internal Revenue Code of 1986 shall apply to any Midwestern disaster area in addition to the areas to which such provisions otherwise apply:

(1) GO ZONE BENEFITS.—

(A) Section 1400N (relating to tax benefits) other than subsections (b), (i), and (j) thereof.

(B) Section 1400O (relating to education tax benefits).

(C) Section 1400P (relating to housing tax benefits).

(D) Section 1400Q (relating to special rules for use of retirement funds).

(E) Section 1400R(a) (relating to employee retention credit for employers).

(F) Section 1400S (relating to additional tax relief) other than subsection (d) thereof.

(G) Section 1400T (relating to special rules for mortgage revenue bonds).

(2) OTHER BENEFITS INCLUDED IN KATRINA EMERGENCY TAX RELIEF ACT OF 2005.—Sections 302, 303, 304, 401, and 405 of the Katrina Emergency Tax Relief Act of 2005.

(3) OTHER BENEFITS.—Section 3082(a) of this Act (relating to use of amended income tax returns to take into account receipt of certain casualty loss grants by disallowing previously taken casualty loss deductions).

(b) MIDWESTERN DISASTER AREA.—

(1) IN GENERAL.—For purposes of this section and for applying the substitutions described in subsections (d) and (e), the term ''Midwestern disaster area'' means an area—

(A) with respect to which a major disaster has been declared by the President after May 20, 2008, and before August 1, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of severe storms, tornados, or flooding occurring in any of the States of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, and Wisconsin, and

(B) determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributable to such severe storms, tornados, or flooding.

In the case of a State with respect to which the President during the period beginning on January 1, 2008, and ending on July 31, 2008, has declared major disasters under such Act with respect to at least 75 percent of the counties of such State, subparagraph (A) shall be applied by substituting ''December 31, 2007'' for ''May 20, 2008''.

(2) CERTAIN BENEFITS AVAILABLE TO AREAS ELIGIBLE ONLY FOR PUBLIC ASSISTANCE.—For purposes of applying this section to benefits under the following provisions, paragraph (1) shall be applied without regard to subparagraph (B):

(A) Sections 1400Q, 1400S(b), and 1400S(d) of the Internal Revenue Code of 1986.

(B) Sections 302, 401, and 405 of the Katrina Emergency Tax Relief Act of 2005.

(c) REFERENCES.—

(1) AREA.—Any reference in such provisions to the Hurricane Katrina disaster area or the Gulf Opportunity Zone shall be treated as a reference to any Midwestern disaster area and any reference to the Hurricane Katrina disaster area or the Gulf Opportunity Zone within a State shall be treated as a reference to all Midwestern disaster areas within the State.

(2) ITEMS ATTRIBUTABLE TO DISASTER.—Any reference in such provisions to any loss, damage, or other item attributable to Hurricane Katrina shall be treated as a reference to any loss, damage, or other item attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(3) APPLICABLE DISASTER DATE.—For purposes of applying the substitutions described in subsections (d) and (e), the term ''applicable disaster date'' means, with respect to any Midwestern disaster area, the date on which the severe storms, tornados, or flooding giving rise to the Presidential declaration described in subsection (b)(1)(A) occurred.

(d) MODIFICATIONS TO 1986 CODE.—The following provisions of the Internal Revenue Code of 1986 shall be applied with the following modifications:

(1) TAX-EXEMPT BOND FINANCING.—Section 1400N(a)—

(A) by substituting ''qualified Midwestern disaster area bond'' for ''qualified Gulf Opportunity Zone Bond'' each place it appears,

(B) by substituting ''any State in which a Midwestern disaster area is located'' for ''the State of Alabama, Louisiana, or Mississippi'' in paragraph (2)(B),

(C) by substituting ''designated for purposes of this section (on the basis of providing assistance to areas in the order in which such assistance is most needed)'' for ''designated for purposes of this section'' in paragraph (2)(C),

(D) by substituting ''January 1, 2013'' for ''January 1, 2011'' in paragraph (2)(D),

(E) in paragraph (3)(A)—

(i) by substituting ''$5,000'' for ''$2,500'', and

(ii) by substituting ''before the earliest applicable disaster date for Midwestern disaster areas within the State'' for ''before August 28, 2005'',

(F) by substituting ''qualified Midwestern disaster area repair or construction'' for ''qualified GO Zone repair or construction'' each place it appears, and

(G) by substituting ''after the date of the enactment of the Housing and Economic Recovery Act of 2008 and before January 1, 2013'' for ''after the date of the enactment of this paragraph and before January 1, 2011'' in paragraph (7)(C).

(2) LOW-INCOME HOUSING CREDIT.—Section 1400N(c)—

(A) only with respect to calendar years 2009, 2010, and 2011,

(B) by substituting ''Disaster Recovery Assistance housing amount'' for ''Gulf Opportunity housing amount'',

(C) by substituting ''before the earliest applicable disaster date for Midwestern disaster areas within the State'' for ''before August 28, 2005'' in paragraph (1)(B), and

(D) determined without regard to paragraphs (2), (3), (4), (5), and (6) thereof.

(3) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER THE APPLICABLE DISASTER DATE.—Section 1400N(d)—

(A) by substituting ''qualified Disaster Recovery Assistance property'' for ''qualified Gulf Opportunity Zone property'' each place it appears,

(B) by substituting ''the applicable disaster date'' for ''August 28, 2005'' each place it appears,

(C) by substituting ''December 31, 2011'' for ''December 31, 2007'' in paragraph (2)(A)(v),

(D) by substituting ''December 31, 2012'' for ''December 31, 2008'' in paragraph (2)(A)(v),

(E) by substituting ''the day before the applicable disaster date'' for ''August 27, 2005'' in paragraph (3)(A), and

(F) determined without regard to paragraph (6) thereof.

(4) INCREASE IN EXPENSING UNDER SECTION 179.—Section 1400N(e), by substituting ''qualified section 179 Disaster Recovery Assistance property'' for ''qualified section 179 Gulf Opportunity Zone property'' each place it appears.

(5) EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.—Section 1400N(f)—

(A) by substituting ''qualified Disaster Recovery Assistance clean-up cost'' for ''qualified Gulf Opportunity Zone clean-up cost'' each place it appears, and

(B) by substituting ''beginning on the applicable disaster date and ending on December 31, 2010'' for ''beginning on August 28, 2005, and ending on December 31, 2007'' in paragraph (2).

(6) EXTENSION OF EXPENSING FOR ENVIRONMENTAL REMEDIATION COSTS.—Section 1400N(g)—

(A) by substituting ''the applicable disaster date'' for ''August 28, 2005'' each place it appears,

(B) by substituting ''January 1, 2011'' for ''January 1, 2008'' in paragraph (1), and

(C) by substituting ''December 31, 2010'' for ''December 31, 2007''.

(7) INCREASE IN REHABILITATION CREDIT.—Section 1400N(h)—

(A) by substituting ''the applicable disaster date'' for ''August 28, 2005'', and

(B) by substituting ''January 1, 2011'' for ''January 1, 2008'' in paragraph (1).

(8) TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO DISASTER LOSSES.—Section 1400N(k)—

(A) by substituting ''qualified Disaster Recovery Assistance loss'' for ''qualified Gulf Opportunity Zone loss'' each place it appears,

(B) by substituting ''after the day before the applicable disaster date, and before January 1, 2011'' for ''after August 27, 2005, and before January 1, 2008'' each place it appears,

(C) by substituting ''the applicable disaster date'' for ''August 28, 2005'' in paragraph (2)(B)(ii)(I),

(D) by substituting ''qualified Disaster Recovery Assistance property'' for ''qualified Gulf Opportunity Zone property'' in paragraph (2)(B)(iv), and

(E) by substituting ''qualified Disaster Recovery Assistance casualty loss'' for ''qualified Gulf Opportunity Zone casualty loss'' each place it appears.

(9) CREDIT TO HOLDERS OF TAX CREDIT BONDS.—Section 1400N(l)—

(A) by substituting ''Midwestern tax credit bond'' for ''Gulf tax credit bond'' each place it appears,

(B) by substituting ''any State in which a Midwestern disaster area is located'' for ''the State of Alabama, Louisiana, or Mississippi'' in paragraph (4)(A)(i),

(C) by substituting ''after December 31, 2008 and before January 1, 2010'' for ''after December 31, 2005, and before January 1, 2007'',

(D) by substituting ''shall not exceed $100,000,000.'' for ''shall not exceed'' and all that follows in paragraph (4)(C), and

(E) by substituting ''the earliest applicable disaster date for Midwestern disaster areas within the State'' for ''August 28, 2005'' in paragraph (5)(A).

(10) NEW MARKETS TAX CREDIT.—Section 1400N(m)—

(A) by substituting ''$300,000,000 for 2009 and 2010'' for ''$300,000,000 for 2005 and 2006'' in paragraph (2)(A), and

(B) by substituting ''$400,000,000 for 2011'' for ''$400,000,000 for 2007'' in paragraph (2)(B).

(11) EDUCATION TAX BENEFITS.—Section 1400O, by substituting ''2008 or 2009'' for ''2005 or 2006''.

(12) HOUSING TAX BENEFITS.—Section 1400P, by substituting ''the applicable disaster date'' for ''August 28, 2005'' in subsection (c)(1).

(13) SPECIAL RULES FOR USE OF RETIREMENT FUNDS.—Section 1400Q—

(A) by substituting ''qualified Disaster Recovery Assistance distribution'' for ''qualified hurricane distribution'' each place it appears,

(B) by substituting ''on or after the applicable disaster date and before January 1, 2010'' for ''on or after August 25, 2005, and before January 1, 2007'' in subsection (a)(4)(A)(i),

(C) by substituting ''the applicable disaster date'' for ''August 28, 2005'' in subsections (a)(4)(A)(i) and (c)(3)(B),

(D) by disregarding clauses (ii) and (iii) of subsection (a)(4)(A) thereof,

(E) by substituting ''qualified storm damage distribution'' for ''qualified Katrina distribution'' each place it appears,

(F) by substituting ''after the date which is 6 months before the applicable disaster date and before the date which is the day after the applicable disaster date'' for ''after February 28, 2005, and before August 29, 2005'' in subsection (b)(2)(B)(ii),

(G) by substituting ''the Midwestern disaster area, but not so purchased or constructed on account of severe storms, tornados, or flooding giving rise to the designation of the area as a disaster area'' for ''the Hurricane Katrina disaster area, but not so purchased or constructed on account of Hurricane Katrina'' in subsection (b)(2)(B)(iii),

(H) by substituting ''beginning on the applicable disaster date and ending on the date which is 5 months after the date of the enactment of the Housing and Economic Recovery Act of 2008'' for ''beginning on August 25, 2005, and ending on February 28, 2006'' in subsection (b)(3)(A),

(I) by substituting ''qualified storm damage individual'' for ''qualified Hurricane Katrina individual'' each place it appears,

(J) by substituting ''December 31, 2009'' for ''December 31, 2006'' in subsection (c)(2)(A),

(K) by substituting ''beginning on the date of the enactment of the Housing and Economic Recovery Act of 2008 and ending on December 31, 2009'' for ''beginning on September 24, 2005, and ending on December 31, 2006'' in subsection (c)(4)(A)(i),

(L) by substituting ''the applicable disaster date'' for ''August 25, 2005'' in subsection (c)(4)(A)(ii), and

(M) by substituting ''January 1, 2010'' for ''January 1, 2007'' in subsection (d)(2)(A)(ii).

(14) EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY SEVERE STORMS, TORNADOS, AND FLOODING.—Section 1400R(a)—

(A) by substituting ''the applicable disaster date'' for ''August 28, 2005'' each place it appears,

(B) by substituting ''January 1, 2009'' for ''January 1, 2006'' both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before the applicable disaster date.

(15) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—Section 1400S(a), by substituting the following paragraph for paragraph (4) thereof:

''(4) QUALIFIED CONTRIBUTIONS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified contribution' means any charitable contribution (as defined in section 170(c)) if—

''(i) such contribution—

''(I) is paid during the period beginning on the earliest applicable disaster date for all States and ending on December 31, 2008, in cash to an organization described in section 170(b)(1)(A), and

''(II) is made for relief efforts in 1 or more Midwestern disaster areas,

''(ii) the taxpayer obtains from such organization contemporaneous written acknowledgment (within the meaning of section 170(f)(8)) that such contribution was used (or is to be used) for relief efforts in 1 or more Midwestern disaster areas, and

''(iii) the taxpayer has elected the application of this subsection with respect to such contribution.

''(B) EXCEPTION.—Such term shall not include a contribution by a donor if the contribution is—

''(i) to an organization described in section 509(a)(3), or

''(ii) for establishment of a new, or maintenance of an existing, donor advised fund (as defined in section 4966(d)(2)).

''(C) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.''.

(16) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1), by substituting ''the applicable disaster date'' for ''August 25, 2005''.

(17) SPECIAL RULE FOR DETERMINING EARNED INCOME.—Section 1400S(d)—

(A) by treating an individual as a qualified individual if such individual's principal place of abode on the applicable disaster date was located in a Midwestern disaster area,

(B) by treating the applicable disaster date with respect to any such individual as the applicable date for purposes of such subsection, and

(C) by treating an area as described in paragraph (2)(B)(ii) thereof if the area is a Midwestern disaster area only by reason of subsection (b)(2) of this section (relating to areas eligible only for public assistance)

(18) ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.—Section 1400S(e), by substituting ''2008 or 2009'' for ''2005 or 2006''.

(e) MODIFICATIONS TO KATRINA EMERGENCY TAX RELIEF ACT OF 2005.—The following provisions of the Katrina Emergency Tax Relief Act of 2005 shall be applied with the following modifications:

(1) ADDITIONAL EXEMPTION FOR HOUSING DISPLACED INDIVIDUAL.—Section 302—

(A) by substituting ''Midwestern displaced individual'' for ''Hurricane Katrina displaced individual'' each place it appears, and

(B) by treating an area as a core disaster area for purposes of applying subsection (c) thereof if the area is a Midwestern disaster area without regard to subsection (b)(2) of this section (relating to areas eligible only for public assistance).

(2) INCREASE IN STANDARD MILEAGE RATE.—Section 303, by substituting ''beginning on the applicable disaster date and ending on December 31, 2009'' for ''beginning on August 25, 2005, and ending on December 31, 2006''.

(3) MILEAGE REIMBURSEMENTS FOR CHARITABLE VOLUNTEERS.—Section 304—

(A) by substituting ''beginning on the applicable disaster date and ending on December 31, 2009'' for ''beginning on August 25, 2005, and ending on December 31, 2006'' in subsection (a), and

(B) by substituting ''the applicable disaster date'' for ''August 25, 2005'' in subsection (a).

(4) EXCLUSION OF CERTAIN CANCELLATION OF INDEBTEDNESS INCOME.—Section 401—

(A) by treating an individual whose principal place of abode on the applicable disaster date was in a Midwestern disaster area (determined without regard to subsection (b)(2) of this section) as an individual described in subsection (b)(1) thereof, and by treating an individual whose principal place of abode on the applicable disaster date was in a Midwestern disaster area solely by reason of subsection (b)(2) of this section as an individual described in subsection (b)(2) thereof,

(B) by substituting ''the applicable disaster date'' for ''August 28, 2005'' both places it appears, and

(C) by substituting ''January 1, 2010'' for ''January 1, 2007'' in subsection (e).

(5) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Section 405, by substituting ''on or after the applicable disaster date'' for ''on or after August 25, 2005''.

SEC. _____. ENHANCED CHARITABLE DEDUCTIONS FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) INCREASED AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) (relating to termination) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to contributions made after December 31, 2007.

(b) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—Section 170(b) of such Code is amended by adding at the end the following new paragraph:

''(3) TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.—In the case of a qualified farmer or rancher (as defined in paragraph (1)(E)(v)), any charitable contribution of food—

''(A) to which subsection (e)(3)(C) applies (without regard to clause (ii) thereof), and

''(B) which is made during the period beginning on the date of the enactment of this paragraph and before January 1, 2009,

shall be treated for purposes of paragraph (1)(E) or (2)(B), whichever is applicable, as if it were a qualified conservation contribution which is made by a qualified farmer or rancher and which otherwise meets the requirements of such paragraph.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending after the date of the enactment of this Act.

SEC. _____. EXTENSION OF ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) EXTENSION.—Clause (iv) of section 170(e)(3)(D) of the Internal Revenue Code of 1986 (relating to termination) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) CLERICAL AMENDMENT.—Clause (iii) of section 170(e)(3)(D) of such Code (relating to certification by donee) is amended by inserting ''of books'' after ''to any contribution''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 2007.

SEC. _____. REPORTING REQUIREMENTS RELATING TO DISASTER RELIEF CONTRIBUTIONS.

(a) IN GENERAL.—Section 6033(b) of the Internal Revenue Code of 1986 (relating to returns of certain organizations described in section 501(c)(3)) is amended by striking ''and'' at the end of paragraph (13), by redesignating paragraph (14) as paragraph (15), and by adding after paragraph (13) the following new paragraph:

''(14) such information as the Secretary may require with respect to disaster relief activities, including the amount and use of qualified contributions to which section 1400S(a) applies, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to any extension) occurs after December 31, 2008.

SA 5039. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing

carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 455, between lines 14 and 15, insert the following:

SEC. 1606. VALUATION OF MULTIFAMILY PROPERTIES IN NONCOMPETITIVE SALES BY HUD TO STATES AND LOCALITIES.

Subtitle A of title II of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 7) is amended by adding at the end the following new section:

''SEC. 2004. VALUATION OF MULTIFAMILY PROPERTIES IN NONCOMPETITIVE SALES BY HUD TO STATES AND LOCALITIES.

''Notwithstanding any other provision of law, in determining the market value of any multifamily real property or multifamily loan for any noncompetitive sale to a State or local government entity occurring during fiscal years 2008, 2009, or 2010, the Secretary shall consider, but not be limited to, industry standard appraisal practices, including the cost of repairs needed to bring the property at least to minimum State and local code standards and of maintaining the existing affordability restrictions imposed by the Secretary on the multifamily real property or multifamily loan.''.

SA 5040. Ms. LANDRIEU (for herself, Mr. GRASSLEY, Mr. HARKIN, and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 510, strike lines 1 through 5, and insert the following:

(C) establish land banks for homes that have been foreclosed upon;

(D) demolish blighted structures; and

(E) redevelop demolished, blighted, or vacant properties, including those damaged or destroyed in areas subject to a disaster declaration by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

SA 5041. Mr. CASEY (for himself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 455, between lines 14 and 15, insert the following:

SEC. 1606. SENSE OF THE SENATE ON THE JOINT EFFORTS OF THE CITY OF PHILADELPHIA AND PHILADELPHIA COURT OF COMMON PLEAS TO PREVENT HOME FORECLOSURES.

(a) FINDINGS.—The Senate finds that—

(1) the Mortgage Bankers Association reported this month that over 1,000,000 homes have entered foreclosure proceedings, the highest rate of such proceedings ever recorded;

(2) the Center for Responsible Lending reports that 7,200,000 families now hold a subprime loan;

(3) the Joint Economic Committee of the Congress estimates that from the third quarter of 2007 through the fourth quarter of 2009 there will be 45,470 subprime foreclosures in Pennsylvania;

(4) the Joint Economic Committee further predicts that the cumulative loss in property value resulting from these foreclosures will exceed $2,400,000,000 and the estimated loss in property taxes will be $34,000,000;

(5) the Pew Charitable Trusts reports that 1,684,475 Pennsylvania homeowners will experience home devaluation due to subprime foreclosures in 2008 and 2009;

(6) a 2005 Freddie Mac/Roper poll of homeowners indicates that more than 6 in 10 delinquent borrowers are not aware of services that lenders offer to individuals having trouble with their mortgage;

(7) the Department of Housing and Urban Development program statistics show that 96 percent of the families that receive housing counseling services avoid foreclosure;

(8) Philadelphia County reported 730 properties filed for foreclosure in April 2008, more foreclosure filings than any other county in Pennsylvania;

(9) the Center for Responsible Lending estimates that Philadelphia County could lose up to 4,444 homes to foreclosure; and

(10) it has been over 1 year since the first legislation dealing with the subprime mortgage crisis was introduced in the Senate to consider housing legislation that provides homeowners with relief and that alleviates the foreclosure crisis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the City of Philadelphia and the Philadelphia Court of Common Pleas should be commended for their efforts to facilitate negotations between borrowers and lenders to attempt to restructure loan terms and prevent foreclosures;

(2) the commitment of such entitites to their home foreclosure prevention program, such program's requirement of mandatory counseling for delinquent borrowers, and such program's use of professional housing counselors to negotiate between lenders and homeowners represent the best practices in the industry; and

(3) the Secretary of Housing and Urban Development should, to the extent possible, inform other cities about the Philadelphia program and advise such other cities that the funds provided under section 2401 may be used to defray the cost of similar foreclosure prevention programs.

SA 5042. Mr. WYDEN (for himself, Mr. SMITH, Ms. CANTWELL, and Mrs. MURRAY) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security; developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 614, line 23, insert '', but only with respect to property the acquisition of which has not occurred, or the construction, reconstruction, or renovation of which has not begun, before the date of the enactment of the Housing Assistance Tax Act of 2008'' after ''Alabama''.

SA 5043. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security; developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. INCREASING ACCESS AND UNDERSTANDING OF ENERGY EFFICIENT MORTGAGES.

(a) DEFINITION.—As used in this section, the term ''energy efficient mortgage'' has the same meaning as given that term in paragraph (24) of section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(24)).

(b) RECOMMENDATIONS TO ELIMINATE BARRIERS TO USE OF ENERGY EFFICIENT MORTGAGES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of Housing and Urban Development, in conjunction with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall consult with the residential mortgage industry and States to develop recommendations to eliminate the barriers that exist to increasing the availability, use, and purchase of energy efficient mortgages, including such barriers as—

(A) the lack of reliable and accessible information on such mortgages, including estimated energy savings and other benefits of energy efficient housing;

(B) the confusion regarding underwriting requirements and differences among various energy efficient mortgage programs;

(C) the complex and time consuming process of securing such mortgages;

(D) the lack of publicly available research on the default risk of such mortgages; and

(E) the availability of certified or accredited home energy rating services.

(2) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall submit a report to Congress that—

(A) summarizes the recommendations developed under paragraph (1); and

(B) includes any recommendations for statutory, regulatory, or administrative changes the Secretary deems necessary to institute such recommendations.

(c) ENERGY EFFICIENT MORTGAGES OUTREACH CAMPAIGN.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation and coordination with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and State Energy and Housing Finance Directors, shall carry out an education and outreach campaign to inform and educate consumers, home builders, residential lenders, and other real estate professionals on the availability, benefits, and advantages of—

(A) improved energy efficiency in housing; and

(B) energy efficient mortgages.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the education and outreach campaign described under paragraph (1).

SA 5044. Mrs. LINCOLN (for herself and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security; developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 587, line 24, insert ''and '80 percent of the class life of such property' shall be substituted for '20 years' in paragraph (1)(B)(ii)(III) thereof'' after ''thereof''.

SA 5045. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 630, after line 2, insert the following:

TITLE IV—ENERGY TAX INCENTIVES

Subtitle A—Energy Production Incentives

PART I—RENEWABLE ENERGY INCENTIVES

SEC. 3101. RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) 1-YEAR EXTENSION FOR WIND FACILITIES.—Paragraph (1) of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(2) 3-YEAR EXTENSION FOR CERTAIN OTHER FACILITIES.—Each of the following provisions of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2012'':

(A) Clauses (i) and (ii) of paragraph (2)(A).

(B) Clauses (i)(I) and (ii) of paragraph (3)(A).

(C) Paragraph (4).

(D) Paragraph (5).

(E) Paragraph (6).

(F) Paragraph (7).

(G) Subparagraphs (A) and (B) of paragraph (9).

(b) MODIFICATION OF CREDIT PHASEOUT.—

(1) REPEAL OF PHASEOUT.—Subsection (b) of section 45 is amended—

(A) by striking paragraph (1), and

(B) by striking ''the 8 cent amount in paragraph (1),'' in paragraph (2) thereof.

(2) LIMITATION BASED ON INVESTMENT IN FACILITY.—Subsection (b) of section 45 is amended by inserting before paragraph (2) the following new paragraph:

''(1) LIMITATION BASED ON INVESTMENT IN FACILITY.—

''(A) IN GENERAL.—In the case of any qualified facility originally placed in service after December 31, 2009, the amount of the credit determined under subsection (a) for any taxable year with respect to electricity produced at such facility shall not exceed the product of—

''(i) the applicable percentage with respect to such facility, multiplied by

''(ii) the eligible basis of such facility.

''(B) CARRYFORWARD OF UNUSED LIMITATION AND EXCESS CREDIT.—

''(i) UNUSED LIMITATION.—If the limitation imposed under subparagraph (A) with respect to any facility for any taxable year exceeds the prelimitation credit for such facility for such taxable year, the limitation imposed under subparagraph (A) with respect to such facility for the succeeding taxable year shall be increased by the amount of such excess.

''(ii) EXCESS CREDIT.—If the prelimitation credit with respect to any facility for any taxable year exceeds the limitation imposed under subparagraph (A) with respect to such facility for such taxable year, the credit determined under subsection (a) with respect to such facility for the succeeding taxable year (determined before the application of subparagraph (A) for such succeeding taxable year) shall be increased by the amount of such excess. With respect to any facility, no amount may be carried forward under this clause to any taxable year beginning after the 10-year period described in subsection (a)(2)(A)(ii) with respect to such facility.

''(iii) PRELIMITATION CREDIT.—The term 'prelimitation credit' with respect to any facility for a taxable year means the credit determined under subsection (a) with respect to such facility for such taxable year, determined without regard to subparagraph (A) and after taking into account any increase for such taxable year under clause (ii).

''(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable percentage' means, with respect to any facility, the appropriate percentage prescribed by the Secretary for the month in which such facility is originally placed in service.

''(ii) METHOD OF PRESCRIBING APPLICABLE PERCENTAGES.—The applicable percentages prescribed by the Secretary for any month under clause (i) shall be percentages which yield over a 10-year period amounts of limitation under subparagraph (A) which have a present value equal to 35 percent of the eligible basis of the facility.

''(iii) METHOD OF DISCOUNTING.—The present value under clause (ii) shall be determined—

''(I) as of the last day of the 1st year of the 10-year period referred to in clause (ii),

''(II) by using a discount rate equal to the greater of 110 percent of the Federal long-term rate as in effect under section 1274(d) for the month preceding the month for which the applicable percentage is being prescribed, or 4.5 percent, and

''(III) by taking into account the limitation under subparagraph (A) for any year on the last day of such year.

''(D) ELIGIBLE BASIS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'eligible basis' means, with respect to any facility, the sum of—

''(I) the basis of such facility determined as of the time that such facility is originally placed in service, and

''(II) the portion of the basis of any shared qualified property which is properly allocable to such facility under clause (ii).

''(ii) RULES FOR ALLOCATION.—For purposes of subclause (II) of clause (i), the basis of shared qualified property shall be allocated among all qualified facilities which are projected to be placed in service and which require utilization of such property in proportion to projected generation from such facilities.

''(iii) SHARED QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'shared qualified property' means, with respect to any facility, any property described in section 168(e)(3)(B)(vi)—

''(I) which a qualified facility will require for utilization of such facility, and

''(II) which is not a qualified facility.

''(iv) SPECIAL RULE RELATING TO GEOTHERMAL FACILITIES.—In the case of any qualified facility using geothermal energy to produce electricity, the basis of such facility for purposes of this paragraph shall be determined as though intangible drilling and development costs described in section 263(c) were capitalized rather than expensed.

''(E) SPECIAL RULE FOR FIRST AND LAST YEAR OF CREDIT PERIOD.—In the case of any taxable year any portion of which is not within the 10-year period described in subsection (a)(2)(A)(ii) with respect to any facility, the amount of the limitation under subparagraph (A) with respect to such facility shall be reduced by an amount which bears the same ratio to the amount of such limitation (determined without regard to this subparagraph) as such portion of the taxable year which is not within such period bears to the entire taxable year.

''(F) ELECTION TO TREAT ALL FACILITIES PLACED IN SERVICE IN A YEAR AS 1 FACILITY.—At the election of the taxpayer, all qualified facilities which are part of the same project and which are placed in service during the same calendar year shall be treated for purposes of this section as 1 facility which is placed in service at the mid-point of such year or the first day of the following calendar year.''.

(c) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(d) EXPANSION OF BIOMASS FACILITIES.—

(1) OPEN-LOOP BIOMASS FACILITIES.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(2) CLOSED-LOOP BIOMASS FACILITIES.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(e) SALES OF NET ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Paragraph (4) of section 45(e) is amended by adding at the end the following new sentence: ''The net amount of electricity sold by any taxpayer to a regulated public utility (as defined in section 7701(a)(33)) shall be treated as sold to an unrelated person.''.

(f) MODIFICATION OF RULES FOR HYDROPOWER PRODUCTION.—Subparagraph (C) of section 45(c)(8) is amended to read as follows:

''(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

''(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

''(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power on the date of the enactment of this paragraph, and

''(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.

The Secretary, in consultation with the Federal Energy Regulatory Commission, shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria in clause (iii). Nothing in this section shall affect the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.

(2) REPEAL OF CREDIT PHASEOUT.—The amendments made by subsection (b)(1) shall apply to taxable years ending after December 31, 2008.

(3) LIMITATION BASED ON INVESTMENT IN FACILITY.—The amendment made by subsection (b)(2) shall apply to property originally placed in service after December 31, 2009.

(4) TRASH FACILITY CLARIFICATION; SALES TO RELATED REGULATED PUBLIC UTILITIES.—The amendments made by subsections (c) and (e) shall apply to electricity produced and sold after the date of the enactment of this Act.

(5) EXPANSION OF BIOMASS FACILITIES.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 3102. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

(a) IN GENERAL.—Paragraph (1) of section 45(c) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(c) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2012.''.

(d) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(e) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by section 3101, is amended by striking ''January 1, 2012'' and inserting ''the date of the enactment of paragraph (11)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 3103. ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2015''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48, and''.

(c) ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking ''or'' at the end of clause (iii), by inserting ''or'' at the end of clause (iv), and by adding at the end the following new clause:

''(v) combined heat and power system property,''.

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 is amended by adding at the end the following new subsection:

''(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(v)—

''(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(B) which produces—

''(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(C) the energy efficiency percentage of which exceeds 60 percent, and

''(D) which is placed in service before January 1, 2015.

''(2) LIMITATION.—

''(A) IN GENERAL.—In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

''(B) APPLICABLE CAPACITY.—For purposes of subparagraph (A), the term 'applicable capacity' means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(C) MAXIMUM CAPACITY.—The term 'combined heat and power system property' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(3) SPECIAL RULES.—

''(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

''(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(ii) the denominator of which is the lower heating value of the fuel sources for the system.

''(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(B) shall be determined on a Btu basis.

''(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(4) SYSTEMS USING BIOMASS.—If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(c) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

''(A) paragraph (1)(C) shall not apply, but

''(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which

bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(d) INCREASE OF CREDIT LIMITATION FOR FUEL CELL PROPERTY.—Subparagraph (B) of section 48(c)(1) is amended by striking ''$500'' and inserting ''$1,500''.

(e) PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 3104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION.—Section 25D(g) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1)(A) is amended by striking ''$2,000'' and inserting ''$4,000''.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A)(i) is amended by striking ''$6,667'' and inserting ''$13,333''.

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) $500 with respect to each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.''.

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

(A) IN GENERAL.—Section 25D(d) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified small wind energy property expenditure' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.''.

(B) NO DOUBLE BENEFIT.—Section 45(d)(1) is amended by adding at the end the following new sentence: ''Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) $1,667 in the case of each half kilowatt of capacity (not to exceed $13,333) of wind turbines for which qualified small wind energy property expenditures are made.''.

(d) CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.—

(1) IN GENERAL.—Section 25D(a), as amended by subsection (c), is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1), as amended by subsection (c), is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) $2,000 with respect to any qualified geothermal heat pump property expenditures.''.

(3) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—Section 25D(d), as amended by subsection (c), is amended by adding at the end the following new paragraph:

''(5) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified geothermal heat pump property expenditure' means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

''(B) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.—The term 'qualified geothermal heat pump property' means any equipment which—

''(i) uses the ground or ground water as a thermal energy source to heat the dwelling unit referred to in subparagraph (A) or as a thermal energy sink to cool such dwelling unit, and

''(ii) meets the requirements of the Energy Star program which are in effect at the time that the expenditure for such equipment is made.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A), as amended by subsection (c), is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) $6,667 in the case of any qualified geothermal heat pump property expenditures.''.

(e) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (e)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 3105. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 451(i) is amended by inserting ''(before January 1, 2010, in the case of a qualified electric utility)'' after ''January 1, 2008''.

(2) QUALIFIED ELECTRIC UTILITY.—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term 'qualified electric utility' means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

''(A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) with respect to the transmission facilities to which the election under this subsection applies, and

''(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) PROPERTY LOCATED OUTSIDE THE UNITED STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term 'exempt utility property' shall not include any property which is located outside the United States.''.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

SEC. 3106. NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.

''(a) NEW CLEAN RENEWABLE ENERGY BOND.—For purposes of this subpart, the term 'new clean renewable energy bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

''(2) the bond is issued by a qualified issuer, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

''(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of $2,000,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

''(A) not more than 33⅓ percent thereof may be allocated to qualified projects of public power providers,

''(B) not more than 33⅓ percent thereof may be allocated to qualified projects of governmental bodies, and

''(C) not more than 33⅓ percent thereof may be allocated to qualified projects of cooperative electric companies.

''(3) METHOD OF ALLOCATION.—

''(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

''(B) ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

''(2) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

''(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

''(4) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

''(5) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

''(6) QUALIFIED ISSUER.—The term 'qualified issuer' means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond, or

''(B) a new clean renewable energy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2) is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54C. Qualified clean renewable energy bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—CARBON MITIGATION PROVISIONS

SEC. 3111. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48A(a) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 30 percent of the qualified investment for such taxable year in the case of projects described in clause (iii) of subsection (d)(3)(B).''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48A(d)(3)(A) is amended by striking ''$1,300,000,000'' and inserting ''$2,550,000,000''.

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

(1) IN GENERAL.—Subparagraph (B) of section 48A(d)(3) is amended to read as follows:

''(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

''(i) $800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

''(ii) $500,000,000 for projects which use other advanced coal-based generation technologies the application for which is submitted during the period described in paragraph (2)(A)(i), and

''(iii) $1,250,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).''.

(2) APPLICATION PERIOD FOR ADDITIONAL PROJECTS.—Subparagraph (A) of section 48A(d)(2) is amended to read as follows:

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

''(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

''(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.''.

(3) CAPTURE AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS REQUIREMENT.—

(A) IN GENERAL.—Section 48A(e)(1) is amended by striking ''and'' at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project's total carbon dioxide emissions.''.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking ''and'' at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.''.

(C) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48A is amended by adding at the end the following new subsection:

''(i) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).''.

(4) ADDITIONAL PRIORITY FOR RESEARCH PARTNERSHIPS.—Section 48A(e)(3)(B), as amended by paragraph (3)(B), is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

''(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and''.

(5) CLERICAL AMENDMENT.—Section 48A(e)(3) is amended by striking ''INTEGRATED GASIFICATION COMBINED CYCLE'' in the heading and inserting ''CERTAIN''.

(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is amended by adding at the end the following new paragraph:

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to credits the application for which is submitted during the period described in section 48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act.

(2) DISCLOSURE OF ALLOCATIONS.—The amendment made by subsection (d) shall apply to certifications made after the date of the enactment of this Act.

(3) CLERICAL AMENDMENT.—The amendment made by subsection (c)(5) shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005.

SEC. 3112. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48B(a) is amended by inserting ''(30 percent in the case of credits allocated under subsection (d)(1)(B))'' after ''20 percent''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48B(d)(1) is amended by striking ''shall not exceed $350,000,000'' and all that follows and inserting ''shall not exceed—

''(A) $350,000,000, plus

''(B) $250,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project's total carbon dioxide emissions.''.

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

''(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).''.

(d) SELECTION PRIORITIES.—Section 48B(d) is amended by adding at the end the following new paragraph:

''(4) SELECTION PRIORITIES.—In determining which qualifying gasification projects to certify under this section, the Secretary shall—

''(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

''(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act.

SEC. 3113. TEMPORARY INCREASE IN COAL EXCISE TAX.

Paragraph (2) of section 4121(e) is amended—

(1) by striking ''January 1, 2014'' in subparagraph (A) and inserting ''December 31, 2018'', and

(2) by striking ''January 1 after 1981'' in subparagraph (B) and inserting ''December 31 after 2007''.

SEC. 3114. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.

(a) REFUND.—

(1) COAL PRODUCERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

(B) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to $0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term ''settlement with the Federal Government'' shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

(d) DEFINITIONS.—For purposes of this section—

(1) COAL PRODUCER.—The term ''coal producer'' means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

(2) EXPORTER.—The term ''exporter'' means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper's export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

(3) RELATED PARTY.—The term ''a party related to such coal producer'' means a person who—

(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell such coal to a third party on behalf of such coal producer.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Treasury or the Secretary's designee.

(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the

requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

(2) in the case of a payment to an exporter, an amount equal to $0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) STANDING NOT CONFERRED.—

(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.

SEC. 3115. CARBON AUDIT OF THE TAX CODE.

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report containing the results of study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for the period of fiscal years 2008 and 2009.

Subtitle B—Transportation and Domestic Fuel Security Provisions

SEC. 3121. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS DEPRECIATION FOR BIOMASS ETHANOL PLANT PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 168(l) is amended to read as follows:

''(3) CELLULOSIC BIOFUEL.—The term 'cellulosic biofuel' means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.''.

(b) CONFORMING AMENDMENTS.—Subsection (l) of section 168 is amended—

(1) by striking ''cellulosic biomass ethanol'' each place it appears and inserting ''cellulosic biofuel'',

(2) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of such subsection and inserting ''CELLULOSIC BIOFUEL'', and

(3) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of paragraph (2) thereof and inserting ''CELLULOSIC BIOFUEL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 3122. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN RATE OF CREDIT.—

(1) INCOME TAX CREDIT.—Paragraphs (1)(A) and (2)(A) of section 40A(b) are each amended by striking ''50 cents'' and inserting ''$1.00''.

(2) EXCISE TAX CREDIT.—Paragraph (2) of section 6426(c) is amended to read as follows:

''(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.''.

(3) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(B) Paragraph (2) of section 40A(f) is amended to read as follows:

''(2) EXCEPTION.—Subsection (b)(4) shall not apply with respect to renewable diesel.''.

(C) Paragraphs (2) and (3) of section 40A(e) are each amended by striking ''subsection (b)(5)(C)'' and inserting ''subsection (b)(4)(C)''.

(D) Clause (ii) of section 40A(d)(3)(C) is amended by striking ''subsection (b)(5)(B)'' and inserting ''subsection (b)(4)(B)''.

(c) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(1) by striking ''diesel fuel'' and inserting ''liquid fuel'',

(2) by striking ''using a thermal depolymerization process'', and

(3) by striking ''or D396'' in subparagraph (B) and inserting '', D396, or other equivalent standard approved by the Secretary''.

(d) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—

(1) IN GENERAL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following new sentence: ''Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking ''(as defined in section 45K(c)(3))''.

(e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following: ''The term 'renewable diesel' also means fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—The amendments made by subsection (d) shall apply to fuel produced, and sold or used, after the date of the enactment of this Act.

SEC. 3123. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) ALCOHOL FUELS CREDIT.—Paragraph (6) of section 40(d) is amended to read as follows:

''(6) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(b) BIODIESEL FUELS CREDIT.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

''(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(c) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

''(i) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—

''(1) ALCOHOL.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

''(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term 'United States' includes any possession of the United States.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to claims for credit or payment made on or after May 15, 2008.

SEC. 3124. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(b) PER VEHICLE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

''(2) BASE AMOUNT.—The amount determined under this paragraph is $3,000.

''(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $200, plus $200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the

credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle (as defined in section 30(c)(2))—

''(A) the original use of which commences with the taxpayer,

''(B) which is acquired for use or lease by the taxpayer and not for resale,

''(C) which is made by a manufacturer,

''(D) which has a gross vehicle weight rating of less than 14,000 pounds,

''(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

''(i) has a capacity of not less than 4 kilowatt hours, and

''(ii) is capable of being recharged from an external source of electricity.

''(2) EXCEPTION.—The term 'new qualified plug-in electric drive motor vehicle' shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(3) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.''.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended—

(1) by striking ''and'' each place it appears at the end of any paragraph,

(2) by striking ''plus'' each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (32) and inserting '', plus'', and

(4) by adding at the end the following new paragraph:

''(33) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(c)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2), as amended by section 104, is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 30D(f)(1).''.

(3) Section 6501(m) is amended by inserting ''30D(f)(4),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30D. New qualified plug-in electric drive motor vehicles.''.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) is amended to read as follows:

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(B) Paragraph (3) of section 55(c) is amended by striking ''30B(g)(2),''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2007.

(g) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 3125. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.

(a) IN GENERAL.—Section 4053 is amended by adding at the end the following new paragraphs:

''(9) IDLING REDUCTION DEVICE.—Any device or system of devices which—

''(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

''(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

''(10) ADVANCED INSULATION.—Any insulation that has an R value of not less than R35 per inch.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or installations after the date of the enactment of this Act.

SEC. 3126. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as section 1400K and by adding at the end the following new section:

''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so

much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $115,000,000 ($425,000,000 in the case of the last 2 years in the credit period), plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 12-year period beginning on January 1, 2009.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—Subparagraph (A) of section 1400K(b)(2), as redesignated by subsection (a), is amended by striking the parenthetical therein and inserting ''(in the case of nonresidential real property and residential rental property, the date of the enactment of the Federal Housing Finance Regulatory Reform Act of 2008 or, if acquired pursuant to a binding contract in effect on such enactment date, December 31, 2009)''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''section 1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by redesignating the item relating to section 1400L as an item relating to section 1400K and by inserting after such item the following new item:

''Sec. 1400L. New York Liberty Zone tax credits.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3127. TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.

(a) IN GENERAL.—Paragraph (1) of section 132(f) is amended by adding at the end the following:

''(D) Any qualified bicycle commuting reimbursement.''.

(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.''.

(c) DEFINITIONS.—Paragraph (5) of section 132(f) is amended by adding at the end the following:

''(F) DEFINITIONS RELATED TO BICYCLE COMMUTING REIMBURSEMENT.—

''(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term 'qualified bicycle commuting reimbursement' means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee's residence and place of employment.

''(ii) APPLICABLE ANNUAL LIMITATION.—The term 'applicable annual limitation' means, with respect to any employee for any calendar year, the product of $20 multiplied by the number of qualified bicycle commuting months during such year.

''(iii) QUALIFIED BICYCLE COMMUTING MONTH.—The term 'qualified bicycle commuting month' means, with respect to any employee, any month during which such employee—

''(I) regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment, and

''(II) does not receive any benefit described in subparagraph (A), (B), or (C) of paragraph (1).''.

(d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Paragraph (4) of section 132(f) is amended by inserting ''(other than a qualified bicycle commuting reimbursement)'' after ''qualified transportation fringe''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 3128. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) INCREASE IN CREDIT AMOUNT.—Section 30C is amended—

(1) by striking ''30 percent'' in subsection (a) and inserting ''50 percent'', and

(2) by striking ''$30,000'' in subsection (b)(1) and inserting ''$50,000''.

(b) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Energy Conservation and Efficiency Provisions

SEC. 3141. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 3106, is amended by adding at the end the following new section:

''SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.

''(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified energy conservation bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

''(2) the bond is issued by a State or local government, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

''(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $3,000,000,000.

''(e) ALLOCATIONS.—

''(1) IN GENERAL.—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

''(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

''(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

''(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term 'large local government' means any municipality or county if such municipality or county has a population of 100,000 or more.

''(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

''(f) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified conservation purpose' means any of the following:

''(A) Capital expenditures incurred for purposes of—

''(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

''(ii) implementing green community programs,

''(iii) rural development involving the production of electricity from renewable energy resources, or

''(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

''(B) Expenditures with respect to research facilities, and research grants, to support research in—

''(i) development of cellulosic ethanol or other nonfossil fuels,

''(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

''(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

''(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

''(v) technologies to reduce energy use in buildings.

''(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

''(D) Demonstration projects designed to promote the commercialization of—

''(i) green building technology,

''(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

''(iii) advanced battery manufacturing technologies,

''(iv) technologies to reduce peak use of electricity, or

''(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

''(E) Public education campaigns to promote energy efficiency.

''(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term 'qualified conservation purposes' shall not include any expenditure which is not a capital expenditure.

''(g) POPULATION.—

''(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

''(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

''(h) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

''(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

''(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by section 3106, is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond,

''(B) a new clean renewable energy bond, or

''(C) a qualified energy conservation bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2), as amended by section 3106, is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

''(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54D. Qualified energy conservation bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 3142. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsection (b), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

''(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

''(i) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.''.

(d) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by inserting '', or an asphalt roof with appropriate cooling granules,'' before ''which meet the Energy Star program requirements''.

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

(A) by inserting ''or asphalt roof'' after ''metal roof'', and

(B) by inserting ''or cooling granules'' after ''pigmented coatings''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2007.

(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 3143. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 3144. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'',

(C) by moving the text of such subsection in line with the subsection heading, and

(D) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by moving such paragraphs 2 ems to the left.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 3145. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.

(a) IN GENERAL.—Section 168(e)(3)(D) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by inserting after clause (ii) the following new clauses:

''(iii) any qualified smart electric meter, and

''(iv) any qualified smart electric grid system.''.

(b) DEFINITIONS.—Section 168(i) is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED SMART ELECTRIC METERS.—

''(A) IN GENERAL.—The term 'qualified smart electric meter' means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term 'smart electric meter' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

''(iv) provides net metering.

''(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

''(A) IN GENERAL.—The term 'qualified smart electric grid system' means any smart grid property used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART GRID PROPERTY.—For the purposes of subparagraph (A), the term 'smart grid property' means electronics and related equipment that is capable of—

''(i) sensing, collecting, and monitoring data of or from all portions of a utility's electric distribution grid,

''(ii) providing real-time, two-way communications to monitor or manage such grid, and

''(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.''.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 3146. QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) IN GENERAL.—Paragraph (8) of section 142(l) is amended by striking ''September 30, 2009'' and inserting ''September 30, 2012''.

(b) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraph (9) of section 142(l) is amended by striking ''October 1, 2009'' and inserting ''October 1, 2012''.

(c) ACCOUNTABILITY.—The second sentence of section 701(d) of the American Jobs Creation Act of 2004 is amended by striking ''issuance,'' and inserting ''issuance of the last issue with respect to such project,''.

Subtitle D—Revenue Provisions

SEC. 3151. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 is amended by inserting after section 457 the following new section:

''SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.

''(a) IN GENERAL.—Any compensation which is deferred under a nonqualified deferred compensation plan of a nonqualified entity shall be includible in gross income when there is no substantial risk of forfeiture of the rights to such compensation.

''(b) NONQUALIFIED ENTITY.—For purposes of this section, the term 'nonqualified entity' means—

''(1) any foreign corporation unless substantially all of its income is—

''(A) effectively connected with the conduct of a trade or business in the United States, or

''(B) subject to a comprehensive foreign income tax, and

''(2) any partnership unless substantially all of its income is allocated to persons other than—

''(A) foreign persons with respect to whom such income is not subject to a comprehensive foreign income tax, and

''(B) organizations which are exempt from tax under this title.

''(c) DETERMINABILITY OF AMOUNTS OF COMPENSATION.—

''(1) IN GENERAL.—If the amount of any compensation is not determinable at the time that such compensation is otherwise includible in gross income under subsection (a)—

''(A) such amount shall be so includible in gross income when determinable, and

''(B) the tax imposed under this chapter for the taxable year in which such compensation is includible in gross income shall be increased by the sum of—

''(i) the amount of interest determined under paragraph (2), and

''(ii) an amount equal to 20 percent of the amount of such compensation.

''(2) INTEREST.—For purposes of paragraph (1)(B)(i), the interest determined under this paragraph for any taxable year is the amount of interest at the underpayment rate under section 6621 plus 1 percentage point on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such deferred compensation is not subject to a substantial risk of forfeiture.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) SUBSTANTIAL RISK OF FORFEITURE.—

''(A) IN GENERAL.—The rights of a person to compensation shall be treated as subject to a substantial risk of forfeiture only if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

''(B) EXCEPTION FOR COMPENSATION BASED ON GAIN RECOGNIZED ON AN INVESTMENT ASSET.—

''(i) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, if compensation is determined solely by reference to the amount of gain recognized on the disposition of an investment asset, such compensation shall be treated as subject to a substantial risk of forfeiture until the date of such disposition.

''(ii) INVESTMENT ASSET.—For purposes of clause (i), the term 'investment asset' means any single asset (other than an investment fund or similar entity)—

''(I) acquired directly by an investment fund or similar entity,

''(II) with respect to which such entity does not (nor does any person related to such entity) participate in the active management of such asset (or if such asset is an interest in an entity, in the active management of the activities of such entity), and

''(III) substantially all of any gain on the disposition of which (other than such deferred compensation) is allocated to investors in such entity.

''(iii) COORDINATION WITH SPECIAL RULE.—Paragraph (3)(B) shall not apply to any compensation to which clause (i) applies.

''(2) COMPREHENSIVE FOREIGN INCOME TAX.—The term 'comprehensive foreign income tax' means, with respect to any foreign person, the income tax of a foreign country if—

''(A) such person is eligible for the benefits of a comprehensive income tax treaty between such foreign country and the United States, or

''(B) such person demonstrates to the satisfaction of the Secretary that such foreign country has a comprehensive income tax.

''(3) NONQUALIFIED DEFERRED COMPENSATION PLAN.—

''(A) IN GENERAL.—The term 'nonqualified deferred compensation plan' has the meaning given such term under section 409A(d), except that such term shall include any plan that provides a right to compensation based on the appreciation in value of a specified number of equity units of the service recipient.

''(B) EXCEPTION.—Compensation shall not be treated as deferred for purposes of this section if the service provider receives payment of such compensation not later than 12 months after the end of the taxable year of the service recipient during which the right to the payment of such compensation is no longer subject to a substantial risk of forfeiture.

''(4) EXCEPTION FOR CERTAIN COMPENSATION WITH RESPECT TO EFFECTIVELY CONNECTED INCOME.—In the case a foreign corporation with income which is taxable under section 882, this section shall not apply to compensation which, had such compensation had been paid in cash on the date that such compensation ceased to be subject to a substantial risk of forfeiture, would have been deductible by such foreign corporation against such income.

''(5) APPLICATION OF RULES.—Rules similar to the rules of paragraphs (5) and (6) of section 409A(d) shall apply.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations disregarding a substantial risk of forfeiture in cases where necessary to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENT.—Section 26(b)(2), as amended by section 3011, is amended by striking ''and'' at the end of subparagraph (V), by striking the period at the end of subparagraph (W) and inserting '', and'', and by adding at the end the following new subparagraph:

''(X) section 457A(c)(1)(B) (relating to determinability of amounts of compensation).''.

(c) CLERICAL AMENDMENT.—The table of sections of subpart B of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 457 the following new item:

''Sec. 457A. Nonqualified deferred compensation from certain tax indifferent parties.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts deferred which are attributable to services performed after December 31, 2008.

(2) APPLICATION TO EXISTING DEFERRALS.—In the case of any amount deferred to which the amendments made by this section do not apply solely by reason of the fact that the amount is attributable to services performed before January 1, 2009, to the extent such amount is not includible in gross income in a taxable year beginning before 2018, such amounts shall be includible in gross income in the later of—

(A) the last taxable year beginning before 2018, or

(B) the taxable year in which there is no substantial risk of forfeiture of the rights to such compensation (determined in the same manner as determined for purposes of section 457A of the Internal Revenue Code of 1986, as added by this section).

(3) CHARITABLE CONTRIBUTIONS OF EXISTING DEFERRALS PERMITTED.—

(A) IN GENERAL.—Subsection (b) of section 170 of the Internal Revenue Code of 1986 shall not apply to (and subsections (b) and (d) of such section shall be applied without regard to) so much of the taxpayer's qualified contributions made during the taxpayer's last taxable year beginning before 2018 as does not exceed the taxpayer's qualified inclusion amount. For purposes of subsection (b) of section 170 of such Code, the taxpayer's contribution base for such last taxable year shall be reduced by the amount of the taxpayer's qualified contributions to which such subsection does not apply by reason the preceding sentence.

(B) QUALIFIED CONTRIBUTIONS.—For purposes of this paragraph, the term ''qualified contributions'' means the aggregate charitable contributions (as defined in section 170(c) of such Code) paid in cash by the taxpayer to organizations described in section 170(b)(1)(A) of such Code (other than any organization described in section 509(a)(3) of such Code or any fund or account described in section 4966(d)(2) of such Code).

(C) QUALIFIED INCLUSION AMOUNT.—For purposes of this paragraph, the term ''qualified inclusion amount'' means the amount includible in the taxpayer's gross income for the last taxable year beginning before 2018 by reason of paragraph (2).

(4) ACCELERATED PAYMENTS.—No later than 120 days after the date of the enactment of

this Act, the Secretary shall issue guidance providing a limited period of time during which a nonqualified deferred compensation arrangement attributable to services performed on or before December 31, 2008, may, without violating the requirements of section 409A(a) of the Internal Revenue Code of 1986, be amended to conform the date of distribution to the date the amounts are required to be included in income.

(5) CERTAIN BACK-TO-BACK ARRANGEMENTS.—If the taxpayer is also a service recipient and maintains one or more nonqualified deferred compensation arrangements for its service providers under which any amount is attributable to services performed on or before December 31, 2008, the guidance issued under paragraph (4) shall permit such arrangements to be amended to conform the dates of distribution under such arrangement to the date amounts are required to be included in the income of such taxpayer under this subsection.

(6) ACCELERATED PAYMENT NOT TREATED AS MATERIAL MODIFICATION.—Any amendment to a nonqualified deferred compensation arrangement made pursuant to paragraph (4) or (5) shall not be treated as a material modification of the arrangement for purposes of section 409A of the Internal Revenue Code of 1986.

SA 5046. Mr. CORNYN (for himself, Mrs. BOXER, Mr. ROBERTS, Mr. PRYOR, Mr. ISAKSON, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REQUIRING MORTGAGE DISCLOSURE.

(a) IN GENERAL.—Section 102(a)(4)(A) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by inserting after ''spouse'' the following: '', except that this exception shall not apply to a reporting individual described in section 101(f)(9)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 1 month after the date of enactment of this Act.

SA 5047. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 82, strike line 4 and all that follows through page 401, line 4, and insert the following:

''(iii) each enterprise received credit towards achieving each of its goals resulting from a transaction or activity pursuant to section 1331(b)(2); and

''(iv) each enterprise is achieving the purposes of the enterprise established by law; and

''(B) the actions that each enterprise could undertake to promote and expand the purposes of the enterprise;

''(2) aggregate and analyze relevant data on income to assess the compliance of each enterprise with the housing goals established under subpart B;

''(3) aggregate and analyze data on income, race, and gender by census tract and other relevant classifications, and compare such data with larger demographic, housing, and economic trends;

''(4) identify the extent to which each enterprise is involved in mortgage purchases and secondary market activities involving subprime and nontraditional loans;

''(5) compare the characteristics of subprime and nontraditional loans both purchased and securitized by each enterprise to other loans purchased and securitized by each enterprise; and

''(6) compare the characteristics of high-cost loans purchased and securitized, where such securities are not held on portfolio to loans purchased and securitized, where such securities are either retained on portfolio or repurchased by the enterprise, including such characteristics as—

''(A) the purchase price of the property that secures the mortgage;

''(B) the loan-to-value ratio of the mortgage, which shall reflect any secondary liens on the relevant property;

''(C) the terms of the mortgage;

''(D) the creditworthiness of the borrower; and

''(E) any other relevant data, as determined by the Director.

''(c) DATA COLLECTION AND REPORTING.—

''(1) IN GENERAL.—To assist the Director in analyzing the matters described in subsection (b), the Director shall conduct, on a monthly basis, a survey of mortgage markets in accordance with this subsection.

''(2) DATA POINTS.—Each monthly survey conducted by the Director under paragraph (1) shall collect data on—

''(A) the characteristics of individual mortgages that are eligible for purchase by the enterprises and the characteristics of individual mortgages that are not eligible for purchase by the enterprises including, in both cases, information concerning—

''(i) the price of the house that secures the mortgage;

''(ii) the loan-to-value ratio of the mortgage, which shall reflect any secondary liens on the relevant property;

''(iii) the terms of the mortgage;

''(iv) the creditworthiness of the borrower or borrowers; and

''(v) whether the mortgage, in the case of a conforming mortgage, was purchased by an enterprise;

''(B) the characteristics of individual subprime and nontraditional mortgages that are eligible for purchase by the enterprises and the characteristics of borrowers under such mortgages, including the creditworthiness of such borrowers and determination whether such borrowers would qualify for prime lending; and

''(C) such other matters as the Director determines to be appropriate.

''(3) PUBLIC AVAILABILITY.—The Director shall make any data collected by the Director in connection with the conduct of a monthly survey available to the public in a timely manner, provided that the Director may modify the data released to the public to ensure that the data—

''(A) is not released in an identifiable form; and

''(B) is not otherwise obtainable from other publicly available data sets.

''(4) DEFINITION.—For purposes of this subsection, the term 'identifiable form' means any representation of information that permits the identity of a borrower to which the information relates to be reasonably inferred by either direct or indirect means.''.

SEC. 1126. PUBLIC USE DATABASE.

Section 1323 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (42 U.S.C. 4543) is amended—

(1) in subsection (a)—

(A) by striking ''(a) IN GENERAL.—The Secretary'' and inserting the following:

''(a) AVAILABILITY.—

''(1) IN GENERAL.—The Director''; and

(B) by adding at the end the following new paragraph:

''(2) CENSUS TRACT LEVEL REPORTING.—Such data shall include the data elements required to be reported under the Home Mortgage Disclosure Act of 1975, at the census tract level.'';

(2) in subsection (b)(2), by inserting before the period at the end the following: ''or with subsection (a)(2)''; and

(3) by adding at the end the following new subsection:

''(d) TIMING.—Data submitted under this section by an enterprise in connection with a provision referred to in subsection (a) shall be made publicly available in accordance with this section not later than September 30 of the year following the year to which the data relates.''.

SEC. 1127. REPORTING OF MORTGAGE DATA.

Section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4546) is amended—

(1) in subsection (a), by striking ''The Director'' and inserting ''Subject to subsection (d), the Director''; and

(2) by adding at the end the following:

''(d) MORTGAGE INFORMATION.—Subject to privacy considerations, as described in section 304(j) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(j)), the Director shall, by regulation or order, provide that certain information relating to single family mortgage data of the enterprises shall be disclosed to the public, in order to make available to the public—

''(1) the same data from the enterprises that is required of insured depository institutions under the Home Mortgage Disclosure Act of 1975; and

''(2) information collected by the Director under section 1324(b)(6).''.

SEC. 1128. REVISION OF HOUSING GOALS.

(a) REPEAL.—Sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4561 through 4564) are hereby repealed.

(b) HOUSING GOAL.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting before section 1335 the following:

''SEC. 1331. ESTABLISHMENT OF HOUSING GOALS.

''(a) IN GENERAL.—The Director shall, by regulation, establish effective for the first calendar year that begins after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, and each year thereafter, annual housing goals, as described under this subpart, with respect to the mortgage purchases by the enterprises.

''(b) SPECIAL COUNTING REQUIREMENTS.—

''(1) IN GENERAL.—The Director shall determine whether an enterprise shall receive full, partial, or no credit for a transaction toward achievement of any of the housing

goals established pursuant to this section or sections 1332 through 1334.

''(2) CONSIDERATIONS.—In making any determination under paragraph (1), the Director shall consider whether a transaction or activity of an enterprise is substantially equivalent to a mortgage purchase and either (A) creates a new market, or (B) adds liquidity to an existing market, provided however that the terms and conditions of such mortgage purchase is neither determined to be unacceptable, nor contrary to good lending practices, and otherwise promotes sustainable homeownership and further, that such mortgage purchase actually fulfills the purposes of the enterprise and is in accordance with the chartering Act of such enterprise.

''(c) ELIMINATING INTEREST RATE DISPARITIES.—

''(1) IN GENERAL.—In establishing and implementing the housing goals under this subpart, the Director shall require the enterprises to disclose appropriate information to allow the Director to assess if there are any disparities in interest rates charged on mortgages to borrowers who are minorities, as compared with borrowers of similar creditworthiness who are not minorities, as evidenced in reports pursuant to the Home Mortgage Disclosure Act of 1975.

''(2) REPORT TO CONGRESS ON DISPARITIES.—Upon a finding by the Director that a pattern of disparities in interest rates exists pursuant to the information provided by an enterprise under paragraph (1), the Director shall—

''(A) forward to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report detailing the disparities; and

''(B) forward the report prepared under subparagraph (A) to any other appropriate regulatory or enforcement agency.

''(3) IDENTITY OF INDIVIDUALS NOT DISCLOSED.—In carrying out this subsection, the Director shall ensure that no personally identifiable financial information that would enable an individual borrower to be reasonably identified shall be made public.

''(d) TIMING.—The Director shall establish an annual deadline for the establishment of housing goals described in subsection (a), taking into consideration the need for the enterprises to reasonably and sufficiently plan their operations and activities in advance, including operations and activities necessary to meet such goals.

''SEC. 1331A. DISCRETIONARY ADJUSTMENT OF HOUSING GOALS.

''(a) AUTHORITY.—

''(1) REVIEW.—The Director shall review the appropriateness of each goal established pursuant to this subpart at least once during each year to assure that given current market conditions that each such goal is feasible.

''(2) PETITION TO REDUCE.—An enterprise may petition the Director in writing at any time during a year to reduce the level of any goal for such year established pursuant to this subpart.

''(b) STANDARD FOR REDUCTION.—The Director may reduce the level for a goal pursuant to such a petition only if—

''(1) market and economic conditions or the financial condition of the enterprise require such action; or

''(2) efforts to meet the goal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of this subpart, section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716(3)), or section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note), as applicable.

''(c) DETERMINATION.—

''(1) 30-DAY PERIOD.—If an enterprise submits a petition for reduction to the Director under subsection (a)(2), the Director shall make a determination regarding any proposed reduction within 30 days of receipt of the petition.

''(2) EXTENSION.—The Director may extend the period described in paragraph (1) for a single additional 15-day period, but only if the Director requests additional information from the enterprise.

''SEC. 1332. SINGLE-FAMILY HOUSING GOALS.

''(a) ESTABLISHMENT OF GOALS.—

''(1) IN GENERAL.—The Director shall establish annual goals for the purchase by each enterprise of conventional, conforming, single-family, owner-occupied, purchase money mortgages financing housing for each of the following:

''(A) Low-income families.

''(B) Families that reside in low-income areas.

''(C) Very low-income families.

''(2) GOALS AS PERCENTAGE OF TOTAL PURCHASE MONEY MORTGAGE PURCHASES.—The goals established under paragraph (1) shall be established as a percentage of the total number of single-family dwelling units financed by single-family purchase money mortgage purchases of the enterprise.

''(b) DETERMINATION OF COMPLIANCE.—

''(1) IN GENERAL.—The Director shall determine, for each year that the housing goals under this section are in effect pursuant to section 1331(a), whether each enterprise has complied with the single-family housing goals established under this section for such year.

''(2) COMPLIANCE REQUIREMENTS.—An enterprise shall be considered to be in compliance with a goal described under subsection (a) for a year, only if, for each of the types of families described in subsection (a), the percentage of the number of conventional, conforming, single-family, owner-occupied, purchase money mortgages purchased by the enterprise in such year that serve such families, meets or exceeds the target established under subsection (c) for the year for such type of family.

''(c) ANNUAL TARGETS.—

''(1) IN GENERAL.—The Director shall establish annual targets for each goal described in subsection (a).

''(2) CONSIDERATIONS.—In establishing annual targets under paragraph (1), the Director shall consider—

''(A) national housing needs;

''(B) economic, housing, and demographic conditions;

''(C) the performance and effort of the enterprises toward achieving the housing goals under this section in previous years;

''(D) the ability of the enterprise to lead the industry in making mortgage credit available;

''(E) recent information submitted in compliance with the Home Mortgage Disclosure Act of 1975 and such other reliable mortgage data as may be available;

''(F) the size of the purchase money conventional mortgage market serving each of the types of families described in subsection (a), relative to the size of the overall purchase money mortgage market; and

''(G) the need to maintain the sound financial condition of the enterprises.

''(3) HIGH-COST LOANS AND INAPPROPRIATE LENDING PRACTICES.—In establishing annual targets under paragraph (1), the Director shall not consider segments of the market determined to be unacceptable or contrary to good lending practices pursuant to section 1331(b)(2).

''(d) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

''(1) NOTICE.—Within 30 days of making a determination under subsection (b) regarding compliance of an enterprise for a year with the housing goals established under this section and before any public disclosure thereof, the Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the targets for the year under subsection (c).

''(2) COMMENT PERIOD.—The Director shall provide each enterprise and the public an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.

''(e) USE OF BORROWER INCOME.—In monitoring the performance of each enterprise pursuant to the housing goals under this section and evaluating such performance (for purposes of section 1336), the Director shall consider a mortgagor's income to be the income of the mortgagor at the time of origination of the mortgage.

''(f) CONSIDERATION OF PROPERTIES WITH RENTAL UNITS.—Mortgages financing 1-to-4 unit owner-occupied properties shall count toward the achievement of the single-family housing goal under this section, if such properties otherwise meet the requirements under this section notwithstanding the use of 1 or more units for rental purposes.

''SEC. 1333. SINGLE-FAMILY HOUSING REFINANCE GOALS.

''(a) PREPAYMENT OF EXISTING LOANS.—

''(1) IN GENERAL.—The Director shall establish annual goals for the purchase by each enterprise of mortgages on conventional, conforming, single-family, owner-occupied housing given to pay off or prepay an existing loan served by the same property for each of the following:

''(A) Low-income families.

''(B) Families that reside in low-income areas.

''(C) Very low-income families.

''(2) GOALS AS PERCENTAGE OF TOTAL REFINANCING MORTGAGE PURCHASES.—The goals described under paragraph (1) shall be established as a percentage of the total number of single-family dwelling units refinanced by mortgage purchases of each enterprise.

''(b) DETERMINATION OF COMPLIANCE.—

''(1) IN GENERAL.—The Director shall determine, for each year that the housing goals under this section are in effect pursuant to section 1331(a), whether each enterprise has complied with the single-family housing refinance goals established under this section for such year.

''(2) COMPLIANCE.—An enterprise shall be considered to be in compliance with the goals of this section for a year, only if, for each of the types of families described in subsection (a), the percentage of the number of conventional, conforming, single-family, owner-occupied refinancing mortgages purchased by each enterprise in such year that serve such families, meets or exceeds the target for the year for such type of family that is established under subsection (c).

''(c) ANNUAL TARGETS.—

''(1) IN GENERAL.—The Director shall establish annual targets for each goal described in subsection (a).

''(2) CONSIDERATIONS.—In establishing annual targets under paragraph (1), the Director shall consider—

''(A) national housing needs;

''(B) economic, housing, and demographic conditions;

''(C) the performance and effort of the enterprises toward achieving the housing goals under this section in previous years;

''(D) the ability of the enterprise to lead the industry in making mortgage credit available;

''(E) recent information submitted in compliance with the Home Mortgage Disclosure Act of 1975 and such other reliable mortgage data as may be available;

''(F) the size of the purchase money conventional mortgage market serving each of the types of families described in subsection (a), relative to the size of the overall purchase money mortgage market; and

''(G) the need to maintain the sound financial condition of the enterprises.

''(d) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

''(1) NOTICE.—Within 30 days of making a determination under subsection (b) regarding compliance of an enterprise for a year with the housing goals established under this section and before any public disclosure thereof, the Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the targets for the year under subsection (c).

''(2) COMMENT PERIOD.—The Director shall provide each enterprise and the public an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.

''(e) USE OF BORROWER INCOME.—In monitoring the performance of each enterprise pursuant to the housing goals under this section and evaluating such performance (for purposes of section 1336), the Director shall consider a mortgagor's income to be the income of the mortgagor at the time of origination of the mortgage.

''SEC. 1334. MULTIFAMILY SPECIAL AFFORDABLE HOUSING GOAL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Director shall establish, by regulation, by unit, dollar volume, or percentage of multifamily activity, as determined by the Director, an annual goal for the purchase by each enterprise of—

''(A) mortgages that finance dwelling units affordable to very low-income families; and

''(B) mortgages that finance dwelling units assisted by the low-income housing tax credit under section 42 of the Internal Revenue Code of 1986.

''(2) ADDITIONAL REQUIREMENTS FOR SMALLER PROJECTS.—The Director shall establish, within the housing goal established under this section, additional requirements for the purchase by each enterprise of mortgages described in paragraph (1) for multifamily housing projects of a smaller or limited size, which may be based on the number of dwelling units in the project or the amount of the mortgage, or both, and shall include multifamily housing projects of 5 to 50 units (as adjusted by the Director), or with mortgages of up to $5,000,000 (as adjusted by the Director).

''(3) FACTORS.—The Director shall establish the goal and additional requirements under this section taking into consideration—

''(A) national multifamily mortgage credit needs;

''(B) the performance and effort of the enterprise in making mortgage credit available for multifamily housing in previous years;

''(C) the size of the multifamily mortgage market, including the size of the small multifamily mortgage market;

''(D) the most recent information available for the Residential Survey published by the Census Bureau, and such other reliable data as may be available regarding multifamily mortgages;

''(E) the ability of the enterprise to lead the industry in expanding mortgage credit availability at favorable terms, especially for underserved markets, such as for—

''(i) small multifamily projects;

''(ii) multifamily properties in need of preservation and rehabilitation; and

''(iii) multifamily properties located in rural areas; and

''(F) the need to maintain the sound financial condition of the enterprise.

''(b) UNITS FINANCED BY HOUSING FINANCE AGENCY BONDS.—The Director may give credit toward the achievement of the multifamily special affordable housing goal under this section (for purposes of section 1336) to dwelling units in multifamily housing projects that otherwise qualify under such goal and that are financed by tax-exempt or taxable bonds issued by a State or local housing finance agency, but only if such bonds—

''(1) are secured by a guarantee of the enterprise; or

''(2) are not investment grade and are purchased by the enterprise.

''(c) USE OF TENANT RENT LEVEL.—

''(1) IN GENERAL.—The Director shall monitor the performance of each enterprise in meeting the goal established under this section and shall evaluate such performance (for purposes of section 1336) based on whether the rent levels are affordable to low-income and very low-income families.

''(2) RENT LEVEL.—A rent level shall be considered to be affordable for purposes of this subsection for an income category referred to in this subsection if it does not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.

''(d) DETERMINATION OF COMPLIANCE.—

''(1) IN GENERAL.—The Director shall, for each year that the housing goal under this section is in effect pursuant to section 1331(a), determine whether each enterprise has complied with such goal and the additional requirements under subsection (a)(2).

''(2) COMPLIANCE.—An enterprise shall be considered to be in compliance with the goal described under subsection (a) for a year only if the multifamily mortgage purchases of the enterprise meet or exceed the goal for the year established under subsection (a).

''(e) CONSIDERATION OF UNITS IN SINGLE-FAMILY RENTAL HOUSING.—In establishing the goal under this section, the Director may take into consideration the number of housing units financed by any mortgage purchased by an enterprise on single-family rental housing that is not owner-occupied.

''(f) REMOVING CREDIT.—The Director shall subtract from the units or mortgages counted toward the goal established under this section in a current year any units or mortgages credited toward such goal in a prior year if an enterprise requires a lender to repurchase, or reimburse for losses, or indemnify the enterprise against potential losses on such units or mortgages.

''(g) NOTICE OF DETERMINATION AND ENTERPRISE COMMENT.—

''(1) NOTICE.—Within 30 days of making a determination under subsection (d) regarding compliance of an enterprise for a year with the housing goal established under this section and before any public disclosure thereof, the Director shall provide notice of the determination to the enterprise, which shall include an analysis and comparison, by the Director, of the performance of the enterprise for the year and the goal for the year under subsection (a).

''(2) COMMENT PERIOD.—The Director shall provide each enterprise and the public an opportunity to comment on the determination during the 30-day period beginning upon receipt by the enterprise of the notice.''.

(c) CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended—

(1) in section 1335(a) (12 U.S.C. 4565(a)), in the matter preceding paragraph (1), by striking ''low- and moderate-income housing goal'' and all that follows through ''section 1334'' and inserting ''housing goals established under this subpart''; and

(2) in section 1336(a)(1) (12 U.S.C. 4566(a)(1)), by striking ''sections 1332, 1333, and 1334,'' and inserting ''this subpart''.

(d) DEFINITIONS.—Section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502) is amended—

(1) by striking paragraph (24), as so designated by section 1002 of this Act, and inserting the following:

''(24) VERY LOW-INCOME.—

''(A) IN GENERAL.—The term 'very low-income' means—

''(i) in the case of owner-occupied units, families having incomes not greater than 50 percent of the area median income; and

''(ii) in the case of rental units, families having incomes not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Director.

''(B) RULE OF CONSTRUCTION.—For purposes of section 1338 and 1339, the term 'very low-income' means—

''(i) in the case of owner-occupied units, income in excess of 30 percent but not greater than 50 percent of the area median income; and

''(ii) in the case of rental units, income in excess of 30 percent but not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Director.''; and

(2) by adding at the end the following:

''(26) CONFORMING MORTGAGE.—The term 'conforming mortgage' means, with respect to an enterprise, a conventional mortgage having an original principal obligation that does not exceed the applicable dollar limitation, in effect at the time of such origination, under—

''(A) section 302(b)(2) of the Federal National Mortgage Association Charter Act; or

''(B) section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act.

''(27) EXTREMELY LOW-INCOME.—The term 'extremely low-income' means—

''(A) in the case of owner-occupied units, income not in excess of 30 percent of the area median income; and

''(B) in the case of rental units, income not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Director.

''(28) LOW-INCOME AREA.—The term 'low-income area' means a census tract or block numbering area in which the median income does not exceed 80 percent of the median income for the area in which such census tract or block numbering area is located, and, for the purposes of section 1332(a)(2), shall include families having incomes not greater than 100 percent of the area median income who reside in minority census tracts.

''(29) MINORITY CENSUS TRACT.—The term 'minority census tract' means a census tract that has a minority population of at least 30 percent and a median family income of less than 100 percent of the area family median income.

''(30) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY LOW-INCOME RENTER HOUSEHOLDS.—

''(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to extremely low-income renter households' means the gap between—

''(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 30 percent of the adjusted area median income as determined by the Director that are occupied by extremely low-income renter households or are vacant for rent; and

''(ii) the number of extremely low-income renter households.

''(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low-income households as described in subparagraph (A)(ii), there is no shortage.

''(31) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-INCOME RENTER HOUSEHOLDS.—

''(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to very low-income renter households' means the gap between—

''(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 50 percent of the adjusted area median income as determined by the Director that are occupied by either extremely low- or very low-income renter households or are vacant for rent; and

''(ii) the number of extremely low- and very low-income renter households.

''(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low- and very low-income households as described in subparagraph (A)(ii), there is no shortage.''.

SEC. 1129. DUTY TO SERVE UNDERSERVED MARKETS.

(a) ESTABLISHMENT AND EVALUATION OF PERFORMANCE.—Section 1335 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4565) is amended—

(1) in the section heading, by inserting ''**duty to serve underserved markets and**'' before ''**other**'';

(2) by striking subsection (b);

(3) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''and to carry out the duty under subsection (a) of this section'' before '', each enterprise shall'';

(B) in paragraph (3), by inserting ''and'' after the semicolon at the end;

(C) in paragraph (4), by striking ''; and'' and inserting a period;

(D) by striking paragraph (5); and

(E) by redesignating such subsection as subsection (b);

(4) by inserting before subsection (b) (as so redesignated by paragraph (3)(E) of this subsection) the following new subsection:

''(a) DUTY TO SERVE UNDERSERVED MARKETS.—

''(1) DUTY.—In accordance with the purpose of the enterprises under section 301(3) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) to undertake activities relating to mortgages on housing for very low-, low-, and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities, each enterprise shall have the duty to increase the liquidity of mortgage investments and improve the distribution of investment capital available for mortgage financing for underserved markets by purchasing or securitizing mortgage investments.

''(2) UNDERSERVED MARKETS.—To meet its duty under paragraph (1), each enterprise shall comply with the following requirements with respect to the following underserved markets:

''(A) MANUFACTURED HOUSING.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on manufactured homes for very low-, low-, and moderate-income families.

''(B) AFFORDABLE HOUSING PRESERVATION.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market to preserve housing affordable to very low-, low-, and moderate-income families, including housing projects subsidized under—

''(i) the project-based and tenant-based rental assistance programs under section 8 of the United States Housing Act of 1937;

''(ii) the program under section 236 of the National Housing Act;

''(iii) the below-market interest rate mortgage program under section 221(d)(4) of the National Housing Act;

''(iv) the supportive housing for the elderly program under section 202 of the Housing Act of 1959;

''(v) the supportive housing program for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

''(vi) the programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), but only permanent supportive housing projects subsidized under such programs; and

''(vii) the rural rental housing program under section 515 of the Housing Act of 1949.

''(C) RURAL AND OTHER UNDERSERVED MARKETS.—The enterprise shall lead the industry in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages on housing for very low-, low-, and moderate-income families in rural areas, and for mortgages for housing for any other underserved market for very low-, low-, and moderate-income families that the Director identifies as lacking adequate credit through conventional lending sources. Such underserved markets may be identified by borrower type, market segment, or geographic area.''; and

(5) by adding at the end the following new subsection:

''(c) EVALUATION AND REPORTING OF COMPLIANCE.—

''(1) IN GENERAL.—Not later than 6 months after the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, the Director shall establish a manner for evaluating whether, and the extent to which, the enterprises have complied with the duty under subsection (a) to serve underserved markets and for rating the extent of such compliance. Using such method, the Director shall, for each year, evaluate such compliance and rate the performance of each enterprise as to extent of compliance. The Director shall include such evaluation and rating for each enterprise for a year in the report for that year submitted pursuant to section 1319B(a).

''(2) SEPARATE EVALUATIONS.—In determining whether an enterprise has complied with the duty referred to in paragraph (1), the Director shall separately evaluate whether the enterprise has complied with such duty with respect to each of the underserved markets identified in subsection (a), taking into consideration—

''(A) the development of loan products and more flexible underwriting guidelines;

''(B) the extent of outreach to qualified loan sellers in each of such underserved markets; and

''(C) the volume of loans purchased in each of such underserved markets.

''(3) MANUFACTURED HOUSING MARKET.—In determining whether an enterprise has complied with the duty under subparagraph (A) of subsection (a)(2), the Director may consider loans secured by both real and personal property.''.

(b) ENFORCEMENT.—Subsection (a) of section 1336 of the Housing and Community Development Act of 1992 (12 U.S.C. 4566(a)) is amended—

(1) in paragraph (1), by inserting ''and with the duty under section 1335(a) of each enterprise with respect to underserved markets,'' before ''as provided in this section''; and

(2) by adding at the end of such subsection, as amended by the preceding provisions of this subtitle, the following new paragraph:

''(4) ENFORCEMENT OF DUTY TO PROVIDE MORTGAGE CREDIT TO UNDERSERVED MARKETS.—The duty under section 1335(a) of each enterprise to serve underserved markets (as determined in accordance with section 1335(c)) shall be enforceable under this section to the same extent and under the same provisions that the housing goals established under this subpart are enforceable. Such duty shall not be enforceable under any other provision of this title (including subpart C of this part) other than this section or under any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.''.

SEC. 1130. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

(a) IN GENERAL.—Section 1336 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4566) is amended by striking subsections (b) and (c) and inserting the following:

''(b) NOTICE AND PRELIMINARY DETERMINATION OF FAILURE TO MEET GOALS.—

''(1) NOTICE.—If the Director preliminarily determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal under this subpart, the Director shall provide written notice to the enterprise of such a preliminary determination, the reasons for such determination, and the information on which the Director based the determination.

''(2) RESPONSE PERIOD.—

''(A) IN GENERAL.—During the 30-day period beginning on the date on which an enterprise is provided notice under paragraph (1), the enterprise may submit to the Director any written information that the enterprise considers appropriate for consideration by the Director in finally determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

''(B) EXTENDED PERIOD.—The Director may extend the period under subparagraph (A) for good cause for not more than 30 additional days.

''(C) SHORTENED PERIOD.—The Director may shorten the period under subparagraph (A) for good cause.

''(D) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the 30-day period under this paragraph (as extended or shortened) shall waive any right of the enterprise to comment on the proposed determination or action of the Director.

''(3) CONSIDERATION OF INFORMATION AND FINAL DETERMINATION.—

''(A) IN GENERAL.—After the expiration of the response period under paragraph (2), or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall issue a final determination on—

''(i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal; and

''(ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

''(B) CONSIDERATIONS.—In making a final determination under subparagraph (A), the Director shall take into consideration any relevant information submitted by the enterprise during the response period.

''(C) NOTICE.—The Director shall provide written notice, including a response to any

information submitted during the response period, to the enterprise, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, of—

''(i) each final determination under this paragraph that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

''(ii) each final determination that the achievement of a housing goal was or is feasible; and

''(iii) the reasons for each such final determination.

''(c) CEASE AND DESIST, CIVIL MONEY PENALTIES, AND REMEDIES INCLUDING HOUSING PLANS.—

''(1) REQUIREMENT.—If the Director finds, pursuant to subsection (b), that there is a substantial probability that an enterprise will fail, or has actually failed, to meet any housing goal under this subpart, and that the achievement of the housing goal was or is feasible, the Director may require that the enterprise submit a housing plan under this subsection. If the Director makes such a finding and the enterprise refuses to submit such a plan, submits an unacceptable plan, fails to comply with the plan, or the Director finds that the enterprise has failed to meet any housing goal under this subpart, in addition to requiring an enterprise to submit a housing plan, the Director may issue a cease and desist order in accordance with section 1341, impose civil money penalties in accordance with section 1345, or order other remedies as set forth in paragraph (7).

''(2) HOUSING PLAN.—If the Director requires a housing plan under this subsection, such a plan shall be—

''(A) a feasible plan describing the specific actions the enterprise will take—

''(i) to achieve the goal for the next calendar year; and

''(ii) if the Director determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements and changes in its operations as are reasonable in the remainder of such year; and

''(B) sufficiently specific to enable the Director to monitor compliance periodically.

''(3) DEADLINE FOR SUBMISSION.—The Director shall establish a deadline for an enterprise to comply with any remedial action or submit a housing plan to the Director, which may not be more than 45 days after the enterprise is provided notice. The Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and for a time certain.

''(4) APPROVAL.—The Director shall review each submission by an enterprise, including a housing plan submitted under this subsection, and, not later than 30 days after submission, approve or disapprove the plan or other action. The Director may extend the period for approval or disapproval for a single additional 30-day period if the Director determines it necessary. The Director shall approve any plan that the Director determines is likely to succeed, and conforms with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act (as applicable), this title, and any other applicable provision of law.

''(5) NOTICE OF APPROVAL AND DISAPPROVAL.—The Director shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

''(6) RESUBMISSION.—If the initial housing plan submitted by an enterprise under this section is disapproved, the enterprise shall submit an amended plan acceptable to the Director not later than 15 days after such disapproval, or such longer period that the Director determines is in the public interest.

''(7) ADDITIONAL REMEDIES FOR FAILURE TO MEET GOALS.—In addition to ordering a housing plan under this section, issuing cease and desist orders under section 1341, and ordering civil money penalties under section 1345, the Director may—

''(A) seek other actions when an enterprise fails to meet a goal; and

''(B) exercise appropriate enforcement authority available to the Director under this Act.''.

(b) CONFORMING AMENDMENT.—The heading for subpart C of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended to read as follows:

''Subpart C—Enforcement''.

(c) CEASE AND DESIST PROCEEDINGS .—

(1) REPEAL.—Section 1341 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4581) is hereby repealed.

(2) CEASE AND DESIST PROCEEDINGS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting before section 1342 the following:

''SEC. 1341. CEASE AND DESIST PROCEEDINGS.

''(a) GROUNDS FOR ISSUANCE.—The Director may issue and serve a notice of charges under this section upon an enterprise if the Director determines that—

''(1) the enterprise has failed to meet any housing goal established under subpart B, following a written notice and determination of such failure in accordance with section 1336;

''(2) the enterprise has failed to submit a report under section 1327, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

''(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

''(4) the enterprise has violated any provision of part 2 of this title or any order, rule, or regulation under part 2;

''(5) the enterprise has failed to submit a housing plan or perform its responsibilities under a remedial order that substantially complies with section 1336(c) within the applicable period; or

''(6) the enterprise has failed to comply with a housing plan under section 1336(c).

''(b) PROCEDURE.—

''(1) NOTICE OF CHARGES.—Each notice of charges issued under this section shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

''(2) ISSUANCE OF ORDER.—If the Director finds on the record made at a hearing described in paragraph (1) that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 1342(a)(4)), the Director may issue and serve upon the enterprise an order requiring the enterprise to—

''(A) comply with the goals;

''(B) submit a report under section 1327;

''(C) comply with any provision of part 2 of this title or any order, rule, or regulation under part 2;

''(D) submit a housing plan in compliance with section 1336(c);

''(E) comply with the housing plan in compliance with section 1336(c); or

''(F) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act.

''(c) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the date of service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subpart.''.

(d) CIVIL MONEY PENALTIES.—

(1) REPEAL.—Section 1345 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4585) is hereby repealed.

(2) CIVIL MONEY PENALTIES.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by inserting after section 1344 the following:

''SEC. 1345. CIVIL MONEY PENALTIES.

''(a) AUTHORITY.—The Director may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed to—

''(1) meet any housing goal established under subpart B, following a written notice and determination of such failure in accordance with section 1336(b);

''(2) submit a report under section 1327, following a notice of such failure, an opportunity for comment by the enterprise, and a final determination by the Director;

''(3) submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

''(4) comply with any provision of part 2 of this title or any order, rule, or regulation under part 2;

''(5) submit a housing plan or perform its responsibilities under a remedial order issued pursuant to section 1336(c) within the required period; or

''(6) comply with a housing plan for the enterprise under section 1336(c).

''(b) AMOUNT OF PENALTY.—The amount of a penalty under this section, as determined by the Director, may not exceed—

''(1) for any failure described in paragraph (1), (5), or (6) of subsection (a), $100,000 for each day that the failure occurs; and

''(2) for any failure described in paragraph (2), (3), or (4) of subsection (a), $50,000 for each day that the failure occurs.

''(c) PROCEDURES.—

''(1) ESTABLISHMENT.—The Director shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

''(A) shall provide for the Director to notify the enterprise in writing of the determination of the Director to impose the penalty, which shall be made on the record;

''(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 1342; and

''(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

''(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Director shall give consideration to factors including—

''(A) the gravity of the offense;
''(B) any history of prior offenses;
''(C) ability to pay the penalty;
''(D) injury to the public;
''(E) benefits received;
''(F) deterrence of future violations;
''(G) the length of time that the enterprise should reasonably take to achieve the goal; and
''(H) such other factors as the Director may determine, by regulation, to be appropriate.

''(d) ACTION TO COLLECT PENALTY.—If an enterprise fails to comply with an order by the Director imposing a civil money penalty under this section, after the order is no longer subject to review, as provided in sections 1342 and 1343, the Director may bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys' fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

''(e) SETTLEMENT BY DIRECTOR.—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

''(f) DEPOSIT OF PENALTIES.—The Director shall use any civil money penalties collected under this section to help fund the Housing Trust Fund established under section 1338.''.

(e) DIRECTOR AUTHORITY.—

(1) AUTHORITY TO BRING A CIVIL ACTION.—Section 1344(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4584) is amended by striking ''The Secretary may request the Attorney General of the United States to bring a civil action'' and inserting ''The Director may bring a civil action''.

(2) SUBPOENA ENFORCEMENT.—Section 1348(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4588(c)) is amended by inserting ''may bring an action or'' before ''may request''.

(3) CONFORMING AMENDMENTS.—Subpart C of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4581 et seq.) is amended by striking ''Secretary'' each place that term appears and inserting ''Director'' in each of—

(A) section 1342 (12 U.S.C. 4582);
(B) section 1343 (12 U.S.C. 4583);
(C) section 1346 (12 U.S.C. 4586);
(D) section 1347 (12 U.S.C. 4587); and
(E) section 1348 (12 U.S.C. 4588).

SEC. 1131. AFFORDABLE HOUSING PROGRAMS.

(a) REPEAL.—Section 1337 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4567) is hereby repealed.

(b) HOUSING TRUST FUNDS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 1301 et seq.) is amended by inserting after section 1336 the following:

''SEC. 1337. AFFORDABLE HOUSING APPROPRIATIONS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of sections 1338 and 1339.

''(2) ALLOCATION.—Of the amounts authorized to be appropriated under paragraph (1)—

''(A) 65 percent of such amounts shall be allocated to the Secretary of Housing and Urban Development to fund the Housing Trust Fund established under section 1338; and

''(B) 35 percent of such amounts shall be allocated to fund the Capital Magnet Fund established pursuant to section 1339.

''(b) REQUIRED AMOUNT FOR HOPE RESERVE FUND.—Of the aggregate amount allocated under subsection (a), 25 percent shall be deposited into a fund established in the Treasury of the United States by the Secretary of the Treasury for such purpose.

''(c) LIMITATION.—No funds under this title may be used in conjunction with property taken by eminent domain, unless eminent domain is employed only for a public use, except that, for purposes of this section, public use shall not be construed to include economic development that primarily benefits any private entity.

''SEC. 1338. HOUSING TRUST FUND.

''(a) ESTABLISHMENT AND PURPOSE.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') shall establish and manage a Housing Trust Fund, which shall be funded with amounts appropriated under section 1337 and any amounts as are or may be transferred or credited to such Housing Trust Fund under any other provisions of law. The purpose of the Housing Trust Fund under this section is to provide grants to States for use—

''(1) to increase and preserve the supply of rental housing for extremely low- and very low-income families, including homeless families; and

''(2) to increase homeownership for extremely low- and very low-income families.

''(b) ALLOCATIONS FOR HOPE BOND PAYMENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c), to help address the mortgage crisis, of the amounts appropriated under section 1337(a) in excess of amounts described in section 1337(b)—

''(A) 100 percent of such excess shall be used to reimburse the Treasury for payments made pursuant to section 257(w)(1)(C) of the National Housing Act in calendar year 2009;

''(B) 50 percent of such excess shall be used to reimburse the Treasury for such payments in calendar year 2010; and

''(C) 25 percent of such excess shall be used to reimburse the Treasury for such payments in calendar year 2011.

''(2) EXCESS FUNDS.—At the termination of the HOPE for Homeowners Program established under section 257 of the National Housing Act, if amounts used to reimburse the Treasury under paragraph (1) exceed the total net cost to the Government of the HOPE for Homeowners Program, such amounts shall be used for their original purpose, as described in subparagraphs (A) and (B) of section 1337(a)(2).

''(3) TREASURY FUND.—The amounts referred to in subparagraphs (A) through (C) of paragraph (1) shall be deposited into a fund established in the Treasury of the United States by the Secretary of the Treasury for such purpose.

''(c) ALLOCATION FOR HOUSING TRUST FUND IN FISCAL YEAR 2010 AND SUBSEQUENT YEARS.—

''(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall distribute the amounts appropriated for the Housing Trust Fund under this section to provide affordable housing as described in this subsection.

''(2) PERMISSIBLE DESIGNEES.—A State receiving grant amounts under this subsection may designate a State housing finance agency, housing and community development entity, tribally designated housing entity (as such term is defined in section 4 of the Native American Housing Assistance and Self-Determination Act of 1997 (25 U.S.C. 4103)), or any other qualified instrumentality of the State to receive such grant amounts.

''(3) DISTRIBUTION TO STATES BY NEEDS-BASED FORMULA.—

''(A) IN GENERAL.—The Secretary shall, by regulation, establish a formula within 12 months of the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, to distribute amounts made available under this subsection to each State to provide affordable housing to extremely low- and very low-income households.

''(B) BASIS FOR FORMULA.—The formula required under subparagraph (A) shall include the following:

''(i) The ratio of the shortage of standard rental units both affordable and available to extremely low-income renter households in the State to the aggregate shortage of standard rental units both affordable and available to extremely low-income renter households in all the States.

''(ii) The ratio of the shortage of standard rental units both affordable and available to very low-income renter households in the State to the aggregate shortage of standard rental units both affordable and available to very low-income renter households in all the States.

''(iii) The ratio of extremely low-income renter households in the State living with either (I) incomplete kitchen or plumbing facilities, (II) more than 1 person per room, or (III) paying more than 50 percent of income for housing costs, to the aggregate number of extremely low-income renter households living with either (IV) incomplete kitchen or plumbing facilities, (V) more than 1 person per room, or (VI) paying more than 50 percent of income for housing costs in all the States.

''(iv) The ratio of very low-income renter households in the State paying more than 50 percent of income on rent relative to the aggregate number of very low-income renter households paying more than 50 percent of income on rent in all the States.

''(v) The resulting sum calculated from the factors described in clauses (i) through (iv) shall be multiplied by the relative cost of construction in the State. For purposes of this subclause, the term 'cost of construction'—

''(I) means the cost of construction or building rehabilitation in the State relative to the national cost of construction or building rehabilitation; and

''(II) shall be calculated such that values higher than 1.0 indicate that the State's construction costs are higher than the national average, a value of 1.0 indicates that the State's construction costs are exactly the same as the national average, and values lower than 1.0 indicate that the State's cost of construction are lower than the national average.

''(C) PRIORITY.—The formula required under subparagraph (A) shall give priority emphasis and consideration to the factor described in subparagraph (B)(i).

''(4) ALLOCATION OF GRANT AMOUNTS.—

''(A) NOTICE.—Not later than 60 days after the date that the Secretary determines the formula amounts described in paragraph (3), the Secretary shall caused to be published in the Federal Register a notice that such amounts shall be so available.

''(B) GRANT AMOUNT.—In each fiscal year other than fiscal year 2009, the Secretary shall make a grant to each State in an amount that is equal to the formula amount determined under paragraph (3) for that State.

''(C) MINIMUM STATE ALLOCATIONS.—If the formula amount determined under paragraph (3) for a fiscal year would allocate less than $3,000,000 to any State, the allocation for such State shall be $3,000,000, and the increase shall be deducted pro rata from the allocations made to all other States.

''(5) ALLOCATION PLANS REQUIRED.—

''(A) IN GENERAL.—For each year that a State or State designated entity receives a grant under this subsection, the State or State designated entity shall establish an allocation plan. Such plan shall—

''(i) set forth a plan for the distribution of grant amounts received by the State or State designated entity for such year;

''(ii) be based on priority housing needs, as determined by the State or State designated entity in accordance with the regulations established under subsection (g)(2)(C);

''(iii) comply with paragraph (6); and

''(iv) include performance goals that comply with the requirements established by the Secretary pursuant to subsection (g)(2).

''(B) ESTABLISHMENT.—In establishing an allocation plan under this paragraph, a State or State designated entity shall—

''(i) notify the public of the establishment of the plan;

''(ii) provide an opportunity for public comments regarding the plan;

''(iii) consider any public comments received regarding the plan; and

''(iv) make the completed plan available to the public.

''(C) CONTENTS.—An allocation plan of a State or State designated entity under this paragraph shall set forth the requirements for eligible recipients under paragraph (8) to apply for such grant amounts, including a requirement that each such application include—

''(i) a description of the eligible activities to be conducted using such assistance; and

''(ii) a certification by the eligible recipient applying for such assistance that any housing units assisted with such assistance will comply with the requirements under this section.

''(6) SELECTION OF ACTIVITIES FUNDED USING HOUSING TRUST FUND GRANT AMOUNTS.—Grant amounts received by a State or State designated entity under this subsection may be used, or committed for use, only for activities that—

''(A) are eligible under paragraph (7) for such use;

''(B) comply with the applicable allocation plan of the State or State designated entity under paragraph (5); and

''(C) are selected for funding by the State or State designated entity in accordance with the process and criteria for such selection established pursuant to subsection (g)(2)(C).

''(7) ELIGIBLE ACTIVITIES.—Grant amounts allocated to a State or State designated entity under this subsection shall be eligible for use, or for commitment for use, only for assistance for—

''(A) the production, preservation, and rehabilitation of rental housing, including housing under the programs identified in section 1335(a)(2)(B) and for operating costs, except that not less than 75 percent of such grant amounts shall be used for the benefit only of extremely low-income families and not more than 25 percent for the benefit only of very low-income families; and

''(B) the production, preservation, and rehabilitation of housing for homeownership, including such forms as down payment assistance, closing cost assistance, and assistance for interest rate buy-downs, that—

''(i) is available for purchase only for use as a principal residence by families that qualify both as—

''(I) extremely low- and very low-income families at the times described in subparagraphs (A) through (C) of section 215(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)(2)); and

''(II) first-time homebuyers, as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), except that any reference in such section to assistance under title II of such Act shall for purposes of this subsection be considered to refer to assistance from affordable housing fund grant amounts;

''(ii) has an initial purchase price that meets the requirements of section 215(b)(1) of the Cranston-Gonzalez National Affordable Housing Act;

''(iii) is subject to the same resale restrictions established under section 215(b)(3) of the Cranston-Gonzalez National Affordable Housing Act and applicable to the participating jurisdiction that is the State in which such housing is located; and

''(iv) is made available for purchase only by, or in the case of assistance under this subsection, is made available only to homebuyers who have, before purchase completed a program of independent financial education and counseling from an eligible organization that meets the requirements of section 132 of the Federal Housing Finance Regulatory Reform Act of 2008.

''(8) ELIGIBLE RECIPIENTS.—Grant amounts allocated to a State or State designated entity under this subsection may be provided only to a recipient that is an organization, agency, or other entity (including a for-profit entity or a nonprofit entity) that—

''(A) has demonstrated experience and capacity to conduct an eligible activity under paragraph (7), as evidenced by its ability to—

''(i) own, construct or rehabilitate, manage, and operate an affordable multifamily rental housing development;

''(ii) design, construct or rehabilitate, and market affordable housing for homeownership; or

''(iii) provide forms of assistance, such as down payments, closing costs, or interest rate buy-downs for purchasers;

''(B) demonstrates the ability and financial capacity to undertake, comply, and manage the eligible activity;

''(C) demonstrates its familiarity with the requirements of any other Federal, State, or local housing program that will be used in conjunction with such grant amounts to ensure compliance with all applicable requirements and regulations of such programs; and

''(D) makes such assurances to the State or State designated entity as the Secretary shall, by regulation, require to ensure that the recipient will comply with the requirements of this subsection during the entire period that begins upon selection of the recipient to receive such grant amounts and ending upon the conclusion of all activities under paragraph (8) that are engaged in by the recipient and funded with such grant amounts.

''(9) LIMITATIONS ON USE.—

''(A) REQUIRED AMOUNT FOR HOMEOWNERSHIP ACTIVITIES.—Of the aggregate amount allocated to a State or State designated entity under this subsection not more than 10 percent shall be used for activities under subparagraph (B) of paragraph (7).

''(B) DEADLINE FOR COMMITMENT OR USE.—Grant amounts allocated to a State or State designated entity under this subsection shall be used or committed for use within 2 years of the date that such grant amounts are made available to the State or State designated entity. The Secretary shall recapture any such amounts not so used or committed for use and reallocate such amounts under this subsection in the first year after such recapture.

''(C) USE OF RETURNS.—The Secretary shall, by regulation, provide that any return on a loan or other investment of any grant amount used by a State or State designated entity to provide a loan under this subsection shall be treated, for purposes of availability to and use by the State or State designated entity, as a grant amount authorized under this subsection.

''(D) PROHIBITED USES.—The Secretary shall, by regulation—

''(i) set forth prohibited uses of grant amounts allocated under this subsection, which shall include use for—

''(I) political activities;

''(II) advocacy;

''(III) lobbying, whether directly or through other parties;

''(IV) counseling services;

''(V) travel expenses; and

''(VI) preparing or providing advice on tax returns;

''(ii) provide that, except as provided in clause (iii), grant amounts of a State or State designated entity may not be used for administrative, outreach, or other costs of—

''(I) the State or State designated entity; or

''(II) any other recipient of such grant amounts; and

''(iii) limit the amount of any grant amounts for a year that may be used by the State or State designated entity for administrative costs of carrying out the program required under this subsection, including home ownership counseling, to a percentage of such grant amounts of the State or State designated entity for such year, which may not exceed 10 percent.

''(E) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—In determining compliance with the housing goals under this subpart and the duty to serve underserved markets under section 1335, the Director may not consider any grant amounts used under this section for eligible activities under paragraph (7). The Director shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from such grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

''(d) REDUCTION FOR FAILURE TO OBTAIN RETURN OF MISUSED FUNDS.—If in any year a State or State designated entity fails to obtain reimbursement or return of the full amount required under subsection (e)(1)(B) to be reimbursed or returned to the State or State designated entity during such year—

''(1) except as provided in paragraph (2)—

''(A) the amount of the grant for the State or State designated entity for the succeeding year, as determined pursuant to this section, shall be reduced by the amount by which such amounts required to be reimbursed or returned exceed the amount actually reimbursed or returned; and

''(B) the amount of the grant for the succeeding year for each other State or State designated entity whose grant is not reduced pursuant to subparagraph (A) shall be increased by the amount determined by applying the formula established pursuant to this section to the total amount of all reductions for all State or State designated entities for such year pursuant to subparagraph (A); or

''(2) in any case in which such failure to obtain reimbursement or return occurs during a year immediately preceding a year in which grants under this section will not be made, the State or State designated entity shall pay to the Secretary for reallocation among the other grantees an amount equal to the amount of the reduction for the entity that would otherwise apply under paragraph (1)(A).

''(e) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

''(1) RECIPIENTS.—

''(A) TRACKING OF FUNDS.—The Secretary shall—

''(i) require each State or State designated entity to develop and maintain a system to ensure that each recipient of assistance under this section uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

''(ii) establish minimum requirements for agreements, between the State or State designated entity and recipients, regarding assistance under this section, which shall include—

''(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the assistance to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

''(II) any other requirements that the Secretary determines are necessary to ensure appropriate administration and compliance.

''(B) MISUSE OF FUNDS.—

''(i) REIMBURSEMENT REQUIREMENT.—If any recipient of assistance under this section is determined, in accordance with clause (ii), to have used any such amounts in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such amounts were provided, the State or State designated entity shall require that, within 12 months after the determination of such misuse, the recipient shall reimburse the State or State designated entity for such misused amounts and return to the State or State designated entity any such amounts that remain unused or uncommitted for use. The remedies under this clause are in addition to any other remedies that may be available under law.

''(ii) DETERMINATION.—A determination is made in accordance with this clause if the determination is made by the Secretary or made by the State or State designated entity, provided that—

''(I) the State or State designated entity provides notification of the determination to the Secretary for review, in the discretion of the Secretary, of the determination; and

''(II) the Secretary does not subsequently reverse the determination.

''(2) GRANTEES.—

''(A) REPORT.—

''(i) IN GENERAL.—The Secretary shall require each State or State designated entity receiving grant amounts in any given year under this section to submit a report, for such year, to the Secretary that—

''(I) describes the activities funded under this section during such year with such grant amounts; and

''(II) the manner in which the State or State designated entity complied during such year with any allocation plan established pursuant to subsection (c).

''(ii) PUBLIC AVAILABILITY.—The Secretary shall make such reports pursuant to this subparagraph publicly available.

''(B) MISUSE OF FUNDS.—If the Secretary determines, after reasonable notice and opportunity for hearing, that a State or State designated entity has failed to comply substantially with any provision of this section, and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

''(i) reduce the amount of assistance under this section to the State or State designated entity by an amount equal to the amount of grant amounts which were not used in accordance with this section;

''(ii) require the State or State designated entity to repay the Secretary any amount of the grant which was not used in accordance with this section;

''(iii) limit the availability of assistance under this section to the State or State designated entity to activities or recipients not affected by such failure to comply; or

''(iv) terminate any assistance under this section to the State or State designated entity.

''(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) EXTREMELY LOW-INCOME RENTER HOUSEHOLD.—The term 'extremely low-income renter household' means a household whose income is not in excess of 30 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

''(2) RECIPIENT.—The term 'recipient' means an individual or entity that receives assistance from a State or State designated entity from amounts made available to the State or State designated entity under this section.

''(3) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO EXTREMELY LOW-INCOME RENTER HOUSEHOLDS.—

''(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to extremely low-income renter households' means for any State or other geographical area the gap between—

''(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 30 percent of the adjusted area median income as determined by the Secretary that are occupied by extremely low-income renter households or are vacant for rent; and

''(ii) the number of extremely low-income renter households.

''(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of extremely low-income households as described in subparagraph (A)(ii), there is no shortage.

''(4) SHORTAGE OF STANDARD RENTAL UNITS BOTH AFFORDABLE AND AVAILABLE TO VERY LOW-INCOME RENTER HOUSEHOLDS.—

''(A) IN GENERAL.—The term 'shortage of standard rental units both affordable and available to very low-income renter households' means for any State or other geographical area the gap between—

''(i) the number of units with complete plumbing and kitchen facilities with a rent that is 30 percent or less of 50 percent of the adjusted area median income as determined by the Secretary that are occupied by very low-income renter households or are vacant for rent; and

''(ii) the number of very low-income renter households.

''(B) RULE OF CONSTRUCTION.—If the number of units described in subparagraph (A)(i) exceeds the number of very low-income households as described in subparagraph (A)(ii), there is no shortage.

''(5) VERY LOW-INCOME FAMILY.—The term 'very low-income family' has the meaning given such term in section 1303, except that such term includes any family that resides in a rural area that has an income that does not exceed the poverty line (as such term is defined in section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)), including any revision required by such section) applicable to a family of the size involved.

''(6) VERY LOW-INCOME RENTER HOUSEHOLDS.—The term 'very low-income renter households' means a household whose income is in excess of 30 percent but not greater than 50 percent of the area median income, with adjustments for smaller and larger families, as determined by the Secretary.

''(g) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall issue regulations to carry out this section.

''(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

''(A) a requirement that the Secretary ensure that the use of grant amounts under this section by States or State designated entities is audited not less than annually to ensure compliance with this section;

''(B) authority for the Secretary to audit, provide for an audit, or otherwise verify a State or State designated entity's activities to ensure compliance with this section;

''(C) requirements for a process for application to, and selection by, each State or State designated entity for activities meeting the State or State designated entity's priority housing needs to be funded with grant amounts under this section, which shall provide for priority in funding to be based upon—

''(i) geographic diversity;

''(ii) ability to obligate amounts and undertake activities so funded in a timely manner;

''(iii) in the case of rental housing projects under subsection (c)(7)(A), the extent to which rents for units in the project funded are affordable, especially for extremely low-income families;

''(iv) in the case of rental housing projects under subsection (c)(7)(A), the extent of the duration for which such rents will remain affordable;

''(v) the extent to which the application makes use of other funding sources; and

''(vi) the merits of an applicant's proposed eligible activity;

''(D) requirements to ensure that grant amounts provided to a State or State designated entity under this section that are used for rental housing under subsection (c)(7)(A) are used only for the benefit of extremely low- and very low-income families; and

''(E) requirements and standards for establishment, by a State or State designated entity, for use of grant amounts in 2009 and subsequent years of performance goals, benchmarks, and timetables for the production, preservation, and rehabilitation of affordable rental and homeownership housing with such grant amounts.

''(h) AFFORDABLE HOUSING TRUST FUND.—If, after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008, in any year, there is enacted any provision of Federal law establishing an affordable housing trust fund other than under this title for use only for grants to provide affordable rental housing and affordable homeownership opportunities, and the subsequent year is a year referred to in subsection (c), the Secretary shall in such subsequent year and any remaining years referred to in subsection (c) transfer to such affordable housing trust fund the aggregate amount allocated pursuant to subsection (c) in such year. Notwithstanding any other provision of law, assistance provided using amounts transferred to such affordable housing trust fund pursuant to this subsection may not be used for any of the activities specified in clauses (i) through (vi) of subsection (c)(9)(D).

''(i) FUNDING ACCOUNTABILITY AND TRANSPARENCY.—Any grant under this section to a grantee by a State or State designated entity, any assistance provided to a recipient by a State or State designated entity, and any grant, award, or other assistance from an affordable housing trust fund referred to in subsection (h) shall be considered a Federal award for purposes of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note). Upon the request of the Director of the Office of Management and Budget, the Secretary shall obtain and provide such information regarding any such

grants, assistance, and awards as the Director of the Office of Management and Budget considers necessary to comply with the requirements of such Act, as applicable, pursuant to the preceding sentence.

"SEC. 1339. CAPITAL MAGNET FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Capital Magnet Fund, which shall be a special account within the Community Development Financial Institutions Fund.

''(b) DEPOSITS TO TRUST FUND.—The Capital Magnet Fund shall consist of—

''(1) any amounts appropriated to the Fund pursuant to section 1337(a); and

''(2) any amounts as are or may be transferred or credited to such Fund under any other provisions of law.''.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Capital Magnet Fund shall be available to the Secretary of the Treasury to carry out a competitive grant program to attract private capital for and increase investment in—

''(1) the development, preservation, rehabilitation, or purchase of affordable housing for primarily extremely low-, very low-, and low-income families; and

''(2) economic development activities or community service facilities, such as day care centers, workforce development centers, and health care clinics, which in conjunction with affordable housing activities implement a concerted strategy to stabilize or revitalize a low-income area or underserved rural area.

''(d) FEDERAL ASSISTANCE.—All assistance provided using amounts in the Capital Magnet Fund shall be considered to be Federal financial assistance.

''(e) ELIGIBLE GRANTEES.—A grant under this section may be made, pursuant to such requirements as the Secretary of the Treasury shall establish for experience and success in attracting private financing and carrying out the types of activities proposed under the application of the grantee, only to—

''(1) a Treasury certified community development financial institution; or

''(2) a nonprofit organization having as 1 of its principal purposes the development or management of affordable housing.

''(f) ELIGIBLE USES.—Grant amounts awarded from the Capital Magnet Fund pursuant to this section may be used for the purposes described in paragraphs (1) and (2) of subsection (c), including for the following uses:

''(1) To provide loan loss reserves.

''(2) To capitalize a revolving loan fund.

''(3) To capitalize an affordable housing fund.

''(4) To capitalize a fund to support activities described in subsection (c)(2).

''(5) For risk-sharing loans.

''(g) APPLICATIONS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall provide, in a competitive application process established by regulation, for eligible grantees under subsection (e) to submit applications for Capital Magnet Fund grants to the Secretary at such time and in such manner as the Secretary shall determine.

''(2) CONTENT OF APPLICATION.—The application required under paragraph (1) shall include a detailed description of—

''(A) the types of affordable housing, economic, and community revitalization projects that support or sustain residents of an affordable housing project funded by a grant under this section for which such grant amounts would be used, including the proposed use of eligible grants as authorized under this section;

''(B) the types, sources, and amounts of other funding for such projects; and

''(C) the expected time frame of any grant used for such project.

''(h) GRANT LIMITATION.—

''(1) IN GENERAL.—Any 1 eligible grantee and its subsidiaries and affiliates may not be awarded more than 15 percent of the aggregate funds available for grants during any year from the Capital Magnet Fund.

''(2) GEOGRAPHIC DIVERSITY.—

''(A) GOAL.—The Secretary of the Treasury shall seek to fund activities in geographically diverse areas of economic distress, including metropolitan and underserved rural areas in every State.

''(B) DIVERSITY DEFINED.—For purposes of this paragraph, geographic diversity includes those areas that meet objective criteria of economic distress developed by the Secretary of the Treasury, which may include—

''(i) the percentage of low-income families or the extent of poverty;

''(ii) the rate of unemployment or underemployment;

''(iii) extent of blight and disinvestment;

''(iv) projects that target extremely low-, very low-, and low-income families in or outside a designated economic distress area; or

''(v) any other criteria designated by the Secretary of the Treasury.

''(3) LEVERAGE OF FUNDS.—Each grant from the Capital Magnet Fund awarded under this section shall be reasonably expected to result in eligible housing, or economic and community development projects that support or sustain an affordable housing project funded by a grant under this section whose aggregate costs total at least 10 times the grant amount.

''(4) COMMITMENT FOR USE DEADLINE.—Amounts made available for grants under this section shall be committed for use within 2 years of the date of such allocation. The Secretary of the Treasury shall recapture into the Capital Magnet Fund any amounts not so used or committed for use and allocate such amounts in the first year after such recapture.

''(5) LOBBYING RESTRICTIONS.—No assistance or amounts made available under this section may be expended by an eligible grantee to pay any person to influence or attempt to influence any agency, elected official, officer or employee of a State or local government in connection with the making, award, extension, continuation, renewal, amendment, or modification of any State or local government contract, grant, loan, or cooperative agreement as such terms are defined in section 1352 of title 31, United States Code.

''(6) PROHIBITION OF CONSIDERATION OF USE FOR MEETING HOUSING GOALS OR DUTY TO SERVE.—In determining the compliance of the enterprises with the housing goals under this section and the duty to serve underserved markets under section 1335, the Director of the Federal Housing Finance Agency may not consider any Capital Magnet Fund amounts used under this section for eligible activities under subsection (f). The Director of the Federal Housing Finance Agency shall give credit toward the achievement of such housing goals and such duty to serve underserved markets to purchases by the enterprises of mortgages for housing that receives funding from Capital Magnet Fund grant amounts, but only to the extent that such purchases by the enterprises are funded other than with such grant amounts.

''(7) ACCOUNTABILITY OF RECIPIENTS AND GRANTEES.—

''(A) TRACKING OF FUNDS.—The Secretary of the Treasury shall—

''(i) require each grantee to develop and maintain a system to ensure that each recipient of assistance from the Capital Magnet Fund uses such amounts in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

''(ii) establish minimum requirements for agreements, between the grantee and the Capital Magnet Fund, regarding assistance from the Capital Magnet Fund, which shall include—

''(I) appropriate periodic financial and project reporting, record retention, and audit requirements for the duration of the grant to the recipient to ensure compliance with the limitations and requirements of this section and the regulations under this section; and

''(II) any other requirements that the Secretary determines are necessary to ensure appropriate grant administration and compliance.

''(B) MISUSE OF FUNDS.—If the Secretary of the Treasury determines, after reasonable notice and opportunity for hearing, that a grantee has failed to comply substantially with any provision of this section and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall—

''(i) reduce the amount of assistance under this section to the grantee by an amount equal to the amount of Capital Magnet Fund grant amounts which were not used in accordance with this section;

''(ii) require the grantee to repay the Secretary any amount of the Capital Magnet Fund grant amounts which were not used in accordance with this section;

''(iii) limit the availability of assistance under this section to the grantee to activities or recipients not affected by such failure to comply; or

''(iv) terminate any assistance under this section to the grantee.

''(i) PERIODIC REPORTS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall submit a report, on a periodic basis, 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 activities to be funded under this section.

''(2) REPORTS AVAILABLE TO PUBLIC.—The Secretary of the Treasury shall make the reports required under paragraph (1) publicly available.

''(j) REGULATIONS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall issue regulations to carry out this section.

''(2) REQUIRED CONTENTS.—The regulations issued under this subsection shall include—

''(A) authority for the Secretary to audit, provide for an audit, or otherwise verify an enterprise's activities, to ensure compliance with this section;

''(B) a requirement that the Secretary ensure that the allocation of each enterprise is audited not less than annually to ensure compliance with this section; and

''(C) requirements for a process for application to, and selection by, the Secretary for activities to be funded with amounts from the Capital Magnet Fund, which shall provide that—

''(i) funds be fairly distributed to urban, suburban, and rural areas; and

''(ii) selection shall be based upon specific criteria, including a prioritization of funding based upon—

''(I) the ability to use such funds to generate additional investments;

''(II) affordable housing need (taking into account the distinct needs of different regions of the country); and

''(III) ability to obligate amounts and undertake activities so funded in a timely manner.''.

SEC. 1132. FINANCIAL EDUCATION AND COUNSELING.

(a) GOALS.—Financial education and counseling under this section shall have the goal of—

(1) increasing the financial knowledge and decision making capabilities of prospective homebuyers;

(2) assisting prospective homebuyers to develop monthly budgets, build personal savings, finance or plan for major purchases, reduce their debt, improve their financial stability, and set and reach their financial goals;

(3) helping prospective homebuyers to improve their credit scores by understanding the relationship between their credit histories and their credit scores; and

(4) educating prospective homebuyers about the options available to build savings for short- and long-term goals.

(b) GRANTS.—

(1) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the ''Secretary'') shall make grants to eligible organizations to enable such organizations to provide a range of financial education and counseling services to prospective homebuyers.

(2) SELECTION.—The Secretary shall select eligible organizations to receive assistance under this section based on their experience and ability to provide financial education and counseling services that result in documented positive behavioral changes.

(c) ELIGIBLE ORGANIZATIONS.—

(1) IN GENERAL.—For purposes of this section, the term ''eligible organization'' means an organization that is—

(A) certified in accordance with section 106(e)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)); or

(B) certified by the Office of Financial Education of the Department of the Treasury for purposes of this section, in accordance with paragraph (2).

(2) OFE CERTIFICATION.—To be certified by the Office of Financial Education for purposes of this section, an eligible organization shall be—

(A) a housing counseling agency certified by the Secretary of Housing and Urban Development under section 106(e) of the Housing and Urban Development Act of 1968;

(B) a State, local, or tribal government agency;

(C) a community development financial institution (as defined in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)) or a credit union; or

(D) any collaborative effort of entities described in any of subparagraphs (A) through (C).

(d) AUTHORITY FOR PILOT PROJECTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall authorize not more than 5 pilot project grants to eligible organizations under subsection (c) in order to—

(A) carry out the services under this section; and

(B) provide such other services that will improve the financial stability and economic condition of low- and moderate-income and low-wealth individuals.

(2) GOAL.—The goal of the pilot project grants under this subsection is to—

(A) identify successful methods resulting in positive behavioral change for financial empowerment; and

(B) establish program models for organizations to carry out effective counseling services.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section and for the provision of additional financial educational services.

(f) STUDY AND REPORT ON EFFECTIVENESS AND IMPACT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the effectiveness and impact of the grant program established under this section. Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report on the results of such study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) CONTENT OF STUDY.—The study required under paragraph (1) shall include an evaluation of the following:

(A) The effectiveness of the grant program established under this section in improving the financial situation of homeowners and prospective homebuyers served by the grant program.

(B) The extent to which financial education and counseling services have resulted in positive behavioral changes.

(C) The effectiveness and quality of the eligible organizations providing financial education and counseling services under the grant program.

(g) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to implement and administer the grant program authorized by this section.

SEC. 1133. TRANSFER AND RIGHTS OF CERTAIN HUD EMPLOYEES.

(a) TRANSFER.—Each employee of the Department of Housing and Urban Development whose position responsibilities primarily involve the establishment and enforcement of the housing goals under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4561 et seq.) shall be transferred to the Federal Housing Finance Agency for employment, not later than the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee transferred under subsection (a) holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, in the case of a temporary employee, separated in accordance with the terms of the appointment of the employee.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

(A) a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character; or

(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee described under subsection (a) accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on such effective date, if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Federal Housing Finance Agency.

(2) COST DIFFERENTIAL.—

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Department of Housing and Urban Development and those provided by this section shall be paid by the Director.

(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

Subtitle C—Prompt Corrective Action

SEC. 1141. CRITICAL CAPITAL LEVELS.

(a) IN GENERAL.—Section 1363 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4613) is amended—

(1) by striking ''For'' and inserting ''(a) ENTERPRISES.—FOR''; and

(2) by adding at the end the following new subsection:

''(b) FEDERAL HOME LOAN BANKS.—

''(1) IN GENERAL.—For purposes of this subtitle, the critical capital level for each Federal Home Loan Bank shall be such amount of capital as the Director shall, by regulation, require.

''(2) CONSIDERATION OF OTHER CRITICAL CAPITAL LEVELS.—In establishing the critical capital level under paragraph (1) for the Federal Home Loan Banks, the Director shall take due consideration of the critical capital level established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises.''.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of enactment of this Act, the Director of the Federal Housing Finance Agency shall issue regulations pursuant to section 1363(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by this section) establishing the critical capital level under such section.

SEC. 1142. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—Section 1364 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4614) is amended—

(1) in the heading for subsection (a) by striking ''In General'' and inserting ''Enterprises'';

(2) in subsection (c)—

(A) by striking ''subsection (b)'' and inserting ''subsection (c)'';

(B) by striking ''enterprises'' and inserting ''regulated entities''; and

(C) by striking the last sentence;

(3) by redesignating subsections (c) (as so amended by paragraph (2) of this subsection) and (d) as subsections (d) and (f), respectively;

(4) by striking subsection (b) and inserting the following:

''(b) FEDERAL HOME LOAN BANKS.—

''(1) ESTABLISHMENT AND CRITERIA.—For purposes of this subtitle, the Director shall, by regulation—

''(A) establish the capital classifications specified under paragraph (2) for the Federal Home Loan Banks;

''(B) establish criteria for each such capital classification based on the amount and types of capital held by a bank and the risk-based, minimum, and critical capital levels for the banks and taking due consideration of the capital classifications established under subsection (a) for the enterprises, with such modifications as the Director determines to be appropriate to reflect the difference in operations between the banks and the enterprises; and

''(C) shall classify the Federal Home Loan Banks according to such capital classifications.

''(2) CLASSIFICATIONS.—The capital classifications specified under this paragraph are—

''(A) adequately capitalized;

''(B) undercapitalized;

''(C) significantly undercapitalized; and

''(D) critically undercapitalized.

''(c) DISCRETIONARY CLASSIFICATION.—

''(1) GROUNDS FOR RECLASSIFICATION.—The Director may reclassify a regulated entity under paragraph (2) if—

''(A) at any time, the Director determines in writing that the regulated entity is engaging in conduct that could result in a rapid depletion of core or total capital or the value of collateral pledged as security has decreased significantly or that the value of the property subject to any mortgage held by the regulated entity (or securitized in the case of an enterprise) has decreased significantly;

''(B) after notice and an opportunity for hearing, the Director determines that the regulated entity is in an unsafe or unsound condition; or

''(C) pursuant to section 1371(b), the Director deems the regulated entity to be engaging in an unsafe or unsound practice.

''(2) RECLASSIFICATION.—In addition to any other action authorized under this title, including the reclassification of a regulated entity for any reason not specified in this subsection, if the Director takes any action described in paragraph (1), the Director may classify a regulated entity—

''(A) as undercapitalized, if the regulated entity is otherwise classified as adequately capitalized;

''(B) as significantly undercapitalized, if the regulated entity is otherwise classified as undercapitalized; and

''(C) as critically undercapitalized, if the regulated entity is otherwise classified as significantly undercapitalized.''; and

(5) by inserting after subsection (d) (as so redesignated by paragraph (3) of this subsection), the following new subsection:

''(e) RESTRICTION ON CAPITAL DISTRIBUTIONS.—

''(1) IN GENERAL.—A regulated entity shall make no capital distribution if, after making the distribution, the regulated entity would be undercapitalized.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may permit a regulated entity, to the extent appropriate or applicable, to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

''(A) is made in connection with the issuance of additional shares or obligations of the regulated entity in at least an equivalent amount; and

''(B) will reduce the financial obligations of the regulated entity or otherwise improve the financial condition of the entity.''.

(b) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of enactment of this Act, the Director of the Federal Housing Finance Agency shall issue regulations to carry out section 1364(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (as added by this section), relating to capital classifications for the Federal Home Loan Banks.

SEC. 1143. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED REGULATED ENTITIES.

Section 1365 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4615) is amended—

(1) by striking ''the enterprise'' each place that term appears and inserting ''the regulated entity'';

(2) by striking ''An enterprise'' each place that term appears and inserting ''A regulated entity'';

(3) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity'';

(4) in subsection (a)—

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

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

''(1) REQUIRED MONITORING.—The Director shall—

''(A) closely monitor the condition of any undercapitalized regulated entity;

''(B) closely monitor compliance with the capital restoration plan, restrictions, and requirements imposed on an undercapitalized regulated entity under this section; and

''(C) periodically review the plan, restrictions, and requirements applicable to an undercapitalized regulated entity to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.''; and

(C) by adding at the end the following:

''(4) RESTRICTION OF ASSET GROWTH.—An undercapitalized regulated entity shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, unless—

''(A) the Director has accepted the capital restoration plan of the regulated entity;

''(B) any increase in total assets is consistent with the capital restoration plan; and

''(C) the ratio of tangible equity to assets of the regulated entity increases during the calendar quarter at a rate sufficient to enable the regulated entity to become adequately capitalized within a reasonable time.

''(5) PRIOR APPROVAL OF ACQUISITIONS AND NEW ACTIVITIES.—An undercapitalized regulated entity shall not, directly or indirectly, acquire any interest in any entity or engage in any new activity, unless—

''(A) the Director has accepted the capital restoration plan of the regulated entity, the regulated entity is implementing the plan, and the Director determines that the proposed action is consistent with and will further the achievement of the plan; or

''(B) the Director determines that the proposed action will further the purpose of this subtitle.'';

(5) in subsection (b)—

(A) in the subsection heading, by striking ''DISCRETIONARY'';

(B) in the matter preceding paragraph (1), by striking ''may'' and inserting ''shall''; and

(C) in paragraph (2)—

(i) by striking ''make, in good faith, reasonable efforts necessary to''; and

(ii) by striking the period at the end and inserting ''in any material respect.''; and

(6) by striking subsection (c) and inserting the following:

''(c) OTHER DISCRETIONARY SAFEGUARDS.—The Director may take, with respect to an undercapitalized regulated entity, any of the actions authorized to be taken under section 1366 with respect to a significantly undercapitalized regulated entity, if the Director determines that such actions are necessary to carry out the purpose of this subtitle.''.

SEC. 1144. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED REGULATED ENTITIES.

Section 1366 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4616) is amended—

(1) in subsection (a)(2), by striking ''undercapitalized enterprise'' and inserting ''undercapitalized'';

(2) by striking ''the enterprise'' each place that term appears and inserting ''the regulated entity'';

(3) by striking ''An enterprise'' each place that term appears and inserting ''A regulated entity'';

(4) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity'';

(5) in subsection (b)—

(A) in the subsection heading, by striking ''DISCRETIONARY SUPERVISORY'' and inserting ''SPECIFIC'';

(B) in the matter preceding paragraph (1), by striking ''may, at any time, take any'' and inserting ''shall carry out this section by taking, at any time, 1 or more'';

(C) by striking paragraph (6);

(D) by redesignating paragraph (5) as paragraph (6);

(E) by inserting after paragraph (4) the following:

''(5) IMPROVEMENT OF MANAGEMENT.—Take 1 or more of the following actions:

''(A) NEW ELECTION OF BOARD.—Order a new election for the board of directors of the regulated entity.

''(B) DISMISSAL OF DIRECTORS OR EXECUTIVE OFFICERS.—Require the regulated entity to dismiss from office any director or executive officer who had held office for more than 180 days immediately before the date on which the regulated entity became undercapitalized. Dismissal under this subparagraph shall not be construed to be a removal pursuant to the enforcement powers of the Director under section 1377.

''(C) EMPLOY QUALIFIED EXECUTIVE OFFICERS.—Require the regulated entity to employ qualified executive officers (who, if the Director so specifies, shall be subject to approval by the Director).''; and

(F) by adding at the end the following:

''(7) OTHER ACTION.—Require the regulated entity to take any other action that the Director determines will better carry out the purpose of this section than any of the other actions specified in this subsection.''; and

(6) by striking subsection (c) and inserting the following:

''(c) RESTRICTION ON COMPENSATION OF EXECUTIVE OFFICERS.—A regulated entity that is classified as significantly undercapitalized in accordance with section 1364 may not, without prior written approval by the Director—

''(1) pay any bonus to any executive officer; or

''(2) provide compensation to any executive officer at a rate exceeding the average rate of compensation of that officer (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the

calendar month in which the regulated entity became significantly undercapitalized.''.

SEC. 1145. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

(a) IN GENERAL.—Section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) is amended to read as follows:

''SEC. 1367. AUTHORITY OVER CRITICALLY UNDERCAPITALIZED REGULATED ENTITIES.

''(a) APPOINTMENT OF THE AGENCY AS CONSERVATOR OR RECEIVER.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Director may appoint the Agency as conservator or receiver for a regulated entity in the manner provided under paragraph (2) or (4). All references to the conservator or receiver under this section are references to the Agency acting as conservator or receiver.

''(2) DISCRETIONARY APPOINTMENT.—The Agency may, at the discretion of the Director, be appointed conservator or receiver for the purpose of reorganizing, rehabilitating, or winding up the affairs of a regulated entity.

''(3) GROUNDS FOR DISCRETIONARY APPOINTMENT OF CONSERVATOR OR RECEIVER.—The grounds for appointing conservator or receiver for any regulated entity under paragraph (2) are as follows:

''(A) SUBSTANTIAL DISSIPATION.—Substantial dissipation of assets or earnings due to—

''(i) any violation of any provision of Federal or State law; or

''(ii) any unsafe or unsound practice.

''(B) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

''(C) CEASE AND DESIST ORDERS.—Any willful violation of a cease and desist order that has become final.

''(D) CONCEALMENT.—Any concealment of the books, papers, records, or assets of the regulated entity, or any refusal to submit the books, papers, records, or affairs of the regulated entity, for inspection to any examiner or to any lawful agent of the Director.

''(E) INABILITY TO MEET OBLIGATIONS.—The regulated entity is likely to be unable to pay its obligations or meet the demands of its creditors in the normal course of business.

''(F) LOSSES.—The regulated entity has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the regulated entity to become adequately capitalized (as defined in section 1364(a)(1)).

''(G) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

''(i) cause insolvency or substantial dissipation of assets or earnings; or

''(ii) weaken the condition of the regulated entity.

''(H) CONSENT.—The regulated entity, by resolution of its board of directors or its shareholders or members, consents to the appointment.

''(I) UNDERCAPITALIZATION.—The regulated entity is undercapitalized or significantly undercapitalized (as defined in section 1364(a)(3)), and—

''(i) has no reasonable prospect of becoming adequately capitalized;

''(ii) fails to become adequately capitalized, as required by—

''(I) section 1365(a)(1) with respect to a regulated entity; or

''(II) section 1366(a)(1) with respect to a significantly undercapitalized regulated entity;

''(iii) fails to submit a capital restoration plan acceptable to the Agency within the time prescribed under section 1369C; or

''(iv) materially fails to implement a capital restoration plan submitted and accepted under section 1369C.

''(J) CRITICAL UNDERCAPITALIZATION.—The regulated entity is critically undercapitalized, as defined in section 1364(a)(4).

''(K) MONEY LAUNDERING.—The Attorney General notifies the Director in writing that the regulated entity has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 or 5324 of title 31, United States Code.

''(4) MANDATORY RECEIVERSHIP.—

''(A) IN GENERAL.—The Director shall appoint the Agency as receiver for a regulated entity if the Director determines, in writing, that—

''(i) the assets of the regulated entity are, and during the preceding 60 calendar days have been, less than the obligations of the regulated entity to its creditors and others; or

''(ii) the regulated entity is not, and during the preceding 60 calendar days has not been, generally paying the debts of the regulated entity (other than debts that are the subject of a bona fide dispute) as such debts become due.

''(B) PERIODIC DETERMINATION REQUIRED FOR CRITICALLY UNDERCAPITALIZED REGULATED ENTITY.—If a regulated entity is critically undercapitalized, the Director shall make a determination, in writing, as to whether the regulated entity meets the criteria specified in clause (i) or (ii) of subparagraph (A)—

''(i) not later than 30 calendar days after the regulated entity initially becomes critically undercapitalized; and

''(ii) at least once during each succeeding 30-calendar day period.

''(C) DETERMINATION NOT REQUIRED IF RECEIVERSHIP ALREADY IN PLACE.—Subparagraph (B) does not apply with respect to a regulated entity in any period during which the Agency serves as receiver for the regulated entity.

''(D) RECEIVERSHIP TERMINATES CONSERVATORSHIP.—The appointment of the Agency as receiver of a regulated entity under this section shall immediately terminate any conservatorship established for the regulated entity under this title.

''(5) JUDICIAL REVIEW.—

''(A) IN GENERAL.—If the Agency is appointed conservator or receiver under this section, the regulated entity may, within 30 days of such appointment, bring an action in the United States district court for the judicial district in which the home office of such regulated entity is located, or in the United States District Court for the District of Columbia, for an order requiring the Agency to remove itself as conservator or receiver.

''(B) REVIEW.—Upon the filing of an action under subparagraph (A), the court shall, upon the merits, dismiss such action or direct the Agency to remove itself as such conservator or receiver.

''(6) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of a regulated entity shall not be liable to the shareholders or creditors of the regulated entity for acquiescing in or consenting in good faith to the appointment of the Agency as conservator or receiver for that regulated entity.

''(7) AGENCY NOT SUBJECT TO ANY OTHER FEDERAL AGENCY.—When acting as conservator or receiver, the Agency shall not be subject to the direction or supervision of any other agency of the United States or any State in the exercise of the rights, powers, and privileges of the Agency.

''(b) POWERS AND DUTIES OF THE AGENCY AS CONSERVATOR OR RECEIVER.—

''(1) RULEMAKING AUTHORITY OF THE AGENCY.—The Agency may prescribe such regulations as the Agency determines to be appropriate regarding the conduct of conservatorships or receiverships.

''(2) GENERAL POWERS.—

''(A) SUCCESSOR TO REGULATED ENTITY.—The Agency shall, as conservator or receiver, and by operation of law, immediately succeed to—

''(i) all rights, titles, powers, and privileges of the regulated entity, and of any stockholder, officer, or director of such regulated entity with respect to the regulated entity and the assets of the regulated entity; and

''(ii) title to the books, records, and assets of any other legal custodian of such regulated entity.

''(B) OPERATE THE REGULATED ENTITY.—The Agency may, as conservator or receiver—

''(i) take over the assets of and operate the regulated entity with all the powers of the shareholders, the directors, and the officers of the regulated entity and conduct all business of the regulated entity;

''(ii) collect all obligations and money due the regulated entity;

''(iii) perform all functions of the regulated entity in the name of the regulated entity which are consistent with the appointment as conservator or receiver;

''(iv) preserve and conserve the assets and property of the regulated entity; and

''(v) provide by contract for assistance in fulfilling any function, activity, action, or duty of the Agency as conservator or receiver.

''(C) FUNCTIONS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF A REGULATED ENTITY.—The Agency may, by regulation or order, provide for the exercise of any function by any stockholder, director, or officer of any regulated entity for which the Agency has been named conservator or receiver.

''(D) POWERS AS CONSERVATOR.—The Agency may, as conservator, take such action as may be—

''(i) necessary to put the regulated entity in a sound and solvent condition; and

''(ii) appropriate to carry on the business of the regulated entity and preserve and conserve the assets and property of the regulated entity.

''(E) ADDITIONAL POWERS AS RECEIVER.—In any case in which the Agency is acting as receiver, the Agency shall place the regulated entity in liquidation and proceed to realize upon the assets of the regulated entity in such manner as the Agency deems appropriate, including through the sale of assets, the transfer of assets to a limited-life regulated entity established under subsection (i), or the exercise of any other rights or privileges granted to the Agency under this paragraph.

''(F) ORGANIZATION OF NEW ENTERPRISE.—The Agency shall, as receiver for an enterprise, organize a successor enterprise that will operate pursuant to subsection (i).

''(G) TRANSFER OR SALE OF ASSETS AND LIABILITIES.—The Agency may, as conservator or receiver, transfer or sell any asset or liability of the regulated entity in default, and may do so without any approval, assignment, or consent with respect to such transfer or sale.

''(H) PAYMENT OF VALID OBLIGATIONS.—The Agency, as conservator or receiver, shall, to the extent of proceeds realized from the performance of contracts or sale of the assets of a regulated entity, pay all valid obligations of the regulated entity that are due and payable at the time of the appointment of the Agency as conservator or receiver, in accordance with the prescriptions and limitations of this section.

''(I) SUBPOENA AUTHORITY.—

''(i) IN GENERAL.—

''(I) AGENCY AUTHORITY.—The Agency may, as conservator or receiver, and for purposes

of carrying out any power, authority, or duty with respect to a regulated entity (including determining any claim against the regulated entity and determining and realizing upon any asset of any person in the course of collecting money due the regulated entity), exercise any power established under section 1348.

''(II) APPLICABILITY OF LAW.—The provisions of section 1348 shall apply with respect to the exercise of any power under this subparagraph, in the same manner as such provisions apply under that section.

''(ii) SUBPOENA.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Director, or the designee of the Director.

''(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed to limit any rights that the Agency, in any capacity, might otherwise have under section 1317 or 1379B.

''(J) INCIDENTAL POWERS.—The Agency may, as conservator or receiver—

''(i) exercise all powers and authorities specifically granted to conservators or receivers, respectively, under this section, and such incidental powers as shall be necessary to carry out such powers; and

''(ii) take any action authorized by this section, which the Agency determines is in the best interests of the regulated entity or the Agency.

''(K) OTHER PROVISIONS.—

''(i) SHAREHOLDERS AND CREDITORS OF FAILED REGULATED ENTITY.—Notwithstanding any other provision of law, the appointment of the Agency as receiver for a regulated entity pursuant to paragraph (2) or (4) of subsection (a) and its succession, by operation of law, to the rights, titles, powers, and privileges described in subsection (b)(2)(A) shall terminate all rights and claims that the stockholders and creditors of the regulated entity may have against the assets or charter of the regulated entity or the Agency arising as a result of their status as stockholders or creditors, except for their right to payment, resolution, or other satisfaction of their claims, as permitted under subsections (b)(9), (c), and (e).

''(ii) ASSETS OF REGULATED ENTITY.—Notwithstanding any other provision of law, for purposes of this section, the charter of a regulated entity shall not be considered an asset of the regulated entity.

''(3) AUTHORITY OF RECEIVER TO DETERMINE CLAIMS.—

''(A) IN GENERAL.—The Agency may, as receiver, determine claims in accordance with the requirements of this subsection and any regulations prescribed under paragraph (4).

''(B) NOTICE REQUIREMENTS.—The receiver, in any case involving the liquidation or winding up of the affairs of a closed regulated entity, shall—

''(i) promptly publish a notice to the creditors of the regulated entity to present their claims, together with proof, to the receiver by a date specified in the notice which shall be not less than 90 days after the date of publication of such notice; and

''(ii) republish such notice approximately 1 month and 2 months, respectively, after the date of publication under clause (i).

''(C) MAILING REQUIRED.—The receiver shall mail a notice similar to the notice published under subparagraph (B)(i) at the time of such publication to any creditor shown on the books of the regulated entity—

''(i) at the last address of the creditor appearing in such books; or

''(ii) upon discovery of the name and address of a claimant not appearing on the books of the regulated entity, within 30 days after the discovery of such name and address.

''(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—Subject to subsection (c), the Director may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determination of claims and review of such determination.

''(5) PROCEDURES FOR DETERMINATION OF CLAIMS.—

''(A) DETERMINATION PERIOD.—

''(i) IN GENERAL.—Before the end of the 180-day period beginning on the date on which any claim against a regulated entity is filed with the Agency as receiver, the Agency shall determine whether to allow or disallow the claim and shall notify the claimant of any determination with respect to such claim.

''(ii) EXTENSION OF TIME.—The period described in clause (i) may be extended by a written agreement between the claimant and the Agency.

''(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any determination with respect to any claim is mailed to the last address of the claimant which appears—

''(I) on the books of the regulated entity;

''(II) in the claim filed by the claimant; or

''(III) in documents submitted in proof of the claim.

''(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If any claim filed under clause (i) is disallowed, the notice to the claimant shall contain—

''(I) a statement of each reason for the disallowance; and

''(II) the procedures available for obtaining agency review of the determination to disallow the claim or judicial determination of the claim.

''(B) ALLOWANCE OF PROVEN CLAIM.—The receiver shall allow any claim received on or before the date specified in the notice published under paragraph (3)(B)(i) by the receiver from any claimant which is proved to the satisfaction of the receiver.

''(C) DISALLOWANCE OF CLAIMS FILED AFTER FILING PERIOD.—Claims filed after the date specified in the notice published under paragraph (3)(B)(i), or the date specified under paragraph (3)(C), shall be disallowed and such disallowance shall be final.

''(D) AUTHORITY TO DISALLOW CLAIMS.—

''(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

''(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against a regulated entity which is secured by any property or other asset of such regulated entity, the receiver—

''(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the regulated entity; and

''(II) may not make any payment with respect to such unsecured portion of the claim, other than in connection with the disposition of all claims of unsecured creditors of the regulated entity.

''(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

''(I) any extension of credit from any Federal Reserve Bank, Federal Home Loan Bank, or the United States Treasury; or

''(II) any security interest in the assets of the regulated entity securing any such extension of credit.

''(E) NO JUDICIAL REVIEW OF DETERMINATION PURSUANT TO SUBPARAGRAPH (D).—No court may review the determination of the Agency under subparagraph (D) to disallow a claim.

''(F) LEGAL EFFECT OF FILING.—

''(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

''(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the date of the appointment of the receiver, subject to the determination of claims by the receiver.

''(6) PROVISION FOR JUDICIAL DETERMINATION OF CLAIMS.—

''(A) IN GENERAL.—The claimant may file suit on a claim (or continue an action commenced before the appointment of the receiver) in the district or territorial court of the United States for the district within which the principal place of business of the regulated entity is located or the United States District Court for the District of Columbia (and such court shall have jurisdiction to hear such claim), before the end of the 60-day period beginning on the earlier of—

''(i) the end of the period described in paragraph (5)(A)(i) with respect to any claim against a regulated entity for which the Agency is receiver; or

''(ii) the date of any notice of disallowance of such claim pursuant to paragraph (5)(A)(i).

''(B) STATUTE OF LIMITATIONS.—A claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver), and such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim, if the claimant fails, before the end of the 60-day period described under subparagraph (A), to file suit on such claim (or continue an action commenced before the appointment of the receiver).

''(7) REVIEW OF CLAIMS.—

''(A) OTHER REVIEW PROCEDURES.—

''(i) IN GENERAL.—The Agency shall establish such alternative dispute resolution processes as may be appropriate for the resolution of claims filed under paragraph (5)(A)(i).

''(ii) CRITERIA.—In establishing alternative dispute resolution processes, the Agency shall strive for procedures which are expeditious, fair, independent, and low cost.

''(iii) VOLUNTARY BINDING OR NONBINDING PROCEDURES.—The Agency may establish both binding and nonbinding processes under this subparagraph, which may be conducted by any government or private party. All parties, including the claimant and the Agency, must agree to the use of the process in a particular case.

''(B) CONSIDERATION OF INCENTIVES.—The Agency shall seek to develop incentives for claimants to participate in the alternative dispute resolution process.

''(8) EXPEDITED DETERMINATION OF CLAIMS.—

''(A) ESTABLISHMENT REQUIRED.—The Agency shall establish a procedure for expedited relief outside of the routine claims process established under paragraph (5) for claimants who—

''(i) allege the existence of legally valid and enforceable or perfected security interests in assets of any regulated entity for which the Agency has been appointed receiver; and

''(ii) allege that irreparable injury will occur if the routine claims procedure is followed.

''(B) DETERMINATION PERIOD.—Before the end of the 90-day period beginning on the date on which any claim is filed in accordance with the procedures established under subparagraph (A), the Director shall—

''(i) determine—

''(I) whether to allow or disallow such claim; or

''(II) whether such claim should be determined pursuant to the procedures established under paragraph (5); and

''(ii) notify the claimant of the determination, and if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining agency review or judicial determination.

''(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file a suit, or to continue a suit filed before the date of appointment of the receiver, seeking a determination of the rights of the claimant with respect to such security interest after the earlier of—

''(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

''(ii) the date on which the Agency denies the claim.

''(D) STATUTE OF LIMITATIONS.—If an action described under subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed under subparagraph (B), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

''(E) LEGAL EFFECT OF FILING.—

''(i) STATUTE OF LIMITATION TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

''(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (10), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action that was filed before the appointment of the receiver, subject to the determination of claims by the receiver.

''(9) PAYMENT OF CLAIMS.—

''(A) IN GENERAL.—The receiver may, in the discretion of the receiver, and to the extent that funds are available from the assets of the regulated entity, pay creditor claims, in such manner and amounts as are authorized under this section, which are—

''(i) allowed by the receiver;

''(ii) approved by the Agency pursuant to a final determination pursuant to paragraph (7) or (8); or

''(iii) determined by the final judgment of any court of competent jurisdiction.

''(B) AGREEMENTS AGAINST THE INTEREST OF THE AGENCY.—No agreement that tends to diminish or defeat the interest of the Agency in any asset acquired by the Agency as receiver under this section shall be valid against the Agency unless such agreement is in writing and executed by an authorized officer or representative of the regulated entity.

''(C) PAYMENT OF DIVIDENDS ON CLAIMS.—The receiver may, in the sole discretion of the receiver, pay from the assets of the regulated entity dividends on proved claims at any time, and no liability shall attach to the Agency by reason of any such payment, for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

''(D) RULEMAKING AUTHORITY OF THE DIRECTOR.—The Director may prescribe such rules, including definitions of terms, as the Director deems appropriate to establish a single uniform interest rate for, or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estates of the regulated entity, following satisfaction by the receiver of the principal amount of all creditor claims.

''(10) SUSPENSION OF LEGAL ACTIONS.—

''(A) IN GENERAL.—After the appointment of a conservator or receiver for a regulated entity, the conservator or receiver may, in any judicial action or proceeding to which such regulated entity is or becomes a party, request a stay for a period not to exceed—

''(i) 45 days, in the case of any conservator; and

''(ii) 90 days, in the case of any receiver.

''(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by the conservator or receiver under subparagraph (A) for a stay of any judicial action or proceeding in any court with jurisdiction of such action or proceeding, the court shall grant such stay as to all parties.

''(11) ADDITIONAL RIGHTS AND DUTIES.—

''(A) PRIOR FINAL ADJUDICATION.—The Agency shall abide by any final unappealable judgment of any court of competent jurisdiction which was rendered before the appointment of the Agency as conservator or receiver.

''(B) RIGHTS AND REMEDIES OF CONSERVATOR OR RECEIVER.—In the event of any appealable judgment, the Agency as conservator or receiver—

''(i) shall have all of the rights and remedies available to the regulated entity (before the appointment of such conservator or receiver) and the Agency, including removal to Federal court and all appellate rights; and

''(ii) shall not be required to post any bond in order to pursue such remedies.

''(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may issue by any court upon assets in the possession of the receiver, or upon the charter, of a regulated entity for which the Agency has been appointed receiver.

''(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this subsection, no court shall have jurisdiction over—

''(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets or charter of any regulated entity for which the Agency has been appointed receiver; or

''(ii) any claim relating to any act or omission of such regulated entity or the Agency as receiver.

''(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of a regulated entity for which the Agency has been appointed conservator or receiver, the Agency shall conduct its operations in a manner which—

''(i) maximizes the net present value return from the sale or disposition of such assets;

''(ii) minimizes the amount of any loss realized in the resolution of cases; and

''(iii) ensures adequate competition and fair and consistent treatment of offerors.

''(12) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY CONSERVATOR OR RECEIVER.—

''(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Agency as conservator or receiver shall be—

''(i) in the case of any contract claim, the longer of—

''(I) the 6-year period beginning on the date on which the claim accrues; or

''(II) the period applicable under State law; and

''(ii) in the case of any tort claim, the longer of—

''(I) the 3-year period beginning on the date on which the claim accrues; or

''(II) the period applicable under State law.

''(B) DETERMINATION OF THE DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in such subparagraph shall be the later of—

''(i) the date of the appointment of the Agency as conservator or receiver; or

''(ii) the date on which the cause of action accrues.

''(13) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

''(A) IN GENERAL.—In the case of any tort claim described under clause (ii) for which the statute of limitations applicable under State law with respect to such claim has expired not more than 5 years before the appointment of the Agency as conservator or receiver, the Agency may bring an action as conservator or receiver on such claim without regard to the expiration of the statute of limitations applicable under State law.

''(B) CLAIMS DESCRIBED.—A tort claim referred to under clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the regulated entity.

''(14) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

''(A) IN GENERAL.—The Agency as conservator or receiver shall, consistent with the accounting and reporting practices and procedures established by the Agency, maintain a full accounting of each conservatorship and receivership or other disposition of a regulated entity in default.

''(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each conservatorship or receivership, the Agency shall make an annual accounting or report available to the Board, the Comptroller General of the United States, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

''(C) AVAILABILITY OF REPORTS.—Any report prepared under subparagraph (B) shall be made available by the Agency upon request to any shareholder of a regulated entity or any member of the public.

''(D) RECORDKEEPING REQUIREMENT.—After the end of the 6-year period beginning on the date on which the conservatorship or receivership is terminated by the Director, the Agency may destroy any records of such regulated entity which the Agency, in the discretion of the Agency, determines to be unnecessary, unless directed not to do so by a court of competent jurisdiction or governmental agency, or prohibited by law.

''(15) FRAUDULENT TRANSFERS.—

''(A) IN GENERAL.—The Agency, as conservator or receiver, may avoid a transfer of any interest of an entity-affiliated party, or any person determined by the conservator or receiver to be a debtor of the regulated entity, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Agency was appointed conservator or receiver, if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the regulated entity, the Agency, the conservator, or receiver.

''(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the conservator or receiver may recover, for the benefit of the regulated entity, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

''(i) the initial transferee of such transfer or the entity-affiliated party or person for whose benefit such transfer was made; or

''(ii) any immediate or mediate transferee of any such initial transferee.

''(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The conservator or receiver may not recover under subparagraph (B) from—

''(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

''(ii) any immediate or mediate good faith transferee of such transferee.

''(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the conservator or receiver described under subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.

''(16) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (17), any court of competent jurisdiction may, at the request of the conservator or receiver, issue an order in accordance with rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the conservator or receiver under the control of the court, and appointing a trustee to hold such assets.

''(17) STANDARDS OF PROOF.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (16) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

''(18) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE CONSERVATOR OR RECEIVER.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, any final and unappealable judgment for monetary damages entered against the conservator or receiver for the breach of an agreement executed or approved in writing by the conservator or receiver after the date of its appointment, shall be paid as an administrative expense of the conservator or receiver.

''(B) NO LIMITATION OF POWER.—Nothing in this paragraph shall be construed to limit the power of the conservator or receiver to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.

''(19) GENERAL EXCEPTIONS.—

''(A) LIMITATIONS.—The rights of the conservator or receiver appointed under this section shall be subject to the limitations on the powers of a receiver under sections 402 through 407 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402 through 4407).

''(B) MORTGAGES HELD IN TRUST.—

''(i) IN GENERAL.—Any mortgage, pool of mortgages, or interest in a pool of mortgages held in trust, custodial, or agency capacity by a regulated entity for the benefit of any person other than the regulated entity shall not be available to satisfy the claims of creditors generally, except that nothing in this clause shall be construed to expand or otherwise affect the authority of any regulated entity.

''(ii) HOLDING OF MORTGAGES.—Any mortgage, pool of mortgages, or interest in a pool of mortgages described in clause (i) shall be held by the conservator or receiver appointed under this section for the beneficial owners of such mortgage, pool of mortgages, or interest in accordance with the terms of the agreement creating such trust, custodial, or other agency arrangement.

''(iii) LIABILITY OF CONSERVATOR OR RECEIVER.—The liability of the conservator or receiver appointed under this section for damages shall, in the case of any contingent or unliquidated claim relating to the mortgages held in trust, be estimated in accordance with the regulations of the Director.

''(c) PRIORITY OF EXPENSES AND UNSECURED CLAIMS.—

''(1) IN GENERAL.—Unsecured claims against a regulated entity, or the receiver therefor, that are proven to the satisfaction of the receiver shall have priority in the following order:

''(A) Administrative expenses of the receiver.

''(B) Any other general or senior liability of the regulated entity (which is not a liability described under subparagraph (C) or (D).

''(C) Any obligation subordinated to general creditors (which is not an obligation described under subparagraph (D)).

''(D) Any obligation to shareholders or members arising as a result of their status as shareholder or members.

''(2) CREDITORS SIMILARLY SITUATED.—All creditors that are similarly situated under paragraph (1) shall be treated in a similar manner, except that the receiver may take any action (including making payments) that does not comply with this subsection, if—

''(A) the Director determines that such action is necessary to maximize the value of the assets of the regulated entity, to maximize the present value return from the sale or other disposition of the assets of the regulated entity, or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the regulated entity; and

''(B) all creditors that are similarly situated under paragraph (1) receive not less than the amount provided in subsection (e)(2).

''(3) DEFINITION.—As used in this subsection, the term 'administrative expenses of the receiver' includes—

''(A) the actual, necessary costs and expenses incurred by the receiver in preserving the assets of a failed regulated entity or liquidating or otherwise resolving the affairs of a failed regulated entity; and

''(B) any obligations that the receiver determines are necessary and appropriate to facilitate the smooth and orderly liquidation or other resolution of the regulated entity.

''(d) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

''(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights a conservator or receiver may have, the conservator or receiver for any regulated entity may disaffirm or repudiate any contract or lease—

''(A) to which such regulated entity is a party;

''(B) the performance of which the conservator or receiver, in its sole discretion, determines to be burdensome; and

''(C) the disaffirmance or repudiation of which the conservator or receiver determines, in its sole discretion, will promote the orderly administration of the affairs of the regulated entity.

''(2) TIMING OF REPUDIATION.—The conservator or receiver shall determine whether or not to exercise the rights of repudiation under this subsection within a reasonable period following such appointment.

''(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

''(A) IN GENERAL.—Except as otherwise provided under subparagraph (C) and paragraphs (4), (5), and (6), the liability of the conservator or receiver for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

''(i) limited to actual direct compensatory damages; and

''(ii) determined as of—

''(I) the date of the appointment of the conservator or receiver; or

''(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

''(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term 'actual direct compensatory damages' shall not include—

''(i) punitive or exemplary damages;

''(ii) damages for lost profits or opportunity; or

''(iii) damages for pain and suffering.

''(C) MEASURE OF DAMAGES FOR REPUDIATION OF FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

''(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

''(ii) paid in accordance with this subsection and subsection (e), except as otherwise specifically provided in this section.

''(4) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSEE.—

''(A) IN GENERAL.—If the conservator or receiver disaffirms or repudiates a lease under which the regulated entity was the lessee, the conservator or receiver shall not be liable for any damages (other than damages determined under subparagraph (B)) for the disaffirmance or repudiation of such lease.

''(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which that subparagraph applies shall—

''(i) be entitled to the contractual rent accruing before the later of the date on which—

''(I) the notice of disaffirmance or repudiation is mailed; or

''(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease;

''(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

''(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment, which shall be paid in accordance with this subsection and subsection (e).

''(5) LEASES UNDER WHICH THE REGULATED ENTITY IS THE LESSOR.—

''(A) IN GENERAL.—If the conservator or receiver repudiates an unexpired written lease of real property of the regulated entity under which the regulated entity is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

''(i) treat the lease as terminated by such repudiation; or

''(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.

''(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described under subparagraph (A) remains in possession of a leasehold interest under clause (ii) of subparagraph (A)—

''(i) the lessee—

''(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and

''(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, and any damages which accrue after such date due to the nonperformance of any obligation of the regulated entity under the lease after such date; and

''(ii) the conservator or receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II).

''(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

''(A) IN GENERAL.—If the conservator or receiver repudiates any contract for the sale of real property and the purchaser of such real property under such contract is in possession, and is not, as of the date of such repudiation, in default, such purchaser may either—

''(i) treat the contract as terminated by such repudiation; or

''(ii) remain in possession of such real property.

''(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described under subparagraph (A) remains in possession of such property under clause (ii) of subparagraph (A)—

''(i) the purchaser—

''(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

''(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the regulated entity under the contract; and

''(ii) the conservator or receiver shall—

''(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II);

''(II) deliver title to the purchaser in accordance with the provisions of the contract; and

''(III) have no obligation under the contract other than the performance required under subclause (II).

''(C) ASSIGNMENT AND SALE ALLOWED.—

''(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the conservator or receiver to assign the contract described under subparagraph (A), and sell the property subject to the contract and the provisions of this paragraph.

''(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described under clause (i) is consummated, the conservator or receiver shall have no further liability under the contract described under subparagraph (A), or with respect to the real property which was the subject of such contract.

''(7) SERVICE CONTRACTS.—

''(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any regulated entity for which the Agency has been appointed conservator or receiver, any claim of such person for services performed before the appointment of the conservator or receiver shall be—

''(i) a claim to be paid in accordance with subsections (b) and (e); and

''(ii) deemed to have arisen as of the date on which the conservator or receiver was appointed.

''(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described under subparagraph (A), the conservator or receiver accepts performance by the other person before the conservator or receiver makes any determination to exercise the right of repudiation of such contract under this section—

''(i) the other party shall be paid under the terms of the contract for the services performed; and

''(ii) the amount of such payment shall be treated as an administrative expense of the conservatorship or receivership.

''(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by the conservator or receiver of services referred to under subparagraph (B) in connection with a contract described in such subparagraph shall not affect the right of the conservator or receiver to repudiate such contract under this section at any time after such performance.

''(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

''(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to paragraphs (9) and (10), and notwithstanding any other provision of this title (other than subsection (b)(9)(B) of this section), any other Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

''(i) any right of that person to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity that arises upon the appointment of the Agency as receiver for such regulated entity at any time after such appointment;

''(ii) any right under any security agreement or arrangement or other credit enhancement relating to one or more qualified financial contracts; or

''(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts and agreements described in clause (i), including any master agreement for such contracts or agreements.

''(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (b)(10) shall apply in the case of any judicial action or proceeding brought against any receiver referred to under subparagraph (A), or the regulated entity for which such receiver was appointed, by any party to a contract or agreement described under subparagraph (A)(i) with such regulated entity.

''(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

''(i) IN GENERAL.—Notwithstanding paragraph (11), or any other provision of Federal or State law relating to the avoidance of preferential or fraudulent transfers, the Agency, whether acting as such or as conservator or receiver of a regulated entity, may not avoid any transfer of money or other property in connection with any qualified financial contract with a regulated entity.

''(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a regulated entity if the Agency determines that the transferee had actual intent to hinder, delay, or defraud such regulated entity, the creditors of such regulated entity, or any conservator or receiver appointed for such regulated entity.

''(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—In this subsection the following definitions shall apply:

''(i) QUALIFIED FINANCIAL CONTRACT.—The term 'qualified financial contract' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Agency determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan, unless the Agency determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard

to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date on which the contract is entered into, including a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (including a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined for purposes of this clause as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development, as determined by regulation or order adopted by the appropriate Federal banking authority), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan, unless the Agency determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the equity of redemption of the regulated entity.

''(E) CERTAIN PROTECTIONS IN EVENT OF APPOINTMENT OF CONSERVATOR.—Notwithstanding any other provision of this section, any other Federal law, or the law of any State (other than paragraph (10) of this subsection and subsection (b)(9)(B)), no person shall be stayed or prohibited from exercising—

''(i) any right such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a regulated entity in a conservatorship based upon a default under such financial contract which is enforceable under applicable noninsolvency law;

''(ii) any right under any security agreement or arrangement or other credit enhancement relating to 1 or more such qualified financial contracts; or

''(iii) any right to offset or net out any termination values, payment amounts, or other transfer obligations arising under or in connection with such qualified financial contracts.

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Agency, or authorizing any court or agency to limit or delay in any manner, the right or power of the Agency to transfer any qualified financial contract in accordance with paragraphs (9) and (10), or to disaffirm or repudiate any such contract in accordance with subsection (d)(1).

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a regulated entity in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a

payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of the status of such party as a nondefaulting party.

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—In making any transfer of assets or liabilities of a regulated entity in default which includes any qualified financial contract, the conservator or receiver for such regulated entity shall either—

''(A) transfer to 1 person—

''(i) all qualified financial contracts between any person (or any affiliate of such person) and the regulated entity in default;

''(ii) all claims of such person (or any affiliate of such person) against such regulated entity under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such regulated entity);

''(iii) all claims of such regulated entity against such person (or any affiliate of such person) under any such contract; and

''(iv) all property securing, or any other credit enhancement for any contract described in clause (i), or any claim described in clause (ii) or (iii) under any such contract; or

''(B) transfer none of the financial contracts, claims, or property referred to under subparagraph (A) (with respect to such person and any affiliate of such person).

''(10) NOTIFICATION OF TRANSFER.—

''(A) IN GENERAL.—The conservator or receiver shall notify any person that is a party to a contract or transfer by 5:00 p.m. (Eastern Standard Time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship, if—

''(i) the conservator or receiver for a regulated entity in default makes any transfer of the assets and liabilities of such regulated entity; and

''(ii) such transfer includes any qualified financial contract.

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or under section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the regulated entity (or the insolvency or financial condition of the regulated entity for which the receiver has been appointed)—

''(I) until 5:00 p.m. (Eastern Standard Time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with a regulated entity may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or under section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the regulated entity (or the insolvency or financial condition of the regulated entity for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the conservator or receiver of a regulated entity shall be deemed to have notified a person who is a party to a qualified financial contract with such regulated entity, if the conservator or receiver has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term 'business day' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which a regulated entity is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the regulated entity in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).

''(12) CERTAIN SECURITY INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any legally enforceable or perfected security interest in any of the assets of any regulated entity, except where such an interest is taken in contemplation of the insolvency of the regulated entity, or with the intent to hinder, delay, or defraud the regulated entity or the creditors of such regulated entity.

''(13) AUTHORITY TO ENFORCE CONTRACTS.—

''(A) IN GENERAL.—Notwithstanding any provision of a contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency or the appointment of, or the exercise of rights or powers by, a conservator or receiver, the conservator or receiver may enforce any contract, other than a contract for liability insurance for a director or officer, or a contract or a regulated entity bond, entered into by the regulated entity.

''(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the conservator or receiver to enforce or recover under a liability insurance contract for an officer or director, or regulated entity bond under other applicable law.

''(C) CONSENT REQUIREMENT.—

''(i) IN GENERAL.—Except as otherwise provided under this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which a regulated entity is a party, or to obtain possession of or exercise control over any property of the regulated entity, or affect any contractual rights of the regulated entity, without the consent of the conservator or receiver, as appropriate, for a period of—

''(I) 45 days after the date of appointment of a conservator; or

''(II) 90 days after the date of appointment of a receiver.

''(ii) EXCEPTIONS.—This subparagraph shall not—

''(I) apply to a contract for liability insurance for an officer or director;

''(II) apply to the rights of parties to certain qualified financial contracts under subsection (d)(8); and

''(III) be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contracts.

''(14) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

''(15) EXCEPTION FOR FEDERAL RESERVE AND FEDERAL HOME LOAN BANKS.—No provision of this subsection shall apply with respect to—

''(A) any extension of credit from any Federal Home Loan Bank or Federal Reserve Bank to any regulated entity; or

''(B) any security interest in the assets of the regulated entity securing any such extension of credit.

''(e) VALUATION OF CLAIMS IN DEFAULT.—

''(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method which the Agency determines to utilize with respect to a regulated entity in default or in danger of default, including transactions authorized under subsection (i), this subsection shall govern the rights of the creditors of such regulated entity.

''(2) MAXIMUM LIABILITY.—The maximum liability of the Agency, acting as receiver or in any other capacity, to any person having a claim against the receiver or the regulated entity for which such receiver is appointed shall be not more than the amount that such claimant would have received if the Agency had liquidated the assets and liabilities of the regulated entity without exercising the authority of the Agency under subsection (i).

''(f) LIMITATION ON COURT ACTION.—Except as provided in this section or at the request of the Director, no court may take any action to restrain or affect the exercise of powers or functions of the Agency as a conservator or a receiver.

''(g) LIABILITY OF DIRECTORS AND OFFICERS.—

''(1) IN GENERAL.—A director or officer of a regulated entity may be held personally liable for monetary damages in any civil action described in paragraph (2) brought by, on behalf of, or at the request or direction of the Agency, and prosecuted wholly or partially for the benefit of the Agency—

''(A) acting as conservator or receiver of such regulated entity; or

''(B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by such receiver or conservator.

''(2) ACTIONS ADDRESSED.—Paragraph (1) applies in any civil action for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care than gross negligence, including intentional tortious conduct, as such terms are defined and determined under applicable State law.

''(3) NO LIMITATION.—Nothing in this subsection shall impair or affect any right of the Agency under other applicable law.

''(h) DAMAGES.—In any proceeding related to any claim against a director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to a regulated entity, recoverable damages determined to result from the improvident or otherwise improper use or investment of any assets of the regulated entity shall include principal losses and appropriate interest.

''(i) LIMITED-LIFE REGULATED ENTITIES.—

''(1) ORGANIZATION.—

''(A) PURPOSE.—The Agency, as receiver appointed pursuant to subsection (a)—

''(i) may, in the case of a Federal Home Loan Bank, organize a limited-life regulated entity with those powers and attributes of the Federal Home Loan Bank in default or in danger of default as the Director determines necessary, subject to the provisions of this

subsection, and the Director shall grant a temporary charter to that limited-life regulated entity, and that limited-life regulated entity shall operate subject to that charter; and

''(ii) shall, in the case of an enterprise, organize a limited-life regulated entity with respect to that enterprise in accordance with this subsection.

''(B) AUTHORITIES.—Upon the creation of a limited-life regulated entity under subparagraph (A), the limited-life regulated entity may—

''(i) assume such liabilities of the regulated entity that is in default or in danger of default as the Agency may, in its discretion, determine to be appropriate, except that the liabilities assumed shall not exceed the amount of assets purchased or transferred from the regulated entity to the limited-life regulated entity;

''(ii) purchase such assets of the regulated entity that is in default, or in danger of default as the Agency may, in its discretion, determine to be appropriate; and

''(iii) perform any other temporary function which the Agency may, in its discretion, prescribe in accordance with this section.

''(2) CHARTER AND ESTABLISHMENT.—

''(A) TRANSFER OF CHARTER.—

''(i) FANNIE MAE.—If the Agency is appointed as receiver for the Federal National Mortgage Association, the limited-life regulated entity established under this subsection with respect to such enterprise shall, by operation of law and immediately upon its organization—

''(I) succeed to the charter of the Federal National Mortgage Association, as set forth in the Federal National Mortgage Association Charter Act; and

''(II) thereafter operate in accordance with, and subject to, such charter, this Act, and any other provision of law to which the Federal National Mortgage Association is subject, except as otherwise provided in this subsection.

''(ii) FREDDIE MAC.—If the Agency is appointed as receiver for the Federal Home Loan Mortgage Corporation, the limited-life regulated entity established under this subsection with respect to such enterprise shall, by operation of law and immediately upon its organization—

''(I) succeed to the charter of the Federal Home Loan Mortgage Corporation, as set forth in the Federal Home Loan Mortgage Corporation Charter Act; and

''(II) thereafter operate in accordance with, and subject to, such charter, this Act, and any other provision of law to which the Federal Home Loan Mortgage Corporation is subject, except as otherwise provided in this subsection.

''(B) INTERESTS IN AND ASSETS AND OBLIGATIONS OF REGULATED ENTITY IN DEFAULT.—Notwithstanding subparagraph (A) or any other provision of law—

''(i) a limited-life regulated entity shall assume, acquire, or succeed to the assets or liabilities of a regulated entity only to the extent that such assets or liabilities are transferred by the Agency to the limited-life regulated entity in accordance with, and subject to the restrictions set forth in, paragraph (1)(B);

''(ii) a limited-life regulated entity shall not assume, acquire, or succeed to any obligation that a regulated entity for which a receiver has been appointed may have to any shareholder of the regulated entity that arises as a result of the status of that person as a shareholder of the regulated entity; and

''(iii) no shareholder or creditor of a regulated entity shall have any right or claim against the charter of the regulated entity once the Agency has been appointed receiver for the regulated entity and a limited-life regulated entity succeeds to the charter pursuant to subparagraph (A).

''(C) LIMITED-LIFE REGULATED ENTITY TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A limited-life regulated entity shall be treated as a regulated entity in default at such times and for such purposes as the Agency may, in its discretion, determine.

''(D) MANAGEMENT.—Upon its establishment, a limited-life regulated entity shall be under the management of a board of directors consisting of not fewer than 5 nor more than 10 members appointed by the Agency.

''(E) BYLAWS.—The board of directors of a limited-life regulated entity shall adopt such bylaws as may be approved by the Agency.

''(3) CAPITAL STOCK.—

''(A) NO AGENCY REQUIREMENT.—The Agency is not required to pay capital stock into a limited-life regulated entity or to issue any capital stock on behalf of a limited-life regulated entity established under this subsection.

''(B) AUTHORITY.—If the Director determines that such action is advisable, the Agency may cause capital stock or other securities of a limited-life regulated entity established with respect to an enterprise to be issued and offered for sale, in such amounts and on such terms and conditions as the Director may determine, in the discretion of the Director.

''(4) INVESTMENTS.—Funds of a limited-life regulated entity shall be kept on hand in cash, invested in obligations of the United States or obligations guaranteed as to principal and interest by the United States, or deposited with the Agency, or any Federal reserve bank.

''(5) EXEMPT TAX STATUS.—Notwithstanding any other provision of Federal or State law, a limited-life regulated entity, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

''(6) WINDING UP.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), not later than 2 years after the date of its organization, the Agency shall wind up the affairs of a limited-life regulated entity.

''(B) EXTENSION.—The Director may, in the discretion of the Director, extend the status of a limited-life regulated entity for 3 additional 1-year periods.

''(C) TERMINATION OF STATUS AS LIMITED-LIFE REGULATED ENTITY.—

''(i) IN GENERAL.—Upon the sale by the Agency of 80 percent or more of the capital stock of a limited-life regulated entity, as defined in clause (iv), to 1 or more persons (other than the Agency)—

''(I) the status of the limited-life regulated entity as such shall terminate; and

''(II) the entity shall cease to be a limited-life regulated entity for purposes of this subsection.

''(ii) DIVESTITURE OF REMAINING STOCK, IF ANY.—

''(I) IN GENERAL.—Not later than 1 year after the date on which the status of a limited-life regulated entity is terminated pursuant to clause (i), the Agency shall sell to 1 or more persons (other than the Agency) any remaining capital stock of the former limited-life regulated entity.

''(II) EXTENSION AUTHORIZED.—The Director may extend the period referred to in subclause (I) for not longer than an additional 2 years, if the Director determines that such action would be in the public interest.

''(iii) SAVINGS CLAUSE.—Notwithstanding any provision of law, other than clause (ii), the Agency shall not be required to sell the capital stock of an enterprise or a limited-life regulated entity established with respect to an enterprise.

''(iv) APPLICABILITY.—This subparagraph applies only with respect to a limited-life regulated entity that is established with respect to an enterprise.

''(7) TRANSFER OF ASSETS AND LIABILITIES.—

''(A) IN GENERAL.—

''(i) TRANSFER OF ASSETS AND LIABILITIES.—The Agency, as receiver, may transfer any assets and liabilities of a regulated entity in default, or in danger of default, to the limited-life regulated entity in accordance with and subject to the restrictions of paragraph (1).

''(ii) SUBSEQUENT TRANSFERS.—At any time after the establishment of a limited-life regulated entity, the Agency, as receiver, may transfer any assets and liabilities of the regulated entity in default, or in danger of default, as the Agency may, in its discretion, determine to be appropriate in accordance with and subject to the restrictions of paragraph (1).

''(iii) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities of a regulated entity in default or in danger of default to a limited-life regulated entity shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

''(iv) EQUITABLE TREATMENT OF SIMILARLY SITUATED CREDITORS.—The Agency shall treat all creditors of a regulated entity in default or in danger of default that are similarly situated under subsection (c)(1) in a similar manner in exercising the authority of the Agency under this subsection to transfer any assets or liabilities of the regulated entity to the limited-life regulated entity established with respect to such regulated entity, except that the Agency may take actions (including making payments) that do not comply with this clause, if—

''(I) the Director determines that such actions are necessary to maximize the value of the assets of the regulated entity, to maximize the present value return from the sale or other disposition of the assets of the regulated entity, or to minimize the amount of any loss realized upon the sale or other disposition of the assets of the regulated entity; and

''(II) all creditors that are similarly situated under subsection (c)(1) receive not less than the amount provided in subsection (e)(2).

''(v) LIMITATION ON TRANSFER OF LIABILITIES.—Notwithstanding any other provision of law, the aggregate amount of liabilities of a regulated entity that are transferred to, or assumed by, a limited-life regulated entity may not exceed the aggregate amount of assets of the regulated entity that are transferred to, or purchased by, the limited-life regulated entity.

''(8) REGULATIONS.—The Agency may promulgate such regulations as the Agency determines to be necessary or appropriate to implement this subsection.

''(9) POWERS OF LIMITED-LIFE REGULATED ENTITIES.—

''(A) IN GENERAL.—Each limited-life regulated entity created under this subsection shall have all corporate powers of, and be subject to the same provisions of law as, the regulated entity in default or in danger of default to which it relates, except that—

''(i) the Agency may—

''(I) remove the directors of a limited-life regulated entity;

''(II) fix the compensation of members of the board of directors and senior management, as determined by the Agency in its discretion, of a limited-life regulated entity; and

''(III) indemnify the representatives for purposes of paragraph (1)(B), and the directors, officers, employees, and agents of a limited-life regulated entity on such terms as the Agency determines to be appropriate; and

''(ii) the board of directors of a limited-life regulated entity—

''(I) shall elect a chairperson who may also serve in the position of chief executive officer, except that such person shall not serve either as chairperson or as chief executive officer without the prior approval of the Agency; and

''(II) may appoint a chief executive officer who is not also the chairperson, except that such person shall not serve as chief executive officer without the prior approval of the Agency.

''(B) STAY OF JUDICIAL ACTION.—Any judicial action to which a limited-life regulated entity becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a regulated entity in default shall be stayed from further proceedings for a period of not longer than 45 days, at the request of the limited-life regulated entity. Such period may be modified upon the consent of all parties.

''(10) NO FEDERAL STATUS.—

''(A) AGENCY STATUS.—A limited-life regulated entity is not an agency, establishment, or instrumentality of the United States.

''(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), interim directors, directors, officers, employees, or agents of a limited-life regulated entity are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Agency or of any Federal instrumentality who serves at the request of the Agency as a representative for purposes of paragraph (1)(B), interim director, director, officer, employee, or agent of a limited-life regulated entity shall not—

''(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or

''(ii) receive any salary or benefits for service in any such capacity with respect to a limited-life regulated entity in addition to such salary or benefits as are obtained through employment with the Agency or such Federal instrumentality.

''(11) AUTHORITY TO OBTAIN CREDIT.—

''(A) IN GENERAL.—A limited-life regulated entity may obtain unsecured credit and issue unsecured debt.

''(B) INABILITY TO OBTAIN CREDIT.—If a limited-life regulated entity is unable to obtain unsecured credit or issue unsecured debt, the Director may authorize the obtaining of credit or the issuance of debt by the limited-life regulated entity—

''(i) with priority over any or all of the obligations of the limited-life regulated entity;

''(ii) secured by a lien on property of the limited-life regulated entity that is not otherwise subject to a lien; or

''(iii) secured by a junior lien on property of the limited-life regulated entity that is subject to a lien.

''(C) LIMITATIONS.—

''(i) IN GENERAL.—The Director, after notice and a hearing, may authorize the obtaining of credit or the issuance of debt by a limited-life regulated entity that is secured by a senior or equal lien on property of the limited-life regulated entity that is subject to a lien (other than mortgages that collateralize the mortgage-backed securities issued or guaranteed by an enterprise) only if—

''(I) the limited-life regulated entity is unable to otherwise obtain such credit or issue such debt; and

''(II) there is adequate protection of the interest of the holder of the lien on the property with respect to which such senior or equal lien is proposed to be granted.

''(D) BURDEN OF PROOF.—In any hearing under this subsection, the Director has the burden of proof on the issue of adequate protection.

''(12) AFFECT ON DEBTS AND LIENS.—The reversal or modification on appeal of an authorization under this subsection to obtain credit or issue debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so issued, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the issuance of such debt, or the granting of such priority or lien, were stayed pending appeal.

''(j) OTHER AGENCY EXEMPTIONS.—

''(1) APPLICABILITY.—The provisions of this subsection shall apply with respect to the Agency in any case in which the Agency is acting as a conservator or a receiver.

''(2) TAXATION.—The Agency, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Agency shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of the value of such property, and the tax thereon, shall be determined as of the period for which such tax is imposed.

''(3) PROPERTY PROTECTION.—No property of the Agency shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Agency, nor shall any involuntary lien attach to the property of the Agency.

''(4) PENALTIES AND FINES.—The Agency shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due.

''(k) PROHIBITION OF CHARTER REVOCATION.—In no case may the receiver appointed pursuant to this section revoke, annul, or terminate the charter of an enterprise.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(1) in section 1368 (12 U.S.C. 4618)—

(A) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity''; and

(B) by striking ''the enterprise'' each place that term appears and inserting ''the regulated entity'';

(2) in section 1369C (12 U.S.C. 4622), by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(3) in section 1369D (12 U.S.C. 4623)—

(A) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity''; and

(B) in subsection (a)(1), by striking ''An enterprise'' and inserting ''A regulated entity''; and

(4) by striking sections 1369, 1369A, and 1369B (12 U.S.C. 4619, 4620, and 4621).

Subtitle D—Enforcement Actions

SEC. 1151. CEASE AND DESIST PROCEEDINGS.

Section 1371 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631) is amended—

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

''(a) ISSUANCE FOR UNSAFE OR UNSOUND PRACTICES AND VIOLATIONS.—

''(1) AUTHORITY OF DIRECTOR.—If, in the opinion of the Director, a regulated entity or any entity-affiliated party is engaging or has engaged, or the Director has reasonable cause to believe that the regulated entity or any entity-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of the regulated entity or the Office of Finance, or is violating or has violated, or the Director has reasonable cause to believe is about to violate, a law, rule, regulation, or order, or any condition imposed in writing by the Director in connection with the granting of any application or other request by the regulated entity or the Office of Finance or any written agreement entered into with the Director, the Director may issue and serve upon the regulated entity or entity-affiliated party a notice of charges in respect thereof.

''(2) LIMITATION.—The Director may not, pursuant to this section, enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 of this title, with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(m), (n)), with subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(e), (f)), or with paragraph (5) of section 10(j) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)).

''(b) ISSUANCE FOR UNSATISFACTORY RATING.—If a regulated entity receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the Director may (if the deficiency is not corrected) deem the regulated entity to be engaging in an unsafe or unsound practice for purposes of subsection (a).'';

(2) in subsection (c)—

(A) in paragraph (1), by inserting before the period at the end the following: '', unless the party served with a notice of charges shall appear at the hearing personally or by a duly authorized representative, the party shall be deemed to have consented to the issuance of the cease and desist order''; and

(B) in paragraph (2)—

(i) by striking ''or director'' and inserting ''director, or entity-affiliated party''; and

(ii) by inserting ''or entity-affiliated party'' before ''consents'';

(3) in each of subsections (c), (d), and (e)—

(A) by striking ''the enterprise'' each place that term appears and inserting ''the regulated entity'';

(B) by striking ''an enterprise'' each place that term appears and inserting ''a regulated entity''; and

(C) by striking ''conduct'' each place that term appears and inserting ''practice'';

(4) in subsection (d)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''or director'' and inserting ''director, or entity-affiliated party''; and

(ii) by inserting ''to require a regulated entity or entity-affiliated party'' after ''includes the authority'';

(B) in paragraph (1)—

(i) by striking ''to require an executive officer or a director to''; and

(ii) by striking ''loss'' and all that follows through ''person'' and inserting ''loss, if'';

(iii) in subparagraph (A), by inserting ''such entity or party or finance facility'' before ''was''; and

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

''(B) the violation or practice involved a reckless disregard for the law or any applicable regulations or prior order of the Director;''; and

(C) in paragraph (4), by inserting ''loan or'' before ''asset'';

(5) in subsection (e), by inserting ''or entity-affiliated party''—

(A) before ''or any executive''; and

(B) before the period at the end; and

(6) in subsection (f)—

(A) by striking ''enterprise'' and inserting ''regulated entity, finance facility,''; and

(B) by striking ''or director'' and inserting ''director, or entity-affiliated party''.

SEC. 1152. TEMPORARY CEASE AND DESIST PROCEEDINGS.

Section 1372 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4632) is amended—

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

''(a) GROUNDS FOR ISSUANCE.—

''(1) IN GENERAL.—If the Director determines that the actions specified in the notice of charges served upon a regulated entity or any entity-affiliated party pursuant to section 1371(a), or the continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of that entity, or is likely to weaken the condition of that entity prior to the completion of the proceedings conducted pursuant to sections 1371 and 1373, the Director may—

''(A) issue a temporary order requiring that regulated entity or entity-affiliated party to cease and desist from any such violation or practice; and

''(B) require that regulated entity or entity-affiliated party to take affirmative action to prevent or remedy such insolvency, dissipation, condition, or prejudice pending completion of such proceedings.

''(2) ADDITIONAL REQUIREMENTS.—An order issued under paragraph (1) may include any requirement authorized under subsection 1371(d).'';

(2) in subsection (b)—

(A) by striking ''or director'' and inserting ''director, or entity-affiliated party''; and

(B) by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(3) in subsection (c), by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(4) in subsection (d)—

(A) by striking ''or director'' each place that term appears and inserting ''director, or entity-affiliated party''; and

(B) by striking ''An enterprise'' and inserting ''A regulated entity''; and

(5) in subsection (e)—

(A) by striking ''request the Attorney General of the United States to''; and

(B) by striking ''or may, under the direction and control of the Attorney General, bring such action''.

SEC. 1153. REMOVAL AND PROHIBITION AUTHORITY.

(a) IN GENERAL.—Part 1 of subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631 et seq.) is amended—

(1) by redesignating sections 1377 through 1379B (12 U.S.C. 4637–4641) as sections 1379 through 1379D, respectively; and

(2) by inserting after section 1376 (12 U.S.C. 4636) the following:

''SEC. 1377. REMOVAL AND PROHIBITION AUTHORITY.

''(a) AUTHORITY TO ISSUE ORDER.—

''(1) IN GENERAL.—The Director may serve upon a party described in paragraph (2), or any officer, director, or management of the Office of Finance a written notice of the intention of the Director to suspend or remove such party from office, or prohibit any further participation by such party, in any manner, in the conduct of the affairs of the regulated entity.

''(2) APPLICABILITY.—A party described in this paragraph is an entity-affiliated party or any officer, director, or management of the Office of Finance, if the Director determines that—

''(A) that party, officer, or director has, directly or indirectly—

''(i) violated—

''(I) any law or regulation;

''(II) any cease and desist order which has become final;

''(III) any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity; or

''(IV) any written agreement between such regulated entity and the Director;

''(ii) engaged or participated in any unsafe or unsound practice in connection with any regulated entity or business institution; or

''(iii) committed or engaged in any act, omission, or practice which constitutes a breach of such party's fiduciary duty;

''(B) by reason of the violation, practice, or breach described in subparagraph (A)—

''(i) such regulated entity or business institution has suffered or will probably suffer financial loss or other damage; or

''(ii) such party has received financial gain or other benefit; and

''(C) the violation, practice, or breach described in subparagraph (A)—

''(i) involves personal dishonesty on the part of such party; or

''(ii) demonstrates willful or continuing disregard by such party for the safety or soundness of such regulated entity or business institution.

''(b) SUSPENSION ORDER.—

''(1) SUSPENSION OR PROHIBITION AUTHORITY.—If the Director serves written notice under subsection (a) upon a party subject to that subsection (a), the Director may, by order, suspend or remove such party from office, or prohibit such party from further participation in any manner in the conduct of the affairs of the regulated entity, if the Director—

''(A) determines that such action is necessary for the protection of the regulated entity; and

''(B) serves such party with written notice of the order.

''(2) EFFECTIVE PERIOD.—Any order issued under this subsection—

''(A) shall become effective upon service; and

''(B) unless a court issues a stay of such order under subsection (g), shall remain in effect and enforceable until—

''(i) the date on which the Director dismisses the charges contained in the notice served under subsection (a) with respect to such party; or

''(ii) the effective date of an order issued under subsection (b).

''(3) COPY OF ORDER.—If the Director issues an order under subsection (b) to any party, the Director shall serve a copy of such order on any regulated entity with which such party is affiliated at the time such order is issued.

''(c) NOTICE, HEARING, AND ORDER.—

''(1) NOTICE.—A notice under subsection (a) of the intention of the Director to issue an order under this section shall contain a statement of the facts constituting grounds for such action, and shall fix a time and place at which a hearing will be held on such action.

''(2) TIMING OF HEARING.—A hearing shall be fixed for a date not earlier than 30 days, nor later than 60 days, after the date of service of notice under subsection (a), unless an earlier or a later date is set by the Director at the request of—

''(A) the party receiving such notice, and good cause is shown; or

''(B) the Attorney General of the United States.

''(3) CONSENT.—Unless the party that is the subject of a notice delivered under subsection (a) appears at the hearing in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order under this section.

''(4) ISSUANCE OF ORDER OF SUSPENSION.—The Director may issue an order under this section, as the Director may deem appropriate, if—

''(A) a party is deemed to have consented to the issuance of an order under paragraph (3); or

''(B) upon the record made at the hearing, the Director finds that any of the grounds specified in the notice have been established.

''(5) EFFECTIVENESS OF ORDER.—Any order issued under paragraph (4) shall become effective at the expiration of 30 days after the date of service upon the relevant regulated entity and party (except in the case of an order issued upon consent under paragraph (3), which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Director or a reviewing court.

''(d) PROHIBITION OF CERTAIN SPECIFIC ACTIVITIES.—Any person subject to an order issued under this section shall not—

''(1) participate in any manner in the conduct of the affairs of any regulated entity or the Office of Finance;

''(2) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any regulated entity;

''(3) violate any voting agreement previously approved by the Director; or

''(4) vote for a director, or serve or act as an entity-affiliated party of a regulated entity or as an officer or director of the Office of Finance.

''(e) INDUSTRY-WIDE PROHIBITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any person who, pursuant to an order issued under this section, has been removed or suspended from office in a regulated entity or the Office of Finance, or prohibited from participating in the conduct of the affairs of a regulated entity or the Office of Finance, may not, while such order is in effect, continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of, any regulated entity or the Office of Finance.

''(2) EXCEPTION IF DIRECTOR PROVIDES WRITTEN CONSENT.—If, on or after the date on which an order is issued under this section which removes or suspends from office any party, or prohibits such party from participating in the conduct of the affairs of a regulated entity or the Office of Finance, such party receives the written consent of the Director, the order shall, to the extent of such consent, cease to apply to such party with respect to the regulated entity or such Office of Finance described in the written consent. Any such consent shall be publicly disclosed.

''(3) VIOLATION OF PARAGRAPH (1) TREATED AS VIOLATION OF ORDER.—Any violation of paragraph (1) by any person who is subject to an order issued under subsection (h) shall be treated as a violation of the order.

''(f) APPLICABILITY.—This section shall only apply to a person who is an individual, unless the Director specifically finds that it should apply to a corporation, firm, or other business entity.

''(g) STAY OF SUSPENSION AND PROHIBITION OF ENTITY-AFFILIATED PARTY.—Not later than 10 days after the date on which any entity-affiliated party has been suspended from office or prohibited from participation in the conduct of the affairs of a regulated entity

under this section, such party may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district in which the headquarters of the regulated entity is located, for a stay of such suspension or prohibition pending the completion of the administrative proceedings pursuant to subsection (c). The court shall have jurisdiction to stay such suspension or prohibition.

''(h) SUSPENSION OR REMOVAL OF ENTITY-AFFILIATED PARTY CHARGED WITH FELONY.—

''(1) SUSPENSION OR PROHIBITION.—

''(A) IN GENERAL.—Whenever any entity-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding 1 year under Federal or State law, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of any regulated entity.

''(B) PROVISIONS APPLICABLE TO NOTICE.—

''(i) COPY.—A copy of any notice under subparagraph (A) shall be served upon the relevant regulated entity.

''(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in subparagraph (A) is finally disposed of, or until terminated by the Director.

''(2) REMOVAL OR PROHIBITION.—

''(A) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an entity-affiliated party in connection with a crime described in paragraph (1)(A), at such time as such judgment is not subject to further appellate review, the Director may, if continued service or participation by such party may pose a threat to the regulated entity or impair public confidence in the regulated entity, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity without the prior written consent of the Director.

''(B) PROVISIONS APPLICABLE TO ORDER.—

''(i) COPY.—A copy of any order under subparagraph (A) shall be served upon the relevant regulated entity, at which time the entity-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such regulated entity.

''(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Director from instituting proceedings after such finding or disposition to remove a party from office or to prohibit further participation in the affairs of a regulated entity pursuant to subsection (a) or (b).

''(iii) EFFECTIVE PERIOD.—Unless terminated by the Director, any notice of suspension or order of removal issued under this subsection shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (4).

''(3) AUTHORITY OF REMAINING BOARD MEMBERS.—

''(A) IN GENERAL.—If at any time, because of the suspension of 1 or more directors pursuant to this section, there shall be on the board of directors of a regulated entity less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors.

''(B) APPOINTMENT OF TEMPORARY DIRECTORS.—If all of the directors of a regulated entity are suspended pursuant to this section, the Director shall appoint persons to serve temporarily as directors pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the regulated entity and their respective successors take office.

''(4) HEARING REGARDING CONTINUED PARTICIPATION.—

''(A) IN GENERAL.—Not later than 30 days after the date of service of any notice of suspension or order of removal issued pursuant to paragraph (1) or (2), the entity-affiliated party may request in writing an opportunity to appear before the Director to show that the continued service or participation in the conduct of the affairs of the regulated entity by such party does not, or is not likely to, pose a threat to the interests of the regulated entity, or threaten to impair public confidence in the regulated entity.

''(B) TIMING AND FORM OF HEARING.—Upon receipt of a request for a hearing under subparagraph (A), the Director shall fix a time (not later than 30 days after the date of receipt of such request, unless extended at the request of such party) and place at which the entity-affiliated party may appear, personally or through counsel, before the Director or 1 or more designated employees of the Director to submit written materials (or, at the discretion of the Director, oral testimony) and oral argument.

''(C) DETERMINATION.—Not later than 60 days after the date of a hearing under subparagraph (B), the Director shall notify the entity-affiliated party whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the regulated entity will be continued, terminated, or otherwise modified, or whether the order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the regulated entity will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for any adverse decision of the Director.

''(5) RULES.—The Director is authorized to prescribe such rules as may be necessary to carry out this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) SAFETY AND SOUNDNESS ACT.—Subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(A) in section 1317(f), by striking ''section 1379B'' and inserting ''section 1379D'';

(B) in section 1373(a)—

(i) in paragraph (1), by striking ''or 1376(c)'' and inserting '', 1376(c), or 1377'';

(ii) in paragraph (2), by inserting ''or 1377'' after''1371''; and

(iii) in paragraph (4), by inserting ''or removal or prohibition'' after ''cease and desist''; and

(C) in section 1374(a)—

(i) by striking ''or 1376'' and inserting ''1313B , 1376, or 1377''; and

(ii) by striking ''such section'' and inserting ''this title''.

(2) FANNIE MAE CHARTER ACT.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended in the second sentence, by striking ''The'' and inserting ''Except to the extent that action under section 1377 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 temporarily results in a lesser number, the''.

(3) FREDDIE MAC CHARTER ACT.—Section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended, in the second sentence, by striking ''The'' and inserting ''Except to the extent action under section 1377 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 temporarily results in a lesser number, the''.

SEC. 1154. ENFORCEMENT AND JURISDICTION.

Section 1375 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4635) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

''(a) ENFORCEMENT.—The Director may, in the discretion of the Director, apply to the United States District Court for the District of Columbia, or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located, for the enforcement of any effective and outstanding notice or order issued under this subtitle or subtitle B, or request that the Attorney General of the United States bring such an action. Such court shall have jurisdiction and power to order and require compliance with such notice or order.''; and

(2) in subsection (b), by striking ''or 1376'' and inserting ''1313B, 1376, or 1377''.

SEC. 1155. CIVIL MONEY PENALTIES.

Section 1376 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4636) is amended—

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

''(a) IN GENERAL.—The Director may impose a civil money penalty in accordance with this section on any regulated entity or any entity-affiliated party. The Director shall not impose a civil penalty in accordance with this section on any regulated entity or any entity-affiliated party for any violation that is addressed under section 1345(a).'';

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

''(b) AMOUNT OF PENALTY.—

''(1) FIRST TIER.—A regulated entity or entity-affiliated party shall forfeit and pay a civil penalty of not more than $10,000 for each day during which a violation continues, if such regulated entity or party—

''(A) violates any provision of this title, the authorizing statutes, or any order, condition, rule, or regulation under this title or any authorizing statute;

''(B) violates any final or temporary order or notice issued pursuant to this title;

''(C) violates any condition imposed in writing by the Director in connection with the grant of any application or other request by such regulated entity; or

''(D) violates any written agreement between the regulated entity and the Director.

''(2) SECOND TIER.—Notwithstanding paragraph (1), a regulated entity or entity-affiliated party shall forfeit and pay a civil penalty of not more than $50,000 for each day during which a violation, practice, or breach continues, if—

''(A) the regulated entity or entity-affiliated party, respectively—

''(i) commits any violation described in any subparagraph of paragraph (1);

''(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of the regulated entity; or

''(iii) breaches any fiduciary duty; and

''(B) the violation, practice, or breach—

''(i) is part of a pattern of misconduct;

''(ii) causes or is likely to cause more than a minimal loss to the regulated entity; or

''(iii) results in pecuniary gain or other benefit to such party.

''(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any regulated entity or entity-affiliated party shall forfeit and pay a civil penalty in an amount not to exceed the

applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues, if such regulated entity or entity-affiliated party—

''(A) knowingly—

''(i) commits any violation described in any subparagraph of paragraph (1);

''(ii) engages in any unsafe or unsound practice in conducting the affairs of the regulated entity; or

''(iii) breaches any fiduciary duty; and

''(B) knowingly or recklessly causes a substantial loss to the regulated entity or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach.

''(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).— The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in paragraph (3) is—

''(A) in the case of any entity-affiliated party, an amount not to exceed $2,000,000; and

''(B) in the case of any regulated entity, $2,000,000.'';

(3) in subsection (c)—

(A) by striking ''enterprise'' each place that term appears and inserting ''regulated entity'';

(B) by inserting ''or entity-affiliated party'' before ''in writing''; and

(C) by inserting ''or entity-affiliated party'' before ''has been given'';

(4) in subsection (d)—

(A) by striking ''or director'' each place such term appears and inserting ''director, or entity-affiliated party'';

(B) by striking ''an enterprise'' and inserting ''a regulated entity'';

(C) by striking ''the enterprise'' and inserting ''the regulated entity'';

(D) by striking ''request the Attorney General of the United States to'';

(E) by inserting '', or the United States district court within the jurisdiction of which the headquarters of the regulated entity is located,'' after ''District of Columbia'';

(F) by striking '', or may, under the direction and control of the Attorney General of the United States, bring such an action''; and

(G) by striking ''and section 1374''; and

(5) in subsection (g), by striking ''An enterprise'' and inserting ''A regulated entity''.

SEC. 1156. CRIMINAL PENALTY.

(a) IN GENERAL.—Subtitle C of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4631 et seq.) is amended by inserting after section 1377, as added by this Act, the following:

''SEC. 1378. CRIMINAL PENALTY.

''Whoever, being subject to an order in effect under section 1377, without the prior written approval of the Director, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order) in the conduct of the affairs of any regulated entity shall, notwithstanding section 3571 of title 18, be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.) is amended—

(1) in section 1379 (as so designated by this Act)—

(A) by striking ''an enterprise'' and inserting ''a regulated entity''; and

(B) by striking ''the enterprise'' and inserting ''the regulated entity'';

(2) in section 1379A (as so designated by this Act), by striking ''an enterprise'' and inserting ''a regulated entity'';

(3) in section 1379B(c) (as so designated by this Act), by striking ''enterprise'' and inserting ''regulated entity''; and

(4) in section 1379D (as so designated by this Act), by striking ''enterprise'' and inserting ''regulated entity''.

SEC. 1157. NOTICE AFTER SEPARATION FROM SERVICE.

Section 1379 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4637), as so designated by this Act, is amended—

(1) by striking ''2-year'' and inserting ''6-year'';

(2) by striking ''a director or executive officer of an enterprise'' and inserting ''an entity-affiliated party'';

(3) by striking ''director or officer'' each place that term appears and inserting ''entity-affiliated party''; and

(4) by striking ''enterprise.'' and inserting ''regulated entity.''.

SEC. 1158. SUBPOENA AUTHORITY.

(a) IN GENERAL.—Section 1379B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4641) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''administrative'';

(ii) by inserting '', examination, or investigation'' after ''proceeding'';

(iii) by striking ''subtitle'' and inserting ''title''; and

(iv) by inserting ''or any designated representative thereof, including any person designated to conduct any hearing under this subtitle'' after ''Director''; and

(B) in paragraph (4), by striking ''issued by the Director'';

(2) in subsection (b), by inserting ''or in any territory or other place subject to the jurisdiction of the United States'' after ''State'';

(3) by striking subsection (c) and inserting the following:

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—The Director, or any party to proceedings under this subtitle, may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district of the United States in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section.

''(2) POWER OF COURT.—The courts described under paragraph (1) shall have the jurisdiction and power to order and require compliance with any subpoena issued under paragraph (1).'';

(4) in subsection (d), by inserting ''enterprise-affiliated party'' before ''may allow''; and

(5) by adding at the end the following:

''(e) PENALTIES.—A person shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than 1 year, or both, if that person willfully fails or refuses, in disobedience of a subpoena issued under subsection (c), to—

''(1) attend court;

''(2) testify in court;

''(3) answer any lawful inquiry; or

''(4) produce books, papers, correspondence, contracts, agreements, or such other records as requested in the subpoena.''.

Subtitle E—General Provisions

SEC. 1161. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO 1992 ACT.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 et seq.), as amended by this Act, is amended—

(1) in section 1315 (12 U.S.C. 4515)—

(A) in subsection (a)—

(i) by striking ''(a) OFFICE PERSONNEL.—The'' and inserting ''(a) IN GENERAL.—Subject to title III of the Federal Housing Finance Regulatory Reform Act of 2008, the''; and

(ii) by striking ''the Office'' each place that term appears and inserting ''the Agency'';

(B) in subsection (c), by striking ''the Office'' and inserting ''the Agency'';

(C) in subsection (e), by striking ''the Office'' and inserting ''the Agency'';

(D) by striking subsection (d) and redesignating subsection (e) as subsection (d); and

(E) by striking subsection (f);

(2) in section 1319A (12 U.S.C. 4520)—

(A) by striking ''(a) IN GENERAL.—''; and

(B) by striking subsection (b);

(3) in section 1364(c) (12 U.S.C. 4614(c)), by striking the last sentence;

(4) by striking section 1383 (12 U.S.C. 1451 note);

(5) in each of sections 1319D, 1319E, and 1319F (12 U.S.C. 4523, 4524, 4525) by striking ''the Office'' each place that term appears and inserting ''the Agency''; and

(6) in each of sections 1319B and 1369(a)(3) (12 U.S.C. 4521, 4619(a)(3)), by striking ''Committee on Banking, Finance and Urban Affairs'' each place such term appears and inserting ''Committee on Financial Services''.

(b) AMENDMENTS TO FANNIE MAE CHARTER ACT.—The Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) is amended—

(1) in each of sections 303(c)(2) (12 U.S.C. 1718(c)(2)), 309(d)(3)(B) (12 U.S.C. 1723a(d)(3)(B)), and 309(k)(1) (12 U.S.C. 1723a(k)(1)), by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place that term appears, and inserting ''Director of the Federal Housing Finance Agency''; and

(2) in section 309—

(A) in subsection (m) (12 U.S.C. 1723a(m))—

(i) in paragraph (1), by striking ''to the Secretary, in a form determined by the Secretary'' and inserting ''to the Director of the Federal Housing Finance Agency, in a form determined by the Director''; and

(ii) in paragraph (2), by striking ''to the Secretary, in a form determined by the Secretary'' and inserting ''to the Director of the Federal Housing Finance Agency, in a form determined by the Director'';

(B) in subsection (n) (12 U.S.C. 1723a(n))—

(i) in paragraph (1), by striking ''and the Secretary'' and inserting ''and the Director of the Federal Housing Finance Agency''; and

(ii) in paragraph (2), by striking ''Secretary'' each place that term appears and inserting ''Director of the Federal Housing Finance Agency''; and

(C) in paragraph (3)(B), by striking ''Secretary'' and inserting ''Director of the Federal Housing Finance Agency''.

(c) AMENDMENTS TO FREDDIE MAC CHARTER ACT.—The Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.) is amended—

(1) in each of sections 303(b)(2) (12 U.S.C. 1452(b)(2)), 303(h)(2) (12 U.S.C. 1452(h)(2)), and section 307(c)(1) (12 U.S.C. 1456(c)(1)), by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' each place that term appears, and inserting ''Director of the Federal Housing Finance Agency'';

(2) in section 306 (12 U.S.C. 1455)—

(A) in subsection (c)(2), by inserting ''the'' after ''Secretary of'';

(B) in subsection (i)—

(i) by striking ''section 1316(c)'' and inserting ''section 306(c)''; and

(ii) by striking ''section 106'' and inserting ''section 1316''; and

(C) in subsection (j)(2), by striking ''of substantially'' and inserting ''or substantially''; and

(3) in section 307 (12 U.S.C. 1456)—

(A) in subsection (e)—

(i) in paragraph (1), by striking ''to the Secretary, in a form determined by the Secretary'' and inserting ''to the Director of the Federal Housing Finance Agency, in a form determined by the Director''; and

(ii) in paragraph (2), by striking ''to the Secretary, in a form determined by the Secretary'' and inserting ''to the Director of the Federal Housing Finance Agency, in a form determined by the Director''; and

(B) in subsection (f)—

(i) in paragraph (1), by striking ''and the Secretary'' and inserting ''and the Director of the Federal Housing Finance Agency'';

(ii) in paragraph (2), by striking ''the Secretary'' each place that term appears and inserting ''the Director of the Federal Housing Finance Agency''; and

(iii) in paragraph (3)(B), by striking ''Secretary'' and inserting ''Director of the Federal Housing Finance Agency''.

(d) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 1905 of title 18, United States Code, is amended by striking ''Office of Federal Housing Enterprise Oversight'' and inserting ''Federal Housing Finance Agency''.

(e) AMENDMENTS TO FLOOD DISASTER PROTECTION ACT OF 1973.—Section 102(f)(3)(A) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(3)(A)) is amended by striking ''Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''Director of the Federal Housing Finance Agency''.

(f) AMENDMENT TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.—Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by striking subsection (d).

(g) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) in section 5313, by striking the item relating to the Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development and inserting the following new item:

''Director of the Federal Housing Finance Agency.''; and

(2) in section 3132(a)(1)—

(A) in subparagraph (B), by striking '',, and'' and inserting '', and'';

(B) in subparagraph (D)—

(i) by striking ''the Federal Housing Finance Board'';

(ii) by striking ''the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development'' and inserting ''the Federal Housing Finance Agency''; and

(iii) by striking ''or or'' at the end;

(C) in subparagraph (E), as added by section 8(d)(1)(B)(iii) of Public Law 107-123, by adding ''or'' at the end; and

(D) by redesignating subparagraph (E), as added by section 10702(c)(1)(C) of Public Law 107-171, as subparagraph (F).

(h) AMENDMENT TO SARBANES-OXLEY ACT.—Section 105(b)(5)(B)(ii)(II) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(B)(ii)(II)) is amended by inserting ''and the Director of the Federal Housing Finance Agency,'' after ''Commission,''.

(i) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 11(t)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)(2)(A)) is amended by adding at the end the following:

''(vii) Federal Housing Finance Agency.''.

SEC. 1162. PRESIDENTIALLY-APPOINTED DIRECTORS OF ENTERPRISES.

(a) FANNIE MAE.—

(1) IN GENERAL.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) in the first sentence, by striking ''eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom'' and inserting ''13 persons, or such other number that the Director determines appropriate, who'';

(B) in the second sentence, by striking ''appointed by the President'';

(C) in the third sentence—

(i) by striking ''appointed or''; and

(ii) by striking '', except that any such appointed member may be removed from office by the President for good cause'';

(D) in the fourth sentence, by striking ''elective''; and

(E) by striking the fifth sentence.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal National Mortgage Association until the expiration of the annual term for such position during which the effective date under section 1163 occurs.

(b) FREDDIE MAC.—

(1) IN GENERAL.—Section 303(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)) is amended—

(A) in subparagraph (A)—

(i) in the first sentence, by striking ''18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom'' and inserting ''13 persons, or such other number as the Director determines appropriate, who''; and

(ii) in the second sentence, by striking ''appointed by the President of the United States'';

(B) in subparagraph (B)—

(i) by striking ''such or''; and

(ii) by striking '', except that any appointed member may be removed from office by the President for good cause''; and

(C) in subparagraph (C)—

(i) by striking the first sentence; and

(ii) by striking ''elective''.

(2) TRANSITIONAL PROVISION.—The amendments made by paragraph (1) shall not apply to any appointed position of the board of directors of the Federal Home Loan Mortgage Corporation until the expiration of the annual term for such position during which the effective date under section 1163 occurs.

SEC. 1163. EFFECTIVE DATE.

Except as otherwise specifically provided in this title, this title and the amendments made by this title shall take effect on, and shall apply beginning on, the date of enactment of this Act.

TITLE II—FEDERAL HOME LOAN BANKS

SEC. 1201. RECOGNITION OF DISTINCTIONS BETWEEN THE ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.

Section 1313 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4513) is amended by adding at the end the following:

''(f) RECOGNITION OF DISTINCTIONS BETWEEN THE ENTERPRISES AND THE FEDERAL HOME LOAN BANKS.—Prior to promulgating any regulation or taking any other formal or informal agency action of general applicability relating to the Federal Home Loan Banks, including the issuance of an advisory document or examination guidance, the Director shall consider the differences between the Federal Home Loan Banks and the enterprises with respect to—

''(1) the Banks'—

''(A) cooperative ownership structure;

''(B) the mission of providing liquidity to members;

''(C) affordable housing and community development mission;

''(D) capital structure; and

''(E) joint and several liability; and

''(2) any other differences that the Director considers appropriate.''.

SEC. 1202. DIRECTORS.

Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427) is amended—

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

''(a) NUMBER; ELECTION; QUALIFICATIONS; CONFLICTS OF INTEREST.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (4), the management of each Federal Home Loan Bank shall be vested in a board of 13 directors, or such other number as the Director determines appropriate.

''(2) BOARD MAKEUP.—The board of directors of each Bank shall be comprised of—

''(A) member directors, who shall comprise at least the majority of the members of the board of directors; and

''(B) independent directors, who shall comprise not fewer than ⅖ of the members of the board of directors.

''(3) SELECTION CRITERIA.—

''(A) IN GENERAL.—Each member of the board of directors shall be—

''(i) elected by plurality vote of the members, in accordance with procedures established under this section; and

''(ii) a citizen of the United States.

''(B) INDEPENDENT DIRECTOR CRITERIA.—

''(i) IN GENERAL.—Each independent director that is not a public interest director under clause (ii) shall have demonstrated knowledge of, or experience in, financial management, auditing and accounting, risk management practices, derivatives, project development, or organizational management, or such other knowledge or expertise as the Director may provide by regulation.

''(ii) PUBLIC INTEREST.—Not fewer than 2 of the independent directors shall have more than 4 years of experience in representing consumer or community interests on banking services, credit needs, housing, or financial consumer protections.

''(iii) CONFLICTS OF INTEREST.—No independent director may, during the term of service on the board of directors, serve as an officer of any Federal Home Loan Bank or as a director, officer, or employee of any member of a Bank, or of any person that receives advances from a Bank.

''(4) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(A) INDEPENDENT DIRECTOR.—The terms 'independent director' and 'independent directorship' mean a member of the board of directors of a Federal Home Loan Bank who is a bona fide resident of the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.

''(B) MEMBER DIRECTOR.—The terms 'member director' and 'member directorship' mean a member of the board of directors of a Federal Home Loan Bank who is an officer or director of a member institution that is located in the district in which the Federal Home Loan Bank is located, or the directorship held by such a person, respectively.'';

(2) by striking ''elective'' each place that term appears, other than in subsections (d), (e), and (f), and inserting ''member'';

(3) in subsection (b)—

(A) by striking the subsection heading and all that follows through ''Each elective directorship'' and inserting the following:

''(b) DIRECTORSHIPS.—

''(1) MEMBER DIRECTORSHIPS.—Each member directorship''; and

(B) by adding at the end the following:

''(2) INDEPENDENT DIRECTORSHIPS.—

''(A) ELECTIONS.—Each independent director—

''(i) shall be elected by the members entitled to vote, from among eligible persons nominated, after consultation with the Advisory Council of the Bank, by the board of directors of the Bank; and

''(ii) shall be elected by a plurality of the votes of the members of the Bank at large, with each member having the number of votes for each such directorship as it has under paragraph (1) in an election to fill member directorships.

''(B) CRITERIA.—Nominees shall meet all applicable requirements prescribed in this section.

''(C) NOMINATION AND ELECTION PROCEDURES.—Procedures for nomination and election of independent directors shall be prescribed by the bylaws of each Federal Home Loan Bank, in a manner consistent with the rules and regulations of the Agency.'';

(4) in subsection (c)—

(A) by striking ''elective'' each place that term appears and inserting ''member'', except—

(i) in the second sentence, the second place that term appears; and

(ii) each place that term appears in the fifth sentence; and

(B) in the second sentence—

(i) by inserting ''(A) except as provided in clause (B) of this sentence,'' before ''if at any time''; and

(ii) by inserting before the period at the end the following: '', and (B) clause (A) of this sentence shall not apply to the directorships of any Federal Home Loan Bank resulting from the merger of any 2 or more such Banks'';

(5) in subsection (d)—

(A) in the first sentence—

(i) by striking '', whether elected or appointed,''; and

(ii) by striking ''3 years'' and inserting ''4 years'';

(B) in the second sentence—

(i) by striking ''Federal Home Loan Bank System Modernization Act of 1999'' and inserting ''Federal Housing Finance Regulatory Reform Act of 2008'';

(ii) by striking ''⅓'' and inserting ''¼''; and

(iii) by striking ''or appointed''; and

(C) in the third sentence—

(i) by striking ''an elective'' each place that term appears and inserting ''a''; and

(ii) by striking ''in any elective directorship or elective directorships'';

(6) in subsection (f)—

(A) by striking paragraph (2);

(B) by striking ''appointed or'' each place that term appears; and

(C) in paragraph (3)—

(i) by striking ''(3) ELECTED BANK DIRECTORS.—'' and inserting ''(2) ELECTION PROCESS.—''; and

(ii) by striking ''elective'' each place that term appears;

(7) in subsection (i)—

(A) in paragraph (1), by striking ''Subject to paragraph (2), each'' and inserting ''Each''; and

(B) by striking paragraph (2) and inserting the following:

''(2) ANNUAL REPORT.—The Director shall include, in the annual report submitted to the Congress pursuant to section 1319B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, information regarding the compensation and expenses paid by the Federal Home Loan Banks to the directors on the boards of directors of the Banks.''; and

(8) by adding at the end the following:

''(l) TRANSITION RULE.—Any member of the board of directors of a Bank elected or appointed in accordance with this section prior to the date of enactment of this subsection may continue to serve as a member of that board of directors for the remainder of the existing term of service.''.

SEC. 1203. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) by striking paragraphs (1), (10), and (11);

(2) by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively;

(3) by redesignating paragraphs (12) and (13) as paragraphs (9) and (10), respectively; and

(4) by adding at the end the following:

''(11) DIRECTOR.—The term 'Director' means the Director of the Federal Housing Finance Agency.

''(12) AGENCY.—The term 'Agency' means the Federal Housing Finance Agency, established under section 1311 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.''.

SEC. 1204. AGENCY OVERSIGHT OF FEDERAL HOME LOAN BANKS.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.), other than in provisions of that Act added or amended otherwise by this Act, is amended—

(1) by striking sections 2A and 2B (12 U.S.C. 1422a, 1422b);

(2) by striking section 18 (12 U.S.C. 1438) and inserting the following:

''SEC. 18. ADMINISTRATIVE PROVISIONS.

''(a) ACQUISITION AUTHORITY.—The Director of the Office of Thrift Supervision, utilizing the services of the Administrator of General Services (hereinafter referred to as the 'Administrator'), and subject to any limitation hereon which may hereafter be imposed in appropriation Acts, is hereby authorized—

''(1) to acquire, in the name of the United States, real property in the District of Columbia, for the purposes set forth in this section;

''(2) to construct, develop, furnish, and equip such buildings thereon and such facilities as in its judgment may be appropriate to provide, to such extent as the Director of the Office of Thrift Supervision may deem advisable, suitable and adequate quarters and facilities for the Director of the Office of Thrift Supervision and the agencies under its administration or supervision;

''(3) to enlarge, remodel, or reconstruct any of the same; and

''(4) to make or enter into contracts for any of the foregoing.

''(b) ADVANCES.—The Director of the Office of Thrift Supervision may require of the respective banks, and they shall make to the Director of the Office of Thrift Supervision, such advances of funds for the purposes set out in subsection (a) as in the sole judgment of the Director of the Office of Thrift Supervision may from time to time be advisable. Such advances shall be apportioned by the Director of the Office of Thrift Supervision among the banks in proportion to the total assets of the respective banks, determined in such manner and as of such times as the Director of the Office of Thrift Supervision may prescribe. Each such advance shall bear interest at the rate of 4 ½ per centum per annum from the date of the advance and shall be repaid by the Director of the Office of Thrift Supervision in such installments and over such period, not longer than twenty-five years from the making of the advance, as the Director of the Office of Thrift Supervision may determine. Payments of interest and principal upon such advances shall be made from receipts of the Director of the Office of Thrift Supervision or from other sources which may from time to time be available to the Director of the Office of Thrift Supervision. The obligation of the Director of the Office of Thrift Supervision to make any such payment shall not be regarded as an obligation of the United States. To such extent as the Director of the Office of Thrift Supervision may prescribe any such obligation shall be regarded as a legal investment for the purposes of subsections (g) and (h) of section 11 and for the purposes of section 16.

''(c) PLANS AND DESIGNS.—The plans and designs for such buildings and facilities and for any such enlargement, remodeling, or reconstruction shall, to such extent as the chairperson of the Director of the Office of Thrift Supervision may request, be subject to the approval of the Director.

''(d) CUSTODY, MANAGEMENT AND CONTROL.—Upon the making of arrangements mutually agreeable to the Director of the Office of Thrift Supervision and the Administrator, which arrangements may be modified from time to time by mutual agreement between them and may include but shall not be limited to the making of payments by the Director of the Office of Thrift Supervision and such agencies to the Administrator and by the Administrator to the Director of the Office of Thrift Supervision, the custody, management, and control of such buildings and facilities and of such real property shall be vested in the Administrator in accordance therewith. Until the making of such arrangements, such custody, management, and control, including the assignment and allotment and the reassignment and reallotment of building and other space, shall be vested in the Director of the Office of Thrift Supervision.

''(e) PROCEEDS.—Any proceeds (including advances) received by the Director of the Office of Thrift Supervision in connection with this subsection, and any proceeds from the sale or other disposition of real or other property acquired by the Director of the Office of Thrift Supervision under this section, shall be considered as receipts of the Director of the Office of Thrift Supervision, and obligations and expenditures of the Director of the Office of Thrift Supervision and such agencies in connection with this section shall not be considered as administrative expenses. As used in this section, the term 'property' shall include interests in property.

''(f) BUDGET PROGRAM.—

''(1) IN GENERAL.—With respect to its functions under this section, the Director of the Office of Thrift Supervision shall—

''(A) annually prepare and submit a budget program as provided in title I of the Government Corporation Control Act with regard to wholly owned Government corporations, and for purposes of this paragraph, the terms 'wholly owned Government corporations' and 'Government corporations', wherever used in such title, shall include the Director of the Office of Thrift Supervision; and

''(B) maintain an integral set of accounts which shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions, as provided in such title, and no other settlement or adjustment shall be required with respect to transactions under this section or with respect to claims, demands, or accounts by or against any person arising thereunder.

''(2) MISCELLANEOUS PROVISIONS.—The first budget program shall be for the first full fiscal year beginning on or after the date of enactment of this subsection. Except as otherwise provided in this section or by the Director of the Office of Thrift Supervision, the provisions of this section and the functions thereby or thereunder subsisting shall be applicable and exercisable notwithstanding and without regard to the Act of June 20, 1938 (D.C. Code, secs. 5–413—5–428), except that the proviso of section 16 thereof shall apply

to any building constructed under this section, and section 306 of the Act of July 30, 1947 (61 Stat. 584), or any other provision of law relating to the construction, alteration, repair, or furnishing of public or other buildings or structures or the obtaining of sites therefor, but any person or body in whom any such function is vested may provide for delegation or redelegation of the exercise of such function.

''(g) LIMITATION.—No obligation shall be incurred and no expenditure, except in liquidation of obligation, shall be made pursuant to paragraphs (1) and (2) of subsection (a), if the total amount of all obligations incurred pursuant thereto would thereupon exceed $13,200,000, or such greater amount as may be provided in an appropriations Act or other law.''.

(3) in section 11 (12 U.S.C. 1431)—

(A) in subsection (b)—

(i) in the first sentence—

(I) by striking ''The Board'' and inserting ''The Office of Finance, as agent for the Banks,''; and

(II) by striking ''the Board'' and inserting ''such Office''; and

(ii) in the second and fourth sentences, by striking ''the Board'' each place such term appears and inserting ''the Office of Finance'';

(B) in subsection (c)—

(i) by striking ''the Board'' the first place such term appears and inserting ''the Office of Finance, as agent for the Banks,''; and

(ii) by striking ''the Board'' the second place such term appears and inserting ''such Office''; and

(C) in subsection (f)—

(i) by striking the 2 commas after ''permit'' and inserting ''or''; and

(ii) by striking the comma after ''require'';

(4) in section 6 (12 U.S.C. 1426)—

(A) in subsection (b)(1), in the matter preceding subparagraph (A), by striking ''Finance Board approval'' and inserting ''approval by the Director''; and

(B) in each of subsections (c)(4)(B) and (d)(2), by striking ''Finance Board regulations'' each place that term appears and inserting ''regulations of the Director'';

(5) in section 10(b) (12 U.S.C. 1430(b))—

(A) in the subsection heading, by striking ''FORMAL BOARD RESOLUTION'' and inserting ''APPROVAL OF DIRECTOR''; and

(B) by striking ''by formal resolution'';

(6) in section 21(b)(5) (12 U.S.C. 1441(b)(5)), by striking ''Chairperson of the Federal Housing Finance Board'' and inserting ''Director'';

(7) in section 15 (12 U.S.C. 1435), by inserting ''or the Director'' after ''the Board'';

(8) by striking ''the Board'' each place that term appears and inserting ''the Director'';

(9) by striking ''The Board'' each place that term appears and inserting ''The Director'';

(10) by striking ''the Finance Board'' each place that term appears and inserting ''the Director'';

(11) by striking ''The Finance Board'' each place that term appears and inserting ''The Director''; and

(12) by striking ''Federal Housing Finance Board'' each place that term appears and inserting ''Director''.

SEC. 1205. HOUSING GOALS.

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 10b the following new section:

''SEC. 10C. HOUSING GOALS.

''(a) IN GENERAL.—The Director shall establish housing goals with respect to the purchase of mortgages, if any, by the Federal Home Loan Banks. Such goals shall be consistent with the goals established under sections 1331 through 1334 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(b) CONSIDERATIONS.—In establishing the goals required by subsection (a), the Director shall consider the unique mission and ownership structure of the Federal Home Loan Banks.

''(c) TRANSITION PERIOD.—To facilitate an orderly transition, the Director shall establish interim target goals for purposes of this section for each of the 2 calendar years following the date of enactment of this section.

''(d) MONITORING AND ENFORCEMENT OF GOALS.—The requirements of section 1336 of the Federal Housing Enterprises Safety and Soundness Act of 1992, shall apply to this section, in the same manner and to the same extent as that section applies to the Federal housing enterprises.

''(e) ANNUAL REPORT.—The Director shall annually report to Congress on the performance of the Banks in meeting the goals established under this section.''.

SEC. 1206. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS.

Section 4(a)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)(1)) is amended—

(1) by inserting after ''savings bank,'' the following: ''community development financial institution,''; and

(2) in subparagraph (B), by inserting after ''United States,'' the following: ''or, in the case of a community development financial institution, is certified as a community development financial institution under the Community Development Banking and Financial Institutions Act of 1994.''.

SEC. 1207. SHARING OF INFORMATION AMONG FEDERAL HOME LOAN BANKS.

The Federal Home Loan Bank Act is amended by inserting after section 20 (12 U.S.C. 1440) the following new section:

''SEC. 20A. SHARING OF INFORMATION AMONG FEDERAL HOME LOAN BANKS.

''(a) INFORMATION ON FINANCIAL CONDITION.—In order to enable each Federal Home Loan Bank to evaluate the financial condition of one or more of the other Federal Home Loan Banks individually and the Federal Home Loan Bank System (including any risks associated with the issuance or repayment of consolidated Federal Home Loan Bank bonds and debentures or other borrowings and the joint and several liabilities of the Banks incurred due to such borrowings), as well as to comply with any of its obligations under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Director shall make available to the Banks such reports, records, or other information as may be available, relating to the condition of any Federal Home Loan Bank.

''(b) SHARING OF INFORMATION.—

''(1) IN GENERAL.—The Director shall promulgate regulations to facilitate the sharing of information made available under subsection (a) directly among the Federal Home Loan Banks.

''(2) LIMITATION.—Notwithstanding paragraph (1), a Federal Home Loan Bank responding to a request from another Bank or from the Director for information pursuant to this section may request that the Director determine that such information is proprietary and that the public interest requires that such information not be shared.

''(c) LIMITATION.—Nothing in this section shall affect the obligations of any Federal Home Loan Bank under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the regulations issued by the Securities and Exchange Commission thereunder.''.

SEC. 1208. EXCLUSION FROM CERTAIN REQUIREMENTS.

(a) IN GENERAL.—The Federal Home Loan Banks shall be exempt from compliance with—

(1) sections 13(e), 14(a), and 14(c) of the Securities Exchange Act of 1934, and related Commission regulations;

(2) section 15 of the Securities Exchange Act of 1934, and related Commission regulations, with respect to transactions in the capital stock of a Federal Home Loan Bank;

(3) section 17A of the Securities Exchange Act of 1934, and related Commission regulations, with respect to the transfer of the securities of a Federal Home Loan Bank; and

(4) the Trust Indenture Act of 1939.

(b) MEMBER EXEMPTION.—The members of the Federal Home Loan Bank System shall be exempt from compliance with sections 13(d), 13(f), 13(g), 14(d), and 16 of the Securities Exchange Act of 1934, and related Commission regulations, with respect to ownership of or transactions in the capital stock of the Federal Home Loan Banks by such members.

(c) EXEMPTED AND GOVERNMENT SECURITIES.—

(1) CAPITAL STOCK.—The capital stock issued by each of the Federal Home Loan Banks under section 6 of the Federal Home Loan Bank Act are—

(A) exempted securities, within the meaning of section 3(a)(2) of the Securities Act of 1933; and

(B) exempted securities, within the meaning of section 3(a)(12)(A) of the Securities Exchange Act of 1934, except to the extent provided in section 38 of that Act.

(2) OTHER OBLIGATIONS.—The debentures, bonds, and other obligations issued under section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) are—

(A) exempted securities, within the meaning of section 3(a)(2) of the Securities Act of 1933;

(B) government securities, within the meaning of section 3(a)(42) of the Securities Exchange Act of 1934; and

(C) government securities, within the meaning of section 2(a)(16) of the Investment Company Act of 1940.

(3) BROKERS AND DEALERS.—A person (other than a Federal Home Loan Bank effecting transactions for members of the Federal Home Loan Bank System) that effects transactions in the capital stock or other obligations of a Federal Home Loan Bank, for the account of others or for that person's own account, as applicable, is a broker or dealer, as those terms are defined in paragraphs (4) and (5), respectively, of section 3(a) of the Securities Exchange Act of 1934, but is excluded from the definition of—

(A) the term ''government securities broker'' under section 3(a)(43) of the Securities Exchange Act of 1934; and

(B) the term ''government securities dealer'' under section 3(a)(44) of the Securities Exchange Act of 1934.

(d) EXEMPTION FROM REPORTING REQUIREMENTS.—The Federal Home Loan Banks shall be exempt from periodic reporting requirements under the securities laws pertaining to the disclosure of—

(1) related party transactions that occur in the ordinary course of the business of the Banks with members; and

(2) the unregistered sales of equity securities.

(e) TENDER OFFERS.—Commission rules relating to tender offers shall not apply in connection with transactions in the capital stock of the Federal Home Loan Banks.

(f) REGULATIONS.—

(1) IN GENERAL.—The Commission shall promulgate such rules and regulations as may be necessary or appropriate in the public interest or in furtherance of this section and the exemptions provided in this section.

(2) CONSIDERATIONS.—In issuing regulations under this section, the Commission shall consider the distinctive characteristics of

the Federal Home Loan Banks when evaluating—

(A) the accounting treatment with respect to the payment to the Resolution Funding Corporation;

(B) the role of the combined financial statements of the Federal Home Loan Banks;

(C) the accounting classification of redeemable capital stock; and

(D) the accounting treatment related to the joint and several nature of the obligations of the Banks.

(g) DEFINITIONS.—As used in this section—

(1) the terms ''Bank'', ''Federal Home Loan Bank'', ''member'', and ''Federal Home Loan Bank System'' have the same meanings as in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422);

(2) the term ''Commission'' means the Securities and Exchange Commission; and

(3) the term ''securities laws'' has the same meaning as in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)).

SEC. 1209. VOLUNTARY MERGERS.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended—

(1) by striking ''Whenever'' and inserting ''(a) IN GENERAL.—Whenever''; and

(2) by adding at the end the following:

''(b) VOLUNTARY MERGERS AUTHORIZED.—

''(1) IN GENERAL.—Any Federal Home Loan Bank may, with the approval of the Director and of the boards of directors of the Banks involved, merge with another Bank.

''(2) REGULATIONS REQUIRED.—The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any voluntary merger described in paragraph (1), including the procedures for Bank member approval.''.

SEC. 1210. AUTHORITY TO REDUCE DISTRICTS.

Section 3 of the Federal Home Loan Bank Act (12 U.S.C. 1423) is amended—

(1) by striking ''As soon'' and inserting ''(a) IN GENERAL.—As soon''; and

(2) by adding at the end the following:

''(b) AUTHORITY TO REDUCE DISTRICTS.—Notwithstanding subsection (a), the number of districts may be reduced to a number less than 8—

''(1) pursuant to a voluntary merger between Banks, as approved pursuant to section 26(b); or

''(2) pursuant to a decision by the Director to liquidate a Bank pursuant to section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.''.

SEC. 1211. COMMUNITY FINANCIAL INSTITUTION MEMBERS.

(a) TOTAL ASSET REQUIREMENT.—Paragraph (10) of section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(10)), as so redesignated by section 201(3) of this Act, is amended by striking ''$500,000,000'' each place such term appears and inserting ''$1,000,000,000''.

(b) USE OF ADVANCES FOR COMMUNITY DEVELOPMENT ACTIVITIES.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) in paragraph (2)(B)—

(A) by striking ''and''; and

(B) by inserting '', and community development activities'' before the period at the end;

(2) in paragraph (3)(E), by inserting ''or community development activities'' after ''agriculture,''; and

(3) in paragraph (6)—

(A) by striking ''and''; and

(B) by inserting '', and 'community development activities' '' before ''shall''.

SEC. 1212. PUBLIC USE DATA BASE; REPORTS TO CONGRESS.

Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(1) in subsection (j)(12)—

(A) by striking subparagraph (C) and inserting the following:

''(C) REPORTS.—The Director shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the collateral pledged to the Banks, including an analysis of collateral by type and by Bank district.''; and

(B) by adding at the end the following:

''(D) SUBMISSION TO CONGRESS.—The Director shall submit the reports under subparagraphs (A) and (C) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 180 days after the date of enactment of the Federal Housing Finance Regulatory Reform Act of 2008.''; and

(2) by adding at the end the following:

''(k) PUBLIC USE DATABASE.—

''(1) DATA.—Each Federal Home Loan Bank shall provide to the Director, in a form determined by the Director, census tract level data relating to mortgages purchased, if any, including—

''(A) data consistent with that reported under section 1323 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

''(B) data elements required to be reported under the Home Mortgage Disclosure Act of 1975; and

''(C) any other data elements that the Director considers appropriate.

''(2) PUBLIC USE DATABASE.—

''(A) IN GENERAL.—The Director shall make available to the public, in a form that is useful to the public (including forms accessible electronically), and to the extent practicable, the data provided to the Director under paragraph (1).

''(B) PROPRIETARY INFORMATION.—Notwithstanding subparagraph (A), the Director may not provide public access to, or disclose to the public, any information required to be submitted under this subsection that the Director determines is proprietary or that would provide personally identifiable information and that is not otherwise publicly accessible through other forms, unless the Director determines that it is in the public interest to provide such information.''.

SEC. 1213. SEMIANNUAL REPORTS.

Section 21B of the Federal Home Loan Bank Act is amended in subsection (f)(2)(C), by adding at the end the following:

''(v) SEMIANNUAL REPORTS.—The Director shall report semiannually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the projected date for the completion of contributions required by this section.''.

SEC. 1214. LIQUIDATION OR REORGANIZATION OF A FEDERAL HOME LOAN BANK.

Section 26 of the Federal Home Loan Bank Act (12 U.S.C. 1446) is amended by adding at the end the following: ''At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5, United States Code.''.

SEC. 1215. STUDY AND REPORT TO CONGRESS ON SECURITIZATION OF ACQUIRED MEMBER ASSETS.

(a) STUDY.—The Director shall conduct a study on securitization of home mortgage loans purchased or to be purchased from member financial institutions under the Acquired Member Assets programs. In conducting the study, the Director shall establish a process for the formal submission of comments.

(b) ELEMENTS.—The study shall encompass—

(1) the benefits and risks associated with securitization of Acquired Member Assets;

(2) the potential impact of securitization upon liquidity in the mortgage and broader credit markets;

(3) the ability of the Federal Home Loan Bank or Banks in question to manage the risks associated with such a program;

(4) the impact of such a program on the existing activities of the Banks, including their mortgage portfolios and advances; and

(5) the joint and several liability of the Banks and the cooperative structure of the Federal Home Loan Bank System.

(c) CONSULTATIONS.—In conducting the study under this section, the Director shall consult with the Federal Home Loan Banks, the Banks' fiscal agent, representatives of the mortgage lending industry, practitioners in the structured finance field, and other experts as needed.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Director shall submit a report to Congress on the results of the study conducted under subsection (a), including policy recommendations based on the analysis of the Director of the feasibility of mortgage-backed securities issuance by a Federal Home Loan Bank or Banks and the risks and benefits associated with such program or programs.

(e) DEFINITIONS.—As used in this section, the terms ''member'', ''Bank'', and ''Federal Home Loan Bank'' have the same meanings as in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422).

SEC. 1216. TECHNICAL AND CONFORMING AMENDMENTS.

(a) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1113(o) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(o)) is amended—

(1) by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''; and

(2) by striking ''Federal Housing Finance Board's'' and inserting ''Federal Housing Finance Agency's''.

(b) RIEGLE COMMUNITY DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994.—Section 117(e) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4716(e)) is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(c) TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by striking ''Federal Housing Finance Board'' each place such term appears in each of sections 212, 657, 1006, and 1014, and inserting ''Federal Housing Finance Agency''.

(d) MAHRA ACT OF 1997.—Section 517(b)(4) of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(e) TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking ''Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(f) ACCESS TO LOCAL TV ACT OF 2000.—Section 1004(d)(2)(D)(iii) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1103(d)(2)(D)(iii)) is amended by striking ''Office of Federal Housing Enterprise Oversight, the Federal Housing Finance Board'' and inserting ''Federal Housing Finance Agency''.

(g) FIRREA.—Section 1216 of the Financial Institutions Reform, Recovery, and Enhancement Act of 1989 (12 U.S.C. 1833e) is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

''(3) the Federal Housing Finance Agency;'';

(2) in subsection (b), by striking ''Federal National Mortgage Association'' and inserting ''Federal Home Loan Banks, the Federal National Mortgage Association,''; and

(3) in subsection (c), by striking ''Finance Board'' and inserting ''Finance Agency''.

SEC. 1217. STUDY ON FEDERAL HOME LOAN BANK ADVANCES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House or Representatives on the extent to which loans and securities used as collateral to support Federal Home Loan Bank advances are consistent with the interagency guidance on nontraditional mortgage products.

(b) REQUIRED CONTENT.—The study required under subsection (a) shall—

(1) consider and recommend any additional regulations, guidance, advisory bulletins, or other administrative actions necessary to ensure that the Federal Home Loan Banks are not supporting loans with predatory characteristics; and

(2) include an opportunity for the public to comment on any recommendations made under paragraph (1).

SEC. 1218. FEDERAL HOME LOAN BANK REFINANCING AUTHORITY FOR CERTAIN RESIDENTIAL MORTGAGE LOANS.

Section 10(j)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)(2)) is amended—

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

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

(3) by adding at the end the following:

''(C) during the 2-year period beginning on the date of enactment of this subparagraph, refinance loans that are secured by a first mortgage on a primary residence of any family having an income at or below 80 percent of the median income for the area.''.

TITLE III—TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF OFHEO AND THE FEDERAL HOUSING FINANCE BOARD

Subtitle A—OFHEO

SEC. 1301. ABOLISHMENT OF OFHEO.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development and the positions of the Director and Deputy Director of such Office are abolished.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Director of the Office of Federal Housing Enterprise Oversight, solely for the purpose of winding up the affairs of the Office of Federal Housing Enterprise Oversight—

(1) shall manage the employees of such Office and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee under section 1303; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Office.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by title I and the abolishment of the Office of Federal Housing Enterprise Oversight under subsection (a) of this section may not be construed to affect the status of any employee of such Office as an employee of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 1303.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director may use the property of the Office of Federal Housing Enterprise Oversight to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Office of Federal Housing Enterprise Oversight before the expiration of the period under subsection (a) in connection with functions that are transferred to the Director shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) CONTINUATION OF SERVICES.—The Director may use the services of employees and other personnel of the Office of Federal Housing Enterprise Oversight, on a reimbursable basis, to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(f) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Federal Housing Enterprise Oversight, or any other person, which—

(A) arises under—

(i) the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

(ii) the Federal National Mortgage Association Charter Act;

(iii) the Federal Home Loan Mortgage Corporation Act; or

(iv) any other provision of law applicable with respect to such Office; and

(B) existed on the day before the date of abolishment under subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Director of the Office of Federal Housing Enterprise Oversight in connection with functions that are transferred to the Director of the Federal Housing Finance Agency shall abate by reason of the enactment of this Act, except that the Director of the Federal Housing Finance Agency shall be substituted for the Director of the Office of Federal Housing Enterprise Oversight as a party to any such action or proceeding.

SEC. 1302. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.

(a) IN GENERAL.—All regulations, orders, and determinations described in subsection (b) shall remain in effect according to the terms of such regulations, orders, and determinations, and shall be enforceable by or against the Director or the Secretary of Housing and Urban Development, as the case may be, until, modified, terminated, set aside, or superseded in accordance with applicable law by the Director or the Secretary, as the case may be, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, or determination is described in this subsection if it—

(1) was issued, made, prescribed, or allowed to become effective by—

(A) the Office of Federal Housing Enterprise Oversight;

(B) the Secretary of Housing and Urban Development, and relates to the authority of the Secretary under—

(i) the Federal Housing Enterprises Financial Safety and Soundness Act of 1992;

(ii) the Federal National Mortgage Association Charter Act, with respect to the Federal National Mortgage Association; or

(iii) the Federal Home Loan Mortgage Corporation Act, with respect to the Federal Home Loan Mortgage Corporation; or

(C) a court of competent jurisdiction, and relates to functions transferred by this Act; and

(2) is in effect on the effective date of the abolishment under section 1301(a).

SEC. 1303. TRANSFER AND RIGHTS OF EMPLOYEES OF OFHEO.

(a) TRANSFER.—Each employee of the Office of Federal Housing Enterprise Oversight shall be transferred to the Agency for employment, not later than the effective date of the abolishment under section 1301(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee transferred under subsection (a) holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, in the case of a temporary employee, separated in accordance with the terms of the appointment of the employee.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED AND SENIOR EXECUTIVE SERVICE EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1) to the extent that such authority relates to—

(A) a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character; or

(B) a noncareer position in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 1301(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Office of Federal Housing Enterprise Oversight accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the

Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development, as applicable, including insurance, to which such employee belongs on the date of the abolishment under section 1301(a), if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director of the Federal Housing Finance Agency.

(2) COST DIFFERENTIAL.—

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Office of Federal Housing Enterprise Oversight and those provided by this section shall be paid by the Director.

(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

SEC. 1304. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of its abolishment under section 1301(a), all property of the Office of Federal Housing Enterprise Oversight shall transfer to the Agency.

Subtitle B—Federal Housing Finance Board

SEC. 1311. ABOLISHMENT OF THE FEDERAL HOUSING FINANCE BOARD.

(a) IN GENERAL.—Effective at the end of the 1-year period beginning on the date of enactment of this Act, the Federal Housing Finance Board (in this subtitle referred to as the ''Board'') is abolished.

(b) DISPOSITION OF AFFAIRS.—During the 1-year period beginning on the date of enactment of this Act, the Board, solely for the purpose of winding up the affairs of the Board—

(1) shall manage the employees of the Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee under section 1313; and

(2) may take any other action necessary for the purpose of winding up the affairs of the Board.

(c) STATUS OF EMPLOYEES BEFORE TRANSFER.—The amendments made by titles I and II and the abolishment of the Board under subsection (a) may not be construed to affect the status of any employee of the Board as an employee of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee under section 1313.

(d) USE OF PROPERTY AND SERVICES.—

(1) PROPERTY.—The Director may use the property of the Board to perform functions which have been transferred to the Director, for such time as is reasonable to facilitate the orderly transfer of functions transferred under any other provision of this Act or any amendment made by this Act to any other provision of law.

(2) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Board before the expiration of the 1-year period under subsection (a) in connection with functions that are transferred to the Director shall—

(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

(e) CONTINUATION OF SERVICES.—The Director may use the services of employees and other personnel of the Board, on a reimbursable basis, to perform functions which have been transferred to the Director for such time as is reasonable to facilitate the orderly transfer of functions pursuant to any other provision of this Act or any amendment made by this Act to any other provision of law.

(f) SAVINGS PROVISIONS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, a member of the Board, or any other person, which—

(A) arises under the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Board; and

(B) existed on the day before the effective date of the abolishment under subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Board in connection with functions that are transferred under this Act to the Director shall abate by reason of the enactment of this Act, except that the Director shall be substituted for the Board or any member thereof as a party to any such action or proceeding.

SEC. 1312. CONTINUATION AND COORDINATION OF CERTAIN ACTIONS.

(a) IN GENERAL.—All regulations, orders, determinations, and resolutions described under subsection (b) shall remain in effect according to the terms of such regulations, orders, determinations, and resolutions, and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with applicable law by the Director, any court of competent jurisdiction, or operation of law.

(b) APPLICABILITY.—A regulation, order, determination, or resolution is described under this subsection if it—

(1) was issued, made, prescribed, or allowed to become effective by—

(A) the Board; or

(B) a court of competent jurisdiction, and relates to functions transferred by this Act; and

(2) is in effect on the effective date of the abolishment under section 1311(a).

SEC. 1313. TRANSFER AND RIGHTS OF EMPLOYEES OF THE FEDERAL HOUSING FINANCE BOARD.

(a) TRANSFER.—Each employee of the Board shall be transferred to the Agency for employment, not later than the effective date of the abolishment under section 1311(a), and such transfer shall be deemed a transfer of function for purposes of section 3503 of title 5, United States Code.

(b) GUARANTEED POSITIONS.—

(1) IN GENERAL.—Each employee transferred under subsection (a) shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer.

(2) NO INVOLUNTARY SEPARATION OR REDUCTION.—An employee holding a permanent position on the day immediately preceding the transfer may not be involuntarily separated or reduced in grade or compensation during the 12-month period beginning on the date of transfer, except for cause, or, if the employee is a temporary employee, separated in accordance with the terms of the appointment of the employee.

(c) APPOINTMENT AUTHORITY FOR EXCEPTED EMPLOYEES.—

(1) IN GENERAL.—In the case of an employee occupying a position in the excepted service, any appointment authority established under law or by regulations of the Office of Personnel Management for filling such position shall be transferred, subject to paragraph (2).

(2) DECLINE OF TRANSFER.—The Director may decline a transfer of authority under paragraph (1), to the extent that such authority relates to a position excepted from the competitive service because of its confidential, policymaking, policy-determining, or policy-advocating character.

(d) REORGANIZATION.—If the Director determines, after the end of the 1-year period beginning on the effective date of the abolishment under section 1311(a), that a reorganization of the combined workforce is required, that reorganization shall be deemed a major reorganization for purposes of affording affected employee retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(e) EMPLOYEE BENEFIT PROGRAMS.—

(1) IN GENERAL.—Any employee of the Board accepting employment with the Agency as a result of a transfer under subsection (a) may retain, for 12 months after the date on which such transfer occurs, membership in any employee benefit program of the Agency or the Board, as applicable, including insurance, to which such employee belongs on the effective date of the abolishment under section 1311(a) if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Director.

(2) COST DIFFERENTIAL.—

(A) IN GENERAL.—The difference in the costs between the benefits which would have been provided by the Board and those provided by this section shall be paid by the Director.

(B) HEALTH INSURANCE.—If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director, the employee shall be permitted to select an alternate Federal health insurance program not later than 30 days after the date of such election or notice, without regard to any other regularly scheduled open season.

SEC. 1314. TRANSFER OF PROPERTY AND FACILITIES.

Upon the effective date of the abolishment under section 1311(a), all property of the Board shall transfer to the Agency.

TITLE IV—HOPE FOR HOMEOWNERS

SEC. 1401. SHORT TITLE.

This title may be cited as the ''HOPE for Homeowners Act of 2008''.

SEC. 1402. ESTABLISHMENT OF HOPE FOR HOMEOWNERS PROGRAM.

(a) ESTABLISHMENT.—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following:

''SEC. 257. HOPE FOR HOMEOWNERS PROGRAM.

''(a) ESTABLISHMENT.—There is established in the Federal Housing Administration a HOPE for Homeowners Program.

''(b) PURPOSE.—The purpose of the HOPE for Homeowners Program is—

''(1) to create an FHA program, participation in which is voluntary on the part of homeowners and existing loan holders to insure refinanced loans for distressed borrowers to support long-term, sustainable homeownership;

''(2) to allow homeowners to avoid foreclosure by reducing the principle balance outstanding, and interest rate charged, on their mortgages;

''(3) to help stabilize and provide confidence in mortgage markets by bringing transparency to the value of assets based on mortgage assets;

''(4) to target mortgage assistance under this section to homeowners for their principal residence;

''(5) to enhance the administrative capacity of the FHA to carry out its expanded role under the HOPE for Homeowners Program;

''(6) to ensure the HOPE for Homeowners Program remains in effect only for as long as is necessary to provide stability to the housing market; and

''(7) to provide servicers of delinquent mortgages with additional methods and approaches to avoid foreclosure.

''(c) ESTABLISHMENT AND IMPLEMENTATION OF PROGRAM REQUIREMENTS.—

''(1) DUTIES OF THE BOARD.—In order to carry out the purposes of the HOPE for Homeowners Program, the Board shall—

''(A) establish requirements and standards for the program; and

''(B) prescribe such regulations and provide such guidance as may be necessary or appropriate to implement such requirements and standards.

''(2) DUTIES OF THE SECRETARY.—In carrying out any of the program requirements or standards established under paragraph (1), the Secretary may issue such interim guidance and mortgagee letters as the Secretary determines necessary or appropriate.

''(d) INSURANCE OF MORTGAGES.—The Secretary is authorized upon application of a mortgagee to make commitments to insure or to insure any eligible mortgage that has been refinanced in a manner meeting the requirements under subsection (e).

''(e) REQUIREMENTS OF INSURED MORTGAGES.—To be eligible for insurance under this section, a refinanced eligible mortgage shall comply with all of the following requirements:

''(1) LACK OF CAPACITY TO PAY EXISTING MORTGAGE.—

''(A) BORROWER CERTIFICATION.—

''(i) IN GENERAL.—The mortgagor shall provide certification to the Secretary that the mortgagor has not intentionally defaulted on the mortgage or any other debt, and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining any eligible mortgage.

''(ii) PENALTIES.—

''(I) FALSE STATEMENT.—Any certification filed pursuant to clause (i) shall contain an acknowledgment that any willful false statement made in such certification is punishable under section 1001, of title 18, United States Code, by fine or imprisonment of not more than 5 years, or both.

''(II) LIABILITY FOR REPAYMENT.—The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Federal Housing Administration 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 in the certifications and documentation required under this subparagraph, subject to the discretion of the Secretary.

''(B) CURRENT BORROWER DEBT-TO-INCOME RATIO.—As of March 1, 2008, the mortgagor shall have had 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 Board determines appropriate).

''(2) DETERMINATION OF PRINCIPAL OBLIGATION AMOUNT.—The principal obligation amount of the refinanced eligible mortgage to be insured shall—

''(A) be determined by the reasonable ability of the mortgagor to make his or her mortgage payments, as such ability is determined by the Secretary pursuant to section 203(b)(4) or by any other underwriting standards established by the Board; and

''(B) not exceed 90 percent of the appraised value of the property to which such mortgage relates.

''(3) REQUIRED WAIVER OF PREPAYMENT PENALTIES AND FEES.—All penalties for prepayment or refinancing of the eligible mortgage, and all fees and penalties related to default or delinquency on the eligible mortgage, shall be waived or forgiven.

''(4) EXTINGUISHMENT OF SUBORDINATE LIENS.—

''(A) REQUIRED AGREEMENT.—All holders of outstanding mortgage liens on the property to which the eligible mortgage relates shall agree to accept the proceeds of the insured loan as payment in full of all indebtedness under the eligible mortgage, and all encumbrances related to such eligible mortgage shall be removed. The Secretary may take such actions, subject to standards established by the Board under subparagraph (B), as may be necessary and appropriate to facilitate coordination and agreement between the holders of the existing senior mortgage and any existing subordinate mortgages, taking into consideration the subordinate lien status of such subordinate mortgages.

''(B) SHARED APPRECIATION.—

''(i) IN GENERAL.—The Board shall establish standards and policies that will allow for the payment to the holder of any existing subordinate mortgage of a portion of any future appreciation in the property secured by such eligible mortgage that is owed to the Secretary pursuant to subsection (k).

''(ii) FACTORS.—In establishing the standards and policies required under clause (i), the Board shall take into consideration—

''(I) the status of any subordinate mortgage;

''(II) the outstanding principal balance of and accrued interest on the existing senior mortgage and any outstanding subordinate mortgages;

''(III) the extent to which the current appraised value of the property securing a subordinate mortgage is less than the outstanding principal balance and accrued interest on any other liens that are senior to such subordinate mortgage; and

''(IV) such other factors as the Board determines to be appropriate.

''(C) VOLUNTARY PROGRAM.—This paragraph may not be construed to require any holder of any existing mortgage to participate in the program under this section generally, or with respect to any particular loan.

''(5) TERM OF MORTGAGE.—The refinanced eligible mortgage to be insured shall—

''(A) bear interest at a single rate that is fixed for the entire term of the mortgage; and

''(B) have a maturity of not less than 30 years from the date of the beginning of amortization of such refinanced eligible mortgage.

''(6) MAXIMUM LOAN AMOUNT.—The principal obligation amount of the eligible mortgage to be insured shall not exceed 132 percent of the dollar amount limitation in effect for 2007 under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a property of the applicable size.

''(7) PROHIBITION ON SECOND LIENS.—A mortgagor may not grant a new second lien on the mortgaged property during the first 5 years of the term of the mortgage insured under this section.

''(8) APPRAISALS.—Any appraisal conducted in connection with a mortgage insured under this section shall—

''(A) be based on the current value of the property;

''(B) be conducted in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.);

''(C) be completed by an appraiser who meets the competency requirements of the Uniform Standards of Professional Appraisal Practice;

''(D) be wholly consistent with the appraisal standards, practices, and procedures under section 202(e) of this Act that apply to all loans insured under this Act; and

''(E) comply with the requirements of subsection (g) of this section (relating to appraisal independence).

''(9) DOCUMENTATION AND VERIFICATION OF INCOME.—In complying with the FHA underwriting requirements under the HOPE for Homeowners Program under this section, the mortgagee under the mortgage shall document and verify the income of the mortgagor by procuring an Internal Revenue Service transcript of the income tax returns of the mortgagor for the 2 most recent years for which the filing deadline for such years has passed and by any other method, in accordance with procedures and standards that the Board or the Secretary shall establish.

''(10) MORTGAGE FRAUD.—The mortgagor shall not have been convicted under any provision of Federal or State law for fraud, including mortgage fraud.

''(11) PRIMARY RESIDENCE.—The mortgagor shall provide documentation satisfactory in the determination of the Secretary to prove that the residence covered by the mortgage to be insured under this section is occupied by the mortgagor as the primary residence of the mortgagor, and that such residence is the only residence in which the mortgagor has any present ownership interest.

''(f) STUDY OF AUCTION OR BULK REFINANCE PROGRAM.—

''(1) STUDY.—The Board shall conduct a study of the need for and efficacy of an auction or bulk refinancing mechanism to facilitate refinancing of existing residential mortgages that are at risk for foreclosure into mortgages insured under this section. The study shall identify and examine various options for mechanisms under which lenders and servicers of such mortgages may make bids for forward commitments for such insurance in an expedited manner.

''(2) CONTENT.—

''(A) ANALYSIS.—The study required under paragraph (1) shall analyze—

''(i) the feasibility of establishing a mechanism that would facilitate the more rapid refinancing of borrowers at risk of foreclosure into performing mortgages insured under this section;

''(ii) whether such a mechanism would provide an effective and efficient mechanism to reduce foreclosures on qualified existing mortgages;

''(iii) whether the use of an auction or bulk refinance program is necessary to stabilize the housing market and reduce the impact of turmoil in that market on the economy of the United States;

''(iv) whether there are other mechanisms or authority that would be useful to reduce foreclosure; and

''(v) and any other factors that the Board considers relevant.

''(B) DETERMINATIONS.—To the extent that the Board finds that a facility of the type described in subparagraph (A) is feasible and useful, the study shall—

''(i) determine and identify any additional authority or resources needed to establish and operate such a mechanism;

''(ii) determine whether there is a need for additional authority with respect to the loan underwriting criteria established in this section or with respect to eligibility of participating borrowers, lenders, or holders of liens;

''(iii) determine whether such underwriting criteria should be established on the basis of individual loans, in the aggregate, or otherwise to facilitate the goal of refinancing borrowers at risk of foreclosure into viable loans insured under this section.

''(3) REPORT.—Not later than the expiration of the 60-day period beginning on the

date of the enactment of this section, the Board shall submit a report regarding the results of the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report shall include a detailed description of the analysis required under paragraph (2)(A) and of the determinations made pursuant to paragraph (2)(B), and shall include any other findings and recommendations of the Board pursuant to the study, including identifying various options for mechanisms described in paragraph (1).

''(g) APPRAISAL INDEPENDENCE.—

''(1) PROHIBITIONS ON INTERESTED PARTIES IN A REAL ESTATE TRANSACTION.—No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal in connection with a mortgage insured under this section shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the mortgage.

''(2) CIVIL MONETARY PENALTIES.—The Secretary may impose a civil money penalty for any knowing and material violation of paragraph (1) under the same terms and conditions as are authorized in section 536(a) of this Act.

''(h) STANDARDS TO PROTECT AGAINST ADVERSE SELECTION.—

''(1) IN GENERAL.—The Board shall, by rule or order, establish standards and policies to require the underwriter of the insured loan to provide such representations and warranties as the Board considers necessary or appropriate to enforce compliance with all underwriting and appraisal standards of the HOPE for Homeowners Program.

''(2) EXCLUSION FOR VIOLATIONS.—The Board shall prohibit the Secretary from paying insurance benefits to a mortgagee who violates the representations and warranties, as established under paragraph (1), or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage.

''(3) OTHER AUTHORITY.—The Board may establish such other standards or policies as necessary to protect against adverse selection, including requiring loans identified by the Secretary as higher risk loans to demonstrate payment performance for a reasonable period of time prior to being insured under the program.

''(i) PREMIUMS.—For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect—

''(1) at the time of insurance, a single premium payment in an amount equal to 3 percent of the amount of the original insured principal obligation of the refinanced eligible mortgage, which shall be paid from the proceeds of the mortgage being insured under this section, through the reduction of the amount of indebtedness that existed on the eligible mortgage prior to refinancing; and

''(2) in addition to the premium required under paragraph (1), an annual premium in an amount equal to 1.5 percent of the amount of the remaining insured principal balance of the mortgage.

''(j) ORIGINATION FEES AND INTEREST RATE.—The Board shall establish—

''(1) a reasonable limitation on origination fees for refinanced eligible mortgages insured under this section; and

''(2) procedures to ensure that interest rates on such mortgages shall be commensurate with market rate interest rates on such types of loans.

''(k) EQUITY AND APPRECIATION.—

''(1) FIVE-YEAR PHASE-IN FOR EQUITY AS A RESULT OF SALE OR REFINANCING.—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, or upon the subsequent refinancing of such mortgage, be entitled to the following with respect to any equity created as a direct result of such sale or refinancing:

''(A) If such sale or refinancing occurs during the period that begins on the date that such mortgage is insured and ends 1 year after such date of insurance, the Secretary shall be entitled to 100 percent of such equity.

''(B) If such sale or refinancing occurs during the period that begins 1 year after such date of insurance and ends 2 years after such date of insurance, the Secretary shall be entitled to 90 percent of such equity and the mortgagor shall be entitled to 10 percent of such equity.

''(C) If such sale or refinancing occurs during the period that begins 2 years after such date of insurance and ends 3 years after such date of insurance, the Secretary shall be entitled to 80 percent of such equity and the mortgagor shall be entitled to 20 percent of such equity.

''(D) If such sale or refinancing occurs during the period that begins 3 years after such date of insurance and ends 4 years after such date of insurance, the Secretary shall be entitled to 70 percent of such equity and the mortgagor shall be entitled to 30 percent of such equity.

''(E) If such sale or refinancing occurs during the period that begins 4 years after such date of insurance and ends 5 years after such date of insurance, the Secretary shall be entitled to 60 percent of such equity and the mortgagor shall be entitled to 40 percent of such equity.

''(F) If such sale or refinancing occurs during any period that begins 5 years after such date of insurance, the Secretary shall be entitled to 50 percent of such equity and the mortgagor shall be entitled to 50 percent of such equity.

''(2) APPRECIATION IN VALUE.—For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, each be entitled to 50 percent of any appreciation in value of the appraised value of such property that has occurred since the date that such mortgage was insured under this section.

''(l) ESTABLISHMENT OF HOPE FUND.—

''(1) IN GENERAL.—There is established in the Federal Housing Administration a revolving fund to be known as the Home Ownership Preservation Entity Fund, which shall be used by the Board for carrying out the mortgage insurance obligations under this section.

''(2) MANAGEMENT OF FUND.—The HOPE Fund shall be administered and managed by the Secretary, who shall establish reasonable and prudent criteria for the management and operation of any amounts in the HOPE Fund.

''(m) LIMITATION ON AGGREGATE INSURANCE AUTHORITY.—The aggregate original principal obligation of all mortgages insured under this section may not exceed $300,000,000,000.

''(n) REPORTS BY THE BOARD.—The Board shall submit monthly reports to the Congress identifying the progress of the HOPE for Homeowners Program, which shall contain the following information for each month:

''(1) The number of new mortgages insured under this section, including the location of the properties subject to such mortgages by census tract.

''(2) The aggregate principal obligation of new mortgages insured under this section.

''(3) The average amount by which the principle balance outstanding on mortgages insured this section was reduced.

''(4) The amount of premiums collected for insurance of mortgages under this section.

''(5) The claim and loss rates for mortgages insured under this section.

''(6) Any other information that the Board considers appropriate.

''(o) REQUIRED OUTREACH EFFORTS.—The Secretary shall carry out outreach efforts to ensure that homeowners, lenders, and the general public are aware of the opportunities for assistance available under this section.

''(p) ENHANCEMENT OF FHA CAPACITY.—Under the direction of the Board, the Secretary shall take such actions as may be necessary to—

''(1) contract for the establishment of underwriting criteria, automated underwriting systems, pricing standards, and other factors relating to eligibility for mortgages insured under this section;

''(2) contract for independent quality reviews of underwriting, including appraisal reviews and fraud detection, of mortgages insured under this section or pools of such mortgages; and

''(3) increase personnel of the Department as necessary to process or monitor the processing of mortgages insured under this section.

''(q) GNMA COMMITMENT AUTHORITY.—

''(1) GUARANTEES.—The Secretary shall take such actions as may be necessary to ensure that securities based on and backed by a trust or pool composed of mortgages insured under this section are available to be guaranteed by the Government National Mortgage Association as to the timely payment of principal and interest.

''(2) GUARANTEE AUTHORITY.—To carry out the purposes of section 306 of the National Housing Act (12 U.S.C. 1721), the Government National Mortgage Association may enter into new commitments to issue guarantees of securities based on or backed by mortgages insured under this section, not exceeding $300,000,000,000. The amount of authority provided under the preceding sentence to enter into new commitments to issue guarantees is in addition to any amount of authority to make new commitments to issue guarantees that is provided to the Association under any other provision of law.

''(r) SUNSET.—The Secretary may not enter into any new commitment to insure any refinanced eligible mortgage, or newly insure any refinanced eligible mortgage pursuant to this section before October 1, 2008 or after September 30, 2011.

''(s) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) APPROVED FINANCIAL INSTITUTION OR MORTGAGEE.—The term 'approved financial institution or mortgagee' means a financial institution or mortgagee approved by the Secretary under section 203 as responsible and able to service mortgages responsibly.

''(2) BOARD.—The term 'Board' means the Board of Directors of the HOPE for Homeowners Program. The Board shall be composed of the Secretary, the Secretary of the Treasury, the Chairperson of the Board of Governors of the Federal Reserve System, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

''(3) ELIGIBLE MORTGAGE.—The term 'eligible mortgage' means a mortgage—

''(A) the mortgagor of which—

''(i) occupies such property as his or her principal residence; and

''(ii) cannot, subject to subsection (e)(1)(B) and such other standards established by the Board, afford his or her mortgage payments; and

''(B) originated on or before January 1, 2008.

''(4) EXISTING SENIOR MORTGAGE.—The term 'existing senior mortgage' means, with respect to a mortgage insured under this section, the existing mortgage that has superior priority.

''(5) EXISTING SUBORDINATE MORTGAGE.—The term 'existing subordinate mortgage' means, with respect to a mortgage insured under this section, an existing mortgage that has subordinate priority to the existing senior mortgage.

''(6) HOPE FOR HOMEOWNERS PROGRAM.—The term 'HOPE for Homeowners Program' means the program established under this section.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development, except where specifically provided otherwise.

''(t) REQUIREMENTS RELATED TO THE BOARD.—

''(1) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—

''(A) FEDERAL EMPLOYEES.—A member of the Board who is an officer or employee of the Federal Government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Board.

''(B) TRAVEL EXPENSES.—Members of the Board shall be entitled to receive travel expenses, including per diem in lieu of subsistence, equivalent to those set forth in subchapter I of chapter 57 of title 5, United States Code.

''(2) BYLAWS.—The Board may prescribe, amend, and repeal such bylaws as may be necessary for carrying out the functions of the Board.

''(3) QUORUM.—A majority of the Board shall constitute a quorum.

''(4) STAFF; EXPERTS AND CONSULTANTS.—

''(A) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Board, any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(B) EXPERTS AND CONSULTANTS.—The Board shall procure the services of experts and consultants as the Board considers appropriate.

''(u) RULE OF CONSTRUCTION RELATED TO VOLUNTARY NATURE OF THE PROGRAM.—This section shall not be construed to require that any approved financial institution or mortgagee participate in any activity authorized under this section, including any activity related to the refinancing of an eligible mortgage.

''(v) RULE OF CONSTRUCTION RELATED TO INSURANCE OF MORTGAGES.—Except as otherwise provided for in this section or by action of the Board, the provisions and requirements of section 203(b) shall apply with respect to the insurance of any eligible mortgage under this section.

''(w) HOPE BONDS.—

''(1) ISSUANCE AND REPAYMENT OF BONDS.—Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661d(b)), the Secretary of the Treasury shall—

''(A) subject to such terms and conditions as the Secretary of the Treasury deems necessary, issue Federal credit instruments, to be known as 'HOPE Bonds', that are callable at the discretion of the Secretary of the Treasury and do not, in the aggregate, exceed the amount specified in subsection (m);

''(B) provide the subsidy amounts necessary for loan guarantees under the HOPE for Homeowners Program, not to exceed the amount specified in subsection (m), in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), except as provided in this paragraph; and

''(C) use the proceeds from HOPE Bonds only to pay for the net costs to the Federal Government of the HOPE for Homeowners Program, including administrative costs.

''(2) REIMBURSEMENTS TO TREASURY.—Funds received pursuant to section 1338(b) of the Federal Housing Enterprises Regulatory Reform Act of 1992 shall be used to reimburse the Secretary of the Treasury for amounts borrowed under paragraph (1).

''(3) USE OF RESERVE FUND.—If the net cost to the Federal Government for the HOPE for Homeowners Program exceeds the amount of funds received under paragraph (2), remaining debts of the HOPE for Homeowners Program shall be paid from amounts deposited into the fund established by the Secretary under section 1337(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, remaining amounts in such fund to be used to reduce the National debt.''.

SA 5048. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 133, between lines 9 and 10, insert the following:

''(g) ADDITIONAL LIMITATIONS ON DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—None of the funds allocated under this section shall be distributed out of either the Housing Trust Fund or the Capital Magnet Fund to—

''(A) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or

''(B) an organization which employs applicable individuals.

''(2) APPLICABLE INDIVIDUALS DEFINED.—In this subsection, the term 'applicable individual' means an individual who—

''(A) is—

''(i) employed by the organization in a permanent or temporary capacity;

''(ii) contracted or retained by the organization; or

''(iii) acting on behalf of, or with the express or apparent authority of, the organization; and

''(B) has been indicted for a violation under Federal law relating to an election for Federal office.''.

SA 5049. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 401, line 10, after the first period insert the following:

''(x) NO BENEFIT FOR DELINQUENCY WITHIN FIRST SIX MONTHS.—No insurance benefits shall be paid by the Secretary pursuant to this section if a mortgagor fails to timely make any of his or her first six payments on a refinanced eligible mortgage insured under this section.''.

SA 5050. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 510, between lines 5 and 6, insert the following:

(4) SALE REQUIREMENT.—If a State or unit of general local government purchases or otherwise acquires an abandoned or foreclosed upon home or residential property with funds received pursuant to this section or with any amounts derived or generated from activities authorized under this section, that State or unit of general local government shall sell such home or property by a date that is not later than 5 years after the date of enactment of this Act.

SA 5051. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 575, strike lines 3 through 13 and insert the following:

''(A) INCREASE FOR 2008.—

''(i) IN GENERAL.—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to $11,000,000,000 multiplied by the State share for such State.

''(ii) STATE SHARE.—For purposes of this paragraph, the State share for any state

shall be the amount, expressed as a percentage, determined with respect to such State under the formula established under clause (iii).

''(iii) FORMULA.—The formula established under this clause shall be established by the Secretary, in consultation with the Secretary of Housing and Urban Development, and shall be based on need, as such need is determined in the discretion of the Secretary, taking into account—

''(I) the number and percentage of home foreclosures in each State;

''(II) the number and percentage of homes financed by a subprime mortgage related loan in each State; and

''(III) the number and percentage of homes in default or delinquency in each State.

''(iv) FORMULA TO BE DEVISED SWIFTLY.—The formula under clause (iii) shall be established not later than 30 days after the date of enactment of this paragraph.

SA 5052. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 518, line 3, strike the period and insert '': *Provided*, further that none of the funds appropriated by this section for section 2401 or funds appropriated by section 2401 shall be for political activities, lobbying, whether directly or through other parties, or travel expenses.''.

SA 5053 Mr. CORKER submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike Title III of Division B.

SA 5054. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of division C, add the following:

TITLE ____—CLEAN ENERGY TAX STIMULUS

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Clean Energy Tax Stimulus Act of 2008''.

Subtitle A—Extension of Clean Energy Production Incentives

SEC. ___11. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010'':

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(I) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Paragraph (8).

(9) Subparagraphs (A) and (B) of paragraph (9).

(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2010.''.

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking ''January 1, 2010'' and inserting ''the date of the enactment of paragraph (11)''.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: ''A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33).''.

(d) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (d) shall apply to electricity produced and sold before, on, or after December 31, 2007.

SEC. ___12. EXTENSION AND MODIFICATION OF SOLAR ENERGY AND FUEL CELL INVESTMENT TAX CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2017''.

(3) QUALIFIED MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2017''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.''.

(c) REPEAL OF DOLLAR PER KILOWATT LIMITATION FOR FUEL CELL PROPERTY.—

(1) IN GENERAL.—Section 48(c)(1) (relating to qualified fuel cell), as amended by subsection (a)(2), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B) of subsection (c)'' and inserting ''subsection (c)(2)(B)''.

(d) PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c), as amended by this section, is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(B) Paragraph (2) of section 48(c), as amended by subsection (a)(3), is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) FUEL CELL PROPERTY AND PUBLIC ELECTRIC UTILITY PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. ___13. EXTENSION AND MODIFICATION OF RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.

(a) EXTENSION.—Section 25D(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) NO DOLLAR LIMITATION FOR CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1) (relating to maximum credit) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) CONFORMING AMENDMENTS.—Section 25D(e)(4) is amended—

(A) by striking clause (i) in subparagraph (A),

(B) by redesignating clauses (ii) and (iii) in subparagraph (A) as clauses (i) and (ii), respectively, and

(C) by striking '', (2),'' in subparagraph (C).

(c) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (c)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. ___14. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.

(a) EXTENSION.—Section 54(m) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN NATIONAL LIMITATION.—Section 54(f) (relating to limitation on amount of bonds designated) is amended—

(1) by inserting '', and for the period beginning after the date of the enactment of the Clean Energy Tax Stimulus Act of 2008 and ending before January 1, 2010, $400,000,000'' after ''$1,200,000,000'' in paragraph (1),

(2) by striking ''$750,000,000 of the'' in paragraph (2) and inserting ''$750,000,000 of the $1,200,000,000'', and

(3) by striking ''bodies'' in paragraph (2) and inserting ''bodies, and except that the Secretary may not allocate more than ⅓ of the $400,000,000 national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are public power providers nor more than ⅓ of such limitation to finance qualified projects of qualified borrowers which are mutual or cooperative electric companies described in section 501(c)(12) or section 1381(a)(2)(C)''.

(c) PUBLIC POWER PROVIDERS DEFINED.—Section 54(j) is amended—

(1) by adding at the end the following new paragraph:

''(6) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).'', and

(2) by inserting ''; PUBLIC POWER PROVIDER'' before the period at the end of the heading.

(d) TECHNICAL AMENDMENT.—The third sentence of section 54(e)(2) is amended by striking ''subsection (l)(6)'' and inserting ''subsection (l)(5)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. ___15. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—

(1) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transactions after December 31, 2007.

(b) INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Section 451(i)(4)(B)(ii) (defining independent transmission company) is amended by striking ''December 31, 2007'' and inserting ''the date which is 2 years after the date of such transaction''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

Subtitle B—Extension of Incentives To Improve Energy Efficiency

SEC. ___21. EXTENSION AND MODIFICATION OF CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) EXTENSION OF CREDIT.—Section 25C(g) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.—

(1) ELECTRIC HEAT PUMPS.—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

''(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.''.

(2) CENTRAL AIR CONDITIONERS.—Section 25C(d)(3)(D) is amended by striking ''2006'' and inserting ''2008''.

(3) WATER HEATERS.—Subparagraph (E) of section 25C(d) is amended to read as follows:

''(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.''.

(4) OIL FURNACES AND HOT WATER BOILERS.—Paragraph (4) of section 25C(d) is amended to read as follows:

''(4) QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.—

''(A) QUALIFIED NATURAL GAS FURNACE.—The term 'qualified natural gas furnace' means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(B) QUALIFIED NATURAL GAS HOT WATER BOILER.—The term 'qualified natural gas hot water boiler' means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(C) QUALIFIED PROPANE FURNACE.—The term 'qualified propane furnace' means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

''(D) QUALIFIED PROPANE HOT WATER BOILER.—The term 'qualified propane hot water boiler' means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

''(E) QUALIFIED OIL FURNACES.—The term 'qualified oil furnace' means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

''(F) QUALIFIED OIL HOT WATER BOILER.—The term 'qualified oil hot water boiler' means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.''.

(d) EFFECTIVE DATE.—The amendments made this section shall apply to expenditures made after December 31, 2007.

SEC. ___22. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ENERGY EFFICIENT NEW HOMES.

(a) EXTENSION OF CREDIT.—Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(b) ALLOWANCE FOR CONTRACTOR'S PERSONAL RESIDENCE.—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

''(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

''(ii) used by such eligible contractor as a residence during the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2008.

SEC. ___23. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) EXTENSION.—Section 179D(h) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) ADJUSTMENT OF MAXIMUM DEDUCTION AMOUNT.—

(1) IN GENERAL.—Subparagraph (A) of section 179D(b)(1) (relating to maximum amount of deduction) is amended by striking ''$1.80'' and inserting ''$2.25''.

(2) PARTIAL ALLOWANCE.—Paragraph (1) of section 179D(d) is amended—

(A) by striking ''$.60'' and inserting ''$0.75'', and

(B) by striking ''$1.80'' and inserting ''$2.25''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. ___24. MODIFICATION AND EXTENSION OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'', and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) (defining clothes washer) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SA 5055. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 4983 proposed by Mr. REID (for Mr. DODD (for himself and Mr. SHELBY)) to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of title VI of division A, add the following:

SEC. 1606. CLARIFICATION OF SCOPE OF APPLICABLE RATE PROVISION.

Section 44(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)) is amended by adding at the end the following new paragraphs:

''(3) OTHER PERSONS.—In the case of any other person or governmental or private entity in the State described in paragraph (1)—

''(A) any provision of the constitution of that State that establishes a maximum lawful annual interest rate, or otherwise or limits the amount of interest, discount points, finance charges, fees, or other charges that may be charged, taken, paid, received, or reserved from time to time, until judgment, thereby interfering in interstate commerce,

shall not apply to any loan, discount, or credit sale made, or upon any bond, note, obligation, bill of exchange, financing transaction, or other evidence of debt issued or acquired by any other person or governmental or private entity; and

''(B) such interest, discount points, finance charges, fees, or other charges that may be charged, taken, paid, received, or reserved from time to time, until judgment, in any loan, discount, or credit sale made, or upon any bond, note, obligation, bill of exchange, financing transaction, or other evidence of debt issued to or acquired by any other person or governmental or private entity may not exceed 17 percent per year.''.

SA 5056. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 3221, moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of title VI of division A, add the following:

SEC. 1606. OIL AND NATURAL GAS LEASING IN NEW PRODUCING AREAS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PRODUCING STATE.—The term ''eligible producing State'' means—

(A) a new producing State; and

(B) any other producing State that has, within the offshore administrative boundaries beyond the submerged land of a State, areas available for oil leasing, natural gas leasing, or both.

(2) NEW PRODUCING AREA.—The term ''new producing area'' means an area that is—

(A) within the offshore administrative boundaries beyond the submerged land of a State; and

(B) not available for oil or natural gas leasing as of the date of enactment of this Act.

(3) NEW PRODUCING STATE.—The term ''new producing State'' means a State with respect to which a petition has been approved by the Secretary under subsection (b).

(4) QUALIFIED REVENUES.—The term ''qualified revenues'' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act for new producing areas.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Governor of a State, with the concurrence of the State legislature, may submit to the Secretary a petition requesting that the Secretary make a new producing area of the State eligible for oil leasing, gas leasing, or both, as determined by the State, in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(2) ACTION BY SECRETARY.—As soon as practicable after the date on which the Secretary receives a petition under paragraph (1), the Secretary shall approve or disapprove the petition.

(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM ELIGIBLE PRODUCING STATES.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338), for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 50 percent of qualified revenues in the general fund of the Treasury; and

(2) 50 percent of qualified revenues in a special account in the Treasury, which the Secretary shall disburse to eligible producing States for new producing areas, to be allocated in accordance with subsection (d)(1).

(d) ALLOCATION TO ELIGIBLE PRODUCING STATES.—

(1) IN GENERAL.—The amount made available under subsection (c)(2)(A) shall be allocated to eligible producing States in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each eligible producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract, as determined by the Secretary.

(2) USE.—Amounts allocated to an eligible producing State under paragraph (1) shall be used to address the impacts of any oil and natural gas exploration and production activities under this section.

(e) EFFECT.—Nothing in this section affects—

(1) the amount of funds otherwise dedicated to the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5); or

(2) any authority that permits energy production under any other provision of law.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public of an addition to a previously announced hearing before the Committee on Energy and Natural Resources, Subcommittee on Public Lands and Forests.

The hearing will be held on July 9, 2008, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

In addition to the other measures previously announced, the Subcommittee will also consider S. 3179, a bill to authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to rachel_pasternack@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Rachel Pasternack at (202) 224–0883.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, June 24, 2008, at 10:30 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, June 24, 2008, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, June 24, 2008, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 24, 2008, at 2:15 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Emergence of the Superbug: Antimicrobial Resistance in the U.S.'' on Tuesday, June 24, 2008. The hearing will commence at 10:30 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, June 24, 2008, at 10:30 a.m. to conduct a hearing entitled ''Ending Excessive Speculation in Commodity Markets: Legislative Options.''

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

SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Human Rights and the Law, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''From Nuremberg to Darfur: Accountability for Crimes Against Humanity'' on Tuesday, June 24, 2008, at 10:30 a.m., in room SD–226 of the Dirksen Senate Office Building.

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

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Rick Houghton, who will graduate from the U.S. Military Academy at West Point next year and who now is an intern in my office, be accorded the privilege of the floor during today's session of the Senate.

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

Mr. SANDERS. I ask unanimous consent that Winoka Begay, Jessica Borchert, Jullian Carr, Kelley Fry, and Dane Lauritzen, from the office of Senator BINGAMAN, be granted the privileges of the floor for today, June 24, 2008.

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

Mr. DODD. Mr. President, I ask unanimous consent that Matthew Solomon, a detailee on Senator LEAHY's staff, be granted floor privileges for the remainder of the FISA debate.

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

Mr. DODD. Madam President, I ask unanimous consent that Ryan Kehmna and Ben Weingrod, both staff members from my office, be granted the privilege of the floor for the remainder of the debate on H.R. 6304.

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

Mr. LEVIN. Mr. President, I ask unanimous consent that Dionne Thompson, a fellow in the office of Senator LANDRIEU, be given floor privileges during the current session.

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

DISCHARGE AND REFERRAL—S. 3145

Mr. DODD. Mr. President, I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from further consideration of S. 3145, and that it then be referred to the Committee on Environment and Public Works.

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

CONRAD B. DUBERSTEIN UNITED STATES BANKRUPTCY COURTHOUSE

THEODORE L. NEWTON, JR. AND GEORGE F. AZRAK BORDER PATROL STATION

JAMES M. ASHLEY AND THOMAS W.L. ASHLEY UNITED STATES COURTHOUSE

TIMOTHY J. RUSSERT HIGHWAY

Mr. DODD. Mr. President, I further ask unanimous consent that the EPW Committee be discharged and the Senate immediately proceed to the following naming bills en bloc: H.R. 430, H.R. 2728, H.R. 3712, S. 3145.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senate proceeded to consider the bill (H.R. 430) to designate the United States Bankruptcy courthouse located at 271 Cadman Plaza East in Brooklyn, New York, as the ''Conrad B. Duberstein United States Bankruptcy Courthouse.''

The Senate proceeded to consider the bill (H.R. 2728) to designate the station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, as the ''Theodore L. Newton, Jr. and George F. Azrak Border Patrol Station.''

The Senate proceeded to consider the bill (H.R. 3712) to designate the United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the ''James M. Ashley and Thomas W.L. Ashley United States Courthouse.''

The Senate proceeded to consider the bill (S. 3145) to designate a portion of United States Route 20A, located in Orchard Park, New York, as the ''Timothy J. Russert Highway.''

Mr. DODD. Mr. President, I ask unanimous consent that the bills be read a third time and passed, all en bloc.

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

The bill (H.R. 430) was ordered to a third reading, was read the third time, and passed.

The bill (H.R. 2728) was ordered to a third reading, was read the third time, and passed.

The bill (H.R. 3712) was ordered to a third reading, was read the third time, and passed.

The bill (S. 3145) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3145

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) Timothy ''Tim'' John Russert was born on May 7, 1950 in Buffalo, New York, to Elizabeth and Timothy Joseph Russert.

(2) Tim Russert graduated from Canisius High School in Buffalo, New York, earned his bachelor's degree in political science from John Carroll University in 1972, and his Juris Doctor from Cleveland State University—Marshall School of Law in 1976.

(3) Tim Russert embarked on a career in public service with United States Senator Daniel Patrick Moynihan and the Governor of New York, Mario Cuomo, from 1977 to 1984.

(4) After his career in public service and New York politics, Tim Russert began his career in journalism when he joined NBC in 1984.

(5) In 1991, Tim Russert became the host of the Sunday morning news program Meet the Press, the longest-running program in the history of television. He would go on to become the longest serving host of the show.

(6) Throughout his career, Tim Russert received 48 honorary doctorates and several awards for excellence in journalism, including—

(A) the Edward R. Murrow Award from the Radio-Television News Directors Association;

(B) the John Peter Zenger Freedom of the Press Award;

(C) the American Legion Journalism Award;

(D) the Veterans of Foreign Wars News Media Award;

(E) the Congressional Medal of Honor Society Journalism Award;

(F) the Allen H. Neuharth Award for Excellence in Journalism;

(G) the David Brinkley Award for Excellence in Communication;

(H) the Catholic Academy for Communication's Gabriel Award; and

(I) an Emmy Award from the National Academy of Television Arts and Sciences.

(7) In 2004, Tim Russert authored the best-selling autobiography, Big Russ and Me, which chronicled his life growing up in South Buffalo and his education at Canisius High School. He is also the author of Wisdom of our Fathers.

(8) Tim Russert advocated on behalf of abused children and voiced the need to protect our Nation's young people, serving on the board of directors of the Greater Washington Boys and Girls Club and America's Promise—Alliance for Youth.

(9) Tim Russert sat in the front seat of history, chronicling the political and societal events that have defined our time, and serving as a trusted source of information and analysis for millions of Americans.

(10) Tim Russert was a tireless booster of Buffalo, a famous fan of his beloved Buffalo Bills, and was always proud of his South Buffalo roots, a source of civic pride in the Western New York community.

(11) Tim Russert passed away on June 13, 2008. He is survived by his wife, Maureen Orth and their son, Luke Russert.

SEC. 2. DESIGNATION.

The portion of United States Route 20A located in Orchard Park, New York, between Abbot Road and California Road shall be known and designated as the ''Timothy J. Russert Highway''.

SEC. 3. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the portion of United States Route 20A referred to in section 2 shall be deemed to be a reference to the Timothy J. Russert Highway.

THE CALENDAR

Mr. DODD. Mr. President, I further ask unanimous consent that the Senate now proceed to the consideration of the following named bills on the calendar, all en bloc: Calendar No. 760, S. 2403; Calendar No. 761, S. 2837; Calendar No. 762, S. 3009; Calendar No. 763, H.R. 781; Calendar No. 764, H.R. 1019; Calendar No. 766, H.R. 4140.

I further ask unanimous consent that the bills be read a third time and passed en bloc, and the motions to reconsider be laid upon the table.

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

SPOTTSWOOD W. ROBINSON III AND ROBERT R. MERHIGE, JR. FEDERAL COURTHOUSE

The bill (S. 2403) to designate the new Federal Courthouse, located in the 700 block of East Broad Street, Richmond,

Virginia, as the ''Spottswood W. Robinson III and Robert R. Merhige, Jr. Federal Courthouse,'' was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2403

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

SECTION 1. SPOTTSWOOD W. ROBINSON III AND ROBERT R. MERHIGE, JR. FEDERAL COURTHOUSE.

(a) DESIGNATION.—The new Federal Courthouse, located in the 700 block of East Broad Street, Richmond, Virginia, shall be known and designated as the ''Spottswood W. Robinson III and Robert R. Merhige, Jr. Federal Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Courthouse referred to in subsection (a) shall be deemed to be a reference to the ''Spottswood W. Robinson III and Robert R. Merhige, Jr. Federal Courthouse''.

THEODORE ROOSEVELT UNITED STATES COURTHOUSE

The bill (S. 2837) to designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the ''Theodore Roosevelt United States Courthouse'' was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2837

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

SECTION 1. THEODORE ROOSEVELT UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, shall be known and designated as the ''Theodore Roosevelt United States Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the ''Theodore Roosevelt United States Courthouse''.

J. JAMES EXON FEDERAL BUREAU OF INVESTIGATION BUILDING

The bill (S. 3009) to designate the Federal Bureau of Investigation building under construction in Omaha, Nebraska, as the ''J. James Exon Federal Bureau of Investigation Building,'' was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3009

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

SECTION 1. J. JAMES EXON FEDERAL BUREAU OF INVESTIGATION BUILDING.

(a) DESIGNATION.—The Federal Bureau of Investigation building under construction at the intersection of 120th and L Streets in Omaha, Nebraska, shall be known and designated as the ''J. James Exon Federal Bureau of Investigation Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the J. James Exon Federal Bureau of Investigation Building.

COLONEL CHARLES D. MAYNARD LOCK AND DAM

The bill (H.R. 781) to redesignate Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, as the ''Colonel Charles D. Maynard Lock and Dam,'' was considered, ordered to a third reading, read the third time, and passed.

RAFAEL MARTINEZ NADAL UNITED STATES CUSTOMHOUSE BUILDING

The bill (H.R. 1019) to designate the United States customhouse building located at 31 Gonzalez Clemente Avenue in Mayaguez, Puerto Rico, as the ''Rafael Martinez Nadal United States Customhouse Building,'' was considered, ordered to a third reading, read the third time, and passed.

RICHARD B. ANDERSON FEDERAL BUILDING

The bill (H.R. 4140) to designate the Port Angeles Federal Building in Port Angeles, Washington, as the ''Richard B. Anderson Federal Building,'' was considered, ordered to a third reading, read the third time, and passed.

EXPRESSING CONDOLENCES TO THE VICTIMS OF THE TORNADO IN LITTLE SIOUX, IOWA

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 599 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 599) expressing the condolences of the Senate to those affected by the tragic events following the tornado that hit Little Sioux Scout Ranch in Little Sioux, Iowa, on June 11, 2008.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I am pleased to be an original cosponsor of this Senate resolution to pay tribute to the four boy scouts who lost their lives almost 2 weeks ago when a tornado struck Little Sioux Scout Ranch in western Iowa: Aaron Eilerts of Eagle Grove, Iowa and Sam Thomsen, Josh Fennen, and Ben Petrizilka of Omaha, Nebraska. I would like also to recognize the bravery and dedication of all the other scouts affected by this tragedy and of the emergency crews who responded.

All of these remarkable young people had already established themselves as leaders in their community. The loss of four of them is a tragedy for Iowa and Nebraska.

I would like in particular to express my condolences to the four families who have suffered such a devastating loss. My thoughts and prayers are with them at this difficult time.

The Boy Scouts of America is an organization that never fails to exceed expectations. All the Scouts at Little Sioux Ranch that day kept their courage when all about them was chaos. Many of those who survived suffered considerable injuries. As the storm passed, the Boy Scouts immediately began to administer first aid to the injured and set to work to clear the roads, allowing the emergency crews to move in. In their bravery and resourcefulness, they did honor to Boy Scouts throughout the country. We are proud of them and humbled by their service.

I am saddened that we must be here today at all offering this resolution, but I am honored to pay tribute to these young leaders, and I extend my deepest sympathy to all those affected by this tragedy.

Mr. DODD. 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. 599) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 599

Whereas, on the evening of June 11, 2008, a tornado struck the Little Sioux Scout Ranch in Little Sioux, Iowa;

Whereas 4 lives were tragically lost, and many other people were injured;

Whereas Boy Scouts and Boy Scout leaders at the camp showed great heroism and courage in providing aid and assistance to their fellow Scouts;

Whereas the first responders, firefighters, and law enforcement, and medical personnel worked valiantly to help provide care and comfort to those who were injured;

Whereas the Boy Scouts of America will continue to feel the loss and remember the courage of the Boy Scouts who were at the Little Sioux Scout Ranch the evening of June 11, 2008;

Whereas the Boy Scouts of America will continue to develop young men who show the character, strength, and bravery that was demonstrated by the Boy Scouts at the Little Sioux Scout Ranch on the evening of June 11, 2008; and

Whereas the people of Nebraska and Iowa have embraced those affected and will continue to offer support to the families of those who were lost and injured; Now, therefore, be it:

Resolved, That the Senate—

(1) expresses its heartfelt condolences to the families and friends of those who lost their lives in the terrible events of June 11, 2008, at the Little Sioux Scout Ranch in Little Sioux, Iowa: Sam Thomsen, Josh Fennen, and Ben Petrzilka of Omaha, Nebraska, and Aaron Eilerts of Eagle Grove, Iowa;

(2) shares its thoughts and prayers for a full recovery for all those who were injured;

(3) commends the Boy Scouts of America for the support the organization has provided

to the families and friends of those who were lost and injured;

(4) extends its thanks to the first responders, firefighters, and law enforcement, and medical personnel who took quick action to provide aid and comfort to the victims; and

(5) stands with the people of Nebraska and Iowa as they begin the healing process following this terrible event.

HONORING MEMBERS OF THE U.S. AIR FORCE

Mr. DODD. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration and the Senate now proceed to H. Con. Res. 32.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the House concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 32) honoring the members of the U.S. Air Force who were killed in the June 25, 1996, terrorist bombing of the Khobar Towers United States military housing compound near Dhahran, Saudi Arabia.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 32) was agreed to.

The preamble was agreed to.

AMERICAN HOUSING RESCUE AND FORECLOSURE PREVENTION ACT OF 2008—Continued

Mr. DODD. Mr. President, I ask unanimous consent that the Senate resume consideration of the House message to accompany H.R. 3221, the Housing reform legislation.

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

Mr. DODD. Mr. President, as the chairman of the Senate Banking Committee, I express my gratitude to all the Members of this body. We began proceedings on the motion to invoke cloture earlier today, which passed by a vote of 83 to 9, another overwhelming vote in support of moving to the housing bill.

Regretfully, we were not able to deal with many amendments today because there was at least one objection to proceeding to the matter, pending the outcome of an extraneous matter that had little, if anything, to do with housing, regretfully—despite the strong bipartisan vote this morning—once again demonstrating that in this body one Senator can disrupt the efforts to achieve a larger result. Certainly, that is the Senator's right, and nothing was done illegally or unlawfully. It just dramatizes the difficulty in achieving even something as important as the housing legislation we are working on.

I would be remiss if I didn't observe that the Senator from Ohio, the occupant of the chair, is a worthwhile member of that committee. I am grateful to him and the other members of the committee for their work over the last year and a half since the majority began that work. We have had some 50 hearings on that committee. We adopted some 17 or 18 pieces of legislation out of the committee—maybe more—more than half of which have become the law of the land. A number of others, of course, have passed the Senate, or passed on out of committee, and we have not been able to resolve all of them.

No matter is as significant and as important as the housing reform legislation—to stop the hemorrhaging that is occurring, with more than 8,400 people a day filing for foreclosure in our country. People find those numbers alarming, and it is intended to be so, because it is large. Our efforts here are to try to keep people in their homes, and finding a floor, if we can, to this housing problem that continues to cascade downward will be a challenge for all of us.

Our legislation takes a major step in the direction of dealing with that, along with the reform of the government-sponsored enterprises and, of course, the permanent affordable housing program, not to mention the efforts we have made in community development block grants, counseling services, mortgage revenue bonds, and tax relief for those who wish to acquire a foreclosed property—all part of a larger piece of legislation to deal with the housing crisis. I am hopeful and confident we will get to it. It will take a little bit longer as a result of the objections some are raising.

This evening I rise to talk about another matter, which will be the subject of a debate, whether it is in the next few days or weeks. It is a subject matter which I care deeply and passionately about. It involves the rule of law, the Constitution of the United States, and the very basic principle that we are a nation of laws, not men; that even those in the most lofty of positions in our Government are not above the law; that individuals, corporations, and companies have an obligation to respect that law, and those of us charged with guarding it in an institution such as the Senate have an obligation to defend it and to remind ourselves and the country when there are efforts to undermine that rule of law.

As I did in December of last year, when the matter first came up, and again in February, when the effort came back to the Senate to change the Foreign Intelligence Surveillance Act, and particularly to grant retroactive immunity to a handful of telecom companies, which, over the past number of years, have gathered up information and private information of individual citizens in this country, which may have been the single largest breach or personal invasion in the history of our country, the issue of whether that was done legally ought to be determined by the courts of our country.

The bill that will come before us grants retroactive immunity without ever considering what happened, how it happened, who was responsible, why it was done, and why was no effort made to go before the Foreign Intelligence Surveillance Courts—the FISA courts—which have been in existence since the 1970s. All of those are important questions the American people deserve an answer to. Was the rule of law violated? Were there individuals who insisted that this invasion of privacy occur in this country? I don't think it is asking too much to want to get to the bottom of that. Americans, regardless of ideology or party persuasion, ought to be jointly offended when there is an effort here to grant retroactive immunity without determining what happened and why these events were allowed to go forward.

This evening I am going to take the time allowed to me under the rules of the Senate because we are in a postcloture environment. I am limited to the amount of time I am permitted to talk under the rules of the Senate. But I can do this because of the generosity of Senator JACK REED of Rhode Island, Senator MAX BAUCUS of Montana, and the willingness of the majority leader, to give me the maximum time allowed to talk about this FISA bill, the Foreign Intelligence Surveillance Act. I will speak about why I am so deeply concerned about it, and what I think the precedent-setting nature of this could mean for our country.

There are moments such as this when we are asked to do something because, we are told, if we don't, we will jeopardize our Nation. During such times, we have historically made some of the worst mistakes in our history. One only needs to go back to the period of World War II when, because of the fears people had, we incarcerated a lot of very good Americans of Japanese descent, because those who engaged in the fear mongering were able to convince even the Supreme Court of the United States—a majority—to allow for the virtual incarceration of literally thousands of human beings. We know now, today, what a great mistake that was, and how courageous it was that people like Robert Jackson, a Supreme Court Justice, a former Attorney General under Franklin Roosevelt, a solicitor general, chief prosecutor at Nuremberg, one of the sole voices on the Court who objected to that effort to require these American citizens to be deprived of their homes, personal belongings, and the virtual incarceration in camps in the western part of the country. Today, we know what a mistake that was. But because we acted out of fear, we made a dreadful error.

My concern about this FISA bill, while not of that magnitude at this

point, is that we are about to make another great error because of fear, because we fail to understand that balancing legitimate interests of our security and our rights ought not to be compromised. That is what the FISA courts were created to do—to balance rights and fears over legitimate concerns about our security being jeopardized.

So I rise once again to voice my strong opposition to the misguided FISA legislation before us, as it will come in the next day or so. I have strong reservations about the so-called improvements made to title I of the legislation. But more than that, this legislation includes provisions that would grant retroactive immunity to telecommunications companies that apparently have violated the privacy and the trust of millions of our fellow citizens by participating in the President's warrantless wiretapping program. If we pass this legislation, the Senate will ratify a domestic spying regime that has already concentrated far too much unaccountable power in the President's hands and will place the telecommunications companies above the law.

I am here this evening to implore my colleagues to vote against cloture when that vote occurs, as it will sometime in the next 24 to 48 hours.

Let me make it clear at the outset of the debate that this is not about domestic surveillance itself. We all recognize, here and elsewhere, the importance of domestic surveillance in an age of unprecedented threats. This is about illegal, unwarranted, unchecked domestic surveillance. The difference between surveillance that is lawful, warranted, and that which is not, is everything.

I had hoped I would not have to return to this floor again under these circumstances. I hoped, in truth, that in these negotiations that went on over the past number of weeks and months we would have been able to turn aside retroactive immunity on the grounds that it is bad policy and sets a terrible precedent.

As all of my colleagues know, I have long fought against retroactive immunity, because I believe it is simply an abandonment of the rule of law. I have fought this with everything I have in me, and I have not waged this fight alone.

In December, I opposed retroactive immunity on the floor of this body. I spent 10 hours on this floor then. In January and February, I came to the floor time and time again to discuss the dangers of granting retroactive immunity, along with my colleague and friend, RUSS FEINGOLD of Wisconsin, who has shown remarkable leadership on this issue. I offered an amendment that would have stripped retroactive immunity from the Senate bill. Unfortunately, our amendment failed and, to my extreme disappointment, the Senate adopted the underlying bill.

Since passage of the Senate bill, there have been extensive negotiations on how to move forward. Today we are being asked to pass the so-called compromise that was reached by some of our colleagues and approved by the other body, the House of Representatives.

I am here this evening to say I will not and can not support this legislation. This legislation goes against everything I have stood for—everything this body ought to stand for, in my view.

There is no question some improvements have been made over the previous versions of this legislation. Title I, which regulates the ability of Government to conduct electronic surveillance, has been improved, albeit modestly. I congratulate those who were involved with it. I say, very quickly, that it is my hope a new Congress and a new President will work together to fix the problems with title I should the Senate adopt this new legislation.

But in no way is this compromise acceptable. This legislation before us purports to give the courts more of a role in determining the legality of the telecommunications companies' actions. But in my view the title II provisions do little more than ensure without a doubt that the telecommunications companies will be granted retroactive immunity.

Allow me to quote the Senate Intelligence Committee report on this matter. It reads as follows:

> [B]eginning soon after September 11, 2001, the Executive branch provided written requests or directives to U.S. electronic communications service providers to obtain their assistance with communications intelligence activities that had been authorized by the President.
>
> . . . The letters were provided to electronic communication service providers at regular intervals. All of the letters stated that the activities had been authorized by the President. All of the letters also stated that the activities had been determined to be lawful by the Attorney General [of the United States], except for one letter that covered a period of less than 60 days. That letter, which like all the others, stated that the activities had been authorized by the President, stated that the activities had been determined to be lawful by the Counsel to the President.

This is all from the Intelligence Committee report.

Under the legislation before us, the district court would simply decide whether the telecommunication companies received documentation stating the President authorized the program and that there had been some sort of determination it was legal. But as the Intelligence Committee has already made clear, we already know this happened. We already know the companies received some form of documentation with some sort of legal determination.

But that is not the question. The question is not whether these companies received a document from the White House. The question is, Were their actions legal? Were they above the law or not?

It is a rather straightforward, surprisingly uncomplicated question. The documentation exists. Was it legal or not? Either the companies were presented with a warrant or they were not. Either the companies and the President acted outside the rule of law or they followed it. Either the underlying program was legal or it was not—not a complicated question. Was it legal or wasn't it?

The suggestion that they had documentation is then supposed to be a justification for the legality of it is not for us to decide. That is a matter for the courts, the coequal branch of Government called the judiciary. We are asked to determine that this was legal because documents were sent, not because some adjudication as to whether there had been a legal basis for these documents. Yet we are told that with the adoption of this legislation, accept it as a conclusion and move on. I don't believe we ought to do that. I believe it is a mistake and a mistake of significance.

Because of this legislation, none of the questions will be answered. Because of the so-called compromise, the judge's hands will be tied and the outcome of these cases will be predetermined by our votes. Because of this so-called compromise, retroactive immunity will be granted and, as they say, that will be that. Case closed.

No court will rule on the legality of the telecommunications companies' activities in participating in the President's warrantless wiretapping program. None of our fellow Americans will have their day in court. What they will have is a Government that has sanctioned lawlessness, at least as far as we know.

I refuse to accept that argument. I refuse to accept the argument that because the situation is too delicate, too complicated, this body is simply going to go ahead while sanctioning lawlessness. I think we can do better than that. I think we have an obligation to do better than that.

If I have needed any reminder of that fact, simply look to those who have joined this fight—my colleagues and the many Americans who have given me an awful lot of support and strength for this fight, strength that comes from the passion and eloquence of citizens who don't have to be involved but choose to be involved.

They see what I see in this debate—that by short-circuiting the judicial process, we are sending a dangerous signal to future generations. They see us as establishing a precedent that Congress can and will provide immunity to potential lawbreakers if they are important enough.

Some may be asking: Why is retroactive immunity too dangerous? What is the issue? Why should you care at all? Allow me to explain by providing, if I can, a bit of context. I remind my colleagues what I said about the bill months ago because the argument against providing retroactive immunity remains unchanged. Nothing has changed since last December, January or February.

Unwarranted domestic spying did not happen in a panic or short-term emergency, not for a week, a month or even for a year. If it had, quite candidly, I would not be standing here this evening. I understand, in the wake of 9/11, there were actions taken because of the legitimate fears we had, given the circumstances of that attack, that some actions such as this for a week, a month, a year, I think I would have accepted as normal, understandable behavior as a government overreacting in haste and in the emotions of the moment. But that is not the case. We now know this spying by the administration went on relentlessly for more than 5 years.

I might not be here as well if it had been the first offense of a new administration. Maybe not if it had been the second or third. Again, understanding mistakes can be made. No one is perfect. Again, in the haste of the moment, the emotions, these things can happen. But that is not the case either.

Indeed, I am here tonight because with one offense after another after another, I believe it is long past time to say enough is enough. I am here this evening because of a pattern—a pattern of abuse against civil liberties and the rule of law, against the Constitution of the United States, of which we are custodians, temporary though that status may be.

I would add that had these abuses been committed by a President of my own party, I would have opposed them as strongly as I am this evening. I am here this evening because warrantless wiretapping is merely the latest link in a long chain of abuses.

So why are we here? Because it is alleged that giant telecom corporations worked with our Government to compile Americans' private, domestic communications records into a database of enormous scale and scope.

Secretly, and without warrant, these corporations are alleged to have spied on their own customers, the American people. Here is only one of the most egregious examples, according to the Electronic Frontier Foundation:

> Clear, first-hand whistleblower documentary evidence [states] . . . that for year on end, every e-mail, every text message, every phone call carried over the massive fiber-optic links of 16 separate companies routed through AT&T's Internet hub in San Francisco—hundreds of millions of private, domestic communications—have been . . . copied in their entirety by AT&T and knowingly diverted wholesale by means of multiple ''splitters'' into a secret room controlled exclusively by the NSA.

The phone calls and the Internet traffic of millions of Americans diverted into a secret room controlled by the National Security Agency. That allegation still needs to be proven in a court of law. But it clearly needs to be determined in a court of law and not by a vote in the Senate.

I suppose if you only see cables and computers there, the whole thing seems almost harmless, certainly nothing to get worked up about; one might say a routine security sweep and a routine piece of legislation blessing it.

If that is all you imagine happened in the NSA secret room, I imagine you will vote for immunity. I imagine you would not see much harm in voting to allow the practice to continue either.

But if you see a vast dragnet for millions of Americans' private conversations conducted by a government agency that acted without a warrant, acted without the rule of law, then I believe you recognize what is at stake. You see that what is at stake is the sanctity of the law and the sanctity of our privacy. And you will probably come to a very different conclusion.

Maybe that sounds overdramatic to some. Perhaps they will ask: What does it matter at the end of the day if a few corporations are not sued? These people sue each other all the time.

Others may say: This seems a small issue. Maybe the administration went too far, but this seems like an isolated case.

Indeed, as long as this case seems isolated and technical, then those who are supporting this will win. As long as it appears to be about another lawsuit buried in our legal system and nothing more, then they will win as well. The administration is counting on the American people to see nothing bigger than that—nothing to see here.

But there is plenty to see here, and it is so much more than a few phone calls, a few companies, and a few lawsuits. What is at stake is nothing less than equal justice—justice that makes no exceptions. What is at stake is an open debate on security and liberty and an end to warrantless, groundless spying.

The bill does not say trust the American people, trust the courts and judges and juries to come to a just decision. Retroactive immunity sends a message that is crystal clear: Trust me. And that message comes straight from the mouth of an American President: Trust me.

What is the basis of that trust? Classified documents, we are told, that prove the case for retroactive immunity beyond a shadow of a doubt. But we are not allowed to see them, of course. I have served in this body for 27 years, and I am not allowed to see them. Neither are a majority of my colleagues. We are all left in the dark.

I cannot speak for my colleagues, but I would never take the ''trust me'' for an answer, not even in the best of times, not even from a President on Mount Rushmore. I cannot put it better than this:

> ''Trust me'' government is government that asks that we concentrate our hopes and dreams on one man; that we trust him to do what's best for us. My view of government places trust not in one person or one party, but in those values that transcend persons and parties.

Those words are not spoken by someone who took our national security lightly. They were spoken by Ronald Reagan in 1980. They are every bit as true today. President Reagan's words—let me repeat them:

> ''Trust me'' government is government that asks that we concentrate our hopes and dreams on one man; that we trust him to do what is best for us. My view of government places trust not in one person or one party, but in those values that transcend persons and parties.

Those words of Ronald Reagan, 28 years ago, were right and those words are right today in the year 2008. They are every bit as true today, even if times of threat and fear blur our concept of transcendent values, even if those who would exploit those times urge us to save our skins at any cost.

But again, why should any of us care, I suppose. The rule of law has rarely been in such a fragile state. Rarely has it seemed less compelling. What, after all, does the law give us, anyway? It has no parades, no slogans. It does not live in books or precedents. We are never failed to be reminded the world is a very dangerous place.

Indeed, that is precisely the advantage seized upon, not just by this administration but in all times, by those looking to disregard the rule of law. Listen to the words of James Madison, the father of our Constitution, words that he said more than two centuries ago:

> It is a universal truth that the loss of liberty at home is to be charged to the provisions against danger . . . from abroad.

With the passage of this bill, the words of James Madison will be one step closer to coming true. So it has never been more essential that we lend our voices to the law and speak on its behalf.

What is this about? It is about answering the fundamental question: Do we support the rule of law or the rule of men? To me, this is our defining question as a nation and may be the defining question that confronts every generation, as it has throughout our history.

This is about far more than a few telecoms. It is about contempt for the law, large and small.

I have said that warrantless wiretapping is but the latest link in a long chain of abuses when it comes to the rule of law. This is about the Justice Department turning our Nation's highest law enforcement offices into patronage plums, turning the impartial work of indictments and trials into the pernicious machinations of politics. Contempt for the rule of law once again.

This is about Alberto Gonzales, the Nation's now-departed Attorney General, coming before Congress to give us testimony that was, at best wrong and at worst, outright perjury. Contempt for the rule of law by the Nation's foremost enforcer of the law.

This is about a Congress handing the President the power to designate any individual he wants as an unlawful enemy combatant, hold that individual indefinitely, take away his or her right to habeas corpus, the 700-year-old right to challenge anyone's detention.

If you think the Military Commissions Act struck at the heart of the Constitution, you would be understating this. It did a pretty good job on the Magna Carta while it was at it.

If you think this only threatens a few of us, you should understand that the writ of habeas corpus belongs to all of us. It allows anyone to challenge their detention.

Rolling back habeas corpus endangers us all. Without a day in court, how can you prove you are entitled to a trial? How can you prove you are innocent? In fact, without a day in court, how can you let anyone know you have been detained at all?

Thankfully, and to their great credit, the Supreme Court recently rebuked the President's lawlessness and ruled that detainees do have the right to challenge their detention.

Mr. President, the Military Commissions Act also gave President Bush the power some say he wanted most of all: the power to get information out of suspected terrorists by virtually any means, the power to use evidence gained from torture.

I don't think you could hold the rule of law in any greater contempt than sanctioning torture. Because of decisions made by the highest levels of our Government, America is making itself known to the world, unfortunately, for torture, with stories like this one:

A prisoner at Guantanamo—to take one example out of hundreds—was deprived of sleep for over 55 days, a month and 3 weeks. Some nights, he was doused with water or blasted with air-conditioning. After week after week of this delirious, shivering wakefulness, on the verge of death from hypothermia, doctors strapped him to a chair—doctors, healers who took the Hippocratic Oath to do no harm—pumped him full of three bags of medical saline, brought him back from death, and sent him back to his interrogators.

To the generation coming of age around the world in this decade, that is America—not Normandy, not the Marshall Plan, not Nuremberg, but Guantanamo. Think about it.

We have legal analysts so vaguely defining torture, so willfully blurring the lines during interrogations that we have CIA counterterrorism lawyers saying things like, ''If the detainee dies, you're doing it wrong.'' We have the CIA destroying tapes containing the evidence of harsh interrogations—about the administration covering its tracks in a way more suited to a banana republic than to the home of great freedoms. We have an administration actually defending waterboarding, a technique invented by the Spanish Inquisition, perfected by the Khmer Rouge, and in between originally banned for excessive brutality—listen to this—by the Gestapo.

Still, some way waterboarding is not torture. Oh, really? Listen to the words of Malcolm Nance, a 26-year-old expert in intelligence and counterterrorism, a combat veteran, and former chief of training at the U.S. Navy Survival, Evasion, Resistance and Escape School. While training American soldiers to resist interrogation, he writes:

> I have personally led, witnessed, and supervised waterboarding of hundreds of people. Unless you have been strapped down to the board, have endured the agonizing feeling of water overpowering your gag reflex, and then feel your throat open and allow pint after pint of water to involuntarily fill your lungs, you will not know the meaning of the word. It does not simulate drowning, as the lungs are actually filling with water. The victim is drowning. How much the victim is to drown depends on the desired result and the obstinacy of the subject. Waterboarding is slow motion suffocation. Usually the person goes into hysterics on the board. When done right it is controlled death.

That is from a soldier, a combat veteran, testifying about what waterboarding was about—controlled death. That is not torture? Not according to President Bush's White House. They have said waterboarding is legal and that if it chooses, America will waterboard again.

Surely, then, our new Attorney General would condemn torture. Surely the Nation's highest law enforcement officer in the land, coming after Alberto Gonzales's chaotic tenure, would never come before the Congress and defend the President's power to openly break the law. Well, think again.

When he came to the Senate for his confirmation, Michael Mukasey was asked a simple question, bluntly and plainly: Is waterboarding constitutional? He replied: ''If waterboarding is torture, torture is not constitutional.''

One would hope for a little more insight from someone so famously well versed in national security law, but Mr. Mukasey pressed on with the obstinacy of a witness pleading the fifth: ''If it's torture, if it amounts to torture, it is not constitutional,'' he said. And that is the best this noted jurist, this legal scholar, longtime judge, an expert on national security law had to offer on the defining moral issue of this Presidency. Claims of ignorance. Word games.

Now-Attorney General Mukasey was asked the easiest question we have in a democracy: Can the President of the United States openly break the law? Can he, as we know he has already done, order warrantless wiretapping, ignore the will of Congress, and then hide behind nebulous powers he claims to find in the Constitution? The response of the nominee to become Attorney General: The President has ''the authority to defend the country.'' In one swoop, the Attorney General conceded to the President nearly unlimited power, just as long as he finds a lawyer willing to stuff his actions into the boundless rubric of ''defending the country''—unlimited power to defend the Nation, to protect us as one man sees fit, even if that means listening to our phone calls without a warrant, even if it means holding some of us indefinitely. That is contempt for the rule of law.

So this is very much about torture—about enhanced interrogation measures and waterboarding. It is also about extraordinary rendition—outsourced torture of men this administration would prefer we didn't even know exist.

But now we do know. One was a Syrian immigrant raising his family in Canada. He wrote computer code for a company called MathWorks and was planning to start his own tech business. On a trip through New York's JFK Airport, he was arrested by U.S. federal agents. They shackled him and bundled him onto a private CIA plane and flew him across the Atlantic Ocean to Syria. This man spent the next 10 months and 10 days in a Syrian prison. His cell was 3 feet wide—the size of a grave. Some 300 days passed alone in that cell, with a bowl for his toilet, another bowl for his water, and the door only opened so he could wash himself once a week—though it may have been more or less because the cell was dark and he lost all track of time. The door only opened for one reason: for interrogators who asked him again and again and again about al-Qaida.

Here is how it was described:

> The interrogator said, ''Do you know what this is?'' I said, ''Yes, it's a cable,'' and he told me, ''Open your right hand.'' I opened my right hand, and he hit me like crazy. It was so painful, and of course I started crying, and then he told me to open my left hand, and I opened it, and he missed, then hit my wrist. And then he asked me questions. If he does not think you are telling the truth, then he hits you again.

The jail and the torturers were Syrian, but America sent this man there with full knowledge of what would happen to him because it was part of a longstanding secret program of ''extraordinary rendition,'' as it is called. America was convinced that he was a terrorist and wanted the truth beaten out of him.

No charges were ever filed against him. His adopted nation's government, Canada, one of our strongest NATO allies, cleared him of all wrongdoing after a year-long official investigation and awarded him more than $10 million in government compensation for his immense pain and suffering—but not before he was tortured 10 months, 10 days in a 3-foot by 3-foot cell the size of a grave. Does his torture make us safer? Did his suffering improve our security? Of course not.

I would note that our own Government has shamefully refused to even acknowledge that his case exists.

We know about a German citizen as well, living in the city of Ulm with his wife and four children. On a bus trip through Eastern Europe, he was pulled off at a border crossing by armed guards and held for 3 weeks in a hotel room, where he was beaten regularly. At the end of 3 weeks, he was drugged and shipped on a cargo plane to Kabul, Afghanistan. For 5 months, he was held in the Salt Pit—a secret American prison staffed by Afghan guards. All he had to drink was stagnant water from a filthy bottle. Again and again,

masked men interrogated him about al-Qaida, and finally, he says, they raped him. He was released in May of 2004. Scientific testing confirmed his story of malnourishment, and the Chancellor of Germany publicly acknowledge he was wrongly held. What was his crime? Having the same name as a suspected terrorist.

Again, our own Government has shamefully refused to even acknowledge that this case exists.

So we do know, Mr. President. We know because there aren't enough words in the world to cover all the facts.

If you would like to define torture out of existence, be my guest. If you would rather use a Washington euphemism—''tough questioning,'' ''enhanced interrogation''—feel free. Feel free to talk about fraternity hazing, as Rush Limbaugh did, or to use a favorite term of Vice President CHENEY's, ''a dunk in the water.'' You can call it whatever you like. But when you are through, the facts will be waiting for you: controlled death, outsourced torture, secret prisons, month-long sleep deprivations, the President's personal power to hold whomever he likes for as long as he likes. It is as if you had awakened in the middle of some Kafkaesque nightmare.

Have I gone wildly off topic, Mr. President? Have I brought up a dozen unrelated issues? I wish I had. I wish that none of these stories were true. But we are deceiving ourselves when we talk about the U.S. attorneys issue, the habeas issue, the torture issue, the rendition issue, or the secrecy issue as if each were an isolated case, as if each were an accident. When we speak of them as isolated, we are keeping our politics cripplingly small. And as long as we keep this small, the rule of men is winning.

There is only one issue here; that is, the rule of law, the law issue. Does the President of the United States serve the law or does the law serve the President? Each insult to our Constitution comes from the same source. Each springs from the same mindset. If we attack this concept for the law at any point, we will wound it at all points.

That is why I am here this evening, Mr. President. Retroactive immunity is on the table for discussion over these next several days, but also at issue is the entire ideology that justifies it, the same ideology that defends torture and executive lawlessness. Immunity is a disgrace in itself, but it is far worse in what it represents. It tells us that some believe in the courts only so long as their verdict goes their way; that some only believe in the rule of law so long as exceptions are made at their desire. It puts secrecy above sunshine and fiat above the law.

Did the telecoms break the law? I don't know. I can't say so. But pass immunity, and we will never know. A handful of favored corporations will remain unchallenged. Their arguments will never be heard in a court of law. The truth behind this unprecedented domestic spying will never see the light of day, and the cases will be closed forever.

''Law'' is a word we barely hear from the supporters of immunity. They offer neither deliberation about America's difficult choices in the age of terrorism nor a shared attempt to set for our times the excruciating balance between security and liberty. They merely promise a false debate on a false choice: security or liberty but never, ever both.

I think differently, and I believe some of my colleagues do as well. I think America's founding truth is unambiguous: security and liberty, one and inseparable and never one without the other, no matter how difficult the situation, no matter what threats we face. Secure in that truth, I offer a challenge to immunity supporters: You want to put a handful of corporations above the law. Could you please explain how your immunity makes any one of us any safer at all?

The truth is that a working balance between security and liberty has already been struck. In fact, it has been settled for decades—for 30 years, in fact. FISA, the Foreign Intelligence Surveillance Act, has prevented executive lawbreaking and protected Americans, and that balance stands today.

In the wake of the Watergate scandal in the 1970s, the Senate convened the Church Committee, a panel of distinguished former Members of this body determined to investigate executive abuses of power. Not surprisingly, they found that when Congress and the courts substitute ''trust me'' ideas for real oversight, massive lawbreaking can result. The Church Committee found evidence of the U.S. Army spying on the civilian population, Federal dossiers on citizens' political activities, a CIA and FBI program that opened hundreds of thousands of Americans' letters without warning or warrant. In sum, Americans had sustained a severe blow to their fourth amendment rights ''to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.'' At the same time, the Senators of the Church Committee understood surveillance was needed to go forward to protect our people.

Surveillance itself is not the problem. Unchecked, unregulated, unwarranted surveillance was. What surveillance needed, in a word, was legitimacy. And in America, the Founders understood power becomes legitimate when it is shared. Congress and the courts check that attitude which so often crops up in the executive branch—''if the President does it, it is not illegal.''

The Church Committee's final report, ''Intelligence Activities and the Rights of Americans,'' put the case very powerfully indeed.

> The critical question before the committee was to determine how the fundamental liberties of our people can be maintained in the course of the government's efforts to also protect our people. The delicate balance between these basic goals, two absolutely essential goals of our system of government, is often difficult to strike, and it is never perfect, but it can, and must, be achieved.
>
> A sense of balance between liberty and security, security and liberty.
>
> We reject the view that the traditional principles of justice and fair play have no place in our struggle against the enemies of freedom. Moreover, our investigation has established that the targets of intelligence activity have ranged far beyond persons who could properly be characterized as enemies of freedom.
>
> The Church Committee went on:
>
> We have seen segments of our government, in their attitudes and actions, adopt tactics unworthy of a democracy, and occasionally reminiscent of the tactics of totalitarian regimes. We have seen a consistent pattern in which programs initiated with limited goals, such as preventing criminal violence or identifying foreign spies, were expanded to what witnesses characterized as ''vacuum cleaners,'' sweeping in information about lawful activities of American citizens.
>
> The Church committee Senators concluded:
>
> Unless new and tighter controls are established by legislation, domestic intelligence activities threaten to undermine our domestic society and fundamentally alter its nature.

What a strange echo from three decades ago we hear in those words. They could have been written yesterday; could have been written tonight.

Three decades ago, our predecessors in this Chamber, Republicans and Democrats, responding to an abuse of power, crafted a wonderfully balanced idea between security and liberty. They did it in this very Chamber, coming together. They understood that when domestic spying goes too far it threatens to kill just what it promises to protect—an America secure in her liberty. That lesson was crystal clear 30 years ago. Why is it so clouded today?

Before we entertain the argument that everything has changed since those words were written, remember: The men who wrote them had witnessed a World War, the Cold War, had seen Nazi and Soviet spying, and they were living every day under the cloud of a nuclear holocaust. It was indeed a dangerous time. Certainly, the argument that we have to take extraordinary measures to protect ourselves against those who would do us great injury—those were not easy times. Yet those Republicans and Democrats, our predecessors in this Chamber, struck that balance and reminded us that our security was important, but it needed to be tempered and understood in the context of our freedoms and our liberties.

So I ask this: Who will chair the commission investigating the secrets of warrantless spying years from today? Will it be a young Senator in the body today who maybe has just joined us in the last 2 years? Will it be someone not yet elected? What will that Senator say when he or she comes

to our actions, maybe three decades from now, as I just quoted from a report 30 years ago, which is so wonderfully written and captures exactly the essence of what I am arguing for this evening? What will that Senator say when he or she reads about the actions of a Senate here—reads in the records how we let outrage after outrage slide with nothing more than a promise to stop the next one? I imagine that Senator will ask of us: Why didn't they do anything? Why didn't they fight back? What happened between the 1970s and the year 2008, that two Senates in 30 years time could go from standing up for the rule of law and liberty in the face of executive abuses—what happened to that Congress that decided 30 years later that they would do just the opposite; in fact, retreat from that fight?

In June of 2008, when no one could doubt any more what this administration was doing, why did they sit on their hands and do almost nothing? In fact, go further. Why did they grant immunity to companies that had engaged in warrantless wiretapping?

Since the time of the Church Commission, the threats facing us have multiplied and grown in complexity, but the lesson has been immutable: warrantless spying threatens to undermine our democratic society unless legislation brings it under control. In other words, the power to invade privacy must be used sparingly, guarded jealously, and shared equally between the branches of our Government.

Or the case could be made pragmatically. As my friend, Harold Koh, dean of Yale Law School, recently argued:

> The engagement of all three branches tends to yield not just more thoughtful law but a more broadly supported public policy.

Three decades ago, our predecessors in this Chamber embodied that solution in the Foreign Intelligence Surveillance Act, the FISA law. FISA confirmed the President's power to conduct surveillance of international conversations involving anyone in the United States, provided that the Federal FISA Court issued warrants ensuring that wiretapping was aimed at safeguarding our security and nothing else. The President's own Director of National Intelligence, Mike McConnell, explained the rationale in an interview last summer:

> The United States did not want to allow [the intelligence community] to conduct . . . electronic surveillance of Americans for foreign intelligence unless you had a warrant, so that was required.

As originally written in 1978 and as amended numerous times, I might add, FISA has accomplished its mission. It has been a valuable—invaluable tool for conducting needed surveillance of those who would do us great harm and those who would harm our country. Every time Presidents have come to Congress openly to ask for more leeway under FISA, our Congresses have worked with them. Congress has negotiated, and together Congress and the executive branch have struck a balance that safeguards America while doing its utmost to protect our privacy.

Last summer, Congress made a technical correction to FISA enabling the President to wiretap without a warrant conversations between two foreign targets, even if those conversations are routed through American computers. For other reasons, I believed that this past summer's legislation went too far, and I opposed it. But the point is that Congress once again proved its willingness to work with the President on FISA.

Isn't that enough?

Just this past October and November, the Senate of the U.S. Intelligence and Judiciary Committees worked with the President to further refine FISA and ensure that, in a true emergency, the FISA Court would do nothing to slow down intelligence gathering.

Wasn't that enough?

And, as for the FISA Court, between 1978 and 2004, according to the Washington Post, the FISA Court approved—and listen to these numbers—18,748 warrants from 1978 to 2004—18,748 warrants. It rejected 5; 18,748 warrants were approved; 5 were rejected between 1978 and 2004. The FISA Court has sided with the executive branch 99.9 percent of the time. Wouldn't you think that would be enough? Is anything lacking? Have we forgotten something here? Isn't all of this enough to keep us safe? There were numerous amendments in 30 years to a piece of legislation to strike the balance between security and liberty.

Of course, we all know the answer we have received. This complex, finely tuned machinery, crafted over 3 decades by 3 branches of Government, 4 Presidents, and 12 Congresses, was ignored for 5 long years. It was totally ignored. It was a system primed to bless nearly any eavesdropping a President could conceive of, and spying still happened illegally—18,748 warrants approved from 1978 on; 5 were turned down. Yet this administration completely disregarded the FISA Court in seeking the warrantless wiretapping by the telecom industry.

If the shock of that decision has yet to sink in, think of it this way: President Bush ignored not just a Federal court but a secret Federal court; not just a secret Federal court but a secret Federal court prepared to sign off on his actions 99.9 percent of the time. A more compliant court has never been conceived. Yet still that wasn't good enough.

I ask my colleagues of this body candidly, and candidly it already knows the answer: Is this about security or is it about power? Why are some fighting so hard for retroactive immunity? The answer, I believe, is that immunity means secrecy, and secrecy means power. It is no coincidence that the man who proclaimed ''if the President does it, it is not illegal''—Richard Nixon—was the same man who raised executive secrecy to an art form. The Senators of the Church committee 30 years ago—bipartisan, by the way—expressed succinctly the deep flaw in the Nixonian executive: ''Abuse thrives on secrecy,'' they said, and in the exhaustive catalog of that report, they proved it.

In this push for immunity, secrecy, I believe, is at the center of it. We find proof in immunity's original version, a proposal to protect not just the telecoms, but everyone involved in the wiretapping program. Remember that in the original proposal of what is before us today, or will be before us, that is what they wanted to immunize—themselves. The administration asked that everyone be immunized. To their credit, the Intelligence Committee rejected that request, but it ought to be instructive that the Bush administration requested total blanket immunity for everyone involved in that program.

What does that tell you about their intentions or their motivations? Think about it. It speaks to their fear and perhaps their guilt, their guilt that they have broken the law and their fear that in the years to come they would be found liable or convicted.

They knew better than anyone else what they had done. They must have had good reason to be concerned.

Thankfully, immunity for the Executive is not part of this bill, and, again, I congratulate the committee. But don't ever forget it was asked for. That will tell you something about motivations.

The original proposal tells us something very important, that this is and always has been a self preservation bill. Otherwise, why not have the trial and get it over with? If the proponents of retroactive immunity are right, that the documentation alone is all you need to prove legality, the corporations will win in a walk. After all, in the official telling, the telecoms were ordered in documents to help the President spy without a warrant, and they patriotically complied. We have even heard on this floor the comparison between the telecom corporations to the men and women laying their lives on the line in Iraq and Afghanistan.

But ignore comparison which, frankly, I find deeply offensive. Ignore for a moment the fact that in America we obey the laws, not the President's orders. Ignore that not even the President has the right to scare or bully you into breaking the law, though it seems that tactic has proven surprisingly fruitful. Ignore that the telecoms were not unanimous. One of them, Qwest, wanted to see the legal basis for the order, never received it, and so refused to comply. Not everyone decided that documentation alone was a legal justification for 5 years of vacuuming up the private information of American citizens.

Ignore that a judge presiding over the case ruled:

> AT&T cannot seriously contend that a reasonable entity in its position could have believed that the alleged domestic dragnet was legal.

Ignore all of that: If the order the telecoms received was legally binding then they have a easy case to prove. The corporations only need to show a judge the authority and the assurances they were given and they will be in and out of court in 5 minutes. If the telecoms are as defensible as the President says, why doesn't the President let them defend themselves? If the case is so easy to make, why doesn't he let them make it?

It can't be that they are afraid of leaks. Our Federal court system has dealt for decades with the most delicate national security matters, building up an expertise in protecting classified information behind closed doors, ex parte and in camera. We can expect no less in these cases. No intelligence sources need be compromised. No state secrets need to be exposed. After litigation at both the district court and circuit court levels, no state secrets have been exposed.

In fact, Federal district court judge Vaughn Walker—a Republican appointee, I might point out; the quotes are from him—has already ruled that the issue can go to trial without putting state secrets in jeopardy. Walker reasonably pointed out—Ronald Reagan's appointee to the bench, I point out—the existence of the terrorist surveillance program is hardly a secret at all.

> The Government has [already] disclosed the general contours of the ''terrorist surveillance program,'' which requires the assistance of a telecommunications provider.

As the state secrets privilege is invoked to stall these high-profile cases, it is useful to consider that privilege's history. In fact, the privilege was tainted at its birth by a President of my own party, Harry Truman. In 1952, President Truman successfully invoked the new privilege to prevent public exposure of a report on a plane crash that killed three Air Force contractors. When the report was finally declassified, 50 years later I might add, decades after anyone in the Truman administration was within reach, it contained no state secrets at all, only facts about the repeated maintenance failures that would have seriously embarrassed some important people. So the state secrets privilege began its career, not to protect our Nation, but to protect some powerful people.

In his opinion, Judge Walker argued, even when it is reasonably grounded—let me quote him:

> . . . the state secrets privilege still has its limits. While the court recognizes and respects the executive's constitutional duty to protect the nation from threats, the court also takes seriously its constitutional duty to adjudicate the disputes that come before it. To defer to a blanket assertion of secrecy here would be to abdicate that duty, particularly because the very subject matter of this litigation has been so publicly aired.

Again, that is not some wild-eyed liberal judge drawing the conclusion in this case. That is a sober conservative judge who reminds us of the balance that is necessary; why there is a co-equal branch called the judiciary, where that body, not elected representatives in a voting Chamber, should determine the legality of this action taken by these companies.

He went on to say—the judge's words:

> The compromise between liberty and security remains a difficult one. But dismissing this case at the outset would sacrifice liberty for no apparent enhancement of security.

That is a judge reminding this body that to suggest somehow we grant blanket immunity to these companies is to dismiss this case at the outset, as he points out, sacrificing liberty with no apparent enhancement of our security.

And that ought to be the epitaph of this administration: ''sacrificing liberty for no apparent enhancement of our security.'' Worse than selling our soul, we are giving it away for free.

It is equally wrong to claim that failing to grant this retroactive immunity will make the telecoms less likely to cooperate with surveillance in the future. Baloney. I do not believe it. The truth is, after the 1970s, FISA has compelled telecommunications companies to cooperate with surveillance when it was warranted. What is more, it immunizes them. It has done that for more than a quarter of a century. So cooperation in warranted wiretapping is not at stake today, and despite the claims of supporters of immunity, it never has been. Collusion in warrantless illegal wiretapping is. And the warrant makes all the difference, because it is precisely the court's blessing that brings Presidential power under the rule of law, even when that warrant, as we permit, is granted after the surveillance has already begun, as you can under the FISA law.

In sum, we know that giving the telecoms their day in court, giving the American people their day in court, would not jeopardize an ounce of our security. It does jeopardize our liberty. And it would only expose one secret: the extent to which the rule of law has been trampled upon. Does documentation qualify as legal authority? Again, that is not a matter for a majority in this Chamber to decide by a vote. It is a matter for our courts to determine: Were these letters that were transmitted—was there a legal justification? Why didn't the administration go to the FISA Court, where 18,748 requests have been made since 1978 and granted, and only 5 rejected, a secret Federal court where a warrant could have been granted after the fact of the surveillance actually having begun? Why didn't they do that? Why did they send out letters? Why didn't they go before that court? I am not concluding they did it wrongfully, but I don't know they didn't do it wrongfully. That ought to be determined by the courts of law, not to be above the law.

That is the choice at stake today: Will the secrets of the last years remain closed in the dark, as they will once we grant this immunity, or will they be open for generations to come? What will they think of us? I revere what this Congress did in 1978, Democrats and Republicans, standing up to executive powers and abuses. They fashioned a law that granted us greater protection over those who would do us harm while simultaneously protecting our rights and liberties. What a great Senate. What a great Congress that had the courage to stand up and put aside partisan differences and stand up for 200 more years of this Nation's history of liberty, of freedom.

What will be said about this Congress? When a future generation looks back at this hour, what did we do when faced with a similar fact situation and were confronted with that choice? Or will we be open to the generations to come, as I said, to our successors in this Chamber so they can prepare themselves to defend against future outrages, as they will surely occur, of power and usurpations of law from future Presidents of either party? As I stand here this evening, I promise you it will happen. It has never not happened in the past; it will in the future. That is why we have these shared powers to maintain that balance. We are going to concede that by suggesting that in this most important of all cases we are going to grant retroactive immunity. For what? For what? Can anyone even begin to make the case that our security gets enhanced because we deprive Americans who feel they may have been wronged by determining whether the actions taken by these companies at the behest of an administration were legal?

Now, 30 years after the Church committee, history has repeated itself. If those who come after us are to prevent it from happening again, they need the full truth. That is why we must not allow these secrets to go quietly into the night. I am here this evening because the truth is no one's private property; it belongs to every one of us. It demands to be heard.

''State secrets,'' ''patriotic duty,'' those, as weak as they are, are the arguments the telecoms' advocates use when they are feeling high-minded. When their thoughts turn baser, they make their arguments as amateur economists.

Here is how Mike McConnell put it:

> If you play out the suits at the value they're claimed, it would bankrupt these companies. So we have to provide liability protection to these private sector entities.

To begin with, that is a clear exaggeration. We are talking about some of the wealthiest, most successful companies in America. Some of them have continued to earn record profits and sign up record numbers of subscribers at the same time as this very public litigation, totally undermining the argument that these lawsuits are doing the telecoms severe reputational damage, as Mike McConnell suggested. Companies of that size could not be completely wiped out by anything but the most exorbitant and unlikely judgment. To assume that the telecoms

would lose, and that their judges would then hand down such back-breaking penalties, is already to take several leaps.

Opponents of immunity, including myself, have stated that we would support a reasonable alternative to a blanket retroactive immunity. No one seriously wants to cripple the telecommunications industry. The point is to bring checks and balances back to domestic spying. Accepting that precedent would hardly require a crippling judgment. It is much more troubling, though, that the Director of National Intelligence would even suggest such an argument. I might understand if the Secretary of the Treasury made that case, or some economist at the World Blank or the IMF or the Federal Reserve. But to have the Intelligence Director of our country suggest liability protections for private sector entities, even to speak of that, is rather incredible. This is not the Secretary of Commerce we are talking about but the head of our Nation's intelligence efforts.

For that matter, how does that even begin to be relevant to letting this case go forward? Since when did we throw out entire suits because the defendants stood to lose too much? It astounds me that some can speak in the same breath about national security and bottom lines. Approve immunity, and Congress will state clearly: The richer you are, the more successful you are, the more lawless you are entitled to be. A suit against you is a danger to the Republic.

And so, at the rock bottom of its justifications, the telecoms' advocates are essentially arguing that immunity can be bought. The truth is, of course, exactly the opposite, or it should be. The larger the corporation, unfortunately, the greater the potential for abuse.

No one suggests that success should make a company suspect. Companies grow large and essential to our economy because they are excellent at what they do, and most of them are overwhelmingly well managed. But the size and wealth open the realm of possibility for abuse far beyond the scope of the individual.

After all, if the allegations are true, we are talking about one of the most massive violations of privacy in American history. Shouldn't there be some retribution or penalty? If reasonable search and seizure means opening a drug dealer's apartment, the telecoms' alleged actions would be the equivalent of strip-searching everyone in the building, ransacking their bedrooms, and prying up all of the floorboards.

The scale of these corporations opens unprecedented possibilities for abuse, possibilities far beyond the power of the individual. What the telecoms have been accused of could not be done by one man or even 10. It would be inconceivable without the size and resources of a large corporation, the same size that makes Mike McConnell fear the corporation's day in court. That is the massive scale we are talking about. And that massive scale is precisely why no corporation must be above the law.

On that scale, it is impossible to plead ignorance. As Judge Walker ruled:

> AT&T cannot seriously contend that a reasonable entity in its position could have believed that the alleged domestic dragnet was legal.

Again, Ronald Reagan's appointee to the Federal bench. But the arguments of the President's allies sink even lower. Listen to words of a House Republican leader spoken on FOX News. They are shameful:

> I believe that they deserve immunity from lawsuits out there from typical trial lawyers trying to find a way to get into the pockets of American companies.

Of course, some of the ''typical greedy trial lawyers'' bringing these suits actually work for a nonprofit. And the telecoms that some want to portray as pitiful little Davids actually employ hundreds of attorneys, retain the best corporate law firms, and spend multimillion dollar legal budgets every year.

But if the facts actually mattered to immunity supporters, we would not be here. For some, the prewritten narrative takes precedence far above the mere facts; and here it is the perennial narrative of the greedy trial lawyers.

With that, some can rest content. They can conclude that we were not ever serious about law, or about privacy, or about checks and balances; it was all about money all along.

There can no longer be any doubt: One by one the arguments of the immunity supporters, of the telecoms' advocates, fail.

I wish to spend, if I could, a few minutes reviewing in detail those claims and their failures. I will put up some of these quotes here for you.

The first argument is: The President has the authority to decide whether the telecoms should be granted immunity.

The facts are the judiciary, not the executive branch, should be allowed to determine whether the President of the United States has exceeded his powers by obtaining from the telecoms wholesale access to domestic communications of millions of ordinary citizens. That is one of the arguments of those who argue that the granting of immunity is a Presidential prerogative. I argue quite the opposite. The court should not simply be in the business of certifying that the companies received some form of documentation, some letters that they received; rather, they should be allowed to evaluate the validity of the legal arguments attested to in the document. Was the request legal or not? Is a letter a legal document that requires you to cooperate?

Remember, the administration's original immunity proposal protected everyone, as I said a moment ago, involved in the wiretapping program, not just the companies. In their original proposal to the Congress, they wanted to immunize themselves as well. As I said, thankfully the committee disregarded that request. They made it. But, again, I think that is instructive.

The second argument: Immunity supporters claim that only foreign communications were targeted, not Americans' domestic calls.

And here, litigation against the telecom companies is based upon clear, firsthand evidence, authenticated by those corporations in court. Every e-mail, every text message, every phone call, foreign or domestic carried over the massive fiber optic links of 16 separate companies, routed through AT&T's Internet hub in San Francisco, have been knowingly diverted by AT&T by means of multiple splitters into a secret room controlled exclusively by the NSA. There may be other such rooms as well.

This was given to the courts by the individual who was involved directly in the program. So the argument was only conversations between foreign targets that they have argued is completely and factually wrong.

The third argument immunity supporters make is that: A lack of immunity will make the telecoms less likely to cooperate.

Again, I made this case a moment ago. But for more than 25 years the FISA legislation has compelled the telecommunications companies to cooperate. This is not a choice if, in fact, the FISA courts demanded it. In fact, when they have done that, what they do is they also immunize, so they can protect these companies against future litigation that can occur from people who claim they have done something wrong in the process.

But to argue somehow these companies might never again be helpful is to not understand existing law. For 25 years they have, in fact, been compelled to comply and, in fact, we provided the immunity when they have done so.

Why in this case, after 25 years, did the Bush administration completely disregard this? And instead of compelling their compliance, and providing the immunity they would have gotten immediately, they decided to send a letter instead, without any legal documentation, without any argument at all. But they are relying on that thin reed of a letter saying, ''You should do this.'' ''We want you to do this.''

Not all of them complied. Qwest said: Wait a minute, that is not legal. A letter is not enough. They did not comply, and obviously they did not get involved in the program and they were not asked to do so further. So I am rather mystified. Shouldn't we know the answer to that question? Is it wrong for us to say: I think you ought to explain why you think that was legal?

Why was a document legal? The fact that we are immunizing, in effect, through retroactive immunity, their actions, what sort of precedent are we setting? That we are in a sense, if you

will, almost sanctioning that action. While we are saying it should never happen again, I will almost guarantee you that someday someone will do something like it and will refer to this Congress's decision to, in effect, sanction the use of letters alone without documentation to determine the legality of their actions.

The fourth argument: Immunity supporters argue that telecoms can't defend themselves without exposing State secrets. This is highly offensive. Again, Judge Walker has already ruled the issue can go to trial. In fact, he was incensed, as I quoted earlier.

''The Government,'' he said, ''has [already] disclosed the general contours of the 'terrorist surveillance program,' which requires the assistance of a telecommunications provider.''

The suggestion that State secrets—I know the Presiding Officer is a former attorney general, and I am preaching to the choir on these matters, but I am confident he knows that for decades Federal courts meeting ex parte in camera have religiously guarded State secrets when they have been asked to make judicial decisions about matters involving information that could fall into the area of State secrets. I don't know of any example where leaks have occurred. So the suggestion that if you allow this to go into Federal court to determine the legality of this action, actions that now are publicly well known, that somehow we are going to have a leak of State secrets, there is not a scintilla of evidence that has ever been the case. It is a phony argument to suggest that somehow State secrets would be jeopardized.

Five: Immunity supporters claim they are already protected by common law principles. In this case, of course, the fact is that common law immunities do not trump specific legal duties imposed by statute, such as the specific duties Congress has long imposed on the telecommunications companies to protect customer privacy and records. In the pending case against AT&T, the judge already has ruled unequivocally that AT&T cannot seriously contend that a reasonable entity in its position could have believed the alleged domestic dragnet was legal. Even so, the telecommunications company defendants can and should have the opportunity to present these defenses to the courts, and the courts—not Congress preemptively—should decide whether they are sufficient. Again, common law does not trump specific legal duties imposed by statute.

The sixth argument immunity supporters claim is that leaks from the trial might damage national security. I have already talked about this. I said that the Federal courts over the years have handled matters very well, and this is a red herring. When, if ever, then, can we challenge the legality of actions in Federal courts? If the case is made in this case, if this is upheld and we buy into that argument on this matter, which is already publicly known but also, in a sense, siding, if you will, with this argument by granting retroactive immunity, then in cases where, in fact, national security information may, in fact, be at risk, I suspect the same argument will be made, and they will be relying on the actions taken by the Senate, in this case, involving the telecom companies. This is the kind of precedent-setting action that could occur by our vote to grant retroactive immunity, if we buy into this very argument, which is a dangerous argument, indeed, to suggest somehow that our Federal courts are incapable of providing the kind of security where national security leaks could occur. We can be increasingly confident that these cases will not expose State secrets based on history.

The seventh argument made by the supporters of this effort to grant retroactive immunity, they claim that litigation will harm the telecoms by causing them reputational damage. I hesitate to even make an argument against this, it is so offensive to me. The fact that the Director of the National Security Agency would suggest somehow there was a financial loss to the companies if we went further with this, that is not the kind of argument I expect to be made by someone who is in charge of intelligence. That is an economic argument. It doesn't hold up, in my view. We are talking about wealthy companies. But even so, I don't know if anyone is suggesting that these actions, if, in fact, they prove to be true, that, in fact, there was an illegal action taken here, would necessarily warrant an overexcessive judgment that would somehow cripple these 17 companies from their financial well-being.

There is plenty of evidence that they are doing tremendously well. But the idea somehow that a company ought not to be sued, that a plaintiff ought not to bring a case because you might win and there might be damage financially, that is a ludicrous argument on its face to make when we are talking about millions of people's rights of privacy being invaded for 5 years by 17 companies vacuuming up every bit of information, that you might be damaged because the plaintiffs might win. It is a foolish argument and a dangerous one to make as well.

The eighth argument, immunity supporters claim the lawsuits will bankrupt the companies. It is the same argument as I made about financial damage. The fact is, if we accept that premise about financial damage or reputational damage, if we could conceive of a corporation so wealthy, so integral to our economy that its riches place it outside the law altogether, that is a frightening concept, and I hope it will be rejected by our colleagues. Ensuring a day in court is not the same as ensuring a verdict. When that day comes, if it does—and I doubt it will, in light of the votes that have been cast in the past—I have absolutely no investment in a verdict either way. But I am bothered by it. I am bothered that the administration didn't go to the FISA Court, as others had 18,748 times since 1978, and on five occasions the warrants were rejected, and in 18,748 cases, the warrants were granted, that this administration decided not to go that route, I have my doubts. But nonetheless, what I am calling for is not a verdict by this body. All I am calling for is to allow a judgment to be rendered by a court of law, allow plaintiffs to make their case, allow a Federal judge in that coequal branch of government to determine whether what occurred was legal. If it was legal, case over. If it was not, then allow the plaintiffs to make their case and be rewarded accordingly.

But by a vote of 51 to 49 or whatever the vote may be here, we are going to superimpose our judgment for a legal argument. I think letting a political judgment replace a legal judgment is a dangerous precedent indeed. This is a big matter. We ought to have the courage to stand up to this administration, after a litany of abuses over the last 7 years. As I said some time ago, if this had been for a week, a month, a year, after 9/11, I would not be here tonight. I am a reasonable, practical person. The emotions were high; fears were great after we were attacked. The fact that someone might have rushed in and done something like this, I might not like it, I may worry about it, but I wouldn't prejudge it. Emotions could be such that one would take those actions. But this went on for 5 years and would still be going on if a whistleblower hadn't stood and said: This is what is happening. And it was reported widely in the national media. That is the only reason it stopped. If not, it would be still going on. So it wasn't one of these early events that can sometimes happen in which reasonable people ought to be able to step back and say: I understand why that happened.

If we were talking about an administration that had been upholding the rule of law over the last 7 years or had been defending it, I might also not be standing here. But how many lessons do we have to learn about an Attorney General politicizing U.S. attorneys, rendition, torture, walking away from habeas corpus, walking away from the Geneva Conventions? How many more examples do we have to have of how this administration regarded the rule of law? And yet at the end of all that, within months of this administration leaving town, this body is going to say: We are going to side with the administration, grant immunity, and we will never find out what went on here. Why did this crowd seek immunity for itself, if it wasn't fearful about a judgment or a court of law examining what happened here? When letters became the legal basis rather than going to the very court that had been around for 30 years, that had provided warrants over and over again in 99.9 percent of the cases, why did this administration decide not to go that route and seek that

kind of a warrant from the very secret court established to strike that balance between the needed security and surveillance we should have and balancing those rights so the judgments could be rendered?

Just as it would be absurd to declare the telecoms clearly guilty, it would be equally absurd to close the case in Congress without a decision. That is immunity.

Throughout this debate, telecoms' advocates have needed to show not just that they were right but that they are so right and that they are so far beyond the pale that we can shut down the argument right here and now with a vote, grant them immunity. That is a burden they have clearly not met, in my view, in any of the arguments, all eight of them, that they have made. They cannot expect to meet it when a large majority of our colleagues who will make that decision have not even seen the secret documents that are supposed to prove the case for retroactive immunity.

My trust is in the courts, in the cases argued openly, in the judges who preside over them, and in the juries of American citizens who decide them. They should be our pride, not our embarrassment. They deserve to do their jobs. That is what the Founders created. It has been a great system of checks and balances, coequal, three coequal branches of Government—an executive, a legislative, and a judicial branch. We have an executive branch that took action. We are going to have a legislative branch that is going to sanction it by granting immunity without ever allowing that coequal branch of Government to determine the legality of their actions. We are depriving what the very Founders of our country insisted upon.

This isn't about being a Democrat, a Republican, a liberal or a conservative. It is about whether you understand the rule of law, that no man, not even the President, is above it. Whether this President was of my party or anyone else's, I would stand here with the same degree of passion in making this case. A case I know I have lost in the past but I care so deeply about that I want my children and my grandchildren one day to know that their father and grandfather at this moment stood for the rule of law. And I believe my colleagues, if given the chance to think about this, will reach the same conclusion.

This is one of those moments. They don't happen very often, but they do happen here. We have learned about them only after the fact too often. But this one is before us as it has been over the last number of months. We owe it not only to ourselves but to future generations to stand for these timeless principles of the rule of law, liberty, and security. As complex, as diverse, as relentless as the assault on the rule of law has been, our answer to it is a simple one. Far more than any President's lawlessness, the American way of justice remains deeply rooted in our character that no President can disturb.

So on this evening, I am full of hope, on a dark day, when it may seem we are going to lose this case once again, I would like to have faith that we can unite security and justice because we have already done it. It is not a choice, one or the other. It can never be that. That is a false choice and a false dichotomy. Justice and security is what our forebears have given us, what our predecessors have struggled with, and which we now must wrestle with ourselves. It is never perfect. There is always one side maybe a bit more weighty than the other, but it is our responsibility to try and strike that balance, to keep us secure in the face of those who would do us great harm and to do so at a time without giving up our rights and liberties. To do so is to change the very nature of who we are as a people. To succumb to the fears of those who would suggest that you have to make choices about being more secure or being free, I don't believe that.

In fact, I think if we give up freedoms, we become far less secure and far less safe. That is the judgment we must now make, whether we can be secure and free and guarantee those liberties to go forward.

My father was the executive trial counsel at the Nuremberg trials in 1945 and 1946. I have never forgotten the example he set, as Justice Robert Jackson said in the opening statement at the Nuremberg trials, a statement, by the way, that my parents made us memorize as children because it captured the essence of the Nuremberg trials. The rule of law is what motivated those who insisted upon that trial. The overwhelming majority of people did not want a trial. Why should you spend the money giving these 21 defendants a lawyer? Fifty-five million people had died at the hands of the Nazis and their allies; 6 million Jews had been incinerated in the concentration camps; 5 million others had the same fate befall them because of their political affiliation, their ethnicity, their sexual orientation; 11 million people incinerated; 45 million died at their hands. Why in the world would you ever give them a trial?

Why not, as Winston Churchill suggested, just line them up and shoot them? Just line them up and shoot them. They did not deserve civility. But Robert Jackson; Henry Stimson, the Secretary of War under Franklin Roosevelt—a Republican, I might add; the only one in Roosevelt's Cabinet—Samuel Rosenman, a great speechwriter for Franklin Roosevelt; Robert Jackson, a Supreme Court Justice, and a handful of others stood up and said: No, that war was not about treasury or treasure or land, it was about values and principles, and the principle of the rule of law is something we stood for.

So despite all of the appetite for vengeance, we are not going to give these defendants that which they gave to their victims. We are going to prove the difference. We are going to give them that which they never gave their victims. They are going to get a day in court. They are going to live with the rule of law.

Robert Jackson, speaking to that Court, in the summer of 1945, said the following, which I memorized years ago. Speaking about the Soviet Union, the French, the British, and ourselves, he said the following:

> That four great nations, flushed with victory and stung with injury, stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.

It is a remarkable sentence, and it captured the essence of Nuremberg—the rule of law. From that experience, America led the way in creating the structures in architecture that gave us almost 70 years of global peace. The IMF, the World Bank, Bretton Woods, the expansion of the United Nations, NATO—all of those institutions occurred because of the moral high ground we achieved by insisting upon the rule of law.

It was Nuremberg, in many ways, that conjured up the image of who we were as a people. Compare that with the words ''Guantanamo,'' ''Abu Ghraib,'' ''renditions,'' ''torture,'' ''habeas corpus,'' ''walking away from the Geneva Conventions.'' This is not who we are. Nuremberg was who we are, not Guantanamo, not giving retroactive immunity where the rule of law is being abused, or potentially being abused. That is why we are here.

Each generation has been asked to defend these principles and values, and each generation in its own way has done that. I believe our generation can and must as well. Therefore, the challenge before us is not a simple one, but an easy one, in my view; that is, to stand up for this principle.

The world is not going to collapse, the sky is not going to fall if some companies have to face some plaintiffs and explain why they vacuumed up all their private information for more than 5 years. What was the legal justification for that action? To grant retroactive immunity would, in fact, do just that.

So what is the tribute that Power owes to Reason? That America stands for a transcendent idea, the idea that laws should rule, and not men, the idea that the Constitution does not get suspended for vengeance, the idea that this Nation should never tailor its eternal principles to the conflict of the moment, because if we did, we would be walking in the footsteps of the enemies we despised.

The tribute that Power owes to Reason is due today as well. I know we can find the strength to pay it. And if we cannot, we will have to answer for it, I fear.

There is a famous military recruiting poster that comes to mind. A man is sitting in an easy chair with his son

and daughter on his lap, after some future war has ended. His daughter is asking him, ''What did you do in the war?'' And his face is shocked and shamed because he knows he did nothing.

My little daughters, Grace and Christina, are 6 and 3. They are growing up—I hope sound asleep at this hour, as I speak in the late night hours here, but they are growing up in a time of two great conflicts: one between our Nation and its enemies, and another between what is best and worst in our American soul. And someday soon, I know I am going to hear that question: What did you do at the time when this conflict was emerging? What side did you take? I want more than anything else, when that day comes, to give the right answer, that I stood for the rule of law.

That question is coming to each and every one of us in our own way. Every single one of us will be judged by a jury from whom there is no hiding: our sons and daughters and grandchildren. Someday soon, they will read in their textbooks the stories of a great nation—one that threw down tyrants and oppressors for two centuries, one that rid the world of Nazism and Soviet communism, one that proved that great strength can serve great virtue, that right can truly make might.

And then they will read how, in the early years of the 21st century, that nation could have lost its way. We do not have the power to strike that chapter. But we cannot go back. We cannot un-destroy the CIA's interrogation tapes. We cannot un-pass the Military Commissions Act. We cannot un-speak Alberto Gonzales's testimony before the Congress. We cannot un-torture innocent people. We, perhaps, sadly and shamefully, cannot stop retroactive immunity. We cannot undo anything that has been done in the last 6 years for the cause of lawlessness and fear. We cannot block out that chapter. But we can begin the next chapter, even this evening, even in the days to come, as we debate this issue. And let its first words read: Finally, in the month of June of 2008, the Senate of the United States—Democrats and Republicans—said: Enough. Enough is enough.

I implore my colleagues to write it with me. I implore my colleagues to vote against retroactive immunity and vote against cloture when that opportunity arrives in the next day or so. I think it would be a mistake to grant it. I think we can do better. I think we can reform the law. But we ought not to have any decision be above the law, as is the danger here.

Mr. President, I want to, if I can, share with my colleagues, and those who may be listening to all this, some articles because their eloquence is far greater than mine when they talk about the importance of all of this, and they are worth noting and reading as we examine this question before us.

There have been editorials and others that have addressed this issue. There is an editorial in the New York Times from June 18, entitled: ''Mr. Bush v. the Bill of Rights.''

In the waning months of his tenure, President Bush and his allies are once again trying to scare Congress into expanding the president's powers to spy on Americans without a court order.

This week, the White House and Democratic and Republican leaders on Capitol Hill hope to announce a ''compromise'' on a domestic spying bill. If they do, it will be presented as an indispensable tool for protecting the nation's security that still safeguards our civil liberties. The White House will paint opponents as weak-kneed liberals who do not understand and cannot stand up to the threat of terrorism.

The bill is not a compromise. The final details are being worked out, but all indications are that many of its provisions are both unnecessary and a threat to the Bill of Rights. The White House and the Congressional Republicans who support the bill have two real aims. They want to undermine the power of the courts to review the legality of domestic spying programs. And they want to give a legal shield to the telecommunications companies that broke the law by helping Mr. Bush carry out his warrantless wiretapping operation.

The Foreign Intelligence Surveillance act, or FISA, requires that government to get a warrant to intercept communications between anyone in this country and anyone outside it. The 1978 law created a special court that has approved all but a handful of the government's many thousands of warrant requests.

Still, after Sept. 11, 2001, Mr. Bush bypassed the FISA court and authorized the interception of international calls and e-mail messages without a warrant. Then, when The Times disclosed the operation in late 2005, Mr. Bush claimed that FISA did not allow the United States to act quickly enough to stop terrorists. That was nonsense. FISA always gave the government the power to start listening and then get a warrant—a grace period that has been extended since Sept 11.

More fundamental, Mr. Bush's powers do not supersede laws passed by Congress or the constitution's protections against unreasonable searches and seizures.

The ensuing debate did turn up an Internet-age problem with FISA: It requires a warrant to eavesdrop on foreign communications that go through American computers. There was an easy fix, but when Congress made it last year, the White House muscled in amendments that seriously diluted the courts' ability to restrain the government from spying on its own citizens.

That law expires on Aug. 3, and Mr. Bush is demanding even more power to spy. He also wants immunity for the telecommunications companies that provided the government with Americans' private data without a warrant after Sept. 11.

Lawsuits against those companies are the best hope of finding out the extent of Mr. Bush's lawless spying. But Democratic leaders in Congress are reported to have agreed to a phony compromise drafted by [one of our colleagues], the Republican vice chairman of the Intelligence Committee.

Under the so-called compromise, the question of immunity would be decided by federal district court—a concession by Mr. Bond [our colleague from Missouri], who originally wanted the FISA court, which meets in secret and is unsuited to the task, to decide. What is unacceptable, though, is that the district court would be instructed to decide based solely on whether the Bush administration certifies that the companies were told the spying was legal. If the aim is to allow a court hearing on the president's spying, the lawsuits should be allowed to proceed—and the courts should be able to resolve them the way they resolve every other case. Republicans, who complain about judges making laws from the bench, should not be making judicial decision from Capitol Hill.

This week, House and Senate leaders were trying to allay the concerns of some lawmakers that approving the immunity would be tantamount to retroactively declaring the spying operation to have been legal. Those lawmakers are right. Granting the corporations immunity would send that exact message.

The new bill has other problems. It gives the government too much leeway to acquire communications in the United States without individual warrants or even a showing of probable cause. It greatly reduces judicial review, and it would remain in force for six years, which is too long.

If Congress cannot pass a clean bill that fixes the one real problem with FISA, it should simply extend the temporary authorization. At a minimum . . .

It talks about what other steps can be taken.

There are several other articles I want to share with colleagues, but let me also say to my colleagues, we are in a postcloture environment here on the housing bill. We will be in cloture until tomorrow evening on the 30 hours required under the housing bill, unless some intervening action is taken. I know we are supposed to consider voting on cloture on this bill sometime tomorrow morning. I reserve the right to use whatever vehicle is available to me. While I am upset we are not dealing with the housing bill—I believe that is a priority on which Americans expect something to be done. You have 8,400 people filing for foreclosure every day in this country. It is a massive economic issue that is crippling the livelihood and the future wealth and security of too many American families. I would object to any unanimous consent request to go to the FISA bill. If we do get to a cloture motion, I will be urging my colleagues to vote against cloture, to send this bill back to the Intelligence Committee, the Judiciary Committee, and craft some reforms of FISA, but stay away from this retroactive immunity. It is not needed. It is unnecessary. It is shameful it is even being requested in this bill for all the reasons I have identified earlier.

Let me read, if I can, from the New Jersey Star-Ledger. Again, this paper calls for rejecting the wiretap bill, as well. This editorial says:

The House of Representatives is to vote today on a wiretapping bill that would give some of America's biggest and richest companies a get-out-of-jail card for breaking the law and that also would help the government carry out unsupervised snooping for years in the future.

But Verizon and other telecommunications companies should not be rewarded with immunity against lawsuits for agreeing to perform President Bush's illegal eavesdropping. They should answer for their actions in court, just like any other citizen.

And Congress should not gut the current law that says a federal judge's review is essential to avoid the very abuses of power that Bush's White House embraced.

The House ''compromise'' wiretapping bill is not a compromise at all. It would give the telecommunications companies absolute immunity from the suits pending against them for wiretapping if they can simply show that the Bush administration told them at the time that the snooping was legal. Which everyone agrees the administration did indeed do.

It is not a debate. They sent letters. The question is, were the letters and the documentation a legal justification? We already know they sent the letters, so all they are providing for us in here is tantamount to acknowledging what we already know occurred. What we are not getting to is the legal conclusion that those documents not seeking the warrants of the FISA court was a legal justification for their actions. It does not take a legal scholar to see the danger in this approach. It means that the law becomes whatever the President wants it to be, never mind what the statutes or even the Constitution may say. That is why the courts exist. That is why you have Federal judges to make those determinations.

This editorial goes on to say:

The President also very much wants the other major part of the new wiretapping law, the section that amounts to an aggressive broadening of federal surveillance powers. The provisions would emasculate the ability of federal judges to review wiretapping orders, especially if the orders were for a general information ''dragnet'' as opposed to targeting specific persons.

Snooping government agents would be officially free to plug into phone and data lines and copy and review untold millions of calls and e-mails, all without serious adult supervision. Effective checks and balances in government this is not.

Bush and Attorney General Michael Mukasey want the new law—

The editorial goes on to say—

and they want it now. House Members—

Talking about the House-passed bill—

should not give it to them. Government wiretapping is now operating under a series of interim laws set to expire in early August.

There is no evidence that these interim rules are too anemic to protect the Nation for a while longer. Congress should extend them. If the wiretapping law needs major revisions, these can be done under a new President.

One who, unlike Bush, didn't begin a secret, illegal wiretapping months before September 11, 2001.

This is from the Denver Post. I wonder why I chose that one to read to the Presiding Officer, my good friend and colleague from Denver, CO. I suspect he may have seen this one himself, so I apologize if I am reading an editorial he has already probably read himself. This is dated June 5. ''Another Dose of Courage Needed on FISA'' is the title.

Congress once again is discussing a compromise on a long-stalled rewrite of the Foreign Intelligence Surveillance Act with the idea of getting something passed before its August recess.

The White House assuredly will play the national security card again as it seeks retroactive immunity for telecoms that give in to demands for information under the President's warrantless wiretapping program.

We hope Congress stands firm as it did in February. Frame it any way you want, but the issue is accountability.

Proponents are making a last-ditch effort—

The Denver Post says—

to squelch some 40 lawsuits that could bear witness to the breadth of Bush administration spying that took place outside the auspices of FISA.

Congress must not capitulate on this key point.

It's important to keep in mind how this country came to have FISA. Enacted in 1978, FISA was a response to widespread government abuse of wiretaps in the name of national security. The act set rules for government spying on foreign powers on their agents.

A secret FISA Court hears government eavesdropping requests and almost without exception approves them. The administration can even wiretap without a FISA warrant and get one later.

After the 9/11 attacks, President Bush decided to do an end run around the FISA Court, shifting approval for wiretaps from the judiciary to the executive branch. That program was secret until 2005 when the New York Times exposed its existence.

As I pointed out earlier, conceivably it would still be operating today but for that revealing by the whistleblower.

Last year, the administration employed fear mongering and convinced Congress—

The Denver Post says—

to legitimize the program through the Protect America Act, a temporary provision that expired this year.

The battle now is over a permanent extension, the centerpiece of which would be lawsuit immunity for the telecommunication companies that cooperated with the warrantless spying program.

Administration officials say they are very concerned about getting cooperation from the communications companies unless the companies have immunity.

We find it hard to believe that these telecoms would refuse to comply with the FISA Court order. FISA has been in operation for 30 years and that seems to have not been a problem in the past.

Let me just cut in here and point out that over the past 25 years, as I noted earlier, the FISA Courts have compelled companies to provide information and simultaneously granted them immunity when doing so. So this idea that we hope they will willingly cooperate—the courts have the power to compel cooperation when we want surveillance of individuals that could be doing us harm. So the argument that if we don't grant immunity they might not show up again when we ask them to provide surveillance that we need in order to guarantee our security—we hope they will cooperate, but if they don't, we have the ability to compel cooperation.

Back to the editorial. It concludes by saying:

It's also important to keep in mind that the Federal courts where these telecom lawsuits are being heard can—and have—dismissed some actions on the grounds that they could endanger national security. So it's not as if there is no protection at work.

The last time immunity was debated in Congress, House Democrats held firm, saying that they thought the administration's modifications would amount to a suspension of the Constitution. We hope they have the same courage of their convictions this time around.

I applaud the Denver Post for its brilliant and thoughtful editorial in that regard.

This is an editorial from the Register-Guard in Eugene, OR, so we get the breadth of this across the country. This one is entitled ''Sinking the Boat: House Approves Flawed Electronic Surveillance Bill,'' June 24, 2008.

Congressional leaders have crafted a deeply flawed bill on electronic eavesdropping, caving once again to White House warnings that failure to give the executive branch broad license to spy on U.S. citizens without a warrant would make it harder to protect Americans from terrorists.

In one of the most disappointing votes of the 110th Congress, the House on Friday approved a compromise over a contentious intelligence surveillance bill. The House measure would allow the Federal Government to intercept international telephone calls or e-mails without prior court approval if the executive branch claims it is necessary in an emergency. It would also grant de facto immunity to telecommunications companies that cooperated in the administration's secret and blatantly unconstitutional surveillance program after the September 11 attacks.

Congressman Peter DeFazio deserves credit for voting, along with 127 other Democrats, against the House bill. ''We do not trample over the U.S. Constitution in order to protect Americans from terrorism—that is akin to sinking the boat so the enemy can't sink it,'' the Oregon Democrat said.

After September 11, President Bush authorized the National Security Agency to monitor, without the prior court approval required by the Constitution, e-mails and phone conversations between suspected terrorists of United States residents. Called the Terrorist Surveillance Program, the initiative ignored the 1978 Foreign Intelligence Surveillance Act which required a special Federal court to authorize electronic spying on Americans.

The editorial goes on to say:

The Bush administration grudgingly accepted judicial oversight of the program only after its existence was leaked to the media and Congress howled in outrage. That outrage has since been muffled by a White House campaign intended to scare Americans and to allow the administration to further expand the chief executive's powers and erode civil liberties. And, oh, yes, to ensure that no one is held accountable for the illegal wiretapping that Bush ordered after September 11.

The House bill is a modest improvement over the earlier versions. While it unwisely allows the administration to authorize monitoring of international calls or e-mails, it requires the secret Foreign Intelligence Surveillance Court to review and enforce protections for U.S. residents, and it bars surveillance until those procedures are approved except in ''exigent circumstances.''

The Senate should improve the House bill by requiring court supervision of any surveillance that can involve American citizens or others in the United States. That's a constitutional red line the Bush administration—or any other—should not be allowed to cross.

The Senate should also make certain that the courts are allowed to decide whether telecommunication companies violated the

law by handing over data to the government over the past five years without a court order. The Senate should also demand a full accounting to Congress of all surveillance conducted since September 11—accounting the White House has refused to provide, telling lawmakers and the American public to instead ''trust us'' with their freedoms.

Congress still has a chance to make certain that the Federal Government Surveillance Program complies with the rule of law. History would suggest the failure to do so could leave the door open to lawless behavior as long as the current President remains in office—

And, I would argue, set a precedent for future administrations where that could occur as well.

Again, let me suggest here that what we are talking about is not the choice between security and liberty. This is not an issue that ought to divide people based on our party affiliation or how one is characterized and where they sit in the political spectrum. This is an issue that goes to the heart of who we are. It is talking about the rule of law and the Constitution. Everyone here takes an oath of office to protect and defend our country and to protect the Constitution. Certainly that is what this ought to involve.

Are the courts going to make a determination about the legality of this effort? Again, I don't know of another instance in our Nation's history where for 5 long years, 17 companies were allowed to virtually sweep up every phone call, every e-mail, every fax, every text message that was sent by every citizen of this country, and that is exactly what happened and would still be ongoing if it hadn't been revealed.

Do we require that there be some justification as to whether this was legally occurring? That ought not to be a matter of political choice. That ought to be a matter for the courts. That is why we established the third branch of government—the judiciary—to determine the constitutionality and legality of actions taken by the executive or legislative branches. We are shortcutting in the legislative branch, at the request of the executive, the ability of that branch to make that determination. We are sanctioning, in effect. We are closing the door, never to know why this happened, who ordered it, why did they avoid FISA, what was behind their thinking. That is a dangerous step for us to take.

That is the only case I am making. I have my doubts, as I said, about the legality of it, but that is just one Senator. I have the right to certainly have my doubts about certain actions. I don't have the right to determine the legality of it. I am a Senator, I am not a Federal judge. I don't sit in that third branch, I sit in the second branch. I sit in the Congress of the United States. It is my job here to stand up and see to it that we don't take actions that would deprive that branch—the legal branch, the judicial branch—from asserting its rights under our Constitution—exactly what the Founders intended.

So while I know there are those who are going to argue and make the case that those of us who stand up here to defend the rule of law, somehow we are weak-kneed when it comes to terrorism, that is hardly the case. I don't want to give terrorists a greater victory. As profoundly sad, as tragic, and as violent as the attack was on 9/11 that destroyed so much and showed us how dangerous the world is today, to grant them the power—those terrorists—to allow them to deprive us of our liberties is to grant them a victory even greater than they achieved that day. It must be our common determination to see to it that we stand up and not allow these rights and these liberties we enjoy as citizens to be eroded at our own hand.

Let's say to terrorists around the world: We will fight you and defeat you as you try to do us and others great harm, but you will not bring down the pillars of our constitutional form of government and the rule of law. That is what this is all about, while it is argued and we are told that we have to do this and if we don't do it, that somehow we are succumbing to those terrorists who wish to do us great physical harm.

Let me, if I can, sort of wrap up because I know I am taking a little bit of time. I want to leave some time to argue my housing bill. I am consuming the time on my housing bill to do this, but I want people to understand, at least from my perspective, why this is a dangerous conclusion, why we ought to vote against cloture, and why I am going to use my power as a Senator to object to going to that cloture vote, at least as long as a cloture vote exists on dealing with the housing legislation.

I think retroactive immunity is a disgrace. In the last months, I believe we proved that beyond any doubt whatsoever. As I said, I believe it is more disgraceful in all that it represents. It is the mindset that the Church Committee summed up so eloquently three decades ago. As I read these words—they are no longer with us. A lot of these Members have long since left us, not only from this Chamber but who have since passed away. But it is worthwhile for us to read their words, these Democrats and Republicans. There were those who suggested somehow they were weak-kneed when it came to giving the President the power to protect our national security. But listen to their words of three decades ago:

The view that the traditional American principles of justice and fair play have no place in our struggle against the enemies of freedom, that view created the Nixonian secrecy of the 1970s.

The Church committee wrote those words in part as a rebuke to our predecessors in this Chamber who for years allowed secrecy and executive abuses to slide. But today those words take on new meaning. Today, they rebuke us, in a way. Today they shame us for a lack of faith that we can, at the same time, keep our country safe and our Constitution whole.

As I said before, when the 21st century version of the Church committee convenes to investigate the abuses of the past years, how will we be judged? When it reads through the records of our debates—not if, Mr. President, but when—what will they find? When the President asked us to repudiate the Geneva Conventions and strip away the rights of habeas corpus, how did we respond? What was our Congress? What did we say about that? When stories of secret prisons and outsourced torture became impossible to deny, what did that Congress do in 2008 and 2007? In June of 2008 when we were asked to put corporations explicitly outside the law and accept at face value the argument that some are literally too rich to be sued, how did that Congress, how did that Senate vote on that matter?

All of these questions are coming to us, Mr. President. All of them and more. And in the quiet of his or her own conscience, each Senator knows what the answers are.

Remember, this is about more than a few telephone calls, a few companies, or a few lawsuits. If the supporters of retroactive immunity keep this argument a technical one, they will win. A technical argument obscures the defining question: the rule of law or the rule of men? That question never goes away. As long as there are free societies, generations of leaders will struggle mightily to answer it. Each generation must ascertain an answer for itself. Just because our Founders answered it correctly doesn't mean we are bound by their choice. In that, as in all decisions, we are entirely free.

The burden falls not on history but on each one of us—the 100 of us who serve in this remarkable Chamber. But we can take counsel, listen to those who came before us, who made the right choice even when our Nation's survival was at risk. They knew the rule of law was far more rooted in our character than any one man's lawlessness. From the beginning, they advised us to fight that lawlessness whenever we found it. At the Constitutional Convention, James Madison said:

The means of defense against foreign danger historically have become the instruments of tyranny at home.

He also said:

I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power than by violent and sudden assertion.

As long as we are temporary custodians of the Constitution, as we are, we have a duty to guard against those gradual and silent encroachments. That is exactly what this is. It is a gradual and silent encroachment. It doesn't come in a burst, it comes slowly. Our Founders knew these threats were coming. They could predict, persuade, and warn, but when it comes time to stand up against those threats in our own time, they cannot act for us. They can only teach us, they

can warn us, they can remind us that they would come. And they have. They are here. They are before us. They cannot act for us. The choice is ours and ours alone.

Tomorrow or the following day, when we are asked to vote on this, the choice will be ours. We have been warned and cautioned by history. The decision now rests with each and every one of us to decide whether we have listened to them and not only answer them but provide the answer for generations to come, as generations before us have answered that question. May we rise to that moment, Mr. President, and defeat this legislation. May we reject this retroactive immunity for a handful of companies so that we may determine whether their actions were legal or whether they were above the law or whether they were the rule of law or the rule of men. That is the important choice we will have to make.

I yield the floor.

COMMEMORATING THE 44TH ANNIVERSARY OF THE DEATHS OF CIVIL RIGHTS WORKERS ANDREW GOODMAN, JAMES CHANEY, AND MICHAEL SCHWERNER

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 600, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 600) commemorating the 44th anniversary of the deaths of civil rights workers Andrew Goodman, James Chaney, and Michael Schwerner in Philadelphia, Mississippi, while working in the name of American democracy to register voters and secure civil rights during the summer of 1964, which has become known as ''Freedom Summer.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, our Nation owes a tremendous debt of gratitude to all of those who risked their lives in the pursuit of making America a more perfect union. This week, we commemorate the 44th anniversary of the day three brave civil rights workers—James Chaney, Michael Schwerner, and Andrew Goodman—paid the ultimate price in the struggle to secure civil rights and expand our democracy for all Americans.

On June 21, 1964, these three young men were abducted, brutally beaten, and shot to death by Ku Klux Klansmen for simply attempting to register African-Americans voters. Their deaths touched the conscience of our country and inspired events that changed the course of our history. The public outcry over the initial disappearance of these workers drew national and international attention to the violence associated with efforts to register African-American voters. It spurred efforts to desegregate the voting delegates at political party conventions. And it served as a catalyst for Congress to pass the Civil Rights Act of 1964 and the Voting Rights Act of 1965, key legislation that would eliminate segregation and usher in a new era of equal opportunity and access to our democracy for all Americans.

Unfortunately, our march toward equal justice under law is not yet complete. Three years ago, Edgar Ray Killen was convicted for the deaths of the three civil rights workers we honor today. Almost two dozen other men were involved in this crime; some are still alive, yet, none have ever been held charged with this murder. Even more troubling, the families of hundreds of other Americans who lost their lives in the fight for equal rights still await justice.

As we pass this resolution, we must recognize that it is long past time to pass the Emmett Till Unsolved Civil Rights Crime Act, which would strengthen our ability to track down those whose violent acts during a period of national turmoil remain unpunished. Last year, the House overwhelmingly passed this bill. Yet, one lone Republican Senator has prevented this important bill from passing. As we commemorate the deaths of three of the most celebrated civil rights activists of the past, let us remember this does not obviate our need to solve the hundreds of less recognized civil rights crimes of that era.

Today's resolution is an important gesture for us to remember the civil rights misdeeds of the past. But it is also an opportunity for Congress to show the country that we will not tolerate similar offenses. As we pass this resolution, it is fitting to carry this principle to the present and act in kind to prevent hate crimes and civil rights abuses occurring now in this country and around the world.

The powerful inscription on the grave of James Chaney reads: ''There are those who are alive, yet will never live; there are those who are dead, yet will live forever; great deeds inspire and encourage the living.'' By remembering Mr. Chaney, Mr. Schwerner, and Mr. Goodman today, I hope we all can be inspired to renewed action in this Congress. Let us pass the Till bill to ensure that those who sacrificed their lives in pursuit of justice are not forgotten and the perpetrators of these crimes are held accountable.

Mr. DODD. 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 that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 600) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 600

Whereas 44 years ago, on June 21, 1964, Andrew Goodman, James Chaney, and Michael Schwerner were murdered in Philadelphia, Mississippi, while working in the name of American democracy to register voters and secure civil rights during the summer of 1964, which has become known as ''Freedom Summer'';

Whereas Andrew Goodman was a 20-year-old White anthropology major at New York's Queens College, who volunteered for the ''Freedom Summer'' project;

Whereas James Chaney, from Meridian, Mississippi, was a 21-year-old African-American civil rights activist who joined the Congress of Racial Equality (CORE) in 1963 to work on voter education and registration;

Whereas Michael ''Mickey'' Schwerner, from Brooklyn, New York, was a 24-year-old White CORE field secretary in Mississippi and a veteran of the civil rights movement;

Whereas in 1964, Mississippi had a Black voting-age population of 450,000, but only 16,000 Blacks were registered to vote;

Whereas most Black voters were disenfranchised by law or practice in Mississippi;

Whereas in 1964, Andrew Goodman, James Chaney, and Michael Schwerner volunteered to work as part of the ''Freedom Summer'' project that involved several civil rights organizations, including the Mississippi State chapter of the National Association for the Advancement of Colored People, the Southern Christian Leadership Conference, the Student Nonviolent Coordinating Committee, and CORE, with the purpose of registering Black voters in Mississippi;

Whereas on the morning of June 21, 1964, the 3 men left the CORE office in Meridian and set out for Longdale, Mississippi, where they were to investigate the recent burning of the Mount Zion Methodist Church, a Black church that had been functioning as a Freedom School for education and voter registration;

Whereas on their way back to Meridian, James Chaney, Andrew Goodman, and Michael Schwerner were detained and later arrested and taken to the Philadelphia, Mississippi, jail;

Whereas later that same evening, on June 21, 1964, they were taken from the jail, turned over to the Ku Klux Klan, and beaten, shot, and killed;

Whereas 2 days later, their burnt, charred, and gutted blue Ford station wagon was pulled from the Bogue Chitto Creek, just outside Philadelphia, Mississippi;

Whereas the national uproar caused by the disappearance of the civil rights workers led President Lyndon B. Johnson to order Secretary of Defense Robert McNamara to send 200 active duty Navy sailors to search the swamps and fields in the area for the bodies of the 3 civil rights workers, and Attorney General Robert F. Kennedy to order his Federal Bureau of Investigation (FBI) director, J. Edgar Hoover, to send 150 agents to Mississippi to work on the case;

Whereas the FBI investigation led to the discovery of the bodies of several other African-Americans from Mississippi, whose disappearances over the previous several years had not attracted attention outside their local communities;

Whereas the bodies of Andrew Goodman, James Chaney, and Michael Schwerner, beaten and shot, were found on August 4, 1964, buried under a mound of dirt;

Whereas on December 4, 1964, 21 White Mississippians from Philadelphia, Mississippi, including the sheriff and his deputy, were arrested, and the Department of Justice charged them with conspiring to deprive Andrew Goodman, James Chaney, and Michael

Schwerner of their civil rights, since murder was not a Federal crime;

Whereas on December 10, 1964, the same day Dr. Martin Luther King, Jr. received the Nobel Peace Prize, a United States District judge dismissed charges against the 21 men accused of depriving the 3 civil right workers of their civil rights by murder;

Whereas in 1967, after an appeal to the Supreme Court and new testimony, 7 individuals were found guilty, but 2 of the defendants, including Edgar Ray Killen, who had been strongly implicated in the murders by witnesses, were acquitted because the jury came to a deadlock on their charges;

Whereas on January 6, 2005, a Neshoba County, Mississippi, grand jury indicted Edgar Ray Killen on 3 counts of murder;

Whereas on June 21, 2005, a jury convicted Edgar Ray Killen on 3 counts of manslaughter;

Whereas June 21, 2008, was the 44th anniversary of Andrew Goodman, James Chaney, and Michael Schwerner's ultimate sacrifice;

Whereas by the end of ''Freedom Summer'', volunteers, including Andrew Goodman, James Chaney, and Michael Schwerner, helped register 17,000 African-Americans to vote;

Whereas the national uproar in response to the deaths of these brave men helped create the necessary climate to bring about passage of the Voting Rights Act of 1965;

Whereas Andrew Goodman, James Chaney, and Michael Schwerner worked for freedom, democracy, and equal justice under the law for all; and

Whereas the Federal Government should find an appropriate way to honor these courageous young men and their contributions to civil rights and voting rights: Now, therefore, be it

Resolved, That the Senate—

(1) encourages all Americans to pause and remember Andrew Goodman, James Chaney, and Michael Schwerner and the 44th anniversary of their deaths;

(2) commemorates the life and work of Andrew Goodman, James Chaney, Michael Schwerner, and all of the other brave Americans who made the ultimate sacrifice in the name of civil rights and voting rights for all Americans; and

(3) commemorates and acknowledges the legacy of the brave Americans who participated in the civil rights movement and the role that they played in changing the hearts and minds of Americans and creating the political climate necessary to pass legislation to expand civil rights and voting rights for all Americans.

Mr. DODD. Mr. President, a few weeks ago, our colleague in the other Chamber, JOHN LEWIS, joined us for lunch and brought along several Freedom Riders who knew very well the wonderful young people we are recognizing by this resolution who lost their lives in the quest for freedom and democracy during the civil rights movement in the 1960s. It was a moving opportunity to listen to these remarkable individuals who, today, are gray in hair and getting older, but in their youth they stood up for democracy and freedom. It is worthy that this institution is recognizing them. I wanted to mention that this evening, as we agreed to this resolution.

ORDERS FOR WEDNESDAY, JUNE 25, 2008

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., tomorrow, Wednesday, June 25; that following the prayer and the pledge, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the House message to accompany H.R. 3221, the housing legislation, and that the time during the adjournment count against cloture. I further ask that the mandatory quorum rule XXII with respect to H.R. 6304 be waived.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DODD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 10:20 p.m., adjourned until Wednesday, June 25, 2008, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

DAVID D. PEARCE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

LYNDON L. OLSON, JR., OF TEXAS, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2011. (REAPPOINTMENT)

DEPARTMENT OF EDUCATION

HOLLY A. KUZMICH, OF INDIANA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION, VICE TERRELL HALASKA, RESIGNED.

CHRISTOPHER M. MARSTON, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION, VICE MICHELL C. CLARK, RESIGNED.

DISCHARGED NOMINATION

The Senate Committee on Rules and Administration was discharged from further consideration of the following nomination and the nomination was confirmed:

MATTHEW S. PETERSEN, OF UTAH, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2011.

CONFIRMATIONS

Executive nominations confirmed by the Senate Tuesday, June 24, 2008:

FEDERAL ELECTION COMMISSION

STEVEN T. WALTHER, OF NEVADA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2009.

CYNTHIA L. BAUERLY, OF MINNESOTA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2011.

CAROLINE C. HUNTER, OF FLORIDA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2013.

DONALD F. MCGAHN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2009.

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.

MATTHEW S. PETERSEN, OF UTAH, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2011.

THE JUDICIARY

HELENE N. WHITE, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

RAYMOND M. KETHLEDGE, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

STEPHEN JOSEPH MURPHY III, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on June 24, 2008 withdrawing from further Senate consideration the following nomination:

J. GREGORY COPELAND, OF TEXAS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE DAVID R. HILL, WHICH WAS SENT TO THE SENATE ON JANUARY 22, 2008.

EXTENSIONS OF REMARKS

IN RECOGNITION OF BOISE RESCUE MISSION

HON. BILL SALI

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. SALI. Madam Speaker, I rise today in recognition of Boise Rescue Mission, BRM, in my great home state of Idaho. This year, under the guidance of Executive Director Rev. Bill Roscoe, the BRM celebrates 50 years of service to the Treasure Valley community by providing food, shelter, clothing, counseling, education and spiritual guidance for the homeless and others in need.

BRM began as a small facility, but has grown over the past five decades to include three facilities in Boise and Nampa. Today they serve between 600 and 800 meals a day to the hungry at three dining rooms, and provide almost 300 beds to the Treasure Valley's homeless.

In addition, BRM is committed to drug and alcohol counseling through the New Life Drug and Alcohol Addiction Recovery Program. The dedicated volunteers at BRM help participants stay sober and discover a new spiritual life. It is noteworthy that while BRM is a faith-based ministry, its spiritual outreach is non-coercive. It provides its services and programs to whoever needs them, whether or not the client has spiritual interest.

I commend the impact BRM is having on those in need in the Treasure Valley community. The sincere efforts and dedication of its volunteers is inspirational. Thank you, Rev. Roscoe, for your leadership and spiritual guidance. All Idahoans are in your debt.

IN HONOR OF ALVIN L. GRAY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. KUCINICH. Madam Speaker, I rise today in honor of Alvin L. Gray, distinguished Case Western Reserve University alumnus, in recognition of his dedication, advocacy, and promotion of leadership in the Jewish Community and in the Greater Cleveland Area.

Alvin L. Gray was born in Cleveland, Ohio in 1928, and carries with him a rich history of public service in the Greater Cleveland Area. He received his Bachelors of Arts in Political Science in 1949 and a Bachelors of Legal Letters in 1951 from Case Western Reserve University and was admitted to the Ohio Bar Association the same year. Mr. Gray works tirelessly to promote leadership skills in the Greater Cleveland community and holds several leadership positions in the numerous organizations he dedicates his time to. He currently serves as Director of the American Jewish Joint Distribution Committee and Chairman of the Citizens for the Heights School Levy, is a member of the Cleveland Metropolitan Bar Association, serves as Life Director of the Jewish Family Service Association, and is on the Board of Trustees of both the Hillel House and Jewish Community Center of Cleveland. Mr. Gray co-founded the Cleveland Heights Area Project and served as Vice President of the American Jewish Congress from 1974 to 1986. He also was Honorary President, Vice President and President of the American ORT Foundation, and past President of Jewish Vocational Service.

Alvin Gray has been recognized on numerous occasions for his innovative and important work in the Greater Cleveland Area. In 2001, he was inducted into the Cleveland Heights High School Distinguished Alumni Hall of Fame and was awarded the Horace M. Kallen Distinguished Community Service Award from the Jewish American Congress. Mr. Gray was twice awarded the "Man of the Year" award, once in 1976 from the American ORT and again in 1986 from the Cleveland ORT.

Madam Speaker and colleagues, please join me in honor of Alvin. L. Gray, and in recognition of his outstanding and tireless efforts as a promoter and advocate of leadership in the Jewish Community, as well as for his extensive and diverse service to the Greater Cleveland Community.

TRIBUTE TO MACLAIN BERHAUPT

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. HIGGINS. Madam Speaker, I rise today to honor Maclain Berhaupt for her years of service to Dunkirk, NY and her new opportunity in her hometown of Jamestown, NY. Maclain's career is a wonderful example of what public service should be.

I would like to touch briefly on the many projects with which Maclain has been involved. Maclain has been employed as the Director of Development for the City of Dunkirk for the past three years. During that time she saw the Boardwalk Market, the Crocker-Sprague building redevelopment, and the soon-to-be-built SUNY Technology Incubator projects come to fruition. Mayor Richard Frey of Dunkirk has said that when Maclain was hired, she was not just an employee, she was an investment. This investment in the city's future certainly paid off, and Dunkirk is a better place today because of the dedication shown by Maclain.

Friday June 27, 2008 will be Maclain's last official day as the Director of Development in Dunkirk. She will then take her new post as the Urban Design Planning Coordinator for the Jamestown Renaissance Corporation.

As she returns to her hometown one thing is for sure. Maclain's future is bright and full of opportunity. I applaud her for her service and dedication to the Western New York community.

Madam Speaker, I ask you to join me in congratulating Maclain on her job well done as the Dunkirk Director of Development and sending best wishes on her new career as the Urban Design Planning Coordinator for the Jamestown Renaissance Corporation.

Madam Speaker, I am proud to congratulate Maclain on her new opportunity in her hometown of Jamestown, NY and wish her and her family the best. Maclain's work should inspire us all to serve our communities and fellow man with dedicated hearts and committed lives.

PERSONAL EXPLANATION

HON. STEVAN PEARCE

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. PEARCE. Madam Speaker, on rollcall No. 439 H. Con. Res. 372—Supporting the goals and ideals of Black Music Month and to honor the outstanding contributions that African American singers and musicians have made to the United States. Had I been present, I would have voted "yea."

HONORING GARRISON COLONEL MARK NEEDHAM

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. LEWIS of Kentucky. Madam Speaker, I rise today to pay public tribute to Colonel Mark Needham, garrison commander at Fort Knox, Kentucky, retiring next month after 26 years of military service.

Colonel Needham was commissioned in the U.S. Army upon graduation from the United States Military Academy in 1982. During his tenure, he has completed assignments in Germany, the Balkans, and the United States.

Prior to his current assignment, Colonel Needham attended the prestigious Army War College in Carlisle Barracks, PA. He went to Carlisle Barracks after having served as an instructor at the Joint Forces Staff College in Norfolk, VA where he was responsible for developing the Campaign Planning and Operational Art Course for the Joint Advanced Warfighting School. He also taught Joint and Combined Operational Planning to mid-grade officers.

Earlier in his career, Colonel Needham commanded a tank battalion at Fort Knox, training Soldiers and Marines as Armor Crewman and Combat Vehicle Mechanics. When he served as a Battalion Operations Officer in Europe, he deployed with U.S. Forces into Bosnia as part of the 1st Armored Division's Implementation Force mission. He was thereafter assigned as a Special Assistant to the Commander of all NATO forces in Bosnia.

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

He has held numerous other positions during his military career including service as a War Planner and Assistant Secretary to the General Staff for the U.S. Army Europe, and an Assistant Professor of Chemistry at the U.S. Military Academy.

As Garrison Commander, Colonel Needham has been a tireless advocate for soldiers, their families, and the communities surrounding Fort Knox. Taking command shortly after BRAC changes were announced, he has overseen the transformation of Fort Knox into its new mission as a vital multi-functional home to operational Army forces and various administrative commands.

Colonel Needham has demonstrated an exceptional determination to ease transition-related concerns by communicating with incoming personnel, citizens, and community leaders at every opportunity. As part of this effort, he developed ''BRAC Roadshows,'' informational seminars conducted at locations with units that are scheduled to move to Fort Knox. He has also worked to transform the Garrison Staff, finalizing the organizational structure to ensure that soldiers, their families, and the community all receive the support that they need.

Colonel Needham's awards and decorations include three Defense Meritorious Service Medals, five Meritorious Service Medals, two Army Commendation Medals, an Armed Forces Expeditionary Medal, and a NATO Medal.

It is my great privilege to recognize Colonel Mark Needham today, before the entire U.S. House of Representatives, for his lifelong example of leadership and service. I would like to thank him personally for his exemplary stewardship at Fort Knox during a time of war and administrative transition. His unique achievements and dedication to the men and women of the U.S. Army make him an outstanding American worthy of our collective honor and respect.

OP-EDS SHOW SUPPORT FOR OBAMA IN THE CARIBBEAN COMMUNITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. RANGEL. Madam Speaker, I rise today to introduce three Opinion Editorials from the New York CaribNews that reflect the unprecedented special excitement that the nomination of BARACK OBAMA for President has caused in our Caribbean community in New York. CaribNews is a New York based publication that serves as the voice of the Caribbean community.

The editorials, all published in the June 17, 2008 publication, are entitled: ''Propelled by the Wind of Change Democrats Choose Obama: What an Excellent Choice to Lead the Party Into Race for the White House,'' ''Obama and the Deepening of American Democracy,'' and ''Caribbean Hearts are Swelling with Pride as Obama's Victory Sinks In.''

The editorials all reflect a great exhilaration for Obama's candidacy within the New York Caribbean community. Each piece points out how extraordinary the results are of this historical primary and the reactions of Caribbean Americans. One of the pieces quotes a Caribbean-American who said, ''[Obama] comes across as a people person with whom we can relate.'' Another Jamaican-American woman said, ''What a pity the late Dr. Martin Luther King Jr. isn't around to see this.''

One editorial summarizes the consensus among the Caribbean community the best; ''BARACK OBAMA has beckoned a new generation to the noble task of remaking America and remaking the world. He has brought millions of new voters into the electoral process.'' But, the Caribbean community has not forgotten about HILLARY CLINTON and the socio-political significance of her campaign. There is a general belief that she is an important part of the new era of the Democratic Party and also represents the new direction this country is taking on race and gender equality.

TRIBUTE TO E. JAMES BARRETT, CCE PRESIDENT & CEO MICHIGAN CHAMBER OF COMMERCE

HON. TIMOTHY WALBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. WALBERG. Madam Speaker, I rise today to honor E. James (Jim) Barrett who is retiring after 32 years as President and Chief Executive Officer of the Michigan Chamber of Commerce. Mr. Barrett holds the distinction of being the longest-serving President and CEO of any state chamber nationwide. It is with great admiration and pride that I congratulate Mr. Barrett on behalf of all of those who have benefited from his proven ability to cultivate economic growth in the state of Michigan.

In 1971, a young Jim Barrett joined the Michigan Chamber of Commerce staff after receiving a Bachelor of Arts Degree in Financial Administration from Michigan State University. Five short years later, at age 32, he was selected to be President and CEO of the Michigan Chamber, making him one of the youngest individuals ever to head a state chamber. Under Jim Barrett's leadership, membership in the Michigan Chamber of Commerce increased from 3,900 member firms to over 7,100 statewide.

The Michigan Chamber of Commerce, established in 1959, is comprised of over 7,000 business employers, local chambers of commerce, and trade and professional associations. The chamber advocates for pro-business policies to secure economic growth and promote job creation in Michigan. As head of Michigan's Chamber, Mr. Barrett has worked tirelessly to lower the cost of doing business and make Michigan a more attractive place for commerce. Through highly effective communication, Mr. Barrett has been able to mobilize businesses from each of the state's 83 counties, creating a force to promote pro-growth policies statewide.

Jim Barrett, a valued community leader, has received many appointments and has served on countless boards of directors. As Treasurer of Taxpayers United for Tax Limitation, he implemented successful petition drives in 1976 and 1978 to place a constitutional amendment to limit taxes on a statewide ballot, which passed in 1978. The Governor appointed Mr. Barrett to serve on the Civil Service Task Force in 1979 and the Michigan Economic Development Authority from 1984 to 1985. Among many others, he currently serves as Chairman of the Ingham Regional Medical Center Board of Trustees, Treasurer of the Michigan Chamber Political Action Committee, and is a member of the Steering Committee for the Michigan Prayer Breakfast.

Jim Barrett, known as a man of integrity, candor and goodwill, has been the deserving recipient of many awards throughout his long, respected career. He was inducted into the Michigan Society of Association Executives Hall of Fame in 2002. A year later, the Michigan Political History Society selected Mr. Barrett as the top Association Leader in Michigan over the last 50 years. Under his solid leadership, the Michigan Chamber was rated the number one lobbyist organization in Michigan.

Madam Speaker, today I ask my colleagues to join me in recognizing E. James Barrett for his esteemed service to the State of Michigan as long-time President and CEO of the Michigan Chamber of Commerce. May others know of my high regard for his outstanding leadership and career of excellence, as well as my best wishes for Mr. Barrett in the future.

IN TRIBUTE TO LEE STEVENS-GLOVER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. STARK. Madam Speaker, I rise today to pay tribute to Ms. Lee Stevens-Glover, who is retiring on June 18, 2008 after 36 years of service in music education in the city of Fremont, California. Ms. Stevens-Glover has inspired young voices at Irvington High School from 1972 through 2004 and at Mission San Jose High School from 1982 through 2008.

Ms. Stevens-Glover's exemplary career as a vocal specialist started in 1968 as a graduating senior from Mission San Jose High School, when she was presented with the Bank of America Achievement Award Plaque for Fine Arts. Her excellence in education has earned her many awards and honors. The recognition she has received includes the Distinguished Teacher in Presidential Scholars Program from former President Bill Clinton, the Outstanding Teacher of the Year Award from the Fremont School Management Association, the Outstanding Alumni Teacher of the Year Award from California State University in Hayward, the Excellence in Education Award from the Fremont Education Foundation, and the Don Gercich Award for Outstanding Service to Mission San Jose High School.

On June 15, 2008, a concert and reception will be held to honor Ms. Stevens-Glover's distinguished career in music education. She has provided a wealth of music education to students through the years, which has enriched their lives immeasurably. I join the community in thanking Ms. Stevens-Glover for her dedicated efforts, her inspiration and commitment to all those who were fortunate to be the beneficiary of her extraordinary teaching skills.

FISA AMENDMENTS ACT OF 2008

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 20, 2008

Mr. PAUL. Madam Speaker, I regret that due to the unexpected last-minute appearance of this measure on the legislative calendar this week, a prior commitment has prevented me from voting on the FISA amendments. I have strongly opposed every previous FISA overhaul attempt, and I certainly would have voted against this one as well.

The main reason I oppose this latest version is that it still clearly violates the Fourth Amendment by allowing the Federal Government to engage in the bulk collection of American citizens' communications without a search warrant. That U.S. citizens can have their private communication intercepted by the government without a search warrant is anti-American, deeply disturbing, and completely unacceptable.

In addition to gutting the Fourth Amendment, this measure will deprive Americans who have had their rights violated by telecommunication companies involved in the Administration's illegal wiretapping program the right to seek redress in the courts for the wrongs committed against them. Worse, this measure provides for retroactive immunity, whereby individuals or organizations that broke the law as it existed are granted immunity for prior illegal actions once the law has been changed. Ex post facto laws have long been considered anathema in free societies under rule of law. Our Founding Fathers recognized this, including in Article I section 9 of the Constitution that ''No bill of attainder or ex post facto Law shall be passed.'' How is this FISA bill not a variation of ex post facto? That alone should give pause to supporters of this measure.

Madam Speaker, we should understand that decimating the protections that our Constitution provides us against the government is far more dangerous to the future of this country than whatever external threats may exist. We can protect this country without violating the Constitution and I urge my colleagues to reconsider their support for this measure.

INTRODUCTION OF RESOLUTION CALLING ON EGYPT TO RESPECT AND UPHOLD RELIGIOUS FREEDOM FOR ALL ITS CITIZENS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. WOLF. Madam Speaker, today I am introducing a resolution calling on the Government of Egypt to respect and uphold religious freedom for all of its citizens. In the U.S. Commission on International Religious Freedom's 2008 report, Egypt remains on the watch list of countries that seriously violate freedom of thought, conscience, and religion or belief.

Members of the Coptic Orthodox Church, the largest non-Muslim minority in Egypt, have a very difficult time. In the last several years there has been an upsurge of attacks targeting Copts. Such attacks include arson of churches, destruction of Coptic-owned property and businesses and physical assaults. While authorities often arrest suspects in these cases, formal charges are rarely pursued.

The Baha'i religion has been banned since 1960 due to a presidential decree. Members of the Baha'i faith have difficulties obtaining civil documents such as official ID cards, birth certificates, passports, and marriage licenses.

Material vilifying Jews regularly appears in state-controlled and semi-official media, including anti-Semitic cartoons aimed at influencing the opinions of Egyptian youth. The Jehovah's Witnesses cannot congregate in numbers greater than five without facing harassment by government security services.

This resolution is modeled after a similar measure recently passed by the European Union Parliament. The United States was founded upon the principle that all men are endowed with certain unalienable rights, including religious freedom. Ronald Reagan once said that the Constitution is ''a kind of covenant. It is a covenant we've made not only with ourselves but with all of mankind.''

The United States Congress has a responsibility to speak out for these religious minorities. I encourage all my colleagues, who care about persecuted believers of all faiths, to cosponsor this resolution and add the House's voice to that of the EU Parliament in calling on the Government of Egypt to fully implement and protect the rights of religious minorities as full citizens.

RECOGNIZING THE IMPORTANCE OF EARLY CHILDHOOD PROGRAMS

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. DAVIS of Illinois. Madam Speaker, I rise today to speak on the importance of early childhood education and development programs. The 110th Congress has shown strong commitment to improving education for students of all ages. Notably, we reauthorized Head Start, the premier early childhood program that prepares low income children for school. Now, we must start earlier to prepare our youngest citizens for school. To this end, the Committee on Education and Labor recently passed H.R. 2343, the Education Begins at Home Act, which will improve child well-being, school readiness, and parent involvement in their children's lives.

The Education Begins at Home Act provides the first dedicated funding stream for home visiting programs. Home visiting involves voluntary meetings between specialists in child development and parents and children in their home. The home visitors help develop parenting skills, foster positive child development, and offer support. These programs reduce the stress associated with parenting, assist parents in understanding the educational and developmental needs of their children, and promote healthy parent-child relationships. At least 37 States have these types of programs in place; however, they lack a stable funding stream to ensure effective, long-term services. This bill also targets English language learners and military families. These groups often lack natural support systems that the programs help develop.

Education can never begin too early; the earliest years of brain development are most important, as shown through studies such as those by the National Research Council. High quality early education programs have helped improve school performance and lower high school drop-out rates. They also have helped reduce the rates of child abuse and identify developmental delays early in life. These programs share common components that contribute to their success—teachers who are knowledgeable about the development of young children, strong staff development and training, and activities that stimulate cognitive as well as social skills. It is these aspects that have brought success time and time again.

Investment in early childhood is sound policy and cost effective as well. A study done by economist Robert G. Lynch in 2007 showed that high-quality programs would save both state and the federal government billions of dollars over decades. According to the study, the total annual benefits of a universal program would begin to pay for itself within nine years by growing a margin each year. According to Lynch, a universal early education program would generate $191 billion in benefits for the federal government by the year 2050. This result is achieved by creating many more productive members of society and decreasing the number of and associated costs related to incarcerated citizens.

These particular benefits are only a few of the multitude that result from early childhood education programs. Learning is a lifelong activity and children especially deserve the best, beginning with the first day of their life. I urge my colleagues and Congress to continue this investment in early childhood during the remainder of the 110th Congress and in subsequent sessions.

IN TRIBUTE TO COUNCIL MEMBER BILL WARD

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. STARK. Madam Speaker, I rise today to pay tribute to Hayward, California City Council Member Bill Ward, who will be retiring from office at the end of his term on July 8, 2008. Bill was elected to the Hayward City Council in 1984 and has dedicated 24 years of exemplary service to the city of Hayward during his tenure.

Bill has been a Hayward resident since 1975. He and his wife, Gail, have two adult children. He received his Bachelor of Architecture degree from Howard University in Washington, DC and a Master's degree in City Planning from the University of California, Berkeley.

During his tenure as a member of the Hayward City Council, Bill served on many of the Council's Committees, including the Downtown Committee, Commercial Center Improvement Committee, Technology Application Committee and was the Council Liaison to the Economic Development Committee. He has been instrumental in the initiation and development of many significant projects in Hayward.

He has served on the city of Hayward's Planning Commission, the Board of Zoning Adjustments, and the Citizens Advisory Commission. He is also a former member of the St. Rose Hospital Foundation.

Bill's professional organizations include the American Institute of Certified Planners, the American Planning Association, and the Association of Environmental Professionals.

His intergovernmental agency assignments included service on the Alameda County Housing Authority, the Association of Bay Area Governments, the East Bay Dischargers Authority, and the Regional Airport Planning Committee.

Bill Ward has left an indelible mark on the city of Hayward and beyond. On July 10, 2008, there will be a farewell celebration to thank Council Member Bill Ward for his dedicated public service. I join in applauding him for a job well done and wish him well in his retirement.

CONGRATULATIONS TO DR. PETER H. KEHOE

HON. PHIL HARE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. HARE. Madam Speaker, today I rise to congratulate Dr. Peter H. Kehoe, who this Saturday will become the 87th president of the American Optometric Association (AOA).

For many years, Dr. Kehoe has been a leader in his profession at the State, regional and national levels. He is a past president of the Illinois Optometric Association and the West Central Illinois Optometric Society. In 2001, the State association named him Illinois' ''Optometrist of the Year.''

Dr. Kehoe is a graduate of the Illinois College of Optometry and served on its Alumni Council Board of Directors. A Fellow of the American Academy of Optometry, he is in private practice in my hometown of Galesburg, IL, and is a past president of the Galesburg Lions Club.

Doctors of optometry are the Nation's largest eye care providers, serving patients in nearly 6,500 communities across the country. The American Optometric Association is the professional society for optometrists nationwide and has more than 34,000 members. Dr. Kehoe will lead the association along its mission to improve eye and vision care in the United States.

Dr. Peter H. Kehoe has built a renowned record of service and leadership in his profession and in his community. I am confident that he will have a very successful term as president of the AOA. The 17th District of Illinois is proud to have Dr. Kehoe as a constituent and I join his family, friends and colleagues in congratulating him on this achievement and wishing him good luck.

PERSONAL EXPLANATION

HON. STEVAN PEARCE

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. PEARCE. Madam Speaker, on rollcall No. 440, H. Res. 1051—Congratulating James Madison University in Harrisonburg, Virginia, for 100 years of service and leadership to the United States, had I been present, I would have voted ''yea.''

CONGRATULATING THE LEADERSHIP TRAINING INSTITUTE OF AMERICA

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. BURGESS. Madam Speaker, I rise today to pay tribute to the Leadership Training Institute of America, the leading training program for students seeking instruction in the personal development of leadership and character. Their training program gives students the necessary tools to lead the next generation of young Americans in the traditions, principles, and wisdom imparted to us by our Founding Fathers. The quality of this training assures me of America's bright future as the leader of the world.

The Leadership Training Institute of America is a cultural think tank providing training and opportunity in leadership development and cultural dynamics. This organization encourages youth to apply and excel in leadership and critical thinking skills, study world view conflicts and strategies, network with outstanding leaders, and pursue careers in influential sectors of society.

The Leadership Training Institute of America trains and equips young men and women to be leaders with high standards of personal morality and integrity. The participants are exposed to the major philosophies, views, and issues of our world today and are encouraged to become leaders with convictions built on scientific knowledge, historical record, and Biblical wisdom.

Our Nation is in great need of young men and women of character to lead in every arena of our society.

So, it is with great appreciation that I rise today to commend the vision and accomplishments of the Leadership Training Institute of America. I salute the dedicated staff of this outstanding organization and encourage its increased influence among our Nation's youth.

CONGRESSIONAL BLACK CAUCUS MESSAGE HOUR

SPEECH OF

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2008

Mrs. JONES of Ohio. Mr. Speaker, I am pleased to stand here tonight on behalf of the Congressional Black Caucus and we discuss the current energy crisis we are facing and the rising gas prices that continue to take a devastating toll on Americans. As we head into the summer months, the Congressional Black Caucus felt it's important to shine a light on this growing problem. More importantly, we wanted the American public to know that the CBC is taking important steps to combat these issues through our CBC Energy Task Force.

I along with the CBC have been working hard to reduce our dependence on foreign oil and bring down record gas prices, and launch a cleaner, smarter energy future for America that lowers costs and creates hundreds of thousands of green jobs.

In an effort to combat soaring gas prices, which are currently hovering around $4.00 a gallon, I joined with a number of my colleagues in supporting legislation to temporarily suspend the filling of the Strategic Petroleum Reserve, SPR, until the end of the year. Filling of the SPR takes 70,000 barrels of oil off the market each day and a temporary suspension could reduce gas prices from 5 to 24 cents a gallon, which would be a critical first step for America's families, businesses, and the economy.

The Strategic Petroleum Reserve is roughly 97 percent full—the highest level ever—with enough oil to meet our national security needs. Currently, we have more in SPR, than we did in 2006 (702 million barrels vs. 688 million in 2006) and the inventory exceeds our International Energy Program commitment to maintain at least 90 days of oil stocks in reserve including private and public stocks.

The SPR has been tapped or suspended before by President Bush, President Clinton, and the first President Bush. In 2000, after such action, the price of oil dropped down by one-third—from $30 to $20 per barrel.

In addition to this initiative, I have and continue to support legislative action on gas prices including: holding OPEC, controlled entities and oil companies accountable for oil price fixing, cracking down on oil price gouging and repealing subsidies for profit-rich ''Big Oil'' companies so we can invest in a renewable energy for the future.

Additionally, the CBC has been working diligently on the issue of climate control. We recognize the importance of protecting our environment by transitioning from traditional energy sources, such as coal and petroleum, to clean sources, such as bio-fuel, wind, and solar energy. I am a strong supporter of putting more resources into creating alternative energy sources. When we invest in these alternative energy sources it also benefits our increasingly fragile environment.

Additionally, the new energy sources will create much needed green jobs. According to the Union of Concerned Scientists, Ohio stands to gain approximately 7,360 new jobs from renewable energy development. These jobs will be beneficial to both our economy and our environment.

I thank Representative TOWNS and the entire CBC Energy Task Force for their leadership on this issue.

HONORING MONSIGNOR JOSEPH MURPHY

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. FOSSELLA. Madam Speaker, I rise today to honor a great man who has faithfully served the people of Staten Island for many years, Monsignor Joseph Murphy.

Ordained a priest in 1954, Monsignor Murphy then completed three years of graduate work at the Catholic University of America in Washington, DC. After his completion of studies, he served as a Parochial Vicar at Saint Joseph's Parish in Croton Falls, New York from 1957–1959. Following that, he was assigned to the Chancery Office of the Archdiocese of New York from 1959 to 1985, and was the Chancellor of the Archdiocese of New York from 1968 to 1985. Finally, in 1985 he

was assigned to be the pastor of the Church of Saint Clare on Staten Island, a position he has held to the present day.

Monsignor Murphy has always been inspired to help and to serve. From a young age, he was struck by the compassion and caring of the clergy that he met, and he felt drawn to serve his community in the same way. Even after his upcoming retirement, he still plans on working, continuing to help and to serve his community. He has always felt it important to meet people where they are at, going into the community and serving, not waiting for others to come to him. Monsignor Murphy is of the opinion that true service to others demands an active role, not passively waiting around. It is in respect to his life-long desire to aid his fellow person that he be honored today.

HONORING OLD HICKORY POST 77 AMERICAN LEGION AUXILIARY

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mrs. BLACKBURN. Madam Speaker, I ask my colleagues to join me in congratulating the Old Hickory Post 77 American Legion Auxiliary in Lexington, Tennessee on its outstanding work and accomplishments. Across the country, the women of the American Legion Auxiliary strive to promote American patriotism and responsible citizenship. This particular auxiliary in Lexington has fully lived up to the American Legion Auxiliary's mission to serve veterans, their families and their communities.

Chartered in 1933, the Lexington auxiliary was recently reactivated on January 26, 2008. Led by their current president, Julia McBee, the members of this auxiliary have accomplished a great deal in a short period of time. Only days after reactivation, the members of the Lexington Auxiliary organized a Valentine Project for the local National Guard Unit deployed to Iraq. A resounding success, the event raised enough money to send care packages to every member of the unit. These ladies have instituted various projects not only to promote the well-being of veterans and troops, but also to support the community as a whole, with special attention to local Lexington schools.

Please join me in honoring the members of the Lexington American Legion for their hard work, dedication, and unwavering patriotism. I wish to thank all the members of Old Hickory Post 77, including their officers and chairmen: Julia Annice McBee, Jo Ann Cody, Kathy Brown, Oneida Dangler, Mary Appell, Marcia Gilbert, Ruth Hurtt, Marene Snow, Jane Galey, Lutie Houston, Patricia Holmes, Venita Russell, Linda Lindsey, Denise Joyner, Hester Stitch, Diane Jowers, Lynn Lewis, Marcia Gilbert, and Janice Barker.

HONORING MUTUAL BENEFIT INSURANCE COMPANY

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. SHUSTER. Madam Speaker, I rise today to recognize the 100th Anniversary of Mutual Benefit Insurance Company, a successful business located in Huntingdon, Pennsylvania. Incorporated in 1908, Mutual Benefit is an irreplaceable attribute to the business community in both Pennsylvania and Maryland.

At its founding, Mutual Benefit served the residents of Corry, Pennsylvania and was originally known as the Corry Mutual Fire Insurance Company. The company's strong foundation foreshadowed its future successes. In 1934, Corry Mutual's charter was offered to W. Emmert Swigart, founder of Swigart Associates, one of the largest insurance agencies in the state of Pennsylvania. This financially beneficial relationship lasted almost 50 years, until 1983 when the two companies split into separate entities once more. At this time Mutual Benefit found themselves competing once again against one of the largest insurance companies within the state of Pennsylvania. Led by a driven team of leaders, Mutual Benefit rose to this challenge and exemplified many attributes which have worked to set them apart from their competition. Through active leadership, unparalleled trustworthiness, and service to the community Mutual Benefit has become one of the most respected regional carriers in Pennsylvania.

One hundred years after its humble beginning, Mutual Benefit Group now guarantees nearly $100 million through 250 independent agents located in both Pennsylvania and Maryland. Not only do they serve 78,000 policyholders, but they also serve as an important part of the community by employing 204 people. Known for its customer service, stability and experience, Mutual Benefit Group was recognized as the number one insurance carrier in Pennsylvania and Maryland in 2006.

Mutual Benefit Insurance Company has endeavored throughout its history to improve its policies and atmosphere to fit the needs of the surrounding community. I look forward to celebrating the 100th anniversary of such a wonderful organization, as it has brought a greater appreciation to our area and has surely been an asset to the community. I congratulate Mutual Benefit on reaching this significant milestone and wish the company all the best in its future endeavors.

NATIONAL GUARD AND RESERVISTS DEBT RELIEF ACT OF 2008

SPEECH OF

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2008

Mr. NADLER. Madam Speaker, I rise it support of this legislation which is a simple measure the House can take to help protect our troops from undue financial hardship. We constantly receive stern lectures about the importance of supporting the troops. But supporting the troops is more than just wearing a flag pin, or sticking a yellow ribbon on your car, or impugning the patriotism of your political opponents.

Supporting the troops should entail some real benefit for those troops when they need our help. As President Lincoln put it so well, to "care for him who shall have borne the battle and for his widow and his orphan." Perhaps taking proper care of the wounded at Walter Reed Army Medical Center, or providing them with suitable armor, or providing them with assistance after they return home would be a good place to start.

Here we have the opportunity to help a small number of veterans, estimated at 2,000 to 2,500, by lifting what amounts to a costly and burdensome paperwork burden. According to the Republican witness in the Judiciary Committee, this bill is "targeted, specific, and quite modest."

Will it allow these veterans to commit fraud? No. Creditors, the courts, the trustees, and the Department of Justice have ample tools at their disposal to deal with anyone trying to game the system. The case can still be dismissed for abuse based on the totality of the circumstances, the court can still deny or revoke the debtor's discharge of debts, the military could revoke the debtor's security clearance, and the criminal code provides for fines and imprisonment of up to five years.

The means test is not stopping fraud. The Bush Justice Department, which administers it, has reported that less than half a percent of all cases are dismissed based on the means test.

The form used to implement the means test has 57 separate sections. It takes a pro se debtor approximately 10 to 12 hours, and it rivals IRS form 1040 in complexity. I challenge my colleagues to fill it out.

So today members have real choice. You can vote to support the troops or you can vote to support the big banks. It is a pretty clear choice. I urge my colleagues to support the troops.

PERSONAL EXPLANATION

HON. STEVE COHEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. COHEN. Madam Speaker, I rise to note that I was unable to arrive on the House floor in time to vote because my flight from Memphis was significantly delayed due to bad weather. Had I been able to vote, I would have voted in favor of the three measures voted on by the House this evening: (1) H. Res. 1242, honoring the life, musical accomplishments, and contributions of Louis Jordan on the 100th Anniversary of his birth; (2) H. Con. Res. 372, supporting the goals and ideals of Black Music Month and to honor the outstanding contributions that African American singers and musicians have made to the United States; and (3) H. Res. 1051, congratulating James Madison University in Harrisonburg, Virginia, for 100 years of service and leadership to the United States.

IN HONOR OF ROBERT STOLDAL'S CAREER

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Ms. BERKLEY. Madam Speaker, I rise to speak in honor of one of America's finest broadcast journalists and most effective community leaders, on the occasion of his retirement this month.

Robert Stoldal has achieved well-deserved legendary stature over his 41-year career at Las Vegas' CBS affiliate, KLAS-TV, Channel 8. Bob's insistence on the highest journalistic standards of accuracy, thoroughness, fairness, and aggressiveness established a clear benchmark of professional values which has been followed by hundreds of journalists, videographers, producers, and editors. Uniformly, those who have worked for Bob credit him with improving their professionalism through his guidance and the example he sets.

Bob is a good friend of mine, and he has my highest respect as a newsman and as a preeminent leader of the city we both love so much, Las Vegas. Bob has led the charge for community causes too numerous to mention, even as he has led one of America's top local newscasts for decades.

Bob and his corps of news professionals at Channel 8 and sister station, Las Vegas NEWS ONE, consistently earn the highest honors awarded by the national broadcast news industry. At the same time, Bob Stoldal worked successfully for television cameras to gain access to courtrooms; battled over the years to preserve Nevada's historical legacy; gained recognition across the Silver State as an authority on Nevada history; and, devoted himself to the growth of his alma mater, UNLV.

Bob Stoldal has the trait common to all great journalists—courage—courage to stand up to organized crime and political corruption, courage to accept the risk of going into a highly dangerous jailhouse stand-off and negotiate a peaceful solution, and, the courage to take on the federal government over its use and abuse of Nevada as a nuclear proving ground, as just some examples of his fortitude.

Southern Nevada is indeed most fortunate that a person of Bob's unflagging energy, enthusiasm, creativity, and tenacity has set the pace for the area's newsgathering during the four decades that metro Las Vegas has led the nation in population growth.

Bob, I congratulate you on a tremendous career, of which I, and our fellow Las Vegans, are so proud. I know you will keep giving your all for our community in your purported retirement!

Best wishes to you, Kay, and your family as we look to the future.

PERSONAL EXPLANATION

HON. THOMAS H. ALLEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. ALLEN. Madam Speaker, on June 23, 2008, I was unavoidably absent from the House.

If I had been present, I would have votes Yes on rollcall Vote No. 438, a motion by Mr. SARBANES of Maryland to suspend the rules and pass H. Res. 1242, a resolution honoring the life, musical accomplishments, and contributions of Louis Jordan on the 100th anniversary of his birth.

I would have voted Yes on rollcall Vote No. #439, a motion by Mr. SARBANES of Maryland to suspend the rules and pass H. Con. Res. 372, a resolution supporting the goals and ideals of Black Music Month and to honor the outstanding contributions that African American singers and musicians have made to the United States.

Finally, I would have voted Yes on rollcall Vote No. 440, a motion by Mr. SARBANES of Maryland to suspend the rules and pass H. Res. 1051, a resolution congratulating James Madison University in Harrisonburg, Virginia, for 100 years of service and leadership to the United States.

PERSONAL EXPLANATION

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. NUNES. Madam Speaker, on the legislative day of Monday, June 23, 2008, I was unavoidably detained and was unable to cast a vote on a number of rollcall votes. Had I been present, I would have voted: rollcall 438—"aye"; rollcall 439—"aye"; and rollcall 440—"aye".

TRIBUTE TO SAINT GERARD PARISH

HON. TIMOTHY WALBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. WALBERG. Madam Speaker, I rise today to recognize Saint Gerard Parish in Lansing, Michigan on the celebration of its fiftieth anniversary. It is with great admiration and pride that I congratulate St. Gerard on behalf of all of those in south-central Michigan who have benefited from its steadfast commitment to faith, education, outreach and prayer.

St. Gerard Parish, named after St. Gerard Majella, Patron of Mothers, was established in June of 1958. Lacking a permanent meeting place, its first Sunday services were held in the gymnasium of Bretton Woods School. Each parishioner was asked to give an hour's salary a week to build a temporary church and less than a year later, in April of 1959, ground was broken. The first liturgy in the packed 800-seat church occurred during Christmas Midnight Mass in 1959, and in the fall of 1960, Saint Gerard School opened its doors for its first class.

In October of 1974, a fund drive was announced for a permanent church building. Within three short months, the $350,000 goal was surpassed by $180,000. Bishop James S. Sullivan dedicated the present church on June 15, 1975. St. Gerard Parish continues to grow, requiring an expansion of its facilities beginning in 2000. Mirroring the impressive growth-rate of the church, St. Gerard School is now filled to capacity with 350 students enrolled.

St. Gerard Parish stands out for its deep involvement in the Lansing community, and it constantly seeks out ways to serve those in need. The church sponsors countless outreach programs, including Senior Citizen potlucks and Bingo nights, Couple to Couple League and the Lansing Regional Council of Catholic Women. St. Gerard has also been extremely instrumental in reaching out to the sick and homebound through its Befriender Ministry and Respite Care. It is impossible to measure the enormous impact these ministries have had on lives throughout Lansing. They merely reflect the loving hearts of the St. Gerard community and testify to the unwavering faith that has flourished at St. Gerard for the past fifty years.

Madam Speaker, today I ask my colleagues to join me in honoring Saint Gerard Parish on the celebration of its fiftieth anniversary since first coming together to follow the Lord Jesus. May others know of my high regard for the St. Gerard community's inspiring faith and eagerness to serve, as well as my best wishes for Saint Gerard Parish in the future.

POSITIVE CONTRIBUTIONS OF IMMIGRANTS

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. BACA. Madam Speaker, the positive contributions of the immigrant labor force to our society are too often unnoticed.

Hardworking families contribute daily and pay their share into the American system.

Hardworking mothers sometimes work three jobs, give up weekends, and take overtime and night shifts to feed and clothe their children.

Hardworking fathers wake up at 4 a.m. to go to work, earn below minimum wages, and manage to provide for their families.

Immigrants contribute in taxes from their paychecks, just like the next person.

In fact, the IRS reported that between 1996–2003, immigrants contributed $50 billion in Federal taxes.

Social Security reported that "other than legal immigrants," will contribute 15 percent of the system's projected long term deficit.

We cannot afford to ignore the figures and more importantly, we cannot afford to ignore the positive contributions of immigrants in America.

PERSONAL EXPLANATION

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, unfortunately, I was unable to be present in the Capitol on Monday, June 23, 2008, and was unable to cast votes on the House floor that evening.

However, had I been present I would have voted "yea" on H. Res. 1242, Honoring the life, musical accomplishments, and contributions of Louis Jordan on the 100th anniversary of his birth; "yea" on H. Con. Res. 372, Supporting the goals and ideals of Black Music

Month and to honor the outstanding contributions that African American singers and musicians have made to the United States; and "yea" on H. Res. 1051, Congratulating James Madison University in Harrisonburg, Virginia, for 100 years of service and leadership to the United States.

PERSONAL EXPLANATION

HON. ALBIO SIRES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. SIRES. Madam Speaker, had I been present, I would have voted "yes" on rollcall 438 on H. Res. 1242; "yes" on rollcall 439 on H. Con. Res. 372; and "yes" on rollcall 440 on H. Res. 1051.

COMMEMORATING THE ANNIVERSARY OF THE DEATH OF MISSISSIPPI CIVIL RIGHTS WORKERS: GOODMAN, SCHWERNER AND CHANEY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. RANGEL. Madam Speaker, I rise today to commemorate the 44th anniversary of the tragic death of Mississippi civil rights activists: Andrew Goodman, James Chaney and Michael Schwerner.

The murder of Goodman, Schwerner and Chaney occurred in Philadelphia, Mississippi, on June 21, 1964. These three young, courageous and bright men came to Philadelphia to fight for freedom and justice, promote equality in voting and bring peace and a better life for all people of Neshoba County. The American Civil Rights Movement carried out the mission of "Freedom Summer" determined to encourage equal voter registration regardless of race. The "Freedom Summer" participants included many Jewish-American and African-Americans, dedicated to such a noble cause. Unfortunately, three of the best, idealistic, and brightest of the volunteers who responded to the call to come to Mississippi and work for justice, were cowardly kidnapped and brutally murdered by the coldblooded activists of the Ku Klux Klan. Public outrage and demands for justice led to the FBI's thorough investigation of this shocking murder case. For several weeks the American people followed the unfolding of this horrible event in the televised newscasts. The bodies of Goodman, Chaney and Schwerner were found 44 days later, buried in the dam with bullets in their hearts. Three years after the murders, FBI arrested 21 active members of the Ku Klux Klan and indicted 19 of them.

The realization of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 came in part as a result of public reaction to the brutal murders of Goodman, Chaney and Schwerner as well as through demonstrations, marches and public demand for passing these critical laws. Andrew Goodman, James Chaney and Michael Schwerner were committed to fight for justice and democracy in their beloved country. They believed in constitutional rights for all, regardless of race, gender or religion. Even today this struggle is not yet over. We should continue the noble fight for justice.

PERSONAL EXPLANATION

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. JOHNSON of Illinois. Madam Speaker, unfortunately last night, June 23, 2008, I was unable to cast my votes on H. Res. 1242, H. Con. Res. 372, and H. Res. 1051, and wish the record to reflect my intentions had I been able to vote.

Had I been present for rollcall No. 438 on suspending the rules and passing H. Res. 1242, Honoring the life, musical accomplishments, and contributions of Louis Jordan on the 100th anniversary of his birth, I would have voted "aye."

Had I been present for rollcall No. 439 on suspending the rules and passing H. Con. Res. 372, Supporting the goals and ideals of Black Music Month, I would have voted "aye."

Had I been present for rollcall No. 440 on suspending the rules and passing H. Res. 1051, Congratulating James Madison University in Harrisonburg, Virginia, for 100 years of service and leadership to the United States, I would have voted "aye."

HONORING RONNIE HEEP

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. LEWIS of Kentucky. Madam Speaker, I rise today to pay tribute to a remarkable citizen from my congressional district. Ronnie Heep, Chief of the Owensboro Fire Department, is retiring next month after 30 years of service.

Chief Heep first joined the Owensboro Fire Department in 1978, following in the footsteps of his father, Stewart, who himself served for 32 years. Ronnie steadily rose through the ranks, becoming a serious firefighter and public servant, culminating with his appointment as Chief in 2004.

As Chief, he has been responsible for training and managing a diverse crew of firefighters, purchasing and maintaining fire apparatus, and developing policies designed to help the department run as efficiently and safely as possible. He has been personally responsible for countless acts of heroism throughout his three decades as a firefighter and a medical first responder. His collective efforts have saved lives, protected property, and contributed to the overall safety and comfort enjoyed by those who live and work in Owensboro, KY.

It is my great privilege to honor Ronnie Heep today before the entire United States House of Representatives. His distinguished career, along with his unwavering dedication to his family and fellow firefighters, is a portrait of outstanding citizenship worthy of our collective respect and appreciation.

THE ACHIEVEMENTS OF HIGHER DIMENSION MATERIALS

HON. MICHELE BACHMANN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mrs. BACHMANN. Madam Speaker, I rise today to recognize the achievements of an amazing company from Oakdale, Minnesota. Higher Dimension Materials has perfected a groundbreaking new material—called SuperFabric—which may literally revolutionize the world of material science and which has lifesaving applications for our service men and women.

Under the bold and pioneering leadership of Dr. Young-Hwa-Kim, HDM has developed a line of SuperFabric materials, which possess an astonishing strength, flexibility and resistance and are open to an equally astonishing array of uses. After 10 years of painstaking research, HDM has successfully overcome the challenge of developing a polymer that possesses both great density and great flexibility. SuperFabrics incorporate hard solids with flexible fabrics to create new composite fabrics that maintain their original flexibility and yet are resistant to fire, abrasions, cuts and punctures.

In fact, NASA, law enforcement agencies and the United States military have all expressed great interest in taking advantage of Higher Dimensions' breakthroughs. For instance, the military is applying Super Fabrics technology in the making of boots for the special-ops community and also potentially lifesaving vests for Coast Guard divers. NASA is even testing SuperFabrics for new space gloves.

So revolutionary are these technologies that the University of Minnesota is putting them on display in their new Museum of Design. And the U.S. Department of Commerce's Office of Textiles and Apparel has selected HDM to participate in their European Outdoor Show—one of the world's major international trade shows, focusing on performance textiles.

These are but a few of the honors HDM as received for its ingenious technological advances. Thanks to the devotion and brilliance of people like Dr. Kim and the scientists at HDM, America continues to lead the world in the development of new technologies.

Higher Dimension Materials is a true credit to the state of Minnesota and I am honored to recognize their achievements today.

PERSONAL EXPLANATION

HON. STEVAN PEARCE

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. PEARCE. Madam Speaker, on rollcall No. 438 H. Res. 1242—Honoring the life, musical accomplishments, and contributions of Louis Jordan on the 100th anniversary of his birth. Had I been present, I would have voted "yea."

TRIBUTE TO CHARLES GIPP

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. LATHAM. Madam Speaker, I rise today to pay tribute to a dedicated servant to the people of Iowa—Charles ''Chuck'' Gipp. Chuck, who has served the people of Iowa in the state legislature for the past 18 years, is retiring from that body this year.

Chuck was born and raised in Winneshiek County in Iowa—the same county that he and his wife Ranae raised their two children, Alison and Barrett, and where they still reside today.

Chuck has spent his legislative career as a true leader throughout. After serving 12 years in the Iowa Legislature, Chuck was unanimously chosen to serve as the Majority Leader of the Iowa House in 2002. From 1992–1993, he served as a House Assistant Majority Leader. In 1994, the position of House Majority Whip was created, where Chuck served until 1999. Chuck was then selected by House leadership in 2000 to Chair the Transportation, Capitals and Infrastructure Committee. In 2001, Chuck was selected once again to serve as a House Assistant Majority Leader while continuing to serve as Chair of the Transportation, Capitals and Infrastructure Committee.

Long before I was elected to serve in Iowa's Fourth Congressional District in 2002, I knew Chuck and of his reputation as a leader who was highly respected by the people he was elected to serve as well as his colleagues in Des Moines. Chuck has been a valuable advisor and resource to me on the many issues and concerns important to our shared constituents in Iowa's 16th District.

Chuck has often said that he never thought about pursuing a career in the politics when he was growing up on the family farm or even during his days at Luther College in Decorah. Chuck got involved in the political process for the same reasons any true dedicated servant of the people does—because of the circumstances that directly impacted his family and neighbors. Chuck Gipp wanted to make a difference in the lives of Iowans, and he has accomplished that goal and made a positive difference in the lives of countless people throughout the years.

President Abraham Lincoln said it best when I think about what Chuck Gipp has done for Iowa. He said, ''Whatever you are, be a good one.'' And, while during his younger days Chuck may not have envisioned one day becoming a legislator, he did. And he was more than a good one—he was a great servant of the people.

I know that my colleagues in the United States Congress join me in congratulating Chuck Gipp on a remarkable career in the Iowa Legislature and wishing him and Ranae all the best throughout their future endeavors.

THE DAILY 45: JASMINE THURMAN'S LOST DREAMS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. RUSH. Madam Speaker, the Department of Justice tells us that, everyday, 45 people, on average, are fatally shot in the United States. No community is exempt from the carnage. Last weekend, in the Detroit suburb of Royal Oak Township, 18-year-old Jasmine Thurman, a recent graduate of Ferndale High School, was shot to death in what police describe as a feud between teenage girls from a nearby public housing complex.

Jasmine Thurman had a family. Jasmine Thurman had dreams. Jasmine Thurman had a bright future that was snuffed out in an instant by a gun. Jasmine, the grand-niece of township Trustee Francine Thurman, was dead on arrival at an area hospital and leaves behind a grieving family and friends.

Her cousin, 16-year-old Chanique Stone, said this to investigators on the scene, ''If that happened to her, what's going to happen to me?''

Americans of conscience must come together to stop the senseless death of ''The Daily 45.'' When will we say ''enough is enough, stop the killing.''

PERSONAL EXPLANATION

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. KIND. Madam Speaker, I was unable to have my vote recorded on the House floor on Monday, June 23, 2008, having remained in my district to assist my constituents with the severe flooding that recently struck Wisconsin. Had I been present, I would have voted in favor of H. Res. 1242 (roll No. 438), H. Con. Res. 372 (roll No. 439), and H. Res. 1051 (roll No. 440).

HONORING JIMMY SCURLOCK FOR A DISTINGUISHED CAREER IN PUBLIC SERVICE

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. TANNER. Madam Speaker, I rise today to acknowledge my friend Jimmy Scurlock, who is retiring from 25 years of public service to the town of Dover, Tennessee, which I am proud to represent in this chamber.

Jimmy has served as City Administrator in Dover since 1983 and also currently serves on the board of Local Government Data Processing. He was elected to two terms on the Tennessee Municipal League Board of Directors and served as President of the Tennessee City Management Association in 2001 and 2002. He was honored statewide last year when he was elected city manager of the year by the Tennessee City Management Association.

Over the years, Jimmy has been instrumental in enacting the infrastructure improvements that we know are so important for our families' quality of life and to support economic growth. Jimmy has worked closely with others to upgrade Dover's water and sewage facilities and revitalize the downtown business district. I am proud of the progress made in Stewart County over the years, and I know our families there will continue to see the benefits of Jimmy's hard work.

Before Jimmy became City Administrator, he was associated with his mother Mary Ann in the family's florist business. Many of us who have known the family for years know that Jimmy inherited his flair for public service from his father, the late J.T. Scurlock, who represented a portion of northern middle Tennessee in the Tenessee General Assembly with distinction for a number of years. Betty Ann and I have had the opportunity to spend a great deal of time with Jimmy and his wife Nan as Jimmy and our friend Don Cherry have been among my closest advisers in northern middle Tennessee. We have frequently turned to Jimmy and Don for leadership and guidance in working with the people of Stewart County.

Madam Speaker, I hope you and our colleagues will join me in thanking Jimmy Scurlock for his long service to our community and State and wish him and his family all the best as he begins his retirement.

TRIBUTE TO TRINITY EVANGELICAL LUTHERAN CHURCH

HON. TOM LATHAM

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. LATHAM. Madam Speaker, I rise today to recognize a milestone that will be celebrated this weekend by the people of Trinity Evangelical Lutheran Church in Webster City, Iowa. This Sunday, June 29th the people of Trinity Evangelical Lutheran will celebrate the 50th anniversary of the dedication of its current location at 1229 Kathy Lane.

The congregation will recreate the May 25, 1958, processional walk from the original location on Des Moines Street just as it was done a half century ago. Trinity's oldest confirmed member, Dimple Raven, who was part of the original procession, will join fellow members as they duplicate the walk. Ashlyn Sue Hill, Trinity's youngest member, will also play an important role in the 50th anniversary celebration with her baptism during Sunday's special worship service.

Also joining in the celebration will be former Trinity pastors Raymond Roden and Doug Tiffany.

I know that my colleagues in the United States Congress join me in congratulating the Reverend Dr. Mike Kroona, the staff and the congregation of Trinity Evangelical Lutheran Church on this milestone and wishing them grace and peace throughout the following years.

NEW AND EMERGING TECHNOLOGIES 911 IMPROVEMENT ACT OF 2008

SPEECH OF

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 2008

Mr. GORDON of Tennessee. Madam Speaker, I rise today to offer unanimous consent to consider the Senate amendment to H.R. 3403, the New and Emerging Technologies 911 Improvement Act of 2008.

When Americans dial 911, they expect the call will go through, regardless of what phone they use. That is why Congress acted in 1999 and 2004 to ensure all Americans had access to 911 services on their wireless phones.

Congress now needs to act to ensure that all Americans have access to lifesaving 911 services on their Voice over the Internet Protocol or VoIP phones and other new technologies.

When I first drafted this legislation in 2005, the intent was to integrate VoIP phones into the Nation's 911 system. Since then the bill has been expanded to include nonvoice technologies used by the deaf and hard of hearing community and other innovative technologies that will exponentially improve public safety for all Americans.

Specifically, the bill will provide VoIP phone service providers direct access to the 911 system at the same rates, terms and conditions, as wireless phone providers. The bill also authorizes VoIP service providers to share customer location information with public safety answering points, PSAPs. This will ensure VoIP services providers can provide full E–911 services to their customers.

The bill extends existing State laws protecting 911 calls made using wireline and wireless phones to not only VoIP 911 calls, but also to any service obligated by the FCC to provide 911 in future, and any service that coordinates with local 911 authorities to offer voluntary 911 emergency services. This will include Video Relay Services and text service used by the deaf and hard of hearing, and new car based 911 services.

By doing this, we will encourage the rapid deployment of innovative new lifesaving 911 technologies, rather than wait for Congress to extend essential liability protections to new technologies.

The bill preserves State, Tribal and local governments' authority to levy 911 fees and stops such fees from being diverted for non 911 purposes.

Finally, the legislation seeks to modernize the Nation's 911 system by requiring the National 911 Coordination Office to establish a national plan to move to an IP-based emergency response network, and allowing 911 PSAP grants to be used for IP-based equipment.

Today's 911 system uses 30-year-old wire and switch technology. Moving to an IP-based system will enable PSAPs for the first time to be interoperable with each other and other first responders. It will also allow them to handle a range of technologies—digital or analog, wireless phone, video, text messaging, data, satellite, VoIP, translation services and even maps of buildings. And it will allow PSAPs to stay operating even if the phone system goes down or their physical locations are destroyed. Events like 9/11 and Hurricane Katrina where 911 systems were overwhelmed highlight why a robust IP based 911 system must be a priority.

H.R. 3403 is supported by the National Emergency Numbering Association, the VON Coalition, the National Cable & Telecommunications Association, Earthlink, Inc, the Coalition of Organizations for Accessible Technology, Motorola, Intrado, the TeleCommunications Systems, Inc., and the U.S. Telecommunications Association.

I want to thank the Energy and Commerce Committee and its staff for the bipartisan effort to move this bill quickly.

I also want to thank Senator TED STEVENS, Senator BILL NELSON, the Senate sponsor of the bill, and the co-chairs of E–911 Congressional Caucus Representative ANNA ESHOO, Representative JOHN SHIMKUS, Senator HILLARY CLINTON.

Working collaboratively with public safety, the deaf and disabled community and the communications industry, we have produced a bill that will greatly improve 911 services in America today and for the future.

I'll close by encouraging my colleagues to vote for this bill.

HONORING THE LIFE AND WORK OF MS. MING CHIEN HSU

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. MICA. Madam Speaker, I rise today to recognize the career and contributions of Ming Chien Hsu upon her retirement following a long career in the maritime industry. During the course of her professional life, Ms. Hsu repeatedly distinguished herself in the fields of transportation and international commerce; as well as in government service and community leadership.

Born in Beijing, China, Ms. Hsu came to the United States in the days following World War II. Settling in Washington, she enrolled in, and graduated Summa Cum Laude from, the School of Government Affairs at George Washington University. Degree in hand, Ms. Hsu moved to New Jersey where she began a career that has been interesting and impressive by any measure.

Coming to the workplace in an era before it was common to see women in executive positions, Ms. Hsu joined the RCA Corporation, where she worked in positions related to marketing and planning before being promoted to Vice President for International Trade. Among her many successes at RCA, Ms. Hsu played a vital role in opening the China market for her company, a success enjoyed years before most companies were even contemplating the possibility of doing business in that country.

The leadership and accomplishments of Ming Hsu in the arena of global commerce not only caught the attention of her superiors at RCA, but also that of New Jersey Governor Timothy Kean, who in 1982 appointed her Director of the New Jersey Department of Commerce Division of International Trade and Special Trade Representative, positions she held for 8 years. In those capacities, she led more than 20 trade missions all over the world, including to destinations such as Moscow, Saudi Arabia, and Singapore.

In 1990, Ms. Hsu was appointed by President George H.W. Bush as a Commissioner on the Federal Maritime Commission where she served for almost 10 years under four different Chairmen. During her tenure, the Federal Maritime Commission tackled some of the most challenging issues related to shipping in recent years including the Ocean Shipping Reform Act; discriminatory port practices in Japan; and, market access issues in the People's Republic of China. Her ability to work closely with her fellow Commissioners, irrespective of their political affiliation, earned her the respect of her colleagues and she played a key role in assuring that matters before or affecting the Commission were considered carefully and completely and that the final results were equitable to all parties concerned. Ms. Hsu made many valuable contributions to the Federal Maritime Commission and shipping during what was a critical era for that agency and the industry it oversees.

Though she left the Federal Maritime Commission in 1999, Ms. Hsu has remained actively involved in the shipping world working for the NOL Group the past 10 years. The NOL Group is the Singapore-based parent of one of the most historic shipping lines in the United States, American President Lines, which is celebrating the 160th anniversary of its founding this year. In her capacity as a senior advisor, Ms. Hsu has played a leading role for her company in addressing market access issues, providing guidance on regulatory matters, and serving as a sounding board on a variety of concerns related to trade and ocean transportation.

Beyond her many impressive contributions to the transportation and trade communities, Ms. Hsu is a civic-minded individual who always has been, and continues to be, involved in many philanthropic and service related activities. Earlier in her career, Ms. Hsu served as a member of the Defense Advisory Committee on Women in the Services, DACOWITS; a member of the New Jersey Advisory Committee of the U.S. Commission on Civil Rights; the Advisory Committee of the U.S. Holocaust Museum; as a trustee of the Newark Museum; and as an advisor to WNET, Channel 13, in New York.

Her more recent volunteer and service efforts include: being a founding member and serving as a director of the Committee of 100, an organization of leading Chinese-American Citizens; serving as director on the J.T. Tai Foundation; being a sponsor of the Eisenhower Foundation; serving as a trustee of the Angel Island Project; serving as a trustee of the 1990 Institute; serving as a member of the Executive Committee of the Asian/Pacific American Legal Center; being a sponsor of the Hopkins-Nanjing Center; and serving as a member of the Advisory Board of the United States Merchant Marine Academy where she is a perennial presence at graduation, and in fact, she will be at the Academy in June to see the Class of 2008 receive their diplomas and commissions.

I am told by those who know Ms. Hsu best that one of her greatest passions is mentoring others and toward that goal, she has taught college classes; worked to cultivate promising young professionals inside and outside of government; and simply made herself available in general to provide advice and guidance to

those who seek the benefit of her many years of experience. During her tenure at the Federal Maritime Commission, one of her administrative accomplishments was preparing a whole generation of Senior Executive Service employees, many of whom continue to serve at that agency today.

Madam Speaker, throughout her career, Ming Hsu has been a pioneer, someone unafraid of a challenge and an individual who has repeatedly distinguished herself, yet doing so with graciousness and good will. She is an impressive and amazing woman who we thank for her selfless service in so many capacities and who we wish good health and good fortune in the years to come.

FOOD, CONSERVATION, AND ENERGY ACT OF 2008—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 110–125)

SPEECH OF

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2008

Ms. DELAURO. Mr. Speaker, I rise in support of the override of the President veto. As a conferee on the farm bill I worked hard to ensure that this bill includes significant improvements to the food assistance program via the nutrition title. A nation with the agricultural abundance we enjoy should not tolerate hunger among its people. This legislation makes important progress in that regard.

Many of its nutrition provisions are important and deserve mention. In the interests of time, however, I will not go into them all. One of the positive aspects of the protracted process of passing the bill is that all Members have had ample opportunity to review the conference report and floor statements surrounding its passage. This is large and complex legislation, and the legislative history accumulated on its first passage and first override is an invaluable guide to Members.

I found particularly helpful the statements of the distinguished chairman of the Nutrition Subcommittee, Mr. BACA, and his distinguished fellow conferee from the Judiciary Committee, Mr. BERMAN. Among other things, they pointed out that this legislation takes decisive steps to preserve the longstanding ability of households on the food stamp program to seek help through the judicial system when Federal rules on how the program is to be administered are not being met. Specifically, the bill provides explicit recognition of applicants' and recipients' suits to enforce the Food Stamp Act, now the Food and Nutrition Act, food stamp regulations, and civil rights regulations.

This is the right thing to do and it is important. In light of the Gonzaga and Sandoval cases, some have argued that Congress did not provide this right to injured households and that instead only USDA can require States to change practices that do not comply with the Act or regulations. Those cases were about different statutes and different programs. Nonetheless, recent decisions out of Ohio and New York either questioned the enforceability of Federal regulations or imposed special hurdles plaintiffs must surmount, such as showing a particular degree of egregiousness on the part of defendants. These cases are radical departures from the history of this program and Congress's oft-demonstrated intent.

I agree with Representatives BACA and BERMAN that the Food Stamp Program's needs are different from those in which private rights of action are narrowly construed. And, over the years Congress has recognized that. Individuals that received, or wished to receive, food assistance brought numerous cases against State and local authorities in the 1970s to enforce provisions of the Food Stamp Act, its implementing regulations, and even USDA's certification manual. They did this because USDA lacked the resources to force States to comply with its guidance and directives, including basic services standards such as emergency food stamps for the neediest. When Congress wrote the Food Stamp Act of 1977, it analyzed the results of that litigation in detail, approving some results and writing the statute to reach a different result from others. A similar pattern has continued to this day.

We set high standards for the States, counties and localities that run these programs. We do that because they are serving our most vulnerable citizens with tens of billions of Federal dollars. The high standards of compliance that we apply to State and local administration of the program can be seen in our payment accuracy and quality control measurement system, one of the most extensive in the Federal Government. This system, however, does not give equal or adequate weight to improper denials of benefits as it does to payment errors to eligible households. And it does not at all address violations of the procedures set out in the statute and regulations. For example, quality control does not deal with a State's failure to operate a proper fair hearing system, with its improper disclosure of households' confidential information, or with its delay in processing applications beyond statutory and regulatory deadlines.

Claimants' litigation has proven the ideal complement to the quality control system. Where a program is being run badly in a locality, or statewide, a court can issue a corrective injunction to require the State to come into compliance with Federal regulations. This is particularly important in cases where the violation may not have resulted in a denial of benefits, such as violations of privacy protections or of the requirement that only State merit systems workers make decisions about households' ability to receive benefits.

Our goal has never been to punish States and so we do not concern ourselves with why the program is out of compliance. We merely seek to ensure that States comply with Federal rules when administering this program. Litigation has proven time and again that it is the ideal vehicle for that. Past Federal appellate decisions from places such as Virginia and Oregon have it exactly right: State and local administrators need to comply fully in every case.

There is no half-way or partial compliance with the programs' rules. We agree with past federal appellate decisions from places such as Virginia and Oregon that state and local administrators must comply with the rules in each and every case. States must deliver benefits consistent with the program's regulations and law to ensure that the most vulnerable and needy are protected and supported as they seek to participate in the program. Litigation has proven time and again that it is the ideal vehicle to enforce compliance where States are only partially meeting program standards.

In other programs, the solution to non-compliance may be reducing or terminating federal funds. That is still possible in these programs, but it cannot be a mainstay of enforcement activities. We learned that withdrawing Federal funding led to worse, not better, program administration, depriving States of the resources they needed to correct their problems at the worse possible time. Accordingly, in the last farm bill we modified quality control to place much less emphasis on reducing funding to states. USDA over the years has similarly felt that withholding funding even for serious violations is often counterproductive.

It should be clear that the long history of congressional approval of litigation by needy individuals supports the continuation of that regulation. The statute's entitlement is closely linked with States' obligation to comply with Federal regulations. Particularly with some States embarking on radical changes in their administration of the program, closing offices and turning key functions over to private contractors, it is crucial that the program's intended low-income beneficiaries have access to courts to test the legality of those changes. Although I would have preferred to have expanded the protections on public administration of the program, as the House bill would have done, our acceptance of the Senate package was a compromise that ensures households' access to the courts to test these States' practices under the current restrictions.

SLOAN MUSEUM AND LONGWAY PLANETARIUM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. KILDEE. Madam Speaker, I rise today to honor Sloan Museum and Longway Planetarium for receiving accreditation from the American Association of Museums. Sloan Museum and Longway Planetarium join an elite group of 775 accredited institutions out of 17,500 museums in the United States.

Located in my hometown of Flint, Michigan, Sloan Museum and Longway Planetarium are icons of the Flint Cultural Center. The greater Flint community began planning the Flint College and Cultural Center in 1952. The Sloan Museum, named after Alfred P. Sloan, was designated as the transportation and local history museum and now includes the Buick Galley and Research Center opened in 1999. The Robert T. Longway Planetarium was conceived as a place to teach students and the greater public about the universe and general science. The two institutions merged in 2004.

Accreditation by the American Association of Museums is the culmination of a 2-year-long application process. To receive accreditation a museum has to demonstrate a commitment to outstanding programming for the public and at the same time meet high standards for the care of the scientific and cultural artifacts in its custody. The Sloan Museum and Longway Planetarium meet the exacting

standards of each criterion. Currently the Sloan Museum Annual Auto Fair will take place this coming weekend and on display is the Nicola Bulgari collection of vintage General Motors automobiles. The Longway Planetarium is currently displaying a moon rock, on loan from NASA, which was brought back to Earth by *Apollo 16*.

Madam Speaker, I ask the House of Representatives to join me in congratulating Sloan Museum and Longway Planetarium for receiving this prestigious accreditation. For over 50 years the staff, volunteers and community have worked diligently to maintain these jewels of the Flint area and this is a well-deserved honor for both Sloan Museum and Longway Planetarium.

A POEM IN HONOR OF KING GEORGE PITTMAN

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. MEEK of Florida. Madam Speaker, I rise in tribute of my beloved uncle, King George Pittman. He was an American patriot and hero who bravely fought during World War Two and the Korean War in defense of our nation. It is my privilege to submit this poem written by Albert Caswell of the Capitol Guide Service who has honored my uncle with these words.

SOMEONE, TO LOOK UP TO

There are people in our world . . .
All in how they've lived their lives, that all our little boys and girls . . . should look up to!
Who, are but The Greatest Examples of Shining Faith . . . who are but Our Very Best, all in so many ways . . .
Who stand tall and proud . . .
Who no matter what the cost, the price . . . their fine hearts were heard beating loud!
Who in their moments upon this earth, have so shown but their fine true worth . . . all in our lives endowed!
As Someone To Look Up To . . .
As Sarge, as he was called . . . unto this our world, such a great life so brought into view . . .
As a Proud American, who once so dared . . . a real and fine American who so cared, all in what he would do!
As when a world stood at its edge . . .
As all around him so, such an evil darkness bled . . . when a young hero, his life so pledged!
Coming Home, after helping To Save The World . . . as into a new war, his heroic life was again so led!
Sarge! A Good Life! An Officer and A Gentleman first . . .
Even though he had but so lived through but the very . . . very worst . . .
As still, another great war had lie ahead . . . as he had come home to discrimination's curse!
But, he never gave up or in . . .
Because, in his Country Tis A Thee . . . as he so believed in, to be counted on this man . . .
All in his life conceived, all in the way his family had brought him up so indeed . . . as he stood tall time and again!
Showing his Nation, as in his life so lies The Truth . . .
That Black Is Beautiful, and all in his courage and character so dutiful . . . as lies the proof
A shining example of faith and how, showing us all the way so now . . . as King George's life, makes hearts race . . . it's a beaut!
For In Our Darkest Hours!
Only with Our Faith . . . Courage . . . Kindness . . . and Our Character . . . can we so overpower, the darkness which around us towers!
And To Rise Above, All In Our Courage and in Our Love . . . We Will All Reach Our Finest Hour!
But, our moments herein time . . . are but the shortest of all to find . . .
For when it's all said and done, will we be the ones . . . as Sarge, who now up in Heaven have Someone To Look Up To?
So mount up now . . . For you King George, are but an Angel In The Army of Our Lord so fine!
As Someone Above To Watch Over Us, And To Look Up To in our lives!

TRIBUTE TO ALLAN S. COHEN

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. VAN HOLLEN. Madam Speaker, I rise today to recognize Mr. Allan S. Cohen on his thirty-seven years of outstanding service to our nation.

Mr. Cohen, who is retiring on June 30, 2008, has served as a senior Human Resources Specialist with the Department of Defense. His dedication and contributions have left a legacy for all federal civil servants.

Madam Speaker, I am pleased to congratulate Mr. Cohen and to extend our country's gratitude to him for his honorable and productive service.

150 YEARS OF SPIRITUAL LEADERSHIP IN THE COMMUNITY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. FRANK of Massachusetts. Madam Speaker, this year marks the 150th Anniversary of an extraordinarily important religious congregation in the City of Newton, which I am proud to represent in this body, and where I have lived for 28 years. Congregation Mishkan Tefila has been an important part of the City of Newton since 1957. Temple Mishkan Tefila has of course been primarily a place of worship for large numbers of Jewish men, women and young people, and through a series of outstanding rabbis and other leaders, it has performed that essential function superbly. It has also been a forum for community leadership in a number of other ways. Its doors have always been open to the community, both its own members and the community at large, and I have personally benefited from that openness on a number of occasions by being able to participate in forums that the temple has run, which have helped me and others fulfill our duties to relate to our constituents.

Madam Speaker, I am very pleased to be able to salute the members of the Mishkan Tefila Congregation on this 150th Anniversary, and congratulate them on their opportunity both to look back on a very proud history, and to look forward to the promise of continued great service in the years ahead.

INTRODUCTION OF RESOLUTION COMMEMORATING THE 63RD ANNIVERSARY OF THE UNITED NATIONS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mrs. MALONEY of New York. Madam Speaker, today, along with Chairman DELAHUNT of the Subcommittee on International Organizations, Human Rights and Oversight, I am introducing legislation to commemorate the 63rd anniversary of the founding of the United Nations.

Since its founding, the United Nations has made many contributions to the global community in the fields of health, education, peace-keeping and humanitarian aid.

For 63 years the United Nations has provided a forum for the achievement of international cooperation in solving the world's most pressing economic, social and humanitarian problems including climate change, trafficking in humans, combating global terrorism, and responding quickly to disasters such as the tsunami in South East Asia in 2004.

The United Nations has visionary new leadership that should also be commended. Under Secretary General Ban Ki-moon, the United Nations launched a multi-year campaign to improve awareness amongst global policy-makers at the highest levels regarding issues relating to violence against women.

Joining us are Representatives JIM MCDERMOTT, MAURICE HINCHEY, SAM FARR, MADELEINE BORDALLO, DONNA CHRISTENSEN, JOSÉ SERRANO, JIM MCGOVERN, DENNIS KUCINICH, CHAKA FATTAH, ROBERT BRADY, BETTY MCCOLLUM, JAMES P. MORAN, EDDIE BERNICE JOHNSON, RAÚL GRIJALVA, and BARBARA LEE.

I look forward to working with Chairman DELAHUNT and my other colleagues to pledge the support of Congress to the United Nations as the organization moves forward and to commend the United Nations for sixty-three years of good work.

HONORING THE 80TH BIRTHDAY OF JEANETTE IRENE HUTCHISON

HON. PHIL GINGREY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. GINGREY. Madam Speaker, I rise today to honor Jeanette Irene Lalime-Sellner-Hutchison, who is celebrating her 80th birthday today. As an indispensable member of my staff, Jeanette has served as my Constituent Service Director for almost six years, assisting 11th District residents with problems ranging from Social Security and veterans' benefits to passports and immigration issues.

But Madam Speaker, Jeanette has always had a passion for helping others. Born in Appleton, Wisconsin, Jeanette moved to Minneapolis, Minnesota as a young girl, where

she grew up and eventually met her first husband, Mr. Thomas Sellner. Married for 28 years, Jeanette and Tom had six wonderful children.

Along with raising her four sons and two daughters, Jeanette served as a foster mother for many years, taking in and caring for children in need of a loving family. After the passing of her first husband, Jeanette eventually met and wed Mr. Marion Hutchison, and together they moved to Iowa, where she began her Congressional career as a staff member for Congressman Cooper Evans, and then for Senator CHARLES GRASSLEY.

Now a resident of Marietta, Georgia, Jeanette has served various Congressional offices for 25 years, acting as the constituent service director for the legendary Georgia Senator Paul Coverdell and Congressman Bob Barr before joining my staff in 2003.

Madam Speaker, Jeanette Hutchison has led a very inspiring and rewarding life. Over the years she has made and kept many friends, and I ask that you join with them, with me, and with her family in honoring Mrs. Jeanette Irene Hutchison, as she celebrates her 80th birthday. I thank her for a quarter century of service to our country.

PERSONAL EXPLANATION

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. LANGEVIN. Madam Speaker, on the morning of June 20, 2008, I was unavoidably detained and unable to be in the chamber for three rollcall votes. Had I been present, I would have voted ''yea'' on rollcall No. 434, on approving the journal; ''yea'' on rollcall No. 435, on ordering the previous question on H. Res. 1276; and ''yea'' on rollcall No. 436, on agreeing to H. Res. 436.

Additionally, because of inclement weather on the evening of June 23, 2008, my flight was delayed, and I consequently missed two votes. Had I been present, I would have voted ''yea'' on rollcall 438, passage of H. Res. 1242; and ''yea'' on rollcall 439, passage of H. Con. Res. 372.

FOOD, CONSERVATION, AND ENERGY ACT OF 2008—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 110–125)

SPEECH OF

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 18, 2008

Mr. MCGOVERN. Mr. Speaker, I rise in support of overriding the President's veto of the Food, Conservation, and Energy Act, otherwise known as the Farm Bill. I am pleased to say that, with this vote, we have finally put this legislation behind us.

While I regret the problems that occurred with the formal parchment and the missing Trade Title of the Farm Bill, the time between consideration of the first veto override vote and this one allowed many Members of Congress time to read the floor statements of many of our distinguished colleagues and understand better this large, complex and important piece of legislation. I am particularly grateful that the distinguished Members from California, Mr. BACA and Mr. BERMAN, clarified several particularly important provisions in the Nutrition Title of the bill. I would like to fully associate myself with their remarks. Following those Members' lead, I will not waste my colleagues' time by restating points they previously made on this legislation.

I want to emphasize, however, that if ever there was any doubt about Congress's continued support for the availability of judicial recourse for violations of food assistance statutes and regulations, this legislation makes that support unmistakably clear. The Food Stamp Act long has explicitly recognized the right of prospective applicants, actual applicants, and recipients to go to court to secure compliance with the statute and regulations. No court needs to guess about the view of Congress on this matter.

This new legislation reiterates that Congress will regulate how such litigation takes place. But there can be no question that litigation should, in fact, be permitted to occur if necessary. Such suits historically have not been required to pass any special hurdles of procedure or proof; all that matters is whether the statute, regulations, or state plan has been violated. If such a violation has occurred, the courts can pursue correction in the most efficacious manner, provided that we have limited the availability of retroactive benefits to one year before the problem was or should have been discovered. Rules developed under statutes where congressional intent is unclear have no place under food assistance legislation where we have left no room for doubt about our intentions.

As my colleagues from California made clear, the Food, Conservation, and Energy Act properly rejects two recent cases where courts, no doubt with the best of intentions, strayed from this long-time principle in the Food Stamp Program. This legislation clarifies that states are accountable for the results they achieve, namely a well-run food assistance program, and may be held judicially accountable for that. I trust this will eliminate any doubts other courts might have this score.

As Members are aware, the Farm Bill conferees did not accept a House provision that would have shut down all efforts to expand private contractors' role in administering the Food Stamp Program. Serious concerns have been raised about initiatives in a couple of states. Part of the reasoning was that the statute already contains requirements that state civil servants make all decisions relating to a household's participation in the program. As of yet, the policies of those states have not been tested in court. Without in any way seeking to prejudge what the results of such litigation might be, a judicial ruling on how these practices measure up against existing law would be of great help to us in determining whether that law needs to be modified, whether in the manner the House suggested or otherwise. As I understand there is considerable dissatisfaction with these programs, and I hope that the steps we are taking to clarify households' right to challenge the administration of the program in court will allow those concerns to be raised and addressed without further delay.

EARMARK DECLARATION

HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 2008

Mr. BARTLETT of Maryland. Madam Speaker, I submit the following for the RECORD:

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: RTD&E, Army, Combat Vehicle and Automotive Advanced Technology.

Legal Name of Requesting Facility: Mack Trucks, Inc., Volvo Powertrain North America.

Address of Requesting Facility: 13302 Pennsylvania Avenue, Hagerstown, MD 21742.

Description of Request: The requested fund will be used to build, test, and evaluate up to five heavy tactical trucks with hybrid electric power trains. The program's goal is to provide the military with a more fuel efficient, cleaner, and easily maintained heavy truck power train. A secondary goal is to provide a truck engine that can provide the same electricity source as a traditional diesel generator.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: RTD&E, Air Force, Multiple UAS cooperative concentrated observation and engagement systems against a common ground objective.

Legal Name of Requesting Facility: Proxy Aviation Systems.

Address of Requesting Facility: 12850 Middlebrook Road, Germantown, MD 20874.

Description of Request: The proposed program will provide the U.S. military with an advanced ISR capability to find and identify terrorist activity more rapidly and with a greater level of accuracy. The system will result in a lower cost of procurement and life cycle cost due to reduced manpower.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: O & M, Navy, Operating Forces, Weapons Support, Weapons Maintenance.

Legal Name of Requesting Facility: Otomelara North America, Inc.

Address of Requesting Facility: 1625 I Street North West, Washington, DC 20006.

Description of Request: Increasing O&M funding for the Mk75 weapon will boost performance of the post-groomed guns, reducing out-of-service down time, and raising overall reliability for the Navy. The FFG–7's Mk75 76mm gun possesses adequate range for effective engagement, but critical funding shortfalls in maintenance assessment/grooming and parts support have kept the guns from operating with the requisite readiness to be as effective as possible against the surface.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: RDT&E, Army, Warfighter Technology.

Legal Name of Requesting Facility: Engineering Systems Solutions.

Address of Requesting Facility: 5726 Industry Lane, Frederick, MD 21704.

Description of Request: This project expedites the repair of urgently needed battlefield equipment, thereby increasing the mission capable level of aircraft and vehicle units. This

leads to improved warfighter readiness and safety. Repair of battle damaged aircraft skin responds to the vulnerability reduction request for new technologies that improves affordability and increases capabilities. This technology will be commercialized to reduce the repair cost and duration of certain currently deployed aircraft and vehicles.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: RTD&E, Army, Environmental Quality Technology.

Legal Name of Requesting Facility: Fairchild Controls Corporation.

Address of Requesting Facility: 540 Highland Street, Frederick, MD 21701.

Description of Request: This program will provide increased protection to troops through filtration of toxic industrial chemicals. It will also provide reduced operation and support cost over traditional filtration systems. This program will provide reduced logistical burden associated with replacement of filters, and reduced dependence on global warming refrigerants.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: RTD&E, Army, Nuclear and Conventional Physical Security Equipment.

Legal Name of Requesting Facility: General Dynamics Robotic Systems.

Address of Requesting Facility: 1234 Tech Court, Westminster, MD 21157.

Description of Request: The MDARS robot autonomously performs random patrols, detects intruders, and determines the status of inventory, barriers, gates, and locks using Radio Frequency Identification, RFID, technology. The requested funds would develop additional capabilities and procure four vehicles for force protection demonstrations. The enhanced MDARS could be used for high-risk patrol operations in Iraq and Afghanistan or forward operating bases, airfields, ports, and high value supply depots, improving force protection by limiting military personnel from high risk mission exposure.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: O&M, Army, Servicewide Communications.

Legal Name of Requesting Facility: CherryRoad GT, Inc.

Address of Requesting Facility: 8150 Leesburg Pike, Vienna, VA 22182.

Description of Request: Army Knowledge Online must expand help desk capacity to meet increased call volume currently limited by lack of space at the primary site. Establishing a secondary site provides all critical expansion capability and functions as a backup site in case of attack or natural disaster. This expansion will benefit all DOD entities, service members, their families, DOD civilian employees, and select contractors who use the portal. Additionally, the portal allows the 52 state Adjutants General to coordinate with the Guard and Army Reserve to react to natural disaster or to counterterrorist threats and enhance force protection.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: RDT&E, Army, Joint Service Small Arms Program.

Legal Name of Requesting Facility: ACAGI, Inc.

Address of Requesting Facility: 4539 Metropolitan Court, Suite 202, Frederick, MD 21704.

Description of Request: The purpose of this project is to develop a weapon integrated, fire control system that includes real time Tagging and Marking, immediately and inconspicuously recognizing friend from foe, especially with noncooperative targets at ranges where physical contact is not possible, other than line of sight. This capability greatly enhances the warfighter's real time cognition and decision-making ability, especially in urban, counter-insurgent, complex, no frontlines situations, with the blending and rapidly changing definition of friend or foe, improving the warfighter's lethality and survivability.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: O&M, Army, Operating Forces, Land Forces System Readiness.

Legal Name of Requesting Facility: Skedco.

Address of Requesting Facility: 10505 South West Manhasset Drive, Tualatin, Oregon 97062.

Description of Request: The CASEVAC Conversion Kit, Aircraft, contains all the necessary supplies and equipment to safely secure one approved military litter to the floor of any cargo or utility aircraft, safely secure the casualty to the litter IAW doctrine, provide environmental protection to the casualty and identify and mark the casualty and pick-up zone. The recommended basis of issue for the CASEVAC conversional kit is two per cargo helicopter and one per utility helicopter.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: RDT&E, Navy, Warfighter Sustainment Applied Research.

Legal Name of Requesting Facility: Zeltex, Inc.

Address of Requesting Facility: 130 Western Maryland Parkway, Hagerstown MD 21740.

Description of Request: Zeltex, Inc., proposes to develop and demonstrate a Remote Fuel Assessment System for rapid fuel quality assessment. It will assess representative fuel content and contamination properties such as particulate, moisture, density, total oxygen content, benzene, olefins, aromatics, octane, and cetane index to identify the class of fuel.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: RDT&E, Navy, Surface Combatant Combat System Engineering.

Legal Name of Requesting Facility: DRS Power Technology Inc.

Address of Requesting Facility: 166 Boulder Drive, Suite 201E, Fitchburg, MA 01420.

Description of Request: The requested funding will design and build a hybrid electric drive prototype system for insertion and testing at the Navy Land Bases Test Site. Development and demonstration of a prototype DDG51 hybrid electric drive system will enable the fuel savings estimated at 13,000 barrels of fuel operation per year, per ship. The return on investment, installation and nonrecurring cost to payback in 3 to 5 years with a projected savings of between $2M and $4M per ship, per year. Total opportunity of up to $5B in savings if all 62 ships in the class are converted. The warfighting advantages are that longer on-station time for the same fuel load, reduced gas turbine engine operating hours and maintenance, reduce logistics tail, added generator redundancy and potential for increased total ship service power.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: O&M, Navy, Training and Recruiting, Recruiting and Advertising.

Legal Name of Requesting Facility: U.S. Naval Sea Cadet Corps.

Address of Requesting Facility: 2300 Wilson Boulevard, Suite 200, Arlington, VA 22201.

Description of Request: The program promotes interest and skill in seamanship and aviation; but, more importantly, instills in every cadet qualities that mold strong moral character in an anti-drug and anti-gang environment. The NSCC Youth Program teaches cadets that they must contribute to their community and country; as well as accept responsibility for their own actions.

Requesting Member: Congressman ROSCOE G. BARTLETT.

Bill Number: H.R. 5658.

Account: ANG/USAF, PJMS95554 Replace Fire Station, ANG, Martin State Airport, Baltimore, MD.

Legal Name of Requesting Facility: MILCON/USAF–ANG.

Address of Requesting Facility: 2300 Wilson Boulevard, Suite 200, Arlington, VA 22201.

Description of Request: Concrete foundation and floor slab, steel frame masonry walls with standing seam insulated metal roof or ''green'' roof. Cavity wall constructions with split-face CMU block, interior mechanical, electrical and fire protection systems. All necessary utilities, site improvements, back-up generator and support. Pavement access to the runways, aircraft apron, and base arterial roads. Demolish three obsolete facilities and landscape the site for sediment and erosion control. Air conditioning: 50 Tons.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S5973–S6096

Measures Introduced: Four bills and three resolutions were introduced, as follows: S. 3183–3186, and S. Res. 598–600. **Page S6019**

Measures Reported:

S. 2504, to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America. (S. Rept. No. 110–399)

S. 2565, to establish an awards mechanism to honor exceptional acts of bravery in the line of duty by Federal law enforcement officers, with an amendment in the nature of a substitute. **Page S6017**

Measures Passed:

Conrad B. Duberstein United States Bankruptcy Courthouse: Senate passed H.R. 430, to designate the United States bankruptcy courthouse located at 271 Cadman Plaza East in Brooklyn, New York, as the ''Conrad B. Duberstein United States Bankruptcy Courthouse'', clearing the measure for the President. **Page S6080**

Theodore L. Newton, Jr., and George F. Azrak Border Patrol Station: Senate passed H.R. 2728, to designate the station of the United States Border Patrol located at 25762 Madison Avenue in Murrieta, California, as the ''Theodore L. Newton, Jr., and George F. Azrak Border Patrol Station'', clearing the measure for the President. **Page S6080**

James M. Ashley and Thomas W.L. Ashley United States Courthouse: Senate passed H.R. 3712, to designate the United States courthouse located at 1716 Spielbusch Avenue in Toledo, Ohio, as the ''James M. Ashley and Thomas W.L. Ashley United States Courthouse.'', clearing the measure for the President. **Page S6080**

Timothy J. Russert Highway: Committee on Homeland Security and Governmental Affairs was discharged from further consideration of S. 3145, to designate a portion of United States Route 20A, located in Orchard Park, New York, as the ''Timothy J. Russert Highway'', the bill was then referred to the Committee on Environment and Public Works and then discharged from further consideration, and the bill was then passed. **Page S6080**

Spottswood W. Robinson III and Robert R. Merhige, Jr., Federal Courthouse: Senate passed S. 2403, to designate the new Federal Courthouse, located in the 700 block of East Broad Street, Richmond, Virginia, as the ''Spottswood W. Robinson III and Robert R. Merhige, Jr., Federal Courthouse''. **Pages S6080–81**

Theodore Roosevelt United States Courthouse: Senate passed S. 2837, to designate the United States courthouse located at 225 Cadman Plaza East, Brooklyn, New York, as the ''Theodore Roosevelt United States Courthouse''. **Pages S6080–81**

J. James Exon Federal Bureau of Investigation Building: Senate passed S. 3009, to designate the Federal Bureau of Investigation building under construction in Omaha, Nebraska, as the ''J. James Exon Federal Bureau of Investigation Building''. **Pages S6080–81**

Colonel Charles D. Maynard Lock and Dam: Senate passed H.R. 781, to redesignate Lock and Dam No. 5 of the McClellan-Kerr Arkansas River Navigation System near Redfield, Arkansas, authorized by the Rivers and Harbors Act approved July 24, 1946, as the ''Colonel Charles D. Maynard Lock and Dam'', clearing the measure for the President. **Pages S6080–81**

Rafael Martinez Nadal United States Customhouse Building: Senate passed H.R. 1019, to designate the United States customhouse building located at 31 Gonzalez Clemente Avenue in Mayaguez, Puerto Rico, as the ''Rafael Martinez Nadal United States Customhouse Building'', clearing the measure for the President. **Pages S6080–81**

Richard B. Anderson Federal Building: Senate passed H.R. 4140, to designate the Port Angeles Federal Building in Port Angeles, Washington, as the ''Richard B. Anderson Federal Building'', clearing the measure for the President. **Pages S6080–81**

Little Sioux Scout Ranch Tornado: Senate agreed to S. Res. 599, expressing the condolences of the

Senate to those affected by the tragic events following the tornado that hit the Little Sioux Scout Ranch in Little Sioux, Iowa, on June 11, 2008.

Pages S6081–82

Khobar Towers Terrorist Bombing: Committee on Armed Services was discharged from further consideration of H. Con. Res. 32, honoring the members of the United States Air Force who were killed in the June 25, 1996, terrorist bombing of the Khobar Towers United States military housing compound near Dhahran, Saudi Arabia, and the resolution was then agreed to. **Page S6082**

Commemorating the 44th Anniversary of the Deaths of Civil Rights Workers: Senate agreed to S. Res. 600, commemorating the 44th anniversary of the deaths of civil rights workers Andrew Goodman, James Chaney, and Michael Schwerner in Philadelphia, Mississippi, while working in the name of American democracy to register voters and secure civil rights during the summer of 1964, which has become known as ''Freedom Summer''.

Pages S6095–96

Measures Discharged:

Timothy J. Russert Highway Bill—Referral Agreement: A unanimous-consent agreement was reached providing that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of S. 3145, to designate a portion of United States Route 20A, located in Orchard Park, New York, as the ''Timothy J. Russert Highway'', and the bill then be referred to the Committee on Environment and Public Works.

Page S6080

House Messages:

Foreclosure Prevention Act: Senate continued consideration of the motion to concur in the amendments of the House of Representatives to the amendment of the Senate to H.R. 3221, to provide needed housing reform, taking action on the following amendments proposed thereto:

Pages S5975–92, S6003–06, S6082–95

Pending:

Reid (for Dodd/Shelby) Amendment No. 4983, of a perfecting nature. **Page S5975**

Bond Amendment No. 4987 (to Amendment No. 4983), to enhance mortgage loan disclosure requirements with additional safeguards for adjustable rate mortgages with an initial fixed rate and loans that contain prepayment penalty. **Page S5975**

Dole Amendment No. 4984 (to Amendment No. 4983), to improve the regulation of appraisal standards. **Page S5975**

Sununu Amendment No. 4999 (to Amendment No. 4983), to amend the United States Housing Act of 1937 to exempt qualified public housing agencies from the requirement of preparing an annual public housing agency plan. **Page S5975**

Kohl Amendment No. 4988 (to Amendment No. 4983), to protect the property and security of homeowners who are subject to foreclosure proceedings.

Page S5975

During consideration of this measure today, Senate also took the following action:

By 83 yeas to 9 nays (Vote No. 155), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the motion to concur in the House Amendment striking section 1 through Title V and inserting certain language to the Senate amendment to the bill with Reid (for Dodd/Shelby) Amendment No. 4983 (listed above). **Page S5978**

A unanimous-consent agreement was reached providing that at approximately 9:30 a.m. on Wednesday, June 25, 2008, Senate continue consideration of the motion to concur and that all time during the adjournment of the Senate count against the post-cloture time for debate under rule XXII of the Standing Rules of the Senate. **Page S6096**

Message from the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, a report on the continuation of the national emergency that was originally declared in Executive Order 13219 of June 26, 2001, with respect to the Western Balkans; which was referred to the Committee on Banking, Housing, and Urban Affairs. (PM–54) **Page S6015**

Nominations—Agreement: A unanimous-consent agreement was reached providing that on Thursday, June 26, 2008, at a time to be determined by the Majority Leader, following consultation with the Republican Leader, Senate consider the nominations of William T. Lawrence, to be United States District Judge for the Southern District of Indiana, and G. Murray Snow, to be United States District Judge for the District of Arizona, that they be debated concurrently for 1 hour, with the time equally divided and controlled between the Leaders, or their designees; and that Senate vote on confirmation of the nominations in the order listed, with 2 minutes of debate time, equally divided and controlled in the usual form, between the votes, and the second vote in the sequence be 10 minutes in duration. **Page S5992**

Nominations Confirmed: Senate confirmed the following nominations:

By 63 yeas 32 nays (Vote No. EX. 156), Helene N. White, of Michigan, to be United States Circuit Judge for the Sixth Circuit. **Pages S5993–S6003, S6096**

Steven T. Walther, of Nevada, to be a Member of the Federal Election Commission for a term expiring April 30, 2009. **Pages S6006, S6096**

Raymond M. Kethledge, of Michigan, to be United States Circuit Judge for the Sixth Circuit. **Pages S6003, S6096**

Stephen Joseph Murphy III, of Michigan, to be United States District Judge for the Eastern District of Michigan. **Pages S6003, S6096**

Cynthia L. Bauerly, of Minnesota, to be a Member of the Federal Election Commission for a term expiring April 30, 2011. **Pages S6006, S6096**

Caroline C. Hunter, of Florida, to be a Member of the Federal Election Commission for a term expiring April 30, 2013. **Pages S6006, S6096**

Donald F. McGahn, of the District of Columbia, to be a Member of the Federal Election Commission for a term expiring April 30, 2009. **Pages S6006, S6096**

Matthew S. Petersen, of Utah, to be a Member of the Federal Election Commission for a term expiring April 30, 2011. (Prior to this action, Committee on Rules and Administration was discharged from further consideration.) **Pages S6006, S6096**

Nominations Received: Senate received the following nominations:

David D. Pearce, of Virginia, to be Ambassador to the People's Democratic Republic of Algeria.

Lyndon L. Olson, Jr., of Texas, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2011.

Holly A. Kuzmich, of Indiana, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

Christopher M. Marston, of Virginia, to be Assistant Secretary for Management, Department of Education. **Page S6096**

Nomination Withdrawn: Senate received notification of withdrawal of the following nomination:

J. Gregory Copeland, of Texas, to be General Counsel of the Department of Energy, which was sent to the Senate on January 22, 2008. **Page S6096**

Messages from the House: **Pages S6015–16**

Measures Referred: **Page S6016**

Measures Read the First Time: **Page S6016**

Enrolled Bills Presented: **Page S6016**

Executive Communications: **Pages S6016–17**

Executive Reports of Committees: **Pages S6017–19**

Additional Cosponsors: **Pages S6019–21**

Statements on Introduced Bills/Resolutions: **Pages S6021–26**

Additional Statements: **Pages S6011–15**

Amendments Submitted: **Pages S6026–79**

Notices of Hearings/Meetings: **Page S6079**

Authorities for Committees to Meet: **Page S6079**

Privileges of the Floor: **Page S6080**

Record Votes: Two record votes were taken today. (Total—156) **Pages S5978, S6003**

Adjournment: Senate convened at 10 a.m. and adjourned at 10:20 p.m., until 9:30 a.m. on Wednesday, June 25, 2008. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S6096.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies approved for full Committee consideration an original bill making appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies for the fiscal year ending September 30, 2009.

CLIMATE CHANGE IMPACTS ON TRANSPORTATION SECTOR

Committee on Commerce, Science, and Transportation: Committee concluded a hearing to examine climate change impacts on the transportation sector, focusing on ways to ensure safe, efficient, and reliable performance of the highway, transit, rail, maritime, pipeline, and aviation networks, after receiving testimony from Vice Admiral Thomas J. Barrett, USN (Ret.), Deputy Secretary of Transportation; James M. Turner, Deputy Director, National Institute of Standards and Technology, and Thomas C. Peterson, Senior Scientist, Climate Services Division, National Climatic Data Center, National Environmental Satellite, Data, and Information Service, National Oceanic and Atmospheric Administration (NOAA), both of the Department of Commerce; Mead Treadwell, Chairman, United States Arctic Research Commission; John D. Porcari, Maryland Department of Transportation, Hanover, Maryland, on behalf of the American Association of State Highway and Transportation Officials; G. Edward Dickey, Loyola College, Baltimore, Maryland, on behalf of the National Academies; and David Friedman, Union of Concerned Scientists, Edward R. Hamberger, Association of American Railroads, and John M. Meenan, Air Transport Association of America, Inc., all of Washington, D.C.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the following:

S. 2907, to establish uniform administrative and enforcement procedures and penalties for the enforcement of the High Seas Driftnet Fishing Moratorium Protection Act and similar statutes;

An original bill entitled, "The National Aeronautics and Space Administration Authorization Act of 2008";

S. 3160, to reauthorize and amend the National Sea Grant College Program Act; and

Sundry promotion lists in the National Oceanic and Atmospheric Administration and the United States Coast Guard.

TRADE FUNCTIONS

Committee on Finance: Committee concluded an oversight hearing to examine trade functions, focusing on U.S. Customs and Border Protection and other trade agencies, after receiving testimony from W. Ralph Basham, Commissioner, U.S. Customs and Border Protection, and Julie L. Myers, Assistant Secretary, U.S. Immigration and Customs Enforcement, both of the Department of Homeland Security; Timothy E. Skud, Deputy Assistant Secretary of the Treasury for Tax, Trade, and Tariff Policy; Daniel R. Pearson, Vice Chairman, United States International Trade Commission; and Warren Maruyama, General Counsel, Office of the United States Trade Representative.

BUSINESS MEETING

Committee on Foreign Relations: Committee ordered favorably reported the following:

H.R. 176, to authorize the establishment of educational exchange and development programs for member countries of the Caribbean Community (CARICOM), with amendments;

H.R. 2553, to amend the State Department Basic Authorities Act of 1956 to provide for the establishment and maintenance of existing libraries and resource centers at United States diplomatic and consular missions to provide information about American culture, society, and history, with amendments;

S. 2120, to authorize the establishment of a Social Investment and Economic Development Fund for the Americas to provide assistance to reduce poverty, expand the middle class, and foster increased economic opportunity in the countries of the Western Hemisphere;

S. 2166, to provide for greater responsibility in lending and expanded cancellation of debts owed to the United States and the international financial institutions by low-income countries, with amendments;

S. 3097, to amend the Vietnam Education Foundation Act of 2000;

S. 3168, to authorize United States participation in the replenishment of resources of the International Development Association;

S. 3169, to authorize United States participation in, and appropriations for the United States contribution to, the eleventh replenishment of the resources of the African Development Fund;

International Convention Against Doping in Sport, adopted by the United Nations Educational, Scientific, and Cultural Organization on October 19, 2005 (Treaty Doc.110–14); and

The nominations of Liliana Ayalde, of Maryland, to be Ambassador to the Republic of Paraguay, John R. Beyrle, of Michigan, to be Ambassador to the Russian Federation, Eric J. Boswell, of the District of Columbia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service, Asif J. Chaudhry, of Washington, to be Ambassador to the Republic of Moldova, James Culbertson, of North Carolina, to be Ambassador to the Kingdom of the Netherlands, Rosemary Anne DiCarlo, of the District of Columbia, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations and to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador, David F. Girard-diCarlo, of Pennsylvania, to be Ambassador to the Republic of Austria, John Melvin Jones, of Virginia, to be Ambassador to the Co-operative Republic of Guyana, Tina S. Kaidanow, of the District of Columbia, to be Ambassador to the Republic of Kosovo, Lyndon L. Olson, Jr., of Texas, to be a Member of the United States Advisory Commission on Public Diplomacy, Philip Thomas Reeker, of the District of Columbia, to be Ambassador to the Republic of Macedonia, Kristen Silverberg, of Texas, to be Representative of the United States of America to the European Union, with the rank and status of Ambassador, Lezlee J. Westine, of Virginia, to be a Member of the United States Advisory Commission on Public Diplomacy, and sundry promotion lists in the Foreign Service.

COMMODITY MARKETS

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine ending excessive speculation in commodity markets, focusing on legislative options, after receiving testimony from Walter Lukken, Acting Chairman,

United States Commodity Futures Trading Commission; James Newsome, New York Mercantile Exchange, Inc., New York, New York; Michael W. Masters, Masters Capital Management, LLC, Atlanta, Georgia; William F. Quinn, Committee on the Investment of Employee Benefit Assets, Bethesda, Maryland; James J. Angel, Georgetown University McDonough School of Business, Washington, D.C.; and Michael Greenberger, University of Maryland School of Law, Baltimore.

ANTIMICROBIALS IN THE U.S.

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine the public health impacts of antimicrobial resistant bacterial infections in the United States, focusing on current antimicrobials and continued development of new solutions for the future protection against infectious diseases, after receiving testimony from Fred C. Tenover, Director, Office of Antimicrobial Resistance, Centers for Disease Control and Prevention, and Rear Admiral Linda Tollefson, Assistant Commissioner for Science, United States Food and Drug Administration, both of the Department of Health and Human Services; Jay P. Graham, Johns Hopkins Bloomberg School of Public Health, Baltimore, Maryland; Lyle Vogel, American Veterinary Medical Association, Schaumburg, Illinois; Patrick J. Brennan, University of Pennsylvania Health System, Philadelphia, on behalf of the Society for Healthcare Epidemiology of America; Barry I. Eisenstein, Cubist Pharmaceuticals, Lexington, Massachusetts; and Brandon Noble, Chester Springs, Pennsylvania.

CRIMES AGAINST HUMANITY

Committee on the Judiciary: Subcommittee on Human Rights and the Law concluded a hearing to examine the issue of genocide from Nuremberg to Darfur, focusing on accountability for crimes against humanity, after receiving testimony from Gayle E. Smith, ENOUGH Project, and Diane Orentlicher, American University Washington College of Law, both of Washington, D.C.; Joey Cheek, Team Darfur, Greensboro, North Carolina; and Daoud Ibrahim Hari, Baltimore, Maryland.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 10 public bills, H.R. 6352–6361; and 10 resolutions, H.J. Res. 95; H. Con. Res. 378–381; and H. Res. 1296, 1300–1303, were introduced. **Page H6009–10**

Additional Cosponsors: **Page H6010**

Reports Filed: Reports were filed today as follows:

H. Res. 1297, providing for consideration of the bill (H.R. 6275) to amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax (H. Rept. 110–731);

H. Res. 1298, providing for consideration of the bill (H.R. 2176) to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community (H. Rept. 110–732); and

H. Res. 1299, providing for consideration of the bill (H.R. 3195) to restore the intent and protections of the Americans with Disabilities Act of 1990 (H. Rept. 110–733). **Page H6009**

Speaker: Read a letter from the Speaker wherein she appointed Representative Berkley to act as Speaker Pro Tempore for today. **Page H5867**

Recess: The House recessed at 9:48 a.m. and reconvened at 10 a.m. **Page H5871**

Journal: The House agreed to the Speaker's approval of the Journal by a yea-and-nay vote of 239 yeas to 181 nays with 2 voting "present", Roll No. 446. **Pages H5872, H5963–64**

Discharge Petition: Representative Kuhl (NY) moved to discharge the Committee on Oversight and Government Reform from the consideration of H.R. 5656, to repeal a requirement with respect to the procurement and acquisition of alternative fuels (Discharge Petition No. 10).

Motion to Adjourn: Rejected the Sullivan motion to adjourn by a yea-and-nay vote of 87 yeas to 299 nays, Roll No. 441. **Pages H5875–76**

Motion to Adjourn: Rejected the Culberson motion to adjourn by a yea-and-nay vote of 75 yeas to 309 nays, Roll No. 442. **Pages H5904–05**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Amending titles XVIII and XIX of the Social Security Act to extend expiring provisions under

the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access: H.R. 6331, amended, to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare Program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, by a ⅔ yea-and-nay vote of 355 yeas to 59 nays, Roll No. 443;

Pages H5876–H5904, H5905–16

Federal Aviation Administration Extension Act of 2008: H.R. 6327, amended, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, by a ⅔ recorded vote of 422 ayes with none voting "no", Roll No. 447;

Pages H5916–21, H5964

Fostering Connections to Success Act: H.R. 6307, amended, to amend parts B and E of title IV of the Social Security Act to assist children in foster care in developing or maintaining connections to family, community, support, health care, and school;

Pages H5921–32

Veterans' Epilepsy Treatment Act of 2008: H.R. 2818, amended, to amend title 38, United States Code, to provide for the establishment of Epilepsy Centers of Excellence in the Veterans Health Administration of the Department of Veterans Affairs;

Pages H5944–49

Agreed to amend the title so as to read: "To amend title 38, United States Code, to provide for the establishment of epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs.". **Page H5949**

Euripides Rubio Department of Veterans Affairs Outpatient Clinic Designation Act: H.R. 4289, to name the Department of Veterans Affairs outpatient clinic in Ponce, Puerto Rico, as the "Euripides Rubio Department of Veterans Affairs Outpatient Clinic"; **Pages H5972–74**

Credit Union, Bank, and Thrift Regulatory Relief Act of 2008: H.R. 6312, to advance credit union efforts to promote economic growth, modify credit union regulatory standards and reduce burdens, and to provide regulatory relief and improve productivity for insured depository institutions;

Pages H5979–84

Expressing heartfelt sympathy for the victims and their families following the tornado that hit Little Sioux, Iowa, on June 11, 2008: H. Res. 1283, to express heartfelt sympathy for the victims and their families following the tornado that hit Little Sioux, Iowa, on June 11, 2008; and

Pages H5988–91

Federal Advisory Committee Act Amendments of 2008: H.R. 5687, amended, to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees.

Pages H5994–97

Adjournment Resolution: The House agreed to H. Con. Res. 379, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate, by a yea-and-nay vote of 225 yeas to 197 nays, Roll No. 445.

Pages H5949, H5962–63

Stop Child Abuse in Residential Programs for Teens Act of 2008: The House began consideration of H.R. 5876, to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs. Further proceedings were postponed. **Pages H5949–62**

Representative Bachmann moved to recommit the bill to the Committee on Education and Labor with instructions to report the same back to the House promptly with an amendment. Further proceedings were postponed. **Pages H5961–62**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as an original bill for the purpose of amendment under the five-minute rule. **Page H5956**

Accepted:

George Miller (CA) manager's amendment (No. 1 printed in H. Rept. 110–717) that makes three changes to the definition of "covered program", expands the definition to include public residential programs, and strikes the exclusion of psychiatric residential treatment facilities and the exclusion of foster care group homes. The amendment strikes the requirement for the Secretary of HHS to make unannounced site inspections of covered programs at least once every two years, and it strikes Section 5. The amendment requires the Secretary to report to Congress on the activities of the national toll-free hotline, directs the Secretary to conduct a study on the outcomes of residential programs, and amends one of the standards to require a timeline about notifying parents (by a recorded vote of 422 ayes with none voting "no", Roll No. 444). **Pages H5959–61**

H. Res. 1276, the rule providing for consideration of the bill, was agreed to on Friday, June 20th.

Discharge Petition: Representative Tancredo moved to discharge the Committee on Rules from the consideration of H. Res. 1240, providing for the consideration of the resolution (H. Res. 111) establishing

a Select Committee on POW and MIA Affairs (Discharge Petition No. 11).

Suspension—Failed: The House failed to agree to suspend the rules and pass the following measure:

Protecting consumers from price-gouging of gasoline and other fuels: H.R. 6346, amended, to protect consumers from price-gouging of gasoline and other fuels, by a 2/3 yea-and-nay vote of 276 yeas to 146 nays, Roll No. 448. **Pages H5934–49, H5964–65**

Suspensions—Proceedings Postponed: The House debated the following measures under suspension of the rules. Further proceedings were postponed:

Supporting the goals and ideals of National Save for Retirement Week: H. Res. 1294, to support the goals and ideals of National Save for Retirement Week; **Pages H5932–34**

Expressing the sense of Congress in support of further research and activities to increase public awareness, professional education, diagnosis, and treatment of Dandy-Walker syndrome and hydrocephalus: H. Con. Res. 163, amended, to express the sense of Congress in support of further research and activities to increase public awareness, professional education, diagnosis, and treatment of Dandy-Walker syndrome and hydrocephalus; **Pages H5940–42**

Expressing the sense of the House of Representatives that there should be an increased Federal commitment supporting the development of innovative advanced imaging technologies for prostate cancer detection and treatment: H. Res. 353, amended, to express the sense of the House of Representatives that there should be an increased Federal commitment supporting the development of innovative advanced imaging technologies for prostate cancer detection and treatment; **Pages H5942–44**

Supporting the goals and ideals of the Year of the American Veteran: H. Res. 1098, to support the goals and ideals of the Year of the American Veteran; **Pages H5965–68**

Supporting the goals and ideals of Vietnam Veterans Day and calling on the American people to recognize such a day: H. Res. 1231, to support the goals and ideals of Vietnam Veterans Day and calling on the American people to recognize such a day; **Pages H5968–69**

Elwood "Bud" Link Department of Veterans Affairs Outpatient Clinic Designation Act: H.R. 2245, to designate the Department of Veterans Affairs outpatient clinic in Wenatchee, Washington, as the Elwood "Bud" Link Department of Veterans Affairs Outpatient Clinic; **Pages H5969–70**

Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center Designation Act: H.R. 4264, to name the Department of Veterans Affairs spinal cord injury center in Tampa, Florida, as the "Michael Bilirakis Department of Veterans Affairs Spinal Cord Injury Center"; **Pages H5970–72**

Bruce W. Carter Department of Veterans Affairs Medical Center Designation Act: H.R. 4918, to name the Department of Veterans Affairs medical center in Miami, Florida, as the "Bruce W. Carter Department of Veterans Affairs Medical Center"; **Pages H5974–75**

Expressing gratitude for the contributions of the American GI Forum on its 60th anniversary: H. Res. 1291, to express gratitude for the contributions of the American GI Forum on its 60th anniversary; **Pages H5975–77**

Recognizing National Homeownership Month and the importance of homeownership in the United States: H. Res. 1271, to recognize National Homeownership Month and the importance of homeownership in the United States; **Pages H5977–79**

Expressing support for designation of September 2008 as "Gospel Music Heritage Month" and honoring gospel music for its valuable and longstanding contributions to the culture of the United States: H. Con. Res. 370, to express support for designation of September 2008 as "Gospel Music Heritage Month" and to honor gospel music for its valuable and longstanding contributions to the culture of the United States; **Pages H5984–88**

Expressing the sense of the Congress that a National Dysphagia Awareness Month should be established: H. Con. Res. 195, to express the sense of the Congress that a National Dysphagia Awareness Month should be established; **Pages H5991–92**

Expressing support for designation of June 30 as "National Corvette Day": H. Res. 970, to express support for designation of June 30 as "National Corvette Day"; and **Pages H5992–93**

Honoring the life of Robert Mondavi: H. Con. Res. 365, to honor the life of Robert Mondavi. **Pages H5993–94**

CPSC Reform Act—Motion to Instruct Conferees: The House began consideration of the Kirk motion to instruct conferees on H.R. 4040, to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission. Further proceedings were postponed. **Pages H5997–98**

Presidential Message: Read a message from the President wherein he notified Congress that the national emergency declared with respect to the Western Balkans is to continue in effect beyond June 26,

2008—referred to the Committee on Foreign Affairs and ordered printed (H. Doc. 110–127). Page H5965

Senate Message: Message received from the Senate today appears on page H5872.

Senate Referrals: S. 3180 was referred to the Committee on Education and Labor. Page H6008

Quorum Calls—Votes: Six yea-and-nay votes and two recorded votes developed during the proceedings of today and appear on pages H5875–76, H5904–05, H5916, H5960–61, H5962–63, H5963–64, H5964, and H5964–65. There were no quorum calls.

Adjournment: The House met at 9 a.m. and adjourned at 10:56 p.m.

Committee Meetings

ENERGY MARKETS TRADING

Committee on Agriculture: Held a hearing to review trading in energy markets. Testimony was heard from Walter Lukken, Acting Chairman, CFTC.

MILITARY CONSTRUCTION, VETERANS' AFFAIRS AND HOMELAND APPROPRIATIONS; BUDGET ALLOCATIONS

Committee on Appropriations: Ordered reported the following: Report on the Suballocation of Budget Allocations, Fiscal Year 2009; Report on the Revised Suballocation of Budget Allocations, Fiscal Year 2008; and as amended, the Appropriations for Fiscal Year 2009: Military Construction, Veterans' Affairs, and Related Agencies; and Homeland Security.

CLASSIFIED APPROPRIATIONS RECOMMENDATIONS

Committee on Appropriations: Intelligence Oversight Panel met in executive session and approved Recommendations for Classified Appropriations.

SAFE COMMISSION ACT—LONG-TERM FISCAL CHALLENGE

Committee on the Budget: Held a hearing on H.R. 3654, SAFE Commission Act, and the Long-Term Fiscal Challenge. Testimony was heard from David M. Walker, former Comptroller General, GAO; and public witnesses.

IS OSHA FAILING TO ADEQUATELY ENFORCE CONSTRUCTION SAFETY RULES

Committee on Education and Labor: Held a hearing on Is OSHA Failing to Adequately Enforce Construction Safety Rules? Testimony was heard from Edwin G. Foulke, Jr., Assistant Secretary, Occupational Safety and Health, Department of Labor; Robert LiMandri, Acting Building Commissioner, New York City; and public witnesses.

HEALTH EQUITY AND ACCOUNTABILITY ACT OF 2007

Committee on Energy and Commerce: Subcommittee on Health held a hearing on H.R. 3014, Health Equity and Accountability Act of 2007. Testimony was heard from Representative Clyburn; the following officials of the Department of Health and Human Services: John Ruffin, Director, National Center on Minority Health and Health Disparities, NIH; and Garth Graham, M.D., Deputy Assistant Secretary, Minority Heath, Office of Public Health and Science, Office of the Assistant Secretary, Health; and public witnesses.

UNIVERSAL SERVICE FUTURE

Committee on Energy and Commerce: Subcommittee on Telecommunications and the Internet held a hearing on The Future of Universal Service: To Whom, By Whom, For What, and How Much? Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Financial Services: Ordered reported, as amended, the following bills: H.R. 3329, Homes for Heroes Act of 2007; H.R. 6309, Lead-Safe Housing for Kids Act of 2008; H.R. 4461, Community Building Code Administration Grant Act of 2007; and H.R. 4049, Money Service Business Act of 2007.

Will continue markup tomorrow.

BUSINESS ACTIVITY TAX SIMPLIFICATION ACT OF 2008

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on H.R. 5267, Business Activity Tax Simplification Act of 2008. Testimony was heard from Representatives Boucher and Goodlatte; R. Bruce Johnson, Commissioner, Tax Commission, State of Utah; and public witnesses.

NATIONAL SECURITY LETTERS REFORM ACT OF 2007; SUBPOENA

Committee on the Judiciary: Subcommittee on the Constitution approved for full Committee action H.R. 3189, National Security Letters Reform Act of 2007.

The Subcommittee also approved a resolution authorizing the Chairman to issue a subpoena to compel the testimony of Douglas Feith.

ONLINE PHARMACIES AND THE PROBLEM OF INTERNET DRUG ABUSE

Committee on the Judiciary: Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on Online Pharmacies and the Problem of Internet Drug Abuse. Testimony was heard from Joseph T. Rannazzisi, Deputy Assistant Administrator, Office

of Diversion Control. Drug Enforcement Administration, Department of Justice; and public witnesses.

WILDLIFE WITHOUT BORDERS AUTHORIZATION ACT; OVERSIGHT—CHANGING CLIMATE—IMPACT ON WILDLIFE AND OCEANS

Committee on Natural Resources: Subcommittee on Fisheries, Wildlife and Oceans oversight hearing on Planning for a Changing Climate and its Impacts on Wildlife and Oceans; and a hearing on H.R. 4455, Wildlife Without Borders Authorization Act. Testimony was heard from Margaret Davidson, Director, Coastal Services Center, NOAA, Department of Commerce; the following officials of the Department of the Interior; Dan Ashe, Science Advisor to the Director, U.S. Fish and Wildlife Service; and Kaush Arha, Deputy Assistant Secretary, Fish and Wildlife and Parks; David K. Whitehurst, Director, Wildlife Division, Department of Game and Inland Fisheries, State of Virginia; Tony Bruello, Deputy Secretary, Climate Change and Energy, Resources Agency, State of California; and public witnesses.

OVERSIGHT—IMPACTS OF INVASIVE QUAGGA MUSSELS

Committee on Natural Resources: Subcommittee on Water and Power held an oversight hearing on The Silent Invasion: Finding Solutions to Minimize the Impacts of Invasive Quagga Mussels on Water Rates, Water Infrastructure and the Environment. Testimony was heard from Karl Wirkus, Deputy Commissioner for Operations, Bureau of Reclamation, Department of the Interior; and public witnesses.

AEY CONTRACTS EXAMINATION

Committee on Oversight and Government Reform: Held a hearing on Examination of AEY Contracts with the U.S. Government. Testimony was heard from the following officials of the Department of Defense: BGN William N. Phillips, USA, Commanding General, Picatinny Arsenal, Commander, Joint Munitions and Lethality Life Cycle Management Command; Jeffery P. Pasons, Executive Director, Army Contracting Command (Provisional) U.S. Army Materiel Command; and Mitchell Howell, Executive Director, Ground Systems and Munitions Division, Defense Contract Management Agency; and Stephen D. Mull, Acting Assistant Secretary, Bureau of Political Military Affairs, Department of State.

OVERSIGHT—COALITION SUPPORT FUNDS FOR PAKISTAN

Committee on Oversight and Government Reform: Subcommittee on National Security and Foreign Affairs held a hearing on Oversight of Coalition Support Funds for Pakistan. Testimony was heard from the following officials of the GAO: Charles Michael Johnson, Jr., Director, International Affairs and Trade; and Steve Sebastian, Director, Financial Management and Assurance Team; the following officials of the Department of Defense: MG Bobby Wilkes (Ret.), Deputy Assistant Secretary, South Asia, Office of the Secretary; and John P. Roth, Deputy Comptroller (Program/Budget), Office of the Under Secretary (Comptroller); and Ambassador Stephen D. Mull, Acting Assistant Secretary, Bureau for Political-Military Affairs, Department of State.

ALTERNATIVE MINIMUM TAX RELIEF ACT OF 2008

Committee on Rules: Granted, by a record vote of 9 to 3, a closed rule providing for consideration of H.R. 6275, the ''Alternative Minimum Tax Relief Act of 2008.'' The rule provides 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means shall be considered as adopted and the bill, as amended, shall be considered as read. The rule waives all points of order against provisions of the bill, as amended.

The rule provides one motion to recommit with or without instructions. Finally, notwithstanding the operation of the previous question, the Chair may postpone further consideration until a time designated by the Speaker. Testimony was heard from Representatives Neal and Brady of Texas.

ADA RESTORATION ACT OF 2007

Committee on Rules: The Committee granted, by a non-record vote, a closed rule providing for consideration of H.R. 3195, the ''ADA Restoration Act of 2007.'' The rule provides 1 hour of general debate, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as adopted and the bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived.

The rule provides one motion to recommit with or without instructions. Finally, the rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. Testimony was heard from Chairman George Miller of California; and Chairman Conyers

LAND CLAIMS—BAY MILLS INDIAN COMMUNITY AND SAULT STE. MARINE TRIBE OF CHIPPEWA INDIANS

Committee on Rules: Committee granted, by a nonrecord vote, a closed rule providing for consideration of H.R. 2176, to provide for and approve the settlement of certain land claims of the Bay Mills Indian Community. The rule provides 1 hour of debate in the House, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives all points of order against consideration of the bill except for clauses 9 and 10 of rule XXI. In lieu of the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill, the amendment in the nature of a substitute printed in the Rules Committee report shall be considered as adopted. The rule waives all points of order against provisions of the bill, as amended, and provides that the bill, as amended, shall be considered as read. The rule provides one motion to recommit with or without instructions. Finally, the rule provides that the Chair may postpone further consideration of the bill to a time designated by the Speaker. Testimony was heard from Chairmen Rahall and Conyers; and Representatives Stupak, Berkley, Miller of Michigan and Campbell of California.

AMERICAN DECLINE OR RENEWAL

Committee on Science and Technology, Subcommittee on Investigations and Oversight continued hearings on American Decline or Renewal? Part 2—the Past and Future of Skilled Work. Testimony was heard from Paul Brubaker, Administrator, Research and Innovative Technology Administration, Department of Transportation; Randall Iwasaki, Chief Deputy Director, Department of Transportation, State of California; and public witnesses.

EFFICIENT ROAD INFRASTRUCTURE

Committee on Science and Technology: Subcommittee on Technology and Innovation held a hearing on Sustainable, Energy-Efficient Road Infrastructure. Testimony was heard from public witnesses.

SURFACE TRANSPORTATION NETWORK

Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, hearing on Connecting Communities: The Role of the Surface Transportation Network in Moving People and Freight. Testimony was heard from Jim Lynch, Director and CEO, Department of Transportation, State of Montana; H. B. Limehouse, Jr., Secretary, Department of Transportation, State of South Carolina; and public witnesses.

COMPREHENSIVE WATERSHED MANAGEMENT AND PLANNING

Committee on Transportation: Subcommittee on Water Resources, and Environment held a hearing on Comprehensive Watershed Management and Planning. Testimony was heard from Steven L. Stockton, Director, Civil Works, U.S. Army Corps of Engineers, Department of the Army; and public witnesses.

NATIONAL GUARD AND RESERVES—VA/DOD COOPERATION AND REINTEGRATION

Committee on Veterans' Affairs: Subcommittee on Oversight and Investigations held a hearing on VA/DOD Cooperation and Reintegration of National Guard and Reserves. Testimony was heard from the following officials of the Department of the Army: COL Corinne Ritter, USA Director, Army Reserve Surgeon Office Forward, U.S. Army Reserve; and SMA Janet Salotti, USA (Ret.). Chief of Reintegration, Office of Joint Manpower and Personnel, National Guard Bureau; MG Marianne Mathewson-Chapman, USA (Ret.), National Guard and Reserve Coordinator, Office of Outreach to Guard and Reserve Families, Veterans Health Administration, Department of Veterans Affairs; and representatives of veterans organizations.

PROTECTING SOCIAL SECURITY BENEFICIARIES

Committee on Ways and Means: Subcommittee on Social Security held a hearing on Protecting Social Security Beneficiaries from Predatory Lending and Other Harmful Financial Institution Practices. Testimony was heard from the following officials of the SSA: Patrick P. O'Carroll, Jr., Inspector General; and Marianna LaCanfora, Assistant Deputy Commissioner, Retirement and Disability Policy; Gary Grippo, Deputy Assistant Secretary, Fiscal Operations, Department of the Treasury; Steve Fritts, Associate Director, Risk Management Policy and Examination Support Branch, Division of Supervision and Consumer Protection, FDIC; and public witnesses.

COMMITTEE MEETINGS FOR WEDNESDAY, JUNE 25, 2008

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Energy and Water Development, business meeting to mark up proposed budget estimates for fiscal year 2009 for the Energy Information Administration, focusing on forecasts for oil and gasoline prices, 11 a.m., SD–192.

Committee on Armed Services: to hold closed hearings to examine the current situation in Afghanistan, 2:30 p.m., SR–222.

Committee on Banking, Housing, and Urban Affairs: business meeting to consider the nominations of Neel T. Kashkari, of California, to be an Assistant Secretary of the Treasury, Christopher R. Wall, of Virginia, to be an Assistant Secretary of Commerce, Sheila McNamara Greenwood, of Louisiana, to be an Assistant Secretary of Housing and Urban Development, Susan D. Peppler, of California, to be an Assistant Secretary of Housing and Urban Development, Joseph J. Murin, of Pennsylvania, to be President, Government National Mortgage Association, Luis Aguilar, of Georgia, Troy A. Paredes, of Missouri, and Elisse Walter, of Maryland, all to be Members of the Securities and Exchange Commission, Donald B. Marron, of Maryland, to be a Member of the Council of Economic Advisers, and Michael E. Fryzel, of Illinois, to be a Member of the National Credit Union Administration Board, 2:30 p.m., SD–538.

Committee on Energy and Natural Resources: to hold hearings to examine the increased global energy demand, focusing on the challenges for meeting future energy needs, while developing new technologies to address the current and future global climate change, 9:30 a.m., SD–366.

Committee on Environment and Public Works: to hold hearings to examine the future federal role for surface transportation, 10 a.m., SD–406.

Committee on Foreign Relations: to hold hearings to examine a new strategy for an enhanced partnership with Pakistan, 9:30 a.m., SD–419.

Committee on Homeland Security and Governmental Affairs: business meeting to consider S. 2583, to amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars, S. 1924, to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty, H.R. 5683, to make certain reforms with respect to the Government Accountability Office, S. 3013, to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, S. 3175, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster hazard mitigation program, to make technical corrections to that Act, S. 2382, to require the Administrator of the Federal Emergency Management Agency to quickly and fairly address the abundance of surplus manufactured housing units stored by the Federal Government around the country at taxpayer expense, S. 2148, to provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service, S. 2816, to provide for the appointment of the Chief Human Capital Officer of the Department of Homeland Security by the Secretary of Homeland Security, S. 3015, to designate the facility of the United States Postal Service located at 18 S. G Street, Lakeview, Oregon, as the "Dr. Bernard Daly Post Office Building", H.R. 5395 and S. 2622, bills to designate the facility of the United States Postal Service located at 11001 Dunklin Drive in St. Louis, Missouri, as the "William 'Bill' Clay Post Office Building", H.R. 5479, to designate the facility of the United States Postal Service located at 117 North Kidd Street in Ionia, Michigan, as the "Alonzo Woodruff Post Office Building", H.R. 4185, to designate the facility of the United States Postal Service located at 11151 Valley Boulevard in El Monte, California, as the "Marisol Heredia Post Office Building", H.R. 5528, to designate the facility of the United States Postal Service located at 120 Commercial Street in Brockton, Massachusetts, as the "Rocky Marciano Post Office Building", H.R. 3721, to designate the facility of the United States Postal Service located at 1190 Lorena Road in Lorena, Texas, as the "Marine Gunnery Sgt. John D. Fry Post Office Building", H.R. 5517, to designate the facility of the United States Postal Service located at 7231 FM 1960 in Humble, Texas, as the "Texas Military Veterans Post Office", H.R. 5168, to designate the facility of the United States Postal Service located at 19101 Cortez Boulevard in Brooksville, Florida, as the "Cody Grater Post Office Building", S. 3082, to designate the facility of the United States Postal Service located at 1700 Cleveland Avenue in Kansas City, Missouri, as the "Reverend Earl Abel Post Office Building", and the nomination of Elaine C. Duke, of Virginia, to be Under Secretary for Management, Department of Homeland Security, 10 a.m., SD–342.

Committee on the Judiciary: Subcommittee on the Constitution, to hold hearings to examine laptop searches and other violations of privacy faced by Americans returning from overseas travel, 9 a.m., SD–226.

Committee on Small Business and Entrepreneurship: to hold hearings to examine solutions to cope with the rise in home heating oil prices, 10 a.m., SR–428A.

House

Committee on Appropriations, to mark up the following Appropriations for Fiscal year 2009: Energy and Water Development, and Related Agencies; Commerce, Justice, Science, and Related Agencies; and Financial Services and General Government, 10 a.m., 2359 Rayburn.

Committee on Armed Services, June 25, hearing on China: Recent Security Developments, 10 a.m., 2118 Rayburn.

Committee on Education and Labor, to mark up H.R. 3289, PRE–K Act, 11:15 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Health, to consider the Protecting Records, Optimizing Treatment, and Easing Communication through Healthcare Technology Act of 2008, 11 a.m., 2123 Rayburn.

Committee on Financial Services, to continue markup of the following bills: H.R. 6306, To authorize United States participation in, and appropriations for the United States contributions to, the fifteenth replenishment of the resources of the International Development Association and the eleventh replenishment of the resources of the African Development Fund, and for other purposes; H.R. 6315, To authorize United States participation in, and appropriations for the United States contribution to, an international clean technology fund, and for other purposes; H.R. 1746, Holocaust Insurance Accountability Act of 2007; H.R. 5767, Payments System Protection Act; and H.R. 6308, Municipal; Bond Fairness Act.; and to consider pending Committee business, 11 a.m., 2128 Rayburn.

Committee on Foreign Affairs, hearing on Foreign Assistance Reform: Rebuilding U.S. Civilian Development and Diplomatic Capacity in the 21st Century, 11 a.m., 2172 Rayburn.

Subcommittee on the Middle East and South Asia, hearing on More Than Just the 123 Agreement: The Future of U.S.-Indo Relations, 2 p.m., 2172 Rayburn.

Committee on Homeland Security, Subcommittee on Transportation Security and Infrastructure Protection, hearing on The Goodyear Explosion: Ensuring Our Nation is Secure by Developing a Risk Management Framework for Homeland Security, 2 p.m., 311 Cannon.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing on the Executive Office for United States Attorneys, 2 p.m., 2141 Rayburn.

Committee on Natural Resources, to consider the following: a Committee Resolution dealing with emergency withdrawal of certain federal lands near Grand Canyon National Park; H.R. 415, To amend the Wild and Scenic Rivers Act to designate segments of the Taunton River in the Commonwealth of Massachusetts as a component of the National Wild and Scenic Rivers; H.R. 1286, Washington-Rochambeau Revolutionary Route National Historic Trail Designation Act; H.R. 1210, Utah Recreational Land Exchange Act of 2007; H.R. 6041, To redesignate the Rio Grande American Canal in El Paso, Texas, as the ''Travis C. Johnson Canal''; H.R. 1907, Coastal and Estuarine Land Protection Act; and H.R. 3227, To direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area, 11 a.m., 1324 Longworth.

Committee on Oversight and Government Reform, hearing on Waste, Fraud, and Abuse at K-Town: One Year Later, 10 a.m., 2154 Rayburn.

Subcommittee on Government Management, Organization, and Procurement, hearing on ID Cards: Reissuing Border Crossing Cards, 2 p.m., 2247 Rayburn.

Committee on Rules, to consider the following: H.R. 6052, Saving Energy Through Public Transportation Act of 2008; and H.R. 6355, Air Service Improvement Act of 2008. 3:30 p.m., H–313 Capitol.

Committee on Science and Technology, to mark up the following bills: H.R. 4174, Federal Ocean Acidification Research and Monitoring Act of 2007; H.R. 5618, National Sea Grant College Program Amendments Act of 2008; and H.R. 6314, Fulfilling the Potential of Women in Academic Science and Engineering Act of 2008, 10 a.m., 2318 Rayburn.

Committee on Small Business, Subcommittee on Regulations, Health Care and Trade, hearing entitled ''The Impact of Online Advertising on Small Firms,'' 10 a.m., 1539 Longworth.

Committee on Transportation and Infrastructure, Subcommittee on Railroads, Pipelines and Hazardous Materials, hearing on Implementation of the Pipeline Inspection, Protection, and Enforcement and Safety Act of 2006, 2 p.m., 2167 Rayburn.

Select Committee on Energy Independence and Global Warming, and the Subcommittee on Intelligence Community Management of the Permanent Select Committee on Intelligence, joint hearing on National Security Implications of Global Climate, 210 Cannon.

Joint Meetings

Joint Economic Committee: to hold hearings to examine the United States economy, focusing on the skyrocketing oil prices, 9:30 a.m., SD–106.

Conference: meeting of conferees on H.R. 4040, to establish consumer product safety standards and other safety requirements for children's products and to reauthorize and modernize the Consumer Product Safety Commission, 3:30 p.m., SD–106.

Next Meeting of the **SENATE**

9:30 a.m., Wednesday, June 25

Senate Chamber

Program for Wednesday: Senate will continue consideration of the motion to concur in the amendments of the House of Representatives to the amendment of the Senate to H.R. 3221, Foreclosure Prevention Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Wednesday, June 25

House Chamber

Program for Wednesday: To be announced.

Extensions of Remarks, as inserted in this issue

HOUSE

Allen, Thomas H., Me., E1328
Baca, Joe, Calif., E1328
Bachmann, Michele, Minn., E1329
Bartlett, Roscoe G., Md., E1334
Berkley, Shelley, Nev., E1327
Blackburn, Marsha, Tenn., E1327
Burgess, Michael C., Tex., E1326
Cohen, Steve, Tenn., E1327
Davis, Danny K., Ill., E1325
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