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House of Representatives

The House was not in session today. Its next meeting will be held on Thursday, October 2, 2008, at 12 noon.

Senate

WEDNESDAY, OCTOBER 1, 2008

(Legislative day of Wednesday, September 17, 2008)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable SHELDON WHITEHOUSE, a Senator from the State of Rhode Island.

PRAYER

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

Let us pray.

Immortal, invisible, God only wise. In light inaccessible hid from our eyes. You have promised in Your Word that ''In all labor there is profit.'' Give our lawmakers today the profit of wise decisions that will bless our land. Deliver them from the paralysis which fails to see that, with many advisers, there is safety. Give our Senators the wisdom to understand Your will and the courage to do Your bidding. If today, Lord, You want them to avoid certain pitfalls, make Your way plain to them. Infuse them with inspired ideas that will transform a turbulent today into a tranquil tomorrow. May our Senators stretch out their hands toward You, depending upon You to lead them to a safe harbor.

Hear our prayer, in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHELDON WHITEHOUSE 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, October 1, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHELDON WHITEHOUSE, a Senator from the State of Rhode Island, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WHITEHOUSE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will consider H.R. 7081, the United States-India nuclear agreement. This is an issue that has been worked on long and hard for months and months. Finally, we are having the opportunity to get to it. Senators DORGAN and BINGAMAN have amendments to the bill that will be debated this morning. Under an agreement reached yesterday, there will be up to 60 minutes for debate on the bill and 60 minutes on each amendment.

Following the debate on the United States-India nuclear legislation, the Senate will proceed to consider H.R. 1424, the legislative vehicle used for the economic rescue legislation. The only amendments in order are a Sanders amendment regarding high-income individuals and a Dodd amendment regarding economic stabilization. The Sanders amendment has 60 minutes for debate, and the Dodd amendment has 90 minutes for debate.

The Senate will recess from 12:30 until 2:15 for the caucus luncheons.

At 7 p.m., the Senate will resume consideration of the House message with respect to the rail safety-Amtrak legislation, H.R. 2095.

At approximately 7:30 p.m., the Senate will proceed to a series of up to seven rollcall votes in relation to Amtrak-rail safety, the United States-India nuclear agreement, and the economic rescue package. The Sanders amendment will be determined by voice vote. Votes will be in relation to the following items: motion to concur with respect to H.R. 2095, Amtrak; the Dorgan amendment regarding clarifying the policy in the event of an Indian nuclear test; the Bingaman amendment reporting requirement in the event of an Indian nuclear test; passage of H.R. 7081, the India-United States nuclear agreement, which has a 60-vote threshold—as do the two amendments, the Sanders amendment

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

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regarding tax on high-income individuals and the Dodd amendment regarding economic stabilization, which is a 60-vote threshold—and passage of H.R. 1424, and there is a 60-vote threshold there.

FINANCIAL RESCUE PACKAGE

Mr. REID. Mr. President, yesterday Senator MCCONNELL and I came to the floor to discuss the way forward on the financial rescue package. We agreed that now is not the time for politics or partisanship. Every Member of this Senate could probably write a better bill than we have here, but this was a jointly agreed upon bill. When I say jointly, I mean the House and Senate working with people from the administration. We agreed that now—I repeat—now is not the time for partisanship. Literally, the security and well-being of the American people are at risk, and we have to work together to solve this crisis. So last night, Democrats and Republicans gave consent to move to a vote later today on a package of bills that will stabilize our economy, restore confidence among consumers and businesses, and create new jobs and economic growth.

This package of bills will include the Emergency Economic Stabilization Act, which will increase Federal coverage of bank deposits to $250,000. It will have the Senate-passed tax extenders, along with other things in it, including long-overdue legislation to honor Senator Wellstone and Senator DOMENICI, who worked for more than a decade—Senator Wellstone, of course, was killed in that unfortunate airplane crash, but this has been going on for years while Senator Wellstone served here in the Senate working with Senator DOMENICI. As Senator DOMENICI leaves this body, he will now finally be able to claim the ownership he deserves on this legislation to provide parity in health care coverage for Americans who suffer from mental health illness.

The Emergency Economic Stabilization Act is vastly improved over the version we received initially from Secretary Paulson. We have worked together, Democrats and Republicans, by adding significant oversight in how public funds are spent, we have stopped golden parachutes for executives at taxpayer expense, we have provided taxpayers with a greater likelihood of a return on the funds spent and help for homeowners facing foreclosure.

To this bedrock plan we added an increase in FDIC insurance for bank account deposits from $100,000 to $250,000, which will give consumers renewed confidence that the safety of their savings is ironclad. This is especially important for community-owned banks, for small banks, and rural America.

We include tax extenders to lower taxes for middle-class families, businesses, and for private sector entrepreneurs and producing clean, renewable, alternative energy sources. These tax cuts will create hundreds of thousands of jobs here in America, spark investment in the economy by small businesses and large businesses, and help chart our course away from imported oil toward the homegrown fuels of tomorrow.

There are a few people in the House who would rather we did this some other way, and we have tried other ways. I say to my friends in the House of Representatives, we have to get this done. We cannot leave Washington without doing the financial rescue package and this tax extenders bill. People are waiting. People have been laid off.

Senator DURBIN and I had a man come to us—an immigrant from the Ukraine—who has been extremely successful in America. He is an American citizen, of course. He came to us and said: If you don't pass the tax extenders, I am going to lose my business; people will be laid off. Hundreds of people will be laid off. He had loans for developing these businesses, and if the tax extenders did not come forward, they wouldn't loan him the money. They would call back the loans, is what he told us.

So legislation is never perfect, but we have done our best, and these tax extenders are so important for the American people. It would not be good for us to leave here—it would be a blight on this Congress—and not pass these tax extenders. These aren't for the wealthy, they are for people who are working for a living and trying to keep a job. And jobs will be created. I repeat, tens of thousands of jobs will be created.

I believe every part of this bill enjoys bipartisan support. Every part is aimed directly at the heart of our financial crisis. No one is happy about paying for this dramatic and expensive step with the bailout. No one is glad we have reached this critical point. Senator OBAMA said yesterday that there will be plenty of time to assign blame. Now is our time to work—not as Democrats, not as Republicans, but as guardians of the public trust—to forge a better way ahead.

So I am hopeful that tonight we will see a strong vote in support of this plan and that the bipartisanship shown here in the Senate today will spark the House of Representatives to do the same.

Mr. President, the Founding Fathers were very visionary in setting up this unique system we have here—the legislative system. We have three separate but equal branches of Government. But the legislative branch was set up by our Founding Fathers so that there would be internal strife. That is the way they set it up. Members of the House of Representatives are elected for 2-year terms, we have 6-year terms, and a lot of the time there is envy and jealousy as to how we do what in each body. But in the end, we need to work together. We get a lot of stuff from the House that we don't like in the way they have written it, but that is who they are. They do not like what we send them, and they probably think they could do a better job than we have—and maybe they could have—but this is what we are going to send them.

I hope, as soon as the House can move, they will move quickly—maybe tomorrow—so that by this weekend rolling around we will have done what we need to do for the American people. I repeat, this isn't for Lower Manhattan, this is for people in Elkhorn, NV, in Reno, NV, and in Las Vegas, NV. This is so people can keep their jobs and be able to buy cars and get a loan to take care of that car. It is so a car dealer will be able to do as they have done for decades and borrow money to buy cars so they have cars to sell. Right now, they can't do that. I got a call yesterday from a car dealer in Las Vegas saying that he can't buy any cars and that he needs to have inventory. He said if somebody tries to buy a car, most people can't get a loan. And it is going to get worse, not better, unless we do something.

RECOGNITION OF THE MINORITY LEADER

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

ECONOMIC RESCUE

Mr. MCCONNELL. Mr. President, after Monday's vote in the House, the question is not how we got here but how we get out and how to get our economy back on its feet. So after extensive consultation between the majority leader and myself and the leaders in both parties here in the Senate, we believe we have crafted a way to go forward and to get us back on track. This is the only way to get the right kind of solution for the American people. Both Senator OBAMA and Senator MCCAIN are coming back tonight to embrace this effort and to help us reassure the American people that we are going to fix this problem.

No one is happy with the situation we are in, but it is a situation that we have. And the American people didn't send us here just to do easy things; they expect us to rise to big challenges and to put aside differences and to work on their behalf. So tonight the Senate will vote on an economic rescue plan designed to shield millions of Americans from shockwaves of a problem they didn't create.

We have two problems. We have the equity markets and we have the credit markets, and a way of thinking of it is like this: You could think of our whole economy as the human body, but the credit markets are the circulatory system. Right now, as the distinguished majority leader pointed out, the credit markets are frozen, so the circulatory system is not working as it should. If the circulatory system doesn't work, it begins to choke off the body—the economy. With the step we take tonight, we

are confident we will be able to restore the circulatory system, if you will, and regain health for the economy—the body, if you will—and get the problem fixed for the American people.

I said yesterday that we are going to fix this problem this week. The Senate will speak tonight. We will send to the House a package that, if passed, will address the issue.

We will have demonstrated to the American people that we can deal with the crisis in the most difficult of times—right before an election, when the tendency to be the most partisan is the greatest. But we are in the process of setting that aside, rising to the challenge—both Democrats and Republicans—and doing what is right for the American people.

I yield the floor.

RESERVATION OF LEADER TIME

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

CORRECTION TO APPOINTMENT

Mr. DODD. Mr. President, I ask unanimous consent that action on the appointment of Rainier Spencer made yesterday be corrected to reflect that is an appointment made on behalf of the majority leader and that correction be printed in the RECORD.

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

UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 7081, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 7081) to approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, and for other purposes.

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

Mr. DODD. Mr. President, I am standing in today, my colleagues should be aware, for Senator BIDEN, who is the chairman of the Foreign Relations Committee. As most of the world is aware, he is otherwise occupied.

As the ranking Democrat next to him, I have been asked to assume the responsibility of bringing this matter before the Senate. Senator BIDEN has spent a great deal of time on this issue, along with his friend and colleague, the former chairman, Senator LUGAR, as have other Members as well.

Today we will talk about this issue, the importance of it, the action taken by the House of Representatives under the leadership of HOWARD BERMAN, the chairman of the Foreign Affairs Committee of that body.

I have a letter from the Secretary of State, as well as other supporting information, that leads us to the conclusion that this bill ought to be passed, and passed, I hope, overwhelmingly by this body because of the message it would send not only to the people and the Government of India but others as well about the direction we intend to take in the 21st century about this matter.

I will share some opening comments, and I will turn to my colleague, Senator LUGAR, for any comments he has, and then Senator DORGAN and Senator BINGAMAN—at least two people I know who have amendments they wish to have offered. I know they have comments and thoughts they have to share on this subject matter as well.

In addition to Senator LUGAR and Senator BIDEN on the committee, there are other Members as well who expressed a strong interest in the subject matter—not necessarily an agreement with this proposal but nonetheless should be recognized for their diligence in paying attention to the issue. Senator FEINGOLD of Wisconsin and Senator BARBARA BOXER of California have demonstrated a real interest and concern about this issue.

I want to speak for a few minutes about Representative Henry Hyde. I was elected with him in 1974 to the House of Representatives. He is no longer with us, but nonetheless he made a remarkable contribution as a Republican Member of the House of Representatives, not the least of which was this one, on the Hyde amendment, which will be discussed, I presume, at some length today as we talk about this bill, H.R. 7081, the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Agreement.

I rise to urge passage of this bill, approving the United States-India peaceful nuclear cooperation agreement. On this past Saturday, the House of Representatives passed this bill by a margin of 298 to 116, a resounding vote in support for this agreement.

This agreement with India is as important as it is historic. This bill enables the United States and India to chart a new course in relations between our two great democracies.

There are compelling geopolitical reasons to move forward with this relationship. India has become a major actor in the world.

Why don't we put up this map. One of the things I thought I would do is put up a map. I know everyone knows exactly where these countries are located, but I think sometimes it can be helpful to remind people of the tremendous importance of India's location in Asia, sharing borders with many countries—certainly China and Pakistan and in close proximity with Afghanistan, a very fragile part of the world.

If you look at this map—I will leave it up for a good part of the day—you will appreciate, aside from the agreement itself, the strategic importance of this relation for the United States.

India has become a major actor in the world, and it increasingly sees itself in concert with other global powers, rather than in opposition to them.

Indian Prime Minister Singh, who visited Washington just last week, has devoted energy and political courage in forging this agreement, and in seeking approval for it in India. Put simply, he has placed himself and his political party on the line.

In India, the political symbolism of the agreement is extremely important. It addresses the most divisive and longstanding issue between our two countries dating back to 1974. Most important, the agreement addresses India as an equal—a point that looms large in India, where there are strong memories of a colonial past and of tensions with the United States during the Cold War.

Some of the debate in India focused on whether the agreement with the United States would hamper India's nuclear weapons program. But much of the give-and-take was really about a more basic question—whether it was really time for India to work cooperatively with Western countries. Reaching an accord on nuclear status has been wrenching for India, despite the favorable terms that some say India obtained.

This agreement is indicative of a new era in Indian foreign policy—an era in which India will see all the world's powers as potential partners in efforts to address its own needs and the needs of others. I believe that this new era will bring increased stability and progress to South Asia. I see the bill before us as approving far more than just a nuclear agreement. Among other things, it will set the stage for a stronger U.S.-India relationship, which will be of critical importance to our country in the 21st century.

The Committee on Foreign Relations held an in-depth hearing on the U.S.-India agreement last month. The committee, along with the House Committee on Foreign Affairs, worked closely with the administration to address technical concerns expressed about the agreement. This extraordinary consultation resulted in a bill that will improve U.S. implementation of the accord and assure that nuclear non-proliferation remains at the core of U.S. foreign policy. Our committee approved a bill identical to the House-passed bill by a vote of 19-to-2. I commend chairman HOWARD BERMAN in the House and Senator LUGAR for his leadership as well.

This agreement is not a partisan issue. President Clinton launched the initiative, and President Bush pushed it to fruition. It had strong support on both sides of the aisle in 2006, when we voted on the Henry J. Hyde Act, establishing the underlying principles and requirements of this accord. Indeed, 85

members of the Senate supported the Hyde Act, and only 12 voted against it. I believe the resulting agreement has strong support today.

I mentioned Henry Hyde arrived in Congress in 1975, along with some 74 of us elected in that fall of 1974. I had a wonderful relationship with Henry Hyde. We served together in the House and then during our respective tenure in that body, and then in this body. As I mentioned earlier, Henry Hyde was a remarkable Member of Congress and accomplished many things. He was controversial in some ways but a person of deep conviction, deep personal convictions, and he brought that conviction to everything he engaged in as a matter of public policy.

We probably would not be in as strong a position today to talk about this agreement had it not been for the Hyde Act. So I would be remiss this morning in discussing this if we didn't pay tribute to Henry Hyde and his contribution to this very issue. I want the record to reflect my appreciation for the work this man did on behalf of all of us by drafting and supporting and insisting upon the adopting of the Hyde Act.

Mr. President, throughout our work on this agreement we have sought to address concerns expressed in the United States as well as in India. Some nuclear nonproliferation experts have voiced a fear that it would lead India—and then India's neighbors—to increase the production of nuclear weapons. Some experts have warned that giving India the right of peaceful nuclear commerce, despite its refusal to sign the Nuclear Non-Proliferation Treaty, could undermine the world's willingness to abide by that vital treaty and to enforce compliance with it. We have been consistently vigilant to such risks, and the Hyde Act and this bill give us the tools to remain so in the future.

The process that led to the U.S.-India agreement was undertaken with an eye to achieving progress on nonproliferation issues. Pursuant to a declaration issued in July 2005 by President Bush and Prime Minister Singh, it is important to note the following:

India has improved its export control law and regulations;

India has moved to adhere to the guidelines of the Nuclear Suppliers Group and the Missile Technology Control Regime;

India has affirmed that it will not transfer equipment or technology for uranium enrichment or spent fuel reprocessing to any country that does not already have a full-scale, functioning capability;

India has reaffirmed, both to the United States and to the Nuclear Suppliers Group, its unilateral moratorium on nuclear testing;

India has initialed, and intends to sign, a safeguards agreement with the IAEA;

India has begun to negotiate an Additional Protocol to that safeguards agreement; and

India will bring under IAEA safeguards over a dozen existing or planned nuclear facilities that were not previously subject to safeguards.

The bill before the Senate provides additional measures that guide the implementation of the agreement, and they are worthy of note.

This agreement reaffirms that our approval of the agreement is based on U.S. interpretations of its terms. In other words, it reaffirms that President Bush's assurances about fuel supplies are a political commitment—and are not legally binding.

It requires the President to certify that approving this agreement is consistent with our obligation under the Nuclear Non-Proliferation Treaty not to assist or encourage India to produce nuclear weapons.

Before the Nuclear Regulatory Commission can issue any licenses under this agreement, India's safeguards agreement with the IAEA must first enter into force. In addition, India must file a declaration of civilian nuclear facilities under the safeguards agreement that is not ''materially inconsistent'' with the separation plan that India issued in 2006. We know that there will be some changes, because the 2006 plan envisioned safeguards beginning that year—rather than 2 years later. But this guards against a declaration that flatly contradicts India's promises.

The bill also requires prompt notification of the Foreign Relations Committee if India should diverge from its separation plan in implementing its safeguards agreement.

The bill establishes a procedure for congressional review—and possible rejection—of any ''subsequent arrangement'' under the agreement that would allow India to reprocess spent nuclear fuel that was derived from U.S.-supplied reactor fuel or produced with U.S.-supplied equipment. Article 6 of the India agreement anticipates such a subsequent arrangement if India builds a new reprocessing facility dedicated to its civilian nuclear power sector. Congress should have a special role in this, because spent fuel reprocessing can produce weapons-grade plutonium. This is an improvement over current law, which allows such arrangements to take effect 15 days after public notice is given in the Federal Register.

The bill requires the President to certify that it is U.S. policy to work in the Nuclear Suppliers Group to achieve further restrictions on transfers of enrichment and reprocessing equipment or technology.

The bill also directs the President to seek international agreement on procedures to guard against the diversion of heavy water from civilian to military programs. The India agreement has protections for heavy water that the United States may supply, or that is produced with U.S.-supplied equipment. We need to get supplier countries to adopt similar standards. This was the subject of some lengthy conversation at the committee hearing on this very matter, talking about the heavy water issue and what can be produced by that. I left the hearing confident that the administration intends to pursue these matters very aggressively.

The bill requires regular reporting on the executive branch progress in its efforts on enrichment and reprocessing limits and protecting against heavy water diversion.

That is a lot to consume. I will be happy to make this available to my colleagues to review—staff have worked on this very diligently over the last number of years—to respond to any Member or staff member about any of this. It is somewhat complicated when you get into the issue of heavy water and physics. Nonetheless, there are matters I want the Members to be confident about when they consider their vote on this very important bill.

So, again, I wish to thank the administration, and I will ask unanimous consent, if I may—this is a letter which we received from the State Department, from Secretary of State Condoleezza Rice, expressing the strong support of the administration for this agreement.

I ask unanimous consent that this letter be printed in the RECORD.

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

(See exhibit 1.)

Mr. DODD. As I mentioned earlier, of course, I'd like to express my gratitude to Senator BIDEN for his remarkable work on this effort, along with Senator LUGAR. Obviously, this team who has worked so closely together on so many issues, but this one is of extreme importance. Again, I urge my colleagues to be supportive of it. We have a chance to get this done.

There are those who will argue for delaying and waiting later, but I think the moment is here. Again, this is an important message to send. As I mentioned earlier, I am not sure my colleagues are aware of this, but Prime Minister Singh showed remarkable courage as the Prime Minister of that country in forging this agreement. I think our response to it is important—not that we ought to sign on to it for that reason—but it is important, how important this relationship is.

Again, I draw the attention of my colleagues to this map behind me and the central role, geographically, this great and mature democracy holds in this part of the world, where in many cases there is something far less than a strong and mature democracy. To have a good, strong relationship with this great country in this century will be of critical importance, I believe, to our safety as a nation and the safety of mankind.

So this agreement transcends a bilateral relationship. It goes far deeper than that, reaches far broader than the boundaries of two countries separated by the great distance but allows us, for

the first time in some 35 years, to once again grow closer together as two great democracies.

The tension between our countries has been there for these past 35 years. Tonight we will have an opportunity to put that behind us and to build a new relationship.

For that reason, this agreement also has great significance and import.

THE SECRETARY OF STATE,
Washington, October 1, 2008.

Hon. HARRY REID,
U.S. Senate.

DEAR SENATOR REID: I am writing to express support for the ''United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act'' (H.R. 7081). I very much appreciate your consideration of this important bill within such an extraordinary timeframe. We would not be asking for such exceptional action if we did not believe it was necessary to complete an initiative on which both the Administration and Congress have worked very hard, and on a thoroughly bipartisan basis, since 2005.

The U.S.-India nuclear agreement marks the culmination of a decade-long process. Two successive Administrations have sought to improve U.S.-India relations and adapt American policy to India's emergence on the international stage. For the United States, passage of this legislation will clear the way to deepen our strategic relationship with India, open significant opportunities for American firms, help meet India's surging energy requirements in an environmentally friendly manner, and bring India into the global nuclear nonproliferation mainstream.

I encourage you to pass H.R. 7081 without amendment. The current bill advances the U.S.-India relationship while enhancing nonproliferation efforts worldwide. Amendments would unnecessarily jeopardize the careful progress we have achieved with India at a time when I believe it is important for us to seize the significant momentum we have created in the U.S.-India relationship.

I understand that some Senators have questions about the impact of an India nuclear test on this initiative. We believe the Indian government intends to uphold the continuation of the nuclear testing moratorium it affirmed to the United States in 2005 and reiterated to the broader international community as recently as September 5, 2008. Let me reassure you that an Indian test, as I have testified publicly, would result in most serious consequences.

Existing in U.S. law would require an automatic cut-off of cooperation, as well as a number of other sanctions, if India were to test. After 60 continuous session days, the President could waive the termination of cooperation if he determined that the cut-off would be ''seriously prejudicial'' to nonproliferation objectives or ''otherwise jeopardize the common defense and security.'' We believe existing law strikes the proper balance in responding to a nuclear test, and it is consistent with the approach adopted by the Nuclear Suppliers Group when it adopted the exception for India in early September.

Please allow me also to reiterate what I told Congress on April 5, 2006, when this same question arose: ''We've been very clear with the Indians . . . should India test, as it has agreed not to do, or should India in any way violate the IAEA safeguard[s] agreements to which it would be adhering, the deal, from our point of view, would at that point be off.''

Encouraging India's sustained commitment to its moratorium on nuclear testing will be important to the strategic partnership the United States now seeks to build with India. Congress and the Administration have carefully addressed testing concerns in the Hyde Act, the U.S.-India 123 Agreement, and the testimony of Administration officials.

We have an unprecedented and historic opportunity before us to help shape the 21st century for the better. With this legislation in its current form, the Senate can help ensure that the United States and India complete the journey we began together three years ago. You can also help ensure that U.S. industry—just like its international counterparts—is able to engage with India in civil nuclear trade.

Sincerely,

CONDOLEEZZA RICE.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. LUGAR. Mr. President, I wish to congratulate Senator DODD for his leadership in the Foreign Relations Committee as we took up this historic agreement. He and I both congratulate Prime Minister Singh, our President, President Bush, and Secretary Rice for their advocacy.

This is, indeed, a historic day and a historic moment in the relationship between the United States and India, a very important partnership for world peace.

Today we consider the United States-India Peaceful Nuclear Cooperation Agreement. This is one of the most important strategic diplomatic initiatives undertaken in the last decade. By concluding this pact, the United States has embraced a long-term outlook that will give us new diplomatic options and improved global stability.

The legislation we are considering approves the 123 Agreement that will allow the United States to engage in peaceful nuclear cooperation with India, while protecting U.S. national security and nonproliferation efforts, as well as congressional prerogatives.

It is an opportunity to build a strategic partnership with a nation, India, that shares our democratic values and will exert increasing influence on the world stage.

Last Saturday, September 27, the House of Representatives voted 297 to 117 to approve this agreement. Senate approval would be the capstone to more than 3 years of efforts in the United States and India and around the world.

By embracing this agreement, India's leaders are seeking to open a new chapter in the United States-India relations and reverse decades of fundamental disagreement over the nonproliferation regime. India has created a new national export control system; promised to maintain its unilateral nuclear testing moratorium; pledged to work with us to stop the spread of enrichment and reprocessing technologies; proposed to separate its civilian and military facilities and committed to place its civilian facilities under IAEA safeguards.

If approved, an agreement will allow India to receive nuclear fuel technology and reactors from the United States, benefits that were previously denied to India because of its status outside the Nuclear Non-Proliferation Treaty.

The benefits of this pact are designed to be a lasting incentive for India to abstain from further nuclear weapons tests and to cooperate closely with the United States in stopping proliferation.

The 123 Agreement was submitted by President Bush on September 10, 2008. Last week, the Foreign Relations Committee voted 19 to 2 to report this bill, approving the agreement to the full Senate. The bill the House voted on Saturday was almost identical to the bill approved by the Senate Foreign Relations Committee.

Now, 2 years ago, the Senate voted 85 to 12 to approve legislation that set the parameters for the 123 Agreement we are considering today. The House voted 359 to 68 to approve companion legislation. At the time, the Foreign Relations Committee undertook an extensive review of the agreement and its context. We held three public hearings with testimony from 17 witnesses, including our Secretary of State, Condoleezza Rice.

We received a classified briefing from Under Secretaries of State Nick Burns and Bob Joseph. Numerous briefings were held for staff with experts from the Congressional Research Service, the State Department, the intelligence community, and the National Security Council.

I submitted 174 written questions for the record to the Department of State on details of the agreement, and I posted those answers on my Web site. The 2006 legislation set the rules for today's consideration of the 123 Agreement between the United States and India.

Unlike the administration's original proposal, the Hyde Act neither restricted nor predetermined congressional action on the 123 Agreement.

We expect India to move quickly to negotiate a new safeguards agreement with the IAEA and then to seek consensus from the Nuclear Suppliers Group in accordance with the Hyde Act. Unfortunately, domestic political divisions in India led to a delay of almost 2 years.

Final action on these two tasks was not completed until earlier this month. India engaged and obtained the approval of a new safeguards agreement with the IAEA on August 1. Nuclear Suppliers Group consensus was received on September 6. Since that time, the administration and both Houses of Congress have worked diligently to evaluate the agreements, answer questions from Members of Congress, and move the process forward.

The Hyde Act required the President to report to Congress on whether India had met seven determinations which are as follows: India has provided the United States and the IAEA with a separation plan for its civilian and military facilities and filed a declaration regarding civilian facilities with the IAEA; India has concluded all legal steps prior to signature for its safeguards agreement in perpetuity with the IAEA; India and the IAEA are making substantial progress in completing

an additional protocol; India is working actively with the United States to conclude a fissile material cutoff treaty; India is working with and supporting the United States to prevent the spread of enrichment and reprocessing technology; and, India is taking the necessary steps to secure nuclear materials and technology; and, the Nuclear Suppliers Group has decided by consensus to permit supply to India of nuclear items under an exception to their guidelines.

Now, 2 weeks ago at a Foreign Relations Committee hearing, Under Secretary of State for Political Affairs Bill Burns, Acting Under Secretary Joan Rood, and the lead U.S. Negotiator, Richard Stratford, provided detailed analysis of the agreement. Members were able to examine the documents accompanying the 123 Agreement and ask questions of witnesses about the Hyde Act, the 123 Agreement's text, the new safeguards agreement, and the Nuclear Suppliers Group decision.

I am convinced the President has met all the required determinations under the Hyde Act. However, the congressional review of the agreement demonstrated that two issues required provisions in the legislation before us.

First, India has not identified in the text of its IAEA safeguards agreement those facilities it will place under safeguards. India has provided a plan for the separation of facilities from its nuclear weapons program to the IAEA, but the plan is nonbinding and appears outdated.

This is not what Congress understood would happen when we approved the Hyde Act. Indeed, in 2006, the administration requested bill language calling on India to file ''a declaration regarding its civil facilities with the IAEA.''

The safeguards agreement containing that declaration was to enter into force before submission of the 123 Agreement to Congress.

Under the Hyde Act, India and the IAEA must conclude:

> All legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices . . . to India's civil nuclear facilities, materials, and programs. . . . including materials used in or produced through the use of India's civil nuclear facilities.

The purpose of this complex provision was to secure the most complete version possible of the safeguards agreement for congressional review. We intended that it be submitted as part of the Presidential determination and waiver report required by the Hyde Act. Unfortunately, by not naming the facilities in the safeguards agreement, there is an open question as to when India will act. This has legal implications because the United States is prohibited by law and our NPT obligations from having nuclear trade with any facility not named in India's safeguards agreement.

In response to this issue, Section 104 of the bill before us requires that licenses may not be issued by the Nuclear Regulatory Commission for transfer of nuclear fuel, equipment and technology until after the President determines and certifies to Congress that, one, the safeguards agreement approved by the IAEA Board of Governors on August 1, 2008, has entered into force; and, two, India has filed a declaration of facilities that is not materially inconsistent with the facilities and schedules described in its separation plan.

The second issue that required a new provision in this legislation is India's desire to reprocess spent nuclear fuel burned in its reactors, including fuel from the United States. Reprocessing can result in the separation of plutonium, which can be used in a nuclear weapon.

The United States permits some NPT members with long histories of strong compliance with the IAEA agreement to reprocess U.S.-origin spent nuclear fuel through a process called programmatic consent.

During negotiations on the 123 Agreement, India requested programmatic consent and the United States agreed. However, the United States made programmatic consent contingent on India establishing a dedicated facility to carry out the reprocessing and an agreement on reprocessing procedures in this new facility.

During the formulations hearings, I asked Acting Under Secretary John Rood if the arrangement that would be negotiated with India to permit reprocessing would be submitted to Congress for review.

Mr. Rood stated: '' . . . yes, that's required under the Atomic Energy Act.''

Permitting spent nuclear fuel from the United States to be reprocessed in India is a complex matter that requires careful implementation. The bill before us today does not block negotiations on such arrangements with India. However, the bill does require a future administration to submit such a ''subsequent arrangement'' to Congress which would have the power to pass a resolution of disapproval.

By addressing these two important matters, I believe this legislation improves congressional oversight for future nuclear cooperation with India and corrects a problem related to the new safeguards agreement India has with the IAEA.

In conclusion, I strongly urge my colleagues to approve the United States-India agreement. The national security and economic future of the United States will be enhanced by a strong and enduring bipartisan with India.

With a well-educated middle class that is larger than the entire U.S. population, India can be an anchor of stability in Asia and an engine of global economic growth.

Moreover, the United States has a strong interest in expanding energy cooperation with India to develop new technologies, cut greenhouse gas emissions, and prepare for declining global fossil fuel reserves.

The United States' own energy problems will be exacerbated if we do not forge energy partnerships with India, China, and other nations experiencing rapid economic growth. This legislation will promote much closer United States-Indian relations while preserving the priority of our nonproliferation efforts. We should surely move forward now.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Connecticut.

Mr. DODD. Mr. President, I yield time to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the tragedy of 9/11 is indelibly imprinted on the minds of all of us. What is not so well understood or remembered was that one month later, October 2001, something else happened. Graham Allison, someone who has worked on nonproliferation in the Clinton administration, has written a book about it. Time magazine wrote about it in March of 2002.

Here is what they said: A month after 9/11, for a few harrowing weeks, a group of U.S. officials believed the worst nightmare of their lives—something even more horrific than 9/11—was about to come true. In October of 2001, an intelligence report went out to a small number of government agencies, including the Energy Department's top secret nuclear emergency search team based in Nevada.

This is a Time report, but I have it also in a book written by Graham Allison.

The report said that terrorists were thought to have obtained a 10-kiloton nuclear weapon from the Russian arsenal and that they planned to smuggle it into New York City. The source of the report was a CIA agent named Dragonfire. Dragonfire's report actually was something that was claimed to be undetermined in terms of reliability. But it was something the CIA agent named Dragonfire had picked up. Dragonfire's claim tracked with a report from a Russian general who believed his forces were missing a 10-kiloton device. Since the mid-1990s, proliferation experts have wondered whether several portable nuclear devices might be missing from the Russian stockpile. That made the Dragonfire report all that more alarming. Detonation of a 10-kiloton nuclear weapon in downtown New York would kill about 100,000 civilians, irradiate 700,000 more, and flatten everything for a half a mile.

So the counterterrorist investigators went on the highest alert, we are told. The search team went to New York City. It was kept secret so as not to panic the people of New York. Mayor Giuliani was not informed. If terrorists had managed to smuggle a nuclear weapon into New York City, the question was, could they detonate it. About

a month later, after this report from a CIA agent named Dragonfire of a nuclear weapon having been stolen by terrorists, smuggled into New York City, about to be detonated, about to kill massive numbers of people, it was determined that perhaps this was not a credible intelligence report. But in the postmortem evaluation, they determined it is plausible to have believed a Russian nuclear weapon could have been stolen. It is plausible to believe, having stolen it, terrorists could have smuggled it into New York City, and plausible to believe they could have detonated it; one low-yield nuclear weapon. There are 25,000 of them on this planet. Think of the apoplectic seizure that occurred in October of 2001 over a report by a CIA agent that he picked up some information about one low-yield nuclear weapon being smuggled into New York City. There are 25,000 nuclear weapons on this Earth.

Our job is to provide the leadership to begin to reduce the number of nuclear weapons. The bill before us will almost certainly expand the production of nuclear weapons by India.

Here is what it says to India: Even as we take apart the basic architecture of nonproliferation efforts, the nuclear nonproliferation treaty, which India is one of three countries that has never signed, even as we take that nonproliferation architecture apart with this bill, we have said to India, with this agreement, you can misuse American nuclear technology and secretly develop nuclear weapons. That is what they did. You can test those weapons. That is what they did. You can build a nuclear arsenal in defiance of United Nations resolutions and international sanctions. After testing, 10 years later, all will be forgiven, and you will be welcome into the club of nuclear powers without ever having signed the nonproliferation treaty.

Let's understand what this does. First, let me say that never has something of such moment and such significance and so much importance been debated in such a short period and given such short shrift: one very brief committee hearing in the Senate and a total of a couple of hours here on the Senate floor today; pretty disappointing.

What this agreement says is, India needs various kinds of equipment and technology to produce and build nuclear powerplants. They need more power, and they want to get it from nuclear powerplants. They have been prevented from accessing the kind of material and equipment to produce those plants because they have not signed the nonproliferation treaty, and they developed nuclear weapons outside of the purview of all of us, misusing American nuclear technology to secretly develop these weapons. Now we have said in an agreement with them, yes, we will allow big companies now to sell you this technology—this is all about big companies being able to access a new marketplace for technology, to sell the technology and the capability to develop nuclear powerplants—we will allow you to do that, and we will have the opportunity in this agreement for you to put eight of your plants behind a curtain that will have no international inspections, which is a green light to say, you may produce additional nuclear weapons.

That is not just a supposition. Almost everybody understands that is going to happen. This agreement does not prohibit them from nuclear tests in a way that would nullify the agreement, if they do test. The Administration's interpretation of this agreement is very ambiguous about that.

I want to go through a couple of points. India would have unlimited ability to import fuel for 14 civilian powerplants under this agreement. That is what they want. They want to produce additional power with nuclear plants. Then it says India could have eight other power reactors behind a curtain that we will not be able to inspect. India can then divert its entire domestic fuel supply to eight military reactors to produce additional nuclear weapons.

What does that mean? It is our agreeing that India, that has never signed the nonproliferation treaty and has tested nuclear weapons and developed nuclear weapons in secret using our technology, is now given an agreement that allows them to build more nuclear weapons. Their neighbor is Pakistan, also possessing nuclear weapons. Pakistan warned the international community yesterday that a deal allowing India to import United States atomic fuel and technology could accelerate the nuclear arms race between India and Pakistan. India and Pakistan have fought three wars since independence from Britain in 1947 and, through a peace process, have stabilized relations since 2004, but they remain deeply distrustful of each other. We have now reached an agreement that says one of them may begin to produce additional nuclear weapons.

UPI—Islamabad, Pakistan: Without naming sources, the Press Trust reported Wednesday that the Pakistani Prime Minister has reported construction of two nuclear powerplants with Chinese assistance. The move appears aimed at counterbalancing a nuclear fuel deal negotiated with India. The decision was made on September 19 in Islamabad. The point is, we will allow you to put eight reactors behind a curtain. We will allow you to produce additional nuclear weapons that we won't know about. Is there a reaction to that? Pakistan has a reaction, to engage with the Chinese.

The United States had agreed that the purpose of the agreement was not to contain India's strategic program but to enable resumption of full civil nuclear energy cooperation. So that is the India separation plan. That is what they say. They say the United States and India agreed the purpose of the agreement is not to constrain India's strategic program. That means they say the agreement is to not constrain India's ability to produce nuclear weapons. That is what that means.

I am going to offer an amendment today that the managers will oppose. The conferees believe there should be no ambiguity regarding the legal and policy consequences of any future Indian test of a nuclear explosive device. That is from a joint statement of the conference of the Hyde Act which passed the Congress. There should be no ambiguity. Here is what the Administration says it thinks the agreement provides: Should India detonate a nuclear explosive device, the United States has the right to cease all nuclear cooperation. Well, we know we have the right. Are we going to do it? No. That is deliberate ambiguity to say if India were to test a nuclear weapon, there is nothing that will require us to decide to nullify this agreement.

Let me say again, the India Prime Minister says the agreement does not in any way affect India's right to undertake future nuclear tests, if necessary.

This is a planet with 25,000 nuclear weapons, tactical and strategic. The suspected loss or stealing of one caused an apoplectic seizure in October of 2001. We have 25,000 of them. Our job as an international leader, a world leader, our job is to begin marching back from the abyss; that is, to reduce the number of nuclear weapons. Instead we are taking apart the basic architecture of nuclear nonproliferation that has served us for many decades. We are saying to India, who has never signed the nuclear nonproliferation treaty, it is OK if you produce additional nuclear weapons we can't see and we don't know about. We are going to sign an agreement that allows you to do that. That is almost unbelievable.

India is a very important trading partner. India is a very important ally for our country. I believe that. I accept that. But this administration and those in the Congress who have agreed to the measure before us today are making a grievous mistake. We will not have second chances with respect to this issue of nuclear weapons. If we don't provide the world leadership to begin marching back from the prospect of terrorists using nuclear weapons, the prospect of nuclear weapons being stolen and developed by terrorist organizations, we will one day wake up and tragically read that a nuclear weapon was exploded in a major city on this planet. This agreement marches in exactly the wrong direction. Do you think this agreement allowing India to produce additional nuclear weapons has no impact on Pakistan, has no impact on China, has no message to the rest of the world? The message is: You can misuse American nuclear technology and secretly develop nuclear weapons. You can test those weapons. You can build a nuclear arsenal in defiance of United Nations resolutions, and

you will be welcomed as someone exhibiting good behavior with an agreement with the United States. What kind of message is that? What message does that send to others who want to join the nuclear club who say: You have nuclear weapons, we want some.

If we don't find a way to begin systematically reducing the number of nuclear weapons and stop the spread of nuclear weapons and try to find every way to prevent a nuclear weapon from ever again being exploded in anger on this planet, one day we will ruefully regret what we have done here.

Again, let me close by saying that never in my life has such a large issue been given such short shrift. This issue has great consequences for this country, the world, and their respective futures for that matter, and this administration is, in my judgment, making a very serious mistake.

Mr. President, how much time remains?

The PRESIDING OFFICER. All time has expired.

Mr. DORGAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I inquire of my colleague from North Dakota, is it the intent of the Senator to offer an amendment at this time or is it later this morning, or what is my colleague and friend's plan?

Mr. DORGAN. Mr. President, I say to the Senator from Connecticut, I am waiting for the Senator from New Mexico to come to the floor. What we are going to do is we are going to combine our two amendments.

Mr. DODD. OK.

Mr. DORGAN. We will still wish to take the 30 minutes each, but we will combine the two amendments and have a vote on one amendment, provided, of course, that meets unanimous consent. But I will, in a few moments, be ready to consume my half hour on this subject if that is your desire. I want to wait for Senator BINGAMAN to come in order to consult. He should be here momentarily.

Mr. DODD. Mr. President, in his absence, why don't we wait. My plan would be to have you do that and make your statements, and I will respond to them at the appropriate time.

So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, Senator BINGAMAN and I will be combining our amendments into a Dorgan-Bingaman amendment, with other cosponsors, and that is now being put together by legislative counsel. So we will have that here briefly. But why don't I proceed with my 30 minutes. I think Senator BINGAMAN will have 30 minutes. Then apparently there is going to be a response following that, and we will conclude a portion of this debate.

So, Mr. President, on the 30 minutes I now have available, let me read to my colleagues something written by Graham Allison. Graham Allison is someone who has been involved in nuclear nonproliferation with the Clinton administration. He wrote this in a book, and this, by the way, is published in an article. I want to read it. I will quote it:

> One month after the terrorist assault on the World Trade Center and the Pentagon, on October 11, 2001, President George W. Bush faced a more terrifying prospect. At that morning's presidential daily intelligence briefing, George Tenet, the director of central intelligence, informed the president that a CIA agent codenamed ''Dragonfire'' had reported that Al Qaeda terrorists possessed a 10-kiloton nuclear bomb, evidently stolen from the Russian arsenal. According to Dragonfire, this nuclear weapon was in New York City.

Continuing to quote:

> The government dispatched a top-secret nuclear emergency support team to the city. Under a cloak of secrecy that excluded even Mayor Rudolph Giuliani, these nuclear ninjas searched for the bomb. On a normal workday, half a million people crowd the area within a half-mile radius of Times Square. A noon detonation in Midtown Manhattan would kill them all instantly. Hundreds of thousands of others would die from collapsing buildings, fire and fallout in the hours thereafter.

Continuing to quote:

> In the hours that followed, Condoleezza Rice, then national security adviser, analyzed what strategists call the ''problem from hell.'' Unlike the Cold War, when the US and the Soviet Union knew that an attack against the other would elicit a retaliatory strike of greater measure, Al Qaeda—with no return address—had no such fear of reprisal. Even if the president were prepared to negotiate, Al Qaeda has no phone number to call.

Again, continuing to quote:

> Concerned that Al Qaeda could have smuggled a nuclear weapon into Washington as well, the president ordered Vice President DICK CHENEY to leave the capital for an ''undisclosed location,'' where he would remain for weeks to follow—standard procedure to ensure ''continuity of government''. . . .
>
> Six months earlier the CIA's Counterterrorism Center had picked up chatter in Al Qaeda channels about an ''American Hiroshima.'' The CIA knew that Osama bin Laden's fascination with nuclear weapons went back at least to 1992, when he attempted to buy highly enriched uranium from South Africa. . . .
>
> As CIA analysts examined Dragonfire's report and compared it with other bits of information, they noted that the September attack on the World Trade Center had set the bar higher for future terrorist attacks. . . .
>
> As it turned out, Dragonfire's report proved to be a false alarm. But the central takeaway from the case is this: The US government had no grounds in science or logic to dismiss this possibility, nor could it do so today.

Now, think of that. That is a discussion about one low-yield 10 kiloton nuclear weapon allegedly stolen from the Russian stockpile, smuggled into New York to be detonated by terrorists—one nuclear weapon. There are 25,000 on this Earth. One small weapon caused an apoplectic seizure about the prospect of hundreds of thousands of people being killed.

What does that have to do with this? Well, what it has to do with this is we have struggled since the end of the Second World War to try to put a cap on the bottle here and make sure a nuclear weapon is never again exploded in anger—not by a military power, not by a terrorist group. We have tried to prevent the spread of nuclear weapons. We have tried to see if we could find a way to reduce the number of nuclear weapons. We have created something called the Nuclear Non-Proliferation Treaty, the NPT. We have created something called the Nuclear Test Ban Treaty, which I regret to say our country has not ratified. But we have tried to find ways to stop the spread of nuclear weapons, stop the building of additional nuclear weapons.

One of three countries that did not sign the Nuclear Test Ban Treaty was India. They refused to sign it. In these intervening years, what we have discovered about India—a respected ally of ours, a trading partner of ours, a country we hold in high esteem—we have discovered that they misused American nuclear technology to secretly develop their own nuclear weapons. We have discovered that they tested those nuclear weapons. They have defied the United Nations resolutions and international sanctions.

Now we have discovered that an agreement has been reached with the Government of India that all will be forgiven. We will sign a new agreement with you—that I believe unwinds and undoes the entire architecture of nonproliferation of nuclear weapons. All will be forgiven. In fact, what we will do is we will say to you that you can create nuclear powerplants because you need nuclear power, and our corporations and international corporations can sell—this is about business, a lot of business—can sell to you the technology and the construction materials to produce nuclear powerplants. And, oh, by the way, the agreement also says you can have eight nuclear powerplants that are behind a curtain that will never be inspected by international inspectors. That is where you can produce additional nuclear weapons, which the Indian Government wishes to do.

This agreement is an unbelievable mistake. At exactly the moment when this country should exhibit its leadership, its world leadership that is required of this country to not only stop the spread of nuclear weapons but to begin marching back to reduce the number of nuclear weapons, at this exact time, this Government, this administration and this Congress, is saying to an ally: We will give you the green light to produce more nuclear weapons even though you have never signed the nonproliferation treaty. That is almost unbelievable to me.

The nonproliferation treaty prohibits peaceful nuclear assistance to so-called nonnuclear states unless they agree to put all their facilities under international safeguards and give up the option of producing nuclear weapons. With this agreement, we say that does not matter anymore. It does not matter. You do not have to subject these eight plants to international safeguards. You do not have to give up the option of producing nuclear weapons.

The five traditional nuclear powers in the post-Second World War period—Russia, the United States, Britain, France, and China—all have signed the nonproliferation treaty. All other countries are considered to be nonnuclear states according to the nonproliferation treaty.

Article I of the NPT obligates the recognized nuclear weapon states, including the United States, ''not in any way to assist, encourage, or induce any non-nuclear weapons State to manufacture or otherwise acquire nuclear weapons. . . .'' With this agreement, we have decided that does not matter. We have no intention to pay attention to Article I any longer.

Section 128 of the Atomic Energy Act requires all states other than the five I mentioned to have full-scope safeguards as a prerequisite for receiving U.S. civil nuclear exports. That does not matter anymore.

Section 129 of the Atomic Energy Act requires the termination of nuclear exports if a nonnuclear weapon state has, among other things, tested nuclear weapons after 1978. We have said that does not matter anymore.

Section 102 of the Arms Export Control Act requires sanctions on any nonnuclear weapon state that has detonated a nuclear device. That doesn't matter anymore. The United Nations Security Council resolution 1172 condemned India and Pakistan's 1998 nuclear tests. The United States-India agreement says that none of these provisions will be applicable to India anymore, even though it secretly used our technology to develop nuclear weapons and then tested them.

Now, a working nuclear bomb can be produced with as little as 35 pounds of uranium 235 or 9 pounds of plutonium 239. I think nuclear terrorism and the threat of nuclear terrorists gaining access to nuclear weapons represent the gravest security threats to our Nation, bar none.

Retired GEN Gene Habiger, who commanded America's nuclear forces, has said that nuclear terrorism ''is not a matter of if; it is a matter of when.''

In 2006, Henry Kissinger wrote in the Washington Post:

> The world is faced with the nightmarish prospect that nuclear weapons will become a standard part of national armament and wind up in terrorist hands.

It will become a standard part of armament for countries, because they want to possess it, and it will inevitably end up in terrorist hands.

Former Senator Sam Nunn wrote in the Wall Street Journal:

> We know that terrorists are seeking nuclear materials—enriched uranium or plutonium—to build a nuclear weapon. We know that if they get that material they can build a nuclear weapon. We believe that if they build such a weapon, they will use it. We know terrorists are not likely to be deterred, and that the more this nuclear material is available, the higher the risks.

We know Osama bin Laden has been seeking the opportunity and the materials to build nuclear weapons since the early 1990s. In 1998, Osama bin Laden issued a statement titled ''The Nuclear Bomb of Islam,'' declaring:

> It is the duty of Muslims to prepare as much force as possible to terrorize the enemies of God.

I described the book entitled ''Nuclear Terrorism'' written by Graham Allison, an official in the Clinton administration who worked on these issues: The potential stealing of one low-yield weapon terrorizing the country and a city.

Nowhere is the threat of nuclear terrorism more imminent than in South Asia. It is home to al-Qaida, which is seeking nuclear weapons. It is an area where Pakistan and China and India have always had tense relations. All three possess nuclear weapons. India and China fought a border war in 1962. India and Pakistan have fought three major wars and had two smaller scale contests. Both detonated nuclear explosions in 1998 and declared themselves a nuclear power. After that, the world held its breath while India and Pakistan fought a limited war in Kashmir. India is thought to have a modest cache of nuclear weapons at this point. You can go to the journals and get estimates of 25 to 50 or 60 nuclear weapons, but India wants more.

It seems to me that to do this in the absence of an understanding of what it means in the region, and in the absence of what it means to unravel the regime by which we have tried to move toward nonproliferation of nuclear weapons is a dangerous step.

I wish to describe something The New York Times wrote yesterday, and I fully agree: President Bush and his aides were so eager for a foreign policy success they didn't even try to get India to limit its weapons program in the future. They got no promise from India to stop producing bomb-making material, no promise not to expand its arsenal, and no promise not to resume nuclear testing. The Senate should postpone action until the next Congress can figure out how to limit the damage from this deal.

I fully agree with that. I don't have any understanding why we are rushing—with one short hearing before one committee in this Congress—to a short, truncated version on the floor of the Senate, and then agreement.

Here is the agreement: India would have unlimited ability to import fuel for 14 civilian nuclear powerplants, and it could then divert all of its current domestic fuel supply to 8 military reactors which are used for nuclear weapons production, with no international inspection at all.

If anyone thinks this makes sense for our country, I think there is something wrong with that thinking.

Will it have a consequence with respect to Pakistan? I expect so. Pakistan warned the international community in July that a deal allowing India to import United States atomic fuel and technology could accelerate a nuclear arms race between Delhi and Islamabad. They have fought substantial wars before, as I said.

So what does Pakistan do? They go off and they will seek nuclear fuel assistance from China to build 10 nuclear powerplants. Will they be inspected? The move appears aimed at counterbalancing a nuclear fuel deal negotiated this year between India and Western suppliers.

Paragraph 5 of the India separation plan says: The United States and India—this is India's portion of the agreement—had agreed that the purpose of the agreement was not to constrain India's strategic program.

That is a fancy way of saying their understanding is we are not constraining their ability to produce additional nuclear weapons.

Now, the Hyde Act passed the Congress and allowed this negotiation to take place. I didn't vote for it. I was one of a minority who didn't vote for it because it had some huge holes in it, but here is what the conferees said:

> The conferees believe there should be no ambiguity regarding the legal and policy consequences of any future testing of a nuclear explosive device by India.

That is what they said. Here is how the Administration interprets the agreement that is on the floor of the Senate:

> Should India detonate a nuclear explosive device, the United States has the right to cease all nuclear cooperation with India.

We already have that right. But is that ambiguous? It surely is. The Administration doesn't say we are going to shut down or nullify this agreement; it says we have the right to.

The proposition of the Hyde amendment that passed the Congress said it should be unambiguous. No ambiguity. Yet the Administration is deliberately being ambiguous so that if India tests a nuclear weapon, that country may still not be subject to sanctions.

The BJP, which may be India's next ruling party, says:

> The BJP would like to clearly reiterate that any compromise on India's right to nuclear test is wholly unacceptable. Finally, the agreement does not in any way affect India's right to undertake future nuclear tests, if necessary.

This last statement was from the Prime Minister of India. Do we need to say more about what might or might not be here?

Senator BINGAMAN and I are offering an amendment, the Dorgan-Bingaman amendment, with a good number of cosponsors, that makes clear two things. No. 1: If India would test, it would nullify this agreement with respect to United States cooperation. No. 2: Senator BINGAMAN has added—and we are

putting them together—if India were to test a nuclear weapon, the export controls we can enact to deal with other suppliers around the world and their dealings with India should be fully utilized.

Let me go back to where I started for a bit. Probably all of my colleagues have been in the same discussions. I hear people say nuclear weapons are like any other weapon. I hear people say nuclear weapons are usable. I hear people say we need to build new nuclear weapons here in our country. We need to build bunker-buster weapons, nuclear weapons that can go under and bust some caves; Earth-penetrating bunker-buster weapons. Designer nuclear weapons. We have all heard it. This administration has wanted to build new designer nuclear weapons.

Some believe a nuclear weapon is like any other weapon. It is not. It can never be used. To the extent and when it is used, if it is used by a terrorist group or country, nothing on this Earth will be the same.

It was different in the 1940s. The last time a nuclear weapon was used in anger, outside of tests, was to end the Second World War. Then virtually no one else had nuclear weapons. Now we have nuclear weapons spread around this globe. This country has assumed the responsibility for many years—the mental responsibility to try to stop the spread of nuclear weapons. It is a desperate attempt to say: You know what. The only way this planet is going to continue is if we stop the spread of nuclear weapons. Does anybody think if people start lobbing nuclear weapons back and forth, killing millions of people, that this planet survives? I don't. We have 25,000 of them on this planet, and we are going to sign up to an agreement today that says let's produce more? Not us, although we have people here who want to produce more in this country. This says let India produce more in secret. What does that mean to Pakistan? What does that mean to China? What does that mean to that South Asian region? What does it mean to the world?

This is such a truncated debate and such a shame. There are a lot of very interesting, qualified, serious people who ought to be weighing in on this to describe what we are doing here today in terms of the consequences to this planet. What are the consequences to the regime that has existed for many years—five or six decades now—to try to stop the spread of nuclear weapons?

I had a hearing one day in my appropriations subcommittee, because we fund the nuclear weapons portion of the appropriations process in the Department of Energy. In that hearing, someone described the fact that the last time a nuclear weapon was used in a conflict was in 1945, and it has been all of these decades—all of these decades—that we have constrained the use of nuclear weapons. The Soviets and the U.S. built massive stockpiles of nuclear weapons under a doctrine called Mutually Assured Destruction, believing that if either attacked the other, the retaliation would essentially destroy both. The original attack would inflict massive damage on the country that was attacked, but the country that was attacked would also retaliate in a manner that virtually obliterated the attacking country. So that mutually assured destruction represented a standoff during the Cold War with the Soviet Union.

In the meantime, other countries aspired to become nuclear weapons powers, to obtain nuclear weapons, and to this day not only do many countries still desire these things, but now terrorists do as well. So the question is, Who is going to step us back from this cliff? We have a former Secretary of Defense who believes there is about a 50-percent chance that a nuclear weapon—I believe he said a 50-percent chance—will be exploded in a major city within 10 years. I don't doubt that could be the prospect if we don't use all of our energy and all of our leadership capability as a leading nuclear power in this world—a nuclear weapons power in this world—to try to march back from 25,000 nuclear weapons to far fewer nuclear weapons; to try to put up walls by which we will not allow people or countries to proliferate nuclear weapons.

We have a man in Pakistan who is under house arrest, and has been for a long while, Mr. A. Q. Khan, who apparently is a national hero of sorts in Pakistan. He spread nuclear secrets all around the world for money. Our country has never even been able to interview him, to talk to him, to understand where these secrets went. As I said, he is not in prison, he is under house arrest. He is still considered a hero by some.

We have to get serious about this issue of the proliferation of nuclear weapons. We are not getting serious about an issue such as this by dismantling the very structure that has helped us now for some 60 years to prevent the spread of nuclear weapons or at least prevent the use of nuclear weapons.

In the Appropriations Committee hearing I described earlier, I said: We have been lucky, and someone said: Well, it is much more than luck. I said: I agree it is more than luck. It is a regime, it is a structure of nonproliferation that we have worked on. Many administrations worked seriously in this area.

This administration, regrettably, appointed people to positions of authority on nuclear nonproliferation who didn't believe in the mission. They didn't even believe in the mission. The question for us now is: Is this the way forward, to take apart the structure?

When I said we have been lucky, what I meant was that the structure has certainly helped, but we are going to need more than that. We are going to need some good fortune. If we think we can live on a planet with 25,000 nuclear weapons, that somehow, some way, some day, somebody is not going to steal one and detonate it in a major city—we have to be serious about this.

India is a wonderful country. India is an ally of ours. It is an ally of the United States. But that should not justify our deciding to give a green light to India—a country which has never signed the nonproliferation treaty—give the green light to produce more nuclear weapons. That is exactly what this agreement does. No one can stand up in this discussion and say: This agreement doesn't allow a country that has refused to sign the nonproliferation treaty, this agreement does not allow them to produce more nuclear weapons. It does on its face, and everybody knows it. Everybody wants to pretend as though it doesn't exist.

This is a horrible mistake. I am enormously surprised, after so many decades of people talking and thinking seriously about nuclear nonproliferation, that we reward those countries that misuse nuclear technology in order to secretly produce nuclear weapons and secretly test nuclear weapons. We now say to them: By the way, here is your reward, an agreement by which you can continue to do it; an agreement which is written in a way that says we will allow you to produce more nuclear weapons and, oh, by the way, if you test, we won't even put in the agreement that we will nullify it. An agreement we might nullify. We ought to put in the agreement, ''We will,'' which was promised in the conference report.

So maybe I am not capable of understanding the world view of some that allowing an ally of the United States, that has not signed the nonproliferation treaty, to produce additional nuclear weapons is somehow strengthening our country or the world or is good for us. Maybe I missed something, but I don't think so. I think what is missing is the logic and the commitment to nonproliferation of those who negotiated this. What is missing is the determination and the relentless effort by this country to lead in the direction of reducing the number of nuclear weapons and not allowing the production of more.

Mr. President, I yield the remainder of my time. How much time do I have remaining?

The PRESIDING OFFICER (Mr. CASEY). Five minutes.

Mr. DORGAN. I reserve the remaining 5 minutes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I have a consent agreement that would combine the two amendments. I ask unanimous consent that the order with respect to H.R. 7081 be modified to provide that the Dorgan and Bingaman amendments be combined into one amendment; that all debate time specified previously remain available and the amendment be subject to the 60-vote threshold, as provided under the previous agreement.

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

CHILD SAFE VIEWING ACT OF 2007

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 588, S. 602.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 602) to develop the next generation of parental control technology.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Safe Viewing Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Video programming has a direct impact on a child's perception of safe and reasonable behavior.

(2) Children may imitate actions they witness on video programming, including language, drug use, and sexual conduct.

(3) Studies suggest that the strong appeal of video programming erodes the ability of parents to develop responsible attitudes and behavior in their children.

(4) The average American child watches 4 hours of television each day.

(5) 99.9 percent of all consumer complaints logged by the Federal Communications Commission in the first quarter of 2006 regarding radio and television broadcasting were because of obscenity, indecency, and profanity.

(6) There is a compelling government interest in empowering parents to limit their children's exposure to harmful television content.

(7) Section 1 of the Communications Act of 1934 requires the Federal Communications Commission to promote the safety of life and property through the use of wire and radio communications.

(8) In the Telecommunications Act of 1996, Congress authorized Parental Choice in Television Programming and the V-Chip. Congress further directed action on alternative blocking technology as new video technology advanced.

SEC. 3. EXAMINATION OF ADVANCED BLOCKING TECHNOLOGIES.

(a) INQUIRY REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a notice of inquiry to consider measures to examine—

(1) the existence and availability of advanced blocking technologies that are compatible with various communications devices or platforms; and

(2) methods of encouraging the development, deployment, and use of such technology by parents that do not affect the packaging or pricing of a content provider's offering.

(b) CONTENT OF PROCEEDING.—In conducting the inquiry required under subsection (a), the Commission shall consider advanced blocking technologies that—

(1) may be appropriate across a wide variety of distribution platforms, including wired, wireless, and Internet platforms;

(2) may be appropriate across a wide variety of devices capable of transmitting or receiving video or audio programming, including television sets, DVD players, VCRs, cable set top boxes, satellite receivers, and wireless devices;

(3) can filter language based upon information in closed captioning;

(4) operate independently of ratings pre-assigned by the creator of such video or audio programming; and

(5) may be effective in enhancing the ability of a parent to protect his or her child from indecent or objectionable programming, as determined by such parent.

(c) REPORTING.—Not later than 270 days after the enactment of this Act, the Commission shall issue a report to Congress detailing any findings resulting from the inquiry required under subsection (a).

(d) DEFINITION.—In this section, the term ''advanced blocking technologies'' means technologies that can improve or enhance the ability of a parent to protect his or her child from any indecent or objectionable video or audio programming, as determined by such parent, that is transmitted through the use of wire, wireless, or radio communication.

Mr. DODD. Mr. President, I ask unanimous consent that a Pryor amendment, which is at the desk, be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The amendment (No. 5684) was agreed to, as follows:

On page 6, beginning in line 4, strike ''**TECHNOLOGIES.**'' and insert ''**TECHNOLOGIES AND EXISTING PARENTAL EMPOWERMENT TOOLS.**''.

On page 6, line 12, strike ''and''.

On page 6, line 16, strike ''offering.'' and insert ''offering; and''.

On page 6, between 16 and 17, insert the following:

''(3) the existence, availability, and use of parental empowerment tools and initiatives already in the market.''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 602), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 602

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 ''Child Safe Viewing Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Video programming has a direct impact on a child's perception of safe and reasonable behavior.

(2) Children may imitate actions they witness on video programming, including language, drug use, and sexual conduct.

(3) Studies suggest that the strong appeal of video programming erodes the ability of parents to develop responsible attitudes and behavior in their children.

(4) The average American child watches 4 hours of television each day.

(5) 99.9 percent of all consumer complaints logged by the Federal Communications Commission in the first quarter of 2006 regarding radio and television broadcasting were because of obscenity, indecency, and profanity.

(6) There is a compelling government interest in empowering parents to limit their children's exposure to harmful television content.

(7) Section 1 of the Communications Act of 1934 requires the Federal Communications Commission to promote the safety of life and property through the use of wire and radio communications.

(8) In the Telecommunications Act of 1996, Congress authorized Parental Choice in Television Programming and the V-Chip. Congress further directed action on alternative blocking technology as new video technology advanced.

SEC. 3. EXAMINATION OF ADVANCED BLOCKING TECHNOLOGIES AND EXISTING PARENTAL EMPOWERMENT TOOLS.

(a) INQUIRY REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a notice of inquiry to consider measures to examine—

(1) the existence and availability of advanced blocking technologies that are compatible with various communications devices or platforms;

(2) methods of encouraging the development, deployment, and use of such technology by parents that do not affect the packaging or pricing of a content provider's offering; and

(3) the existence, availability, and use of parental empowerment tools and initiatives already in the market.

(b) CONTENT OF PROCEEDING.—In conducting the inquiry required under subsection (a), the Commission shall consider advanced blocking technologies that—

(1) may be appropriate across a wide variety of distribution platforms, including wired, wireless, and Internet platforms;

(2) may be appropriate across a wide variety of devices capable of transmitting or receiving video or audio programming, including television sets, DVD players, VCRs, cable set top boxes, satellite receivers, and wireless devices;

(3) can filter language based upon information in closed captioning;

(4) operate independently of ratings pre-assigned by the creator of such video or audio programming; and

(5) may be effective in enhancing the ability of a parent to protect his or her child from indecent or objectionable programming, as determined by such parent.

(c) REPORTING.—Not later than 270 days after the enactment of this Act, the Commission shall issue a report to Congress detailing any findings resulting from the inquiry required under subsection (a).

(d) DEFINITION.—In this section, the term ''advanced blocking technologies'' means technologies that can improve or enhance the ability of a parent to protect his or her child from any indecent or objectionable video or audio programming, as determined by such parent, that is transmitted through the use of wire, wireless, or radio communication.

UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT ACT—Continued

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, let me thank Senator DORGAN for his leadership on this issue and for his heartfelt and very well-articulated statement about the reasons why we need to amend this agreement before we proceed any further. I strongly agree with him, and I am honored to join with him in proposing an amendment that will improve the agreement that is coming to the Senate floor tonight for consideration.

The bill we are dealing with tonight seeks to obtain expedited approval of

the United States-India nuclear cooperation agreement. The agreement was the result of a bill we passed into law 2 years ago—nearly 2 years ago—that exempted India from the very export controls that were placed into the Atomic Energy Act as a result of India's decision to detonate a nuclear weapon in 1974—with United States-supplied technology, I would point out.

Let me be clear: I do believe it is time that we as a nation did more to reach out to India in areas such as energy and high technology. The President deserves credit for recognizing that the India of the 1960s and 1970s is not the India of today. India is a great leader in technology and needs to be an ally of our country on a great many issues, but I cannot support the proposed agreement before us today in the form we are being presented.

By modifying our nonproliferation laws for India, and just for India, and in a circumstance where India has not signed the nonproliferation treaty, not only are we sending the wrong signal to Iran, which is a signatory and desires to have its own nuclear program, but we are also sending the wrong signal to North Korea, to Pakistan, and to Israel. Those three countries are not signatories to the nonproliferation treaty, and they have detonated nuclear weapons. So approval of the agreement as it is now presented makes it difficult for us to justify our nonproliferation policies to the world at large, and in particular it makes it very difficult for us to justify them to other nonproliferation treaty signatories, such as South Africa, Brazil, and Taiwan, which have foresworn their nuclear weapons program as part of signing up for the nonproliferation treaty.

The net result of approving the agreement as proposed today is that we are making India a de facto weapon state without them having to sign the nonproliferation treaty. India gets to have their cake and to eat it too. They obtain nuclear weapon state status but, by not signing the NPT, they do not have to adhere to its fundamental article VI requirement that nuclear weapon states shall ''pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race.''

The amendment Senator DORGAN and I are offering seeks to make several improvements to the underlying bill that relate to the question of what happens if India again decides to detonate a nuclear weapon. The first section, developed by Senator DORGAN, states simply that the United States will not conduct trade in nuclear technology with India if they detonate a nuclear weapon. That is sensible policy. It is consistent with the Atomic Energy Act, which cuts off trade in nuclear technology if states such as India detonate a nuclear device.

The second part of the amendment, which I have added to the combined amendment, requires the President to certify to Congress that the United States-supplied technology is not what has enabled India to go forward with detonation of a nuclear weapon.

Let me explain why this is important. India detonated five nuclear weapons in 1998 without the aid of advanced technology supplied by other nations. The reason is because the 45-nation group that is called the Nuclear Suppliers Group, or NSG, developed a consensus that they would not ship to India sensitive nuclear technology. As a result of the bill we passed 2 years ago, this Nuclear Suppliers Group has now approved the export of sensitive nuclear technology to India. It is entirely conceivable that India may want to improve their nuclear weapons now that they have access to advanced technology from this Nuclear Suppliers Group.

The certification we provide for in this amendment would force the President to ensure ahead of time that appropriate export controls are in place to begin with. It is one of the strictest conditions Congress can place on a President, but it can be met. We routinely require end-use monitoring of sensitive technologies that we export to other countries. Embassy personnel inspect their purported destination to make sure they are not used for illicit purposes. Certification, as we provide for in this amendment, also places pressure on the President to work with the IAEA to ensure that the safeguards applied to Indian facilities are effective so the exported technology does not make its way into their weapons program. It seems to me that the President should place this level of scrutiny on our nuclear exports to India.

Let me put up a chart to make the point I am trying to make with this part of the amendment. This chart tries to make the distinction between—that is reflected in the underlying agreement we are going to be voting on—between the parts of India's nuclear program that are safeguarded—and that is, to be specific, 14 nuclear reactors and 1 fuel reprocessing plant—and then the parts of India's nuclear program that are not subject to any safeguards—and that is substantially more. That is eight power reactors, a fast breeder program, and its entire military program, which consists of two plutonium reprocessing plants, two uranium enrichment plants, and two heavy water plutonium production reactors.

The underlying agreement we are voting on contemplates that all the nonsafeguarded parts of the nuclear weapons program in India will be supplied only with domestically produced fuel. The safeguarded parts are the parts that can be supplied with imported uranium fuel. So the theory is we can take great consolation in knowing that nothing we are sending to India is, in fact, affecting the nonsafeguarded part of their nuclear program.

Now, around here, I don't know if you would call this a Chinese firewall or what you would call it—this yellow line that separates the safeguarded from the nonsafeguarded parts of the nuclear weapons program—but the truth is, under this agreement and the way it now stands, it is virtually impossible for us to be assured, in any credible way, that what is being provided in the way of technologies or fuel to India for its nuclear program is, in fact, being kept just for the safeguarded part.

Obviously, the other point is, as to the fuel, it is all fungible. If, in fact, we are providing imported uranium fuel that can be used for safeguarded reactors, there is no reason why the domestically produced fuel can't be used for the nonsafeguarded reactors.

It is, in my view, vitally important that we try to make some amendment to ensure that there is some degree of scrutiny over what is, in fact, occurring there, and that is the second part of the amendment I referred to—the net result of improving this. By modifying our nonproliferation laws for India, which has not signed the nonproliferation treaty, it is clear we are making an exception that will cause great difficulty in our ability to encourage other countries to comply with the nonproliferation treaty.

The third part of the amendment we are offering requires that if India tests a nuclear weapon, we will not enable other countries to further India's nuclear program. This is called the third-party problem; whereby, we enable other countries to help India's nuclear program. If India detonates a nuclear weapon, the President, under our amendment, would have to recommend to Congress what export control authorities can be used so our exports to other nuclear suppliers do not end up helping India's program. The President, of course, would have a wide array of such authorities to apply—from end-use monitoring of the technologies that were supplied to outright prohibition on providing any of these technologies.

The United States and India, obviously, have deep and important ties. Many of our leading citizens have ancestry in India. Many of our leading citizens in our high-tech community were originally born in India. They have greatly contributed to the strength of our Nation. We owe them a great debt of gratitude, and we honor them as we raise questions about this agreement.

We need to draw a line in the sand in certain areas. The area of nonproliferation, and the nonproliferation treaty in particular, is one such area where we do need to maintain black and white distinctions, given the terrible consequence we face if a nuclear detonation were to occur, either on our soil or on the soil of any other nation.

The amendment Senator DORGAN and I are offering that will be voted on this evening places clear and unambiguous requirements on the President, should India detonate another nuclear weapon. I think that is the least we should

do in our consideration of this very important agreement. I urge my colleagues to support the amendment.

I yield the remainder of the time.

The PRESIDING OFFICER. Does the Senator wish to call up his amendment?

AMENDMENT NO. 5683

Mr. BINGAMAN. Mr. President, I do call up amendment No. 5683.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DORGAN, Mr. AKAKA, Mr. HARKIN, Mr. FEINGOLD, and Mrs. BOXER, proposes an amendment numbered 5683.

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

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

The amendment is as follows:

(Purpose: To prohibit nuclear trade with India in the event that India detonates a nuclear weapon and to impose certain certification, reporting, and control requirements)

At the end of title I, add the following:

SEC. 106. PROHIBITION OF NUCLEAR TRADE IN EVENT OF NUCLEAR WEAPON DETONATION BY INDIA.

Notwithstanding any other provision of law, the United States may not export, transfer, or retransfer any nuclear technology, material, equipment, or facility under the Agreement if the Government of India detonates a nuclear explosive device after the date of the enactment of this Act.

SEC. 107. CERTIFICATION, REPORTING, AND CONTROL REQUIREMENTS IN EVENT OF NUCLEAR WEAPON DETONATION BY INDIA.

In the event the Government of India detonates a nuclear weapon after the date of the enactment of this Act, the President shall—

(1) certify to Congress that no United States technology, material, equipment, or facility supplied to India under the Agreement assisted with such detonation;

(2) not later than 60 days after such detonation, submit to Congress a report describing United States nuclear related export controls that could be utilized with respect to countries that continue nuclear trade with India to minimize any potential contribution by United States exports to the nuclear weapons program of the Government of India; and

(3) fully utilize such export controls unless, not later than 120 days after such detonation, Congress adopts, and there is enacted, a joint resolution disapproving of the full utilization of such export controls.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. First, let me thank my two colleagues from North Dakota and New Mexico for combining their amendments in a way that I think makes sense. My colleague can correct me if I am wrong, the House was similar to both. There were somewhat different approaches, but I think they offer some clarity as to their concerns which, let me say at the outset, these are concerns I believe all of us share. There is not a single one of us, that I am aware of, in this body who doesn't have the same worries and concerns that my colleague from North Dakota expressed, as well as my friend and colleague from New Mexico. I will not debate the number, whether it was 25,000 or 30,000 or 20,000—clearly, the problem with having a proliferation of nuclear devices around is a concern to all of us. Obviously, each and every one of us bears a responsibility to do everything we can to minimize the threat such weapons pose.

I don't know anyone more vigilant in that effort than my colleague from Indiana, along with my former colleague, Senator Nunn. The Nunn-Lugar proposals, which regrettably were not pursued as aggressively as I think they should have been by the Bush administration, were to convince the former Soviet Union and other nations to dismantle weapons of mass destruction and nuclear weapons in particular. That exists, and there are those of us who would like to see it pursued more aggressively. There are countless examples over the years of Members who have sought various means by which we could reduce the threat. I would argue, and I will, that this bill is very much in that tradition. This is not a deviation from that effort. It is very much in that same tradition others have pursued, to create and formulate the means by which we can reduce those threats.

This bill is comprehensive in many ways. It is certainly not perfect by anyone's stretch of imagination. Contrary to the suggestion that there has been one hearing on this, as if somehow this has been thrown together in the last couple weeks, there have been five major hearings with multiple panels conducted by Senators BIDEN and LUGAR. The other body has conducted at least that many hearings. It all began about 4 years ago, this process, not something just a week or two ago that has led to this.

You heard Senator LUGAR say that he alone submitted 174 questions to the State Department and other agencies, demanding their responses to those questions and publicized them on his Web site. So the very questions many of us have, have been addressed, maybe not to the satisfaction of everyone but certainly pursuing the very issues.

The reason I mentioned that is if, in fact, this amendment were adopted, of course, there would be no means by which you could resolve these matters with the other body. They have already adopted a bill without this language in it. Therefore, this would presumably pass without consideration. The fact is, that come next year the administration—because the time runs out on this—would be submitting the agreement without any of the agreements we have included in this bill, many of which do exactly what my colleagues from New Mexico and North Dakota are seeking to achieve. So the irony of ironies would be that while I respect immensely their intent, what they seek, in fact, it would be counterproductive of the very goal they are trying to achieve and that is to strip away everything we have achieved under the leadership of Senators LUGAR and BIDEN, along with HOWARD BERMAN's leadership in the other body, to include the kind of understandings and requirements this bill mandated.

Is this a perfect bill? Absolutely not. But if we allow the perfect to become the enemy of the good, we are going to find ourselves, I think, in a far more serious situation than the one Senator DORGAN and Senator BINGAMAN has described to you.

I would never make the argument to my colleagues that if you adopt this amendment—I don't say hate; my wife advises that I don't use the word ''hate'' in front of the children—I deplore arguments that suggest that if you adopt this, it is a killer amendment, and we would have to go back and do further work. I think that is an insulting argument. In fact, if an amendment is a good amendment and ought to be adopted, we ought not to shy away from our responsibility. As a matter of fact, I will argue, the amendment is unnecessary; existing law does exactly what my colleagues are asking us to do today. But if we adopt them, we run the risk of something coming back a lot worse than what Senator BIDEN, Senator LUGAR, the Foreign Relations Committee, over extensive hearings, along with the work of the other body, have accomplished and achieved. As my colleagues listen to this debate, I hope they will take that under consideration.

I point out, the United States-India agreement will be resubmitted in January if it is not approved now. The next President would not have to seek any special law, which is what we have, to speed up the process. Rather, he could wait us out until the Atomic Energy Act forces us to take a vote on a clean resolution of approval of the agreement, without any of the amendments we have adopted and worked on over the years.

Let me mention an argument Senator LUGAR raised; I didn't. I regret not having mentioned it because I think it is a compelling argument as well. One of the arguments people need to understand is India does not have an unlimited supply of materials by which to create nuclear weapons. They will be faced, without outside sources of supply, to make a choice between nuclear weapons or the commercial powerplants.

I do not intend to speak as a great expert on Indian politics or the public mood in India, but nations, particularly ones that live in the neighborhood—I don't have the map up here any longer—where India resides, what choice would they make if they could only make one? Is it going to be energy or security? That is a difficult choice. While all of us want to see the energy choices made, a nation surrounded by nations that have nuclear capabilities, not exactly close to the democracy India is, by the way, may very well decide to have different alternatives. If

you are sitting in India's Parliament, you are a member of their Congress and you have one choice to make, security or energy, security or energy—how would we vote? How would we vote confronted by that choice?

That is a choice with which India may well be confronted without additional sources of energy here or supplies that would allow them to promote the more commercial use of this power.

I don't necessarily want to put India in that position to make that choice because I think I know what choice they would make. I suspect it is the same choice we would make. We bear an obligation to the people of this country to keep them secure. I suspect the Indian parliamentarians feel likewise. When confronted by that choice, my view is they would choose to make security the choice, the very thing my colleagues argued against would, in fact, be driving them to that conclusion.

Obviously, the energy debate is a critical one. Again, no one has been more of an advocate of green technologies than our colleague from New Mexico, one of the stalwarts in this debate for many years—not just recently, where it has become popular to argue for alternative energy resources. But if we take away this alternative, India is growing—1.3 billion people. It has 300 million people living at middle-class or upper middle-class standards. They have a billion people living in abject poverty in India. They are seeking ways, of course, to bring many of those people out of poverty and improve the quality of their lives.

India understands that coal-fired electrical power plants are a liability, but India cannot afford to slow the growth of energy production at the same time its population is growing and trying to deal with the economic circumstances of its people.

India says we would like to build more commercial powerplants. It seems to me, for those of us who want to reduce the carbon footprint, the carbon emitters with India being a major supplier of carbon emissions it is in our interests to encourage them to move in a different direction. If we do not have some sort of arrangement or understanding on how to achieve that while simultaneously moving them away from that choice I mentioned a moment ago, we end up potentially where they have more weapons, doing little or nothing about energy production. It is a lose-lose proposition. We end up with India with nuclear weapons, and we end up with a nation that continues to use coal-fired plants, of course, endangering us further when it comes to the issue of global warming and the like. That is a further reason, I would argue, we ought seriously to understand the import of these amendments and appreciate the alternative presented by the bill before us.

I mentioned earlier, in fact, the very concerns raised by my two colleagues are covered by existing law. It is not as if there is some vacuum that exists, that there would be no repercussions should India decide to pursue and test nuclear weapons. Let me share with my colleagues. Again, I invite Members or their staffs to come over and be briefed by staff who spent literally their adult lives, their professional careers working on these bills. The suggestion that this was thrown together somehow in a quick hearing before the Foreign Relations Committee in a sense fails to understand the work done by our collective staffs on these matters going back years. In fact, previous Members of this body—no one cared more about this issue than John Glenn of Ohio. He was an advocate on this issue long before many were. I am going to share in a minute some of the law that bears his name and is still the law of the land when it comes to these issues, the Glenn amendment, and how we deal with the issue of countries that would, in a sense, go into the use of nuclear weapons.

This amendment would bar any and all nuclear exports for all time, without any exception or waiver, if India detonates a nuclear device.

Section 106 sets a different standard for India than we have for any other nonnuclear weapons state, which is what it is under the Nuclear Non-Proliferation Treaty and U.S. law. There is no need, I think. I think it would be very harmful to single India out in such a manner. There are other nations in a similar situation. I don't hear amendments being offered to suggest they all ought to be treated the same way. I suspect you would run into a buzzsaw if you did so. We are picking out the one great democracy in south Asia, with whom we have had a very testy relationship for 35 years, which is critical for dealing with the fragile issues that section of the world poses, and we are going to say: They and no one else gets that kind of treatment.

You can imagine the reaction we might get from a nation that is now reaching out to us for the first time in approaching half a century to get us back on a far different track than the one we are on.

India would clearly see this provision as an effort to put in place special penalties against that nation, if it were ever to respond.

Frankly, the proposed new section, as I said earlier, is a section I think poses some serious issues. I have commented before, I have put the language in of the administration. I think everyone mentioned earlier, and I will quote from the Secretary of State, she said:

We have been very clear with the Indians. Should India test, as it has agreed not to do so, or should India in any way violate the IAEA safeguards agreements to which it would be adhering, the deal from our point of view would be at that point off.

Under Secretary of State Bill Burns, before our committee, repeated that quote to us.

What is more, as I said, the amendment is unnecessary. Several provisions of existing law already apply to India.

The Glenn amendment sanctions under the Arms Export Control Act cut off a wide array of foreign aid, defense exports, bank credits and dual-use items.

There is no waiver. No waiver under the Glenn amendment. That was modified some years later, but there would be no waiver. The Glenn amendment is tougher in many ways than what we talking about here, we can argue, in that it doesn't provide any kind of relief. Congress enacted a waiver in 1999, somewhat of a waiver, after India and Pakistan tested in the 1990s, but that waiver authority terminates for either country that tests again. So under the modified Glenn amendment, there is no waiver authority. Under Glenn, the role of the United States and our relationship with India is clear.

Section 129 of the Atomic Energy Act already prohibits exports to a nonnuclear weapon State if it detonates a nuclear device. That one is subject to waiver by the President. India is still a nonnuclear weapon state by definition, and therefore would be included under this. That law is on the books, very similar to what is being advocated in the amendment posed by our two colleagues. The President could only use the waiver under section 129, I would add, if he finds that ceasing exports would be ''seriously prejudicial'' to the achievement of the U.S. nonproliferation objectives or would otherwise ''jeopardize the common defense and security of the country.'' That is a high standard, I might add, for the waiver authority.

Even if the President makes that determination, cooperation cannot proceed until 60 days of continuous session has passed after that determination has been submitted to Congress, further making that provision almost impossible to apply that waiver standard.

So there are two sections, one under the Atomic Energy Act, one under the Glenn amendment, that virtually do what our two colleagues talk about with their amendment. The bill before us would amend the Atomic Energy Act to ensure, by the way, that the Senate can take advantage of expedited procedures—limits on debate and amendment—to pass a joint resolution to overturn such a Presidential waiver.

Even if you got to that point, we have now put a further safeguard in against it, making it virtually impossible to waive the authority under section 129 of the Atomic Energy Act.

So the bill already improves the law relating to what could happen with a so-called nonnuclear weapons state. We are using the language here, but this applies to states that we all, to be honest, know have nuclear weapons. There are several nations we all know about in that category, but they are called nonnuclear weapons states. And yet, here the language is very strong.

Again, I think these sections are important to note. The combination of

the two amendments does cover the ground on all of this. I point out that Senator BINGAMAN's part of this amendment, this new section 107, is not necessary either.

U.S. obligations under the Nuclear Non-Proliferation Treaty already compel the United States to assure that its nuclear exports do not help nonnuclear weapons states to produce weapons. That obligation bars helping not only India but any nonnuclear weapons state. The Atomic Energy Act and the Hyde Act already provide tools to address the concern Senator BINGAMAN has raised.

Let's look at the specific provision, if you will, under the proposed section 107. It would require a certification in the event of a nuclear detonation by India that no United States material, equipment, or technology contributed to the detonation.

And what happens if the President makes that certification? The amendment does not say what happens. What happens if the President does not make the certification, or says it does not know whether any U.S. material, equipment, or technology was involved? This is a certification that may well be impossible to make under the law as drafted in this amendment.

So even with the intent to do something about it, how can you make it? How are you going to determine whether, in fact, materials have been used, or is it just the assumption that if one occurred, it would be, which may be an entirely false assumption when it comes to that country? How will we ever know for sure that no U.S. technology was diverted?

In any case, it is the certification that carries no consequences. The certification is not needed. Again section 104 of the Hyde act already requires the President to keep Congress fully and currently informed of any violation by India of its nonproliferation commitments and of this agreement.

Any contributions by U.S. exports to an India weapons program under the United States-India agreement would certainly be a violation of India's commitments and of the agreement, and so would need to be reported to us, and would very likely be reported to us long before any detonation, I might add.

Section 2 of the proposed act requires a report from the President after an Indian test describing those United States export controls that could be used to minimize any potential contribution that United States nuclear exports to third countries might make to an Indian nuclear weapons program.

The Hyde act and the Atomic Energy Act already address this issue. And let me quote to my colleagues again. I apologize for citing in detail these things, but you need to know this, because statements being made here on the floor about this, I say respectfully, are not accurate, about what existing laws require and mandate and demand in these areas.

Section 104(d)(5) of the Hyde act requires the President of the United States:

> shall ensure that all appropriate measures are taken to maintain accountability with respect to nuclear materials, equipment and technology . . . reexported to India so as to ensure . . . United States' compliance with [obligations under] article I of the Nuclear Non-Proliferation Treaty.

Section 104(g)(2) of the Hyde Act explicitly requires detailed reporting on any United States authorizations for the reexport to India of nuclear materials and equipment.

The Atomic Energy Act further requires that the United States not engage in civil nuclear cooperation with any country without an agreement for nuclear cooperation and that every such agreement must contain a guarantee by the other country that it will not transfer any nuclear material or facility to a third country without the prior approval of the United States.

Section 127 of that act makes it explicit that for any U.S. export of source or special nuclear material, nuclear facilities, or sensitive nuclear technology, that material, facility, or technology may not be retransferred to a third party without the United States's prior consent. The transfer cannot go forward unless the third party agrees to abide by all of the agreements of section 127.

That section also requires that the source and special nuclear material, nuclear facilities, and sensitive nuclear technology being exported must be under IAEA safeguards, and may not be used in or for research and development on a nuclear explosive device.

This assures us that any such report does not contribute to India's weapons program. The truth is that if India were to conduct another nuclear test or reexport by third countries, United States-origin nuclear material, equipment, or technology would be the least likely way for India to evade a cut-off of cooperation.

If any third country were to provide United States-origin nuclear material, or equipment, or material device from the United States-origin material or equipment for India without the United States's consent, the United States would have the right to cease nuclear cooperation with that country and to demand the return of material and/or equipment that has been provided under that country's nuclear cooperation agreement with the United States.

So third countries are highly unlikely, given the implications under the existing law, to reexport without our permission, or run the risk, obviously, of facing all of the admonitions that the previously existing law requires. A much more serious concern would be the risk that other countries would export their own nuclear material or equipment, not our material but their own nuclear equipment and material technology, to India after we had cut off exports. That concern is not addressed at all by the Dorgan and Bingaman amendment. But the bill before us does address that concern. Their amendment leaves that out entirely, which is actually a far more dangerous way that this may happen.

So under the bill before us, by reiterating a provision under the Hyde Act that if India should test again:

> It is the policy of the United States to seek to prevent a transfer to India of nuclear equipment, of materials or technology from other participating governments in the Nuclear Suppliers Group or from any other source.

This bill already lays down a marker regarding the real concern if India were to test. Again, whether it is reexport or direct shipments, we are in a position, I think, to respond aggressively. I point out, you defeat this bill, we are back to the agreement and a lot of this, other than what I have mentioned in existing law, does not apply.

So, again, I say to my friends and colleagues who offered the amendment, this is not a debate about whether some people care about nuclear weapons and others do not. The question is, are we being smart and intelligent about moving a major democracy that lives in a dangerous part of the world into a direction that will make it far more cooperative with us in doing exactly what the underlying amendment seeks to do, that is, to move away from weapons to commercial use, to dealing with the carbon emissions that are occurring here, to provide that kind of new relationship with India that I think is absolutely critical for our safety and security in the 21st century.

Walk away from this, drive a wedge between India and the United States in that part of the world, then I think you are going to have exactly the kind of problem our two colleagues have suggested. It gets closer to what they fear most. I believe what we have offered our colleagues today drives us further away from that outcome, which is what all of us ought to be trying to achieve. That is the reason I reject these amendments, and urge my colleagues to do so when they occur on a vote later today. I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I join my distinguished colleague Senator DODD in rising in opposition to the amendment offered by the Senators from North Dakota and New Mexico.

I believe the bill before us today and the Hyde act passed by Congress in 2006 addressed the possibility of a future Indian nuclear test in a very clear and definitive way. I am confident the Congress has provided the necessary assurances and authorities to protect United States interests and promote strong nonproliferation policies in the event of an Indian nuclear detonation.

The amendment seeks to address a concern that the Foreign Relations Committee addressed in 2006, and last month when we voted 19 to 2 to report the legislation pending before the Senate. Both bills ensure that there is no

ambiguity about the United States's legal and policy responses to a future Indian nuclear test.

If India tests a nuclear weapon, the 123 Agreement is over. This means the President could terminate all United States nuclear cooperation with India and fully and immediately use the United States's rights to demand the return of all items previously exported to India. This would include any special nuclear material produced by India, through the use of any nuclear materials and equipment or sensitive nuclear technology exported or reexported to India by the United States. These steps can occur as a response to any nuclear test, including instances in which India describes its actions as being ''for peaceful purposes.''

In addition, the United States could suspend and revoke any current or pending licenses. One of the primary purposes of this agreement is to deter India from testing nuclear weapons. New Delhi has more to gain from peaceful nuclear cooperation through this agreement than in testing.

The Hyde act and the bill before us were crafted to ensure that this is the case. Indian leaders argue that they retain the right to test. This is true. They are a sovereign nation. However, India has been warned repeatedly that consequences of another nuclear test would be dire.

In 2006, Secretary Rice stated in testimony that:

> We have been very clear with the Indians. Should India test, as it has agreed not to do, or should India in any way violate the IAEA safeguards agreements to which it would be adhering, the deal from our point of view would at that point be off.

In a question for the record, I asked Secretary Rice at that time what the consequences of an Indian test would be. And she noted that under existing law:

> No nuclear materials and equipment or sensitive nuclear technologies shall be exported to any nonnuclear weapons state that is found by the President to have detonated a nuclear explosive device.

Now, under United States law, and the Nuclear Non-Proliferation Treaty, India is a nonnuclear weapons state. In 2006 the Hyde act waived the application of the sanctions in the Atomic Energy Act to events that occurred before July 2005 when President Bush and Prime Minster Singh signed the joint statement. This waiver was intended to capture India's nuclear tests of 1974 and 1998, and permit U.S.-Indian cooperation in spite of those actions.

This does not apply to future Indian actions. So if India were to test tomorrow, the waiver provided by Congress in 2006 would not apply, and nuclear cooperation could be terminated. Let me repeat that. Under a law passed 2 years ago setting the parameters for congressional consideration of this agreement, if India were to test a nuclear weapon, terminate, or abrogate IAEA safeguards, materially violate IAEA safeguards, violate an agreement for cooperation with the United States, encourage another nonnuclear weapons state to engage in proliferation activities, or engage in unauthorized proliferation of sensitive nuclear technology, the agreement and United States cooperation could be terminated.

If that is not enough to satisfy the Senators' concerns, I would direct them to article 14 of the agreement:

> Should India detonate a nuclear explosive device, the United States has the right to cease all nuclear cooperation with India immediately, including the supply of fuel as well as the request for the return of any items transferred from the United States, including fresh nuclear fuel.

Under Secretary Rood stated in testimony before the Foreign Relations Committee on September 18, 2008 that:

> Just as India has maintained its sovereign right to conduct a test, so too have we maintained our right to take action in response.

Under article 14, the United States can also demand the return of any nuclear materials and equipment transferred pursuant to the agreement for cooperation as well as any special nuclear material produced in India, if it detonates a nuclear explosive device. This was confirmed in response to a question posed by the House of Representatives. The administration answered that even ''the fuel supply assurances [contained in the 123 agreement] are not . . . meant to insulate India against the consequences of a nuclear explosive test or a violation of nonproliferation commitments.

The United States would be able to exercise its right under article 14 of the agreement to require the return of materials and equipment subject to the agreement after, one, giving written notice to India that the agreement is terminated and, two, ceasing all cooperation based on a determination that a mutually acceptable resolution of outstanding issues has been impossible or cannot be achieved through consultation.

Both of these actions are within the discretion of the U.S. Government and do not require Indian agreement, and both can be taken at once.

In sum, the United States-India peaceful nuclear cooperation agreement ceases if India tests. This conclusion is consistent with any reasonable interpretation of the Atomic Energy Act, the Hyde Act, and article 14 of this agreement. As a result, this amendment is unnecessary. The issues it seeks to address have been remedied. I urge colleagues to vote against the amendment. The real effect of adoption of this amendment would be to, once again, delay consideration and approval of this important agreement. It is time to move forward and to vote on this legislation and start peaceful nuclear cooperation between the world's two largest democracies.

The second portion of the amendment we are considering now requires a certification and a report that are at best duplicative of provisions already in law. This amendment would simply delay implementation of the U.S.-India 123 agreement in order to effect requirements that have already been enacted. First, the amendment requires the President to certify to Congress that no technology, material, or equipment, nor any facility supplied by the United States to India under the 123 agreement assisted with a nuclear detonation, if one occurs in India. In my opinion, this provision is duplicative of section 104(g) of the Hyde Act passed by Congress in 2006. Under that existing law, the President is already required to report annually on whether U.S. civil nuclear cooperation with India is in any way assisting India's nuclear weapons program. This report is to include information on whether any U.S. technology has been used by India for any activity related to the research, testing, or manufacture of nuclear explosive devices. It is unclear what additional information is required by the Senator's amendment than is available each year now to Congress under the Hyde Act.

Second, the amendment requires a report on any export controls that could be used by the United States if India detonated a nuclear explosive. The purpose of the export controls would be to ensure that no U.S. materials, equipment, or technology that may be in countries other than India could be reexported by those nations to India so as to minimize all trade with India and ensure that no U.S. technology or exports contributed to their nuclear weapons program.

Again, this provision is repetitive. In 2006, Congress endorsed section 105 of the Hyde Act that created a Nuclear Export Accountability Program for all U.S. exports to India. The purpose of section 105 was to ensure that our country was taking all appropriate measures to maintain accountability of all nuclear materials, equipment, and technology sold, leased, exported, or reexported to India to ensure full implementation of the IAEA safeguards in India and U.S. compliance with article I of the NPT. The program created by the Hyde Act is a highly detailed accounting system focused on ensuring that India is complying with the relevant requirements, terms, and conditions of any licenses issued by the United States regarding exports to India. This program represents the most comprehensive and detailed system of accounting ever imposed. I believe it provides substantially the same information that is required in the Senator's amendment, without the need for a new law.

The Hyde Act also addressed the concern that other nations might continue to supply India with any technology or fuel in the event of a cutoff by the United States. Section 103 of the Hyde Act makes it the policy of the United States to strengthen the guidelines and decisions of the Nuclear Suppliers Group to move other nations toward ''instituting the practice of a timely

and coordinated response by [Nuclear Suppliers Group] members to all such violations, including termination of nuclear transfers to an involved recipient'' and discourage ''individual NSG members from continuing cooperation with such recipient until such time as a consensus regarding a coordinated response has been achieved.''

The conference report on the Hyde Act clearly states the definitive interpretation of that provision. It reads:

> The conferees intend that the United States seek agreement among [Nuclear Suppliers Group] members that violations by one country of an agreement with any NSG member should result in joint action by all members, including, as appropriate, the termination of nuclear exports. In addition, the conferees intend that the Administration work with individual states to encourage them to refrain from sensitive exports.

Section 103 of the Hyde Act also made it U.S. policy to seek to prevent the transfers of nuclear equipment, material, or technology from NSG participating governments to those countries with whom nuclear commerce has been suspended or terminated pursuant to the Hyde Act, the Atomic Energy Act, or any other U.S. law.

In other words, if U.S. exports to a country were to be suspended or terminated pursuant to U.S. law, it would be U.S. policy to seek to prevent the transfer of nuclear equipment, material, or technology from other sources, including from other countries with which the United States has substantial nuclear trade.

In sum, the amendment is duplicative. The issues raised here have been thoroughly dealt with under the Hyde Act of 2006, and the legislation currently before us. As a result, the impact of this amendment would simply be to delay congressional approval of this important agreement by sending it back to the House of Representatives. I do not believe such a course serves the U.S. security interests, and I urge defeat of the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

FINANCIAL RESCUE

Mr. BOND. Mr. President, I am in strong agreement with the bipartisan leadership of the Foreign Relations Committee. I will address those issues shortly. But, first, since we have a rather full legislative calendar this evening, I will touch briefly on the financial system rescue, a rescue of a locked-up credit system which is having its impact on Main Street, where I live in the hearthand, and in every community in the Nation where credit is locked up.

Today I was advised that the State of Missouri cannot issue bonds to build highways. The State of Maine is also having trouble. Local governments can't get loans. There is no money available in the credit markets for municipal bonds at reasonable rates. There is a threat that workers will not get their paychecks if businesses or payroll companies cannot get the loans they need. Families will not be able to get loans for college education, to buy a car, to buy a home. Farmers will not be able to get operating loans they must have in Missouri to begin their normal agricultural operations.

When I came to the floor a week ago yesterday, I said we must pass something. At that time I said the Treasury's proposal lacks accountability, taxpayer protection, and transparency. Thanks to the good work of our negotiators—and I commend the Senator from Connecticut, Mr. DODD, Senator GREGG from our side, and the House negotiators for putting in those elements, as they are critical—the taxpayers have a triple level of protection against losses. The CBO has come out with a score saying it will be far less than the $700 billion. There are some who think we might recoup all of it, but it is far cheaper than continuing the process we have right now where Federal tax dollars are being used to come to the rescue of failing savings and loans, investment banks, and we don't get any equity from those efforts. We don't have a means of recouping it. What is even more important, it does nothing to unlock the credit gridlock that threatens to bring this economy to a halt, with workers losing their jobs, small businesses unable to operate.

Yesterday, I strongly urged that we raise the Federal deposit insurance limit from $100,000 so small businesses that have more than $100,000 don't have to continue taking their money out of the banks, leaving the banks less capital available to make loans, in order to get protection of U.S. Treasury deposits. I heard the stories, and I talked with a broker in Missouri yesterday who said: Small business clients are trying to move all their money out of banks above $100,000 and put it into Treasuries. Again, I am delighted that the leaders, our negotiators, and the bipartisan leadership in both Houses agreed to extend the FDIC limit to $250,000. We will be looking at all of those things, as well as general regulation of the financial markets when we return. I have lots of ideas. If anybody cares, I will be sharing them at the appropriate time.

I am also delighted that we are going to include the tax extenders, tax extenders that businesses need to continue to operate; tax extenders that, unfortunately, would only extend on a year-to-year basis but are necessary for profitable operation so businesses can continue to hire and build the economy. Probably the greatest part of that is delaying the burdensome and punitive alternative minimum tax that is now threatening to hit many middle-income working Americans, unless we pass this bill. Another element, on which my colleague from Iowa, Senator HARKIN, has been a leader, is getting disaster relief. Residents in Missouri need it. Iowa needs it. Our neighbors in Illinois need it. Many other places in the Nation need disaster relief. That is another must-pass piece of legislation.

To return to the subject that the Senators from Connecticut and Indiana are addressing, we currently have before us a number of legislative opportunities that, if we act and act properly, would send a reinforcing signal to our allies and friends in the world that the United States values and appreciates their support and cooperation. We all know that anti-Americanism is growing throughout the world. It is most evident in the socialist vitriol being spewed by Hugo Chavez in Venezuela, Mahmoud Ahmadinejad in Iran, and the widespread suspicion throughout the Muslim world about America's intentions. In places such as Southeast Asia and south Asia, where we are competing for influence with an emerging China, we must increase our engagement and strengthen our economic and strategic links with countries such as India, which I will speak to in a minute.

Let's face it, we have a lot of work to do in rebuilding America's image abroad and increasing security and stability throughout the world. But we have a number of opportunities before us, opportunities we must act upon. The way in which we get there is by engaging and deploying our Nation's smart power. This consists of, but is not limited to, public diplomacy efforts, educational exchanges, deployment of more Peace Corps volunteers and USAID foreign service officers, and supporting free-trade agreements and increased economic engagement.

The first target of opportunity where America must act is Colombia. Congress must act on the Colombia FTA and renew the Andean Trade Preferences. Doing so would solidify our image as a nation committed to helping a strategic ally in Latin America that is, in fact, standing shoulder to shoulder with us.

Colombia is a remarkable success in the fight against terrorism and narcotrafficking that needs to be told. It is a country where its pro-American leader, President Alvaro Uribe, has led a surge against narcoterrorists militarily while simultaneously improving the overall security, economy, and safety of the civilian population. They have done so while ensuring that protection of human rights and adherence to international humanitarian law are fully integrated into their security forces.

In my visit there just over a month ago, I was greatly encouraged by the tangible evidence I saw of a country in complete transformation. Just 6 years ago, in 2002, as much as 40 percent of Colombia was controlled by terrorist groups and ruthless narcotics-trafficking cartels. Many of my colleagues visited Colombia at that time and brought back grim reports of a country slipping into a failed state.

The PRESIDING OFFICER. There is an agreement to recess at 12:30.

Mr. BOND. Well, Mr. President, might I ask consent to conclude my remarks.

Mr. DODD. I say to the Senator, he can do that. I will propound a consent request, Mr. President, that the Senator be allowed to conclude in 5 minutes. Is that appropriate?

Mr. BOND. Yes.

Mr. DODD. Five minutes; and my colleague would like 15 minutes. So I ask, Mr. President, unanimous consent that the Senator from Missouri be allowed to proceed for 5 minutes and the Senator from Iowa for an additional 20 minutes.

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

Mr. BOND. Mr. President, I thank the Chair and thank my colleagues.

Since 1998, the United States has been supporting the counternarcotics effort President Clinton initiated known as Plan Colombia, and today our mutual objectives have evolved from a strict counternarcotics focus to encompass counterterrorism activities as well. Our investment has paid off.

With U.S. aid to Colombian security forces and assistance and trade preferences under the Andean trade preferences agreement, the Colombian people have been positively transforming their nation. Others, however, under the Andean trade preference agreement in Bolivia and Ecuador have produced less encouraging results, even taking sides with aggressively hostile Hugo Chavez.

I believe we ought to have a debate about extending them the full benefits of the Andean trade agreement. If I had the opportunity to offer an amendment, I would have limited the questionable Governments of Ecuador and Bolivia to 1 year while giving much longer protection to Colombia.

The message is simple: reward our friends and allies in the world, not those who wish us ill or support our enemies.

Colombia has been our friend and ally in an increasingly left-leaning, anti-American Latin America. We must take the opportunity to reward and thank them by passing the Colombia FTA.

This agreement also benefits America's economy by increasing exports and generating jobs. Upon entry into force of the agreement, over 80 percent of U.S. exports of agricultural, consumer, and industrial goods to Colombia would enter duty-free immediately.

The Colombian free-trade agreement will benefit America.

Another strategically important part of the world where the United States has an opportunity to increase cooperation and deploy its smart power is in India.

India is a friendly democracy strategically sitting between the two places American strategists worry most about: China and the Middle East.

We are natural allies as two of the world's largest democracies and we should be much closer. And the feeling, by and large, is mutual among the people of India.

India has more Muslims—150 million or so—than any other country in the world except Indonesia, which I have spoken extensively on this floor about engaging more proactively. Positive engagement of American smart power and increased economic opportunities will help prevent the likelihood of al-Qaida or radicalization of this large Muslim population.

During my trip to India in March of 2006, the major item of interest to all of the Government and private-sector officials I met, from Prime Minster Singh to businessmen in New Dehli, was the support for the civilian nuclear technology agreement which was signed as I was in the air. I was asked about it when I landed and could not answer. But I spent a day being fully briefed by our Embassy and intelligence officials.

After extensive discussions with Indian and American officials, as well as intelligence briefings, I reached the conclusion that this agreement is a very positive step for the United States and India.

It would aid in cementing a good working relationship with the world's largest democracy in a strategic part of the world. I support this agreement and agree with our bipartisan leadership that we must defeat the amendments which would merely delay and possibly sidetrack approval.

India has three paramount challenges ahead that it must address: First, it must improve its infrastructure and roads. Second, it must deal with the extreme poverty of its huge rural population. Thirty percent of its population live below the official poverty line. Third, India, just like the United States, must be able to meet the demand for increases in energy.

A strong relationship between India and the U.S. is vital to ensuring peaceful development and continued prosperity in South and Southeast Asia.

Regional rivalries, particularly with China will continue to heat up in a race for energy to fuel both India's and China's rapidly expanding economies and societies. An increase in nuclear power production in India through the U.S.-India Civil Nuclear Agreement would help to cool these rivalries in their race for energy resources.

In a land where air quality is a major problem, despite recent improvements, this agreement would allow India to meet its surging energy requirements in an environmentally friendly manner.

Further, increasing the supply of energy in India, make no mistake about it, also indirectly helps consumers at the pump here at home as well.

In addition to nuclear power, during my visit I also encouraged the development of clean coal technology. With the fourth largest coal reserves in the world, India and the U.S. should work together to develop that source of energy as well.

Developing energy solutions together with India will increase our engagement and lead to other economic opportunities for Americans.

I hope my colleagues will support this agreement between the United States and India without amendment.

It will safeguard Indian nuclear facilities and help meet the surging demand for global energy supplies in this critical Nation.

And most importantly, it will solidify our relationship with a strategically important country that for too long suffered under the burden of a Soviet-style economy. Now it is opening its market, shares our democratic values, and is on its way to becoming one of the world's three largest economies.

I urge my colleagues to act on solidifying our partnership with two critically important countries, Colombia and India.

TRIBUTE TO SENATOR PETE DOMENICI

Mr. President, I want to say that the passing of the mental health parity bill will be a great tribute to a wonderful friend, PETE DOMENICI, a true icon. He has been a longtime champion of this issue, and this will be a great testament to his leadership.

I worked with PETE on the Budget Committee. I say thanks, PETE, for making me take all the tough votes. It was ugly but necessary, just like the financial rescue package.

He is most recognized for his work on energy. I am very proud to have supported him in his efforts over many years to develop an abundant energy resource, long before $4 gasoline brought the issue home to every American.

Just as important to me, I will miss the great friendship of a wonderful man, PETE DOMENICI, and his magnificent wife Nancy.

PETE is known for his devotion to his friends and family—to his wife Nancy of 50 years and their 8 children.

PETE is also known for his devotion and dedication to New Mexico.

Born and raised in New Mexico, PETE has served his State in the U.S. Senate now for 36 years—making him the most senior Senator New Mexico has ever had.

PETE has also earned the title as the only Republican to ever be elected by New Mexico for a 6-year Senate term—in a State not known to lean Republican.

PETE's contributions to his State are well known to his constituents in New Mexico—whether it is fighting for solutions to the State's water crisis, supporting New Mexico schools, or ensuring New Mexico gets their fair share of tax dollars.

PETE's contributions to our Nation are also well known. He understands the importance of keeping America as a leader in science and technology and has worked for improvements to the math and science education our school children need to succeed.

PETE has also fought passionately for fiscal responsibility to ensure tax

payer dollars are spent wisely and curbing nuclear proliferation to keep our communities safe.

In recent years, PETE has used his role as chairman or ranking member of the Energy and Natural Resources Committee to fight for our Nation's energy security.

PETE worked across the aisle to pass the first comprehensive energy legislation since 1992. Because of PETE and the bill he got through Congress, our Nation began investing in our own energy sources.This bill provided incentives to expand the production of energy from wind, solar, geothermal and biomass sources to promote cleaner alternative sources of energy.

PETE also ensured that this bill promoted research and development of hydrogen and fuel-cell technology.

PETE didn't end the fight for our Nation's energy independence in 2005 though.Since that time, he has been a leader in the Senate calling for more action.

Before the gas price crisis that is now affecting families across the country, PETE sounded the alarm.He has called for bringing relief to families struggling with pain at the pump by tapping our own domestic supplies of gas and oil.

PETE has proposed the commonsense proposal—the Gas Price Reduction Act—to end our Nation's energy crisis.

It is this foresight, this leadership, and this passion to making our Nation a better place and for making our communities better for our families that will make PETE DOMENICI missed by all—Republicans and Democrats alike.

Mr. President, I thank the Chair and yield the floor.

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

Mr. WARNER. Mr. President, I understand there is an order that the distinguished Senator from Iowa will be recognized next. But I asked him graciously, would he give me a minute to speak in support of the United States-India nuclear cooperation agreement. I strongly endorse this agreement because as one of those who advocate greater nuclear power in our Nation, the industrial base of India will work with our industrial base at this time when we need to increase the number of plants we have in our Nation.

The United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act will provide congressional approval of the agreement reached between the United States and India that will pave the way for bilateral cooperation in civilian nuclear energy. This agreement resulted from years of diplomatic negotiations. I note that my dear friend, Ambassador Nick Burns, helped lay the foundation for this agreement during his tenure as Under Secretary of State for Policy.

As I publicly stated when this agreement was first announced in March 2006, it is important that as we move to implement this historic arrangement with India, we preserve two equally important objectives: a strengthened strategic partnership with India that includes mutually beneficial cooperation in civilian nuclear energy; and preservation of the nuclear nonproliferation regime to prevent the further spread of nuclear weapons and related technologies. I believe the bill ably crafted by Senators BIDEN and LUGAR seeks to advance both of those objectives.

As part of this agreement, India has agreed to separate its civilian nuclear fuel cycle from its military program, and to place the civilian program under full safeguards to be monitored by the International Atomic Energy Agency. This arrangement is intended to ensure that cooperation in civil nuclear energy will not assist India's nuclear weapons program in any way. India has also agreed to maintain its moratorium on nuclear testing, work toward a Fissile Material Cutoff Treaty, and strengthen its domestic nuclear export control laws. The bill providing congressional approval for the agreement makes clear that in the event India were to test a nuclear weapon in the future, cooperation under this agreement would be terminated.

Facilitating India's development of civilian nuclear energy will make an important contribution to a cause I value highly: reducing the emission of greenhouse gasses into the environment. As nations such as India grow and have increasing requirements for energy, it is imperative for the health of our global environment that they turn increasingly to clean sources of energy such as nuclear power.

I am also hopeful that this agreement will open the door to United States-India trade and investment in nuclear energy, and lead to new business opportunities for American firms with expertise in civilian nuclear power. Today, the United States is looking to expand its production of civilian nuclear power; to do so with the participation of the industrial base of India should help to expand the safe and economical production of civilian nuclear energy in both countries.

Mr. President, I support Senate approval of the United States-India Nuclear Cooperation Agreement because I believe it will advance the United States-India strategic partnership, promote a clean energy source to meet India's growing demand for energy, open the door to new business opportunities for the U.S. nuclear energy sector, and still promote and preserve important nonproliferation practices and principles which remain in the interest of the United States and indeed the international community.

I thank the Presiding Officer and my colleagues.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Iowa.

Mr. HARKIN. Mr. President, I come to the floor to express my opposition to this deeply unwise United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. In truth, this is not a nonproliferation enhancement act; it is a nonproliferation degradation and weakening act. If we pass this legislation, we will reward India for flouting the most important arms control agreement in history, the Nuclear Non-Proliferation Treaty, and we will gravely undermine our case against hostile nations that seek to do the same.

At a time when one of our primary national security objectives is to mobilize the global community to prevent Iran from producing nuclear weapons, the legislation before us would severely undermine our credibility and consistency.

India has refused to sign the 1968 Nuclear Non-Proliferation Treaty—one of only four nations, by the way—and, three decades ago, produced its first nuclear weapon. It was precisely for this reason that following India's first nuclear test in 1974, the United States felt compelled to create the Nuclear Suppliers Group.

Since the 1954 Atomic Energy Act, the United States has prohibited—has prohibited—the sale of any nuclear technology, peaceful or not, to any nation, such as India, that does not have full nuclear safeguards—full nuclear safeguards. As was pointed out earlier by my colleague from North Dakota, Senator DORGAN, right now India has 22 nuclear reactors. Under this agreement, only 14 will come under IAEA, International Atomic Energy Agency, safeguards—14. What about the other eight? What is going to happen to them? They are not under any safeguards at all. So, again, we are undermining and we are overturning what the United States has been doing for over 50 years.

The legislation we now have before us permits the United States to unilaterally break that ban. It will open the floodgates for other nations, such as France and Russia, that already have agreements to sell to India pending—pending—the approval of this deal.

Listen to the views of LTG Robert Gard, chairman of the Center for Arms Control and Proliferation. I quote his words:

> The greatest threat to the security of the United States is the proliferation of nuclear weapons. This deal [with India] significantly weakens U.S. and international security by granting an exception to the rules of the Nuclear Suppliers Group and American laws, thereby undermining the entire non-proliferation regime and inviting violations by other nations.

I would add there is nothing in this agreement to prevent India from continuing on a parallel path its robust nuclear weapons program. India is allowed to continue producing—to continue producing—bomb-making material, and it is free to expand its arsenal of nuclear weapons. Even worse, there is nothing in this legislation to prevent India from resuming nuclear weapons testing.

So I ask, why, in the twilight of the Bush Presidency—and we know what

his ratings are and how the people feel about this Presidency—why are we rushing to pass this gravely flawed agreement? It was hustled through the other body without any hearings and without a vote in the House Foreign Affairs Committee. Here in the Senate, the Foreign Relations Committee held just one hearing with just one witness who spoke in support of the agreement. Until Senators objected, an attempt was made to pass the bill on the floor without any debate whatsoever. Given the monumental national security implications of this legislation—casting aside core principles of the Nuclear Non-Proliferation Treaty—this lack of debate and due diligence is simply extraordinary.

Leading arms control experts have condemned this agreement. Leonor Tomero, director of nuclear nonproliferation at the Center for Arms Control and Nonproliferation, rendered this verdict:

The Bush administration ignored congressional conditions and gave away the store in its negotiations with India, with nothing to show for the deal now except having helped foreign companies, enabled the increase of nuclear weapons and nuclear-weapons materials in India, and seriously eroded a thirty-year norm of preventing nuclear proliferation.

India is a peaceful nation, a strong democracy, and a friend of the United States. I have tremendous respect for India. But there are facts that must be acknowledged: India is one of only four states that have refused to sign the Nuclear Non-Proliferation Treaty; India continues to produce fissile material and expand its nuclear arsenal; India does not have International Atomic Energy Agency safeguards on all elements of its civilian nuclear program; and India has failed to file a list of facilities that will be subject to the IAEA safeguards. According to the U.S. Department of State, in the past, Indian entities have sold sensitive missile technologies to Iran—to Iran—in violation of U.S. export control laws.

I might just add one other thing. It has been said time and time again that India is a great friend of the United States. I suggest that one go back and look at the votes in the United Nations General Assembly and see how many times India votes with the United States and has since the establishment of the United Nations. It is dismal. I was trying to get that before the debate today, going all the way back. I had that at one time. But I can tell you, last year, in 2007, in the General Assembly, India voted with the United States 14 percent of the time—one of the lowest in the world. This great friend of the United States supported us in the United Nations 14 percent of the time. Is that a real friend?

As I said, one more item: India, 22 reactors; only 14 are going to come under IAEA safeguards, the other 8 used for military weapons programs. Yet, despite this record, the legislation before us would give India the rights and privileges of civil nuclear trade that heretofore have been restricted to members in good standing of the nonproliferation treaty.

As others have pointed out, this would create a dangerous precedent. It would create a distinction between kind of ''good'' proliferators and ''bad'' proliferators. It would send mixed, misleading signals to the international community with regard to what is and is not permitted under the nonproliferation treaty. Under this legislation, the United States would be saying, in effect, that India is a ''good'' proliferator and it should get special favorable treatment. What if, in the months ahead, China or Russia decides to recognize Iran as a ''good'' proliferator? On what grounds would we object, having rewritten the rules to suit our own interests and certain special interests with regard to India?

I oppose this legislation. But there is one element of this prospective agreement with India that I believe is particularly dangerous and needs to be changed. It was talked about earlier. Under the 2006 Henry J. Hyde Act, the United States must—must—ban the transfer of enrichment or reprocessing technologies to India and it must cut off—must cut off—nuclear trade with India if that nation resumes nuclear testing. The administration has successfully pressured the Nuclear Suppliers Group to approve an India-specific waiver that does not incorporate these consequences if India resumes nuclear testing. This is virtually an invitation to India to resume nuclear testing, secure in the knowledge that a resumption of testing would not nullify this new nuclear trade agreement.

I believe this to be a grave mistake. That is why I am joining with Senator DORGAN and Senator BINGAMAN and others to offer a commonsense amendment to this legislation in order to send an unambiguous warning to India with regard to resumption of nuclear testing. Our amendment states:

Notwithstanding any other provision of law, the United States may not export, transfer, or retransfer any nuclear technology, material, equipment, or facility under the Agreement if the Government of India detonates a nuclear device after the date of the enactment of this Act.

It is very simple, very straightforward.

In order to protect the integrity of the world's nonproliferation regime, I urge my colleagues to vote against the United States-India nuclear energy cooperation agreement. It will set a dangerous precedent, and it will weaken our efforts to deny Iran a nuclear weapon. But if nothing else, at least we can adopt the amendment being offered by Senator DORGAN and Senator BINGAMAN and others to say that if, in fact, they do detonate a nuclear device, the United States will stop any export, transfer, or retransfer of any nuclear technology, material, or equipment to India. So, again, I am a realist. I recognize that this seems to be on a fast track. It will likely go to passage. So to minimize the damage, I urge Senators to support the Dorgan-Bingaman amendment which will give India strong incentives not to resume nuclear testing.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:47 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Acting President pro tempore.

Mr. CARPER. 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. WARNER. 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. WARNER. Mr. President, I wish to proceed at this time as in morning business.

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

TRIBUTE TO SENATORS

Mr. WARNER. Mr. President, I rise today, as one of those who made the weighty decision not to seek reelection, to share my most personal thoughts—tributes—to my esteemed colleagues who will quietly, humbly, and with a deep sense of gratitude to their States, to our Nation, bring to a conclusion their public service as U.S. Senators.

This is a diverse group of Senators. Whether we hail from small farms, small cities or, in my case, from major metropolitan areas, we bring different backgrounds, different interests. That diversity gives the Senate its strength to serve equally all Americans. What we share, however, is an unwavering love for our States, our country and for the institution of the U.S. Senate.

We aspire to Winston Churchill's quote: ''We make a living by what we get; we make a life by what we give.''

It has been my privilege, over my 30 years in the Senate, to serve with a total of 261 Members. Each, almost, shall be remembered as a friend.

I want to say a few special, heartfelt words about Senator PETE DOMENICI.

PETE DOMENICI

I first came to know PETE DOMENICI when I arrived in the Senate in 1979. He beat me here by 6 years, and now has served New Mexico with distinction for 36 years. PETE is a veritable renaissance man: baseball player, math teacher, lawyer, city commissioner, senator and, most importantly, a loving husband, father and grandfather.

Senator DOMENICI made his mark with his leadership on fiscal and energy

issues, especially with his influence in promoting clean, carbon-free, nuclear energy and moving America forward now that we have the reality of an energy shortage and a mission to lessen America's dependence on imported energy. America must move forward by increasing and enhancing its capability to develop nuclear powerplants. At one time in my career, I was privileged to be secretary of the Navy, and during that period, America had, either at sea or in port, some 70-plus naval vessels powered by nuclear plants, and we had a safety record second to none. That can, and will, be duplicated with our growing domestic programs.

A hallmark of my dear friend PETE, whom we sometimes call a ''grizzly old cuss,'' is how he so often expresses his feelings for his fellow Senators by saying, ''I love you, brother.'' PETE, we return that deep respect and affection.

CHUCK HAGEL

Senator CHUCK HAGEL has served his native Nebraska and his country with true heroism. When I was privileged to serve in the Department of the Navy during the war in Vietnam, CHUCK HAGEL, together with his brother, both served with courage in the same Army unit in South Vietnam. He was awarded the Purple Heart not once but twice for his heroism and sacrifice in combat leadership.

His career has spanned the spectrum from public servant to entrepreneur, and this has given him a perspective on the world and global affairs, as well as of Main Streets in the hometowns and cities of his State.

Senator HAGEL will be remembered for his efforts on behalf of his fellow veterans and men and women in uniform, together with their families. At one time he served as president of the USO.

One of his proudest achievements will surely be his work with my colleague from Virginia, a former highly decorated marine, Senator JIM WEBB, who also served in Vietnam. The two of them started a very tough assignment, and that was to rewrite the existing G.I. bill. And along the way, two ''oldtimers,'' both World War II veterans—Senator LAUTENBERG and I—enlisted in their ranks as cosponsors.

Our goal was to try and give to today's generation of men and women in uniform a level and diversity of benefits that approaches what the World War II generation received from a grateful nation at the conclusion of that conflict. The G.I. bill at that time enabled any soldier, sailor or airman—and there were up to 16 million who served in World War II—to go to almost any university or college of his or her choice, and the funds were nearly sufficient to fund the costs for tuition, room and board, and school books.

But through the ensuing years, the successive G.I. bills were not quite as fulsome; they did not keep pace with the rising cost of education. Prior to the Webb bill, today's generation was barely able to get enough funds to attend educational institutions in their home States, let alone some of America's better-known educational institutions. This bill recognizes the great contributions of our military men and women and increases significantly the G.I. bill benefits. It will make a great difference in the lives of so many of this generation, a generation that I believe is in every way equal to the ''Greatest Generation'' of World War II, for it faces even greater challenges as the uncertainty of threats and the advance of complexity of weapons face them today in a growing number of places worldwide.

I so admire this strong American, CHUCK HAGEL, who symbolizes ''duty, honor, country.''

In public service, his compass is precise; for he always follows the needle as it points to what course of action is ''best for America.''

WAYNE ALLARD

I turn now to Senator WAYNE ALLARD, with whom I have been privileged to serve on the Armed Services Committee, who told his fellow Coloradoans that if they chose him as their senator, he would only serve 2 terms. He kept his word, just as he has honorably kept his word to his constituents on many issues. I admire this senator and how well he has served his state.

This veterinarian and small-business owner has been a forceful advocate for military preparedness, for increased access to health care and for cutting spending, leading by example by often returning some of his own office's funds to the U.S. Treasury. In a sense, he sent them back to his constituents.

He was also willing to roll up his sleeves and take on the tough task of overseeing the construction and budgeting, along with other senators and members of the House of Representatives, on the new Capitol Visitors Center. I might add, as a footnote, that when I was chairman of the Rules Committee, I co-sponsored some of the earliest pieces of legislation to provide for this center. Senator ALLARD can be proud of his efforts, which will serve present and future Americans who travel from afar to their nation's capital to learn about their government, the longest-surviving democratic republic in world history.

I vividly recall journeying to Colorado, home State of one of my children, to travel through a magnificent area of the State with his lovely wife and children on behalf of his campaign to get elected to the U.S. Senate. Those trips are memories I have and will keep safely tucked away.

I am proud to say I have come to know each of these fine men. And I firmly believe that this is but yet another beginning in all of our lives, for, to quote Churchill again, ''the chain of destiny can only be grasped one link at a time.''

I yield the floor.

Mr. FEINGOLD. Mr. President, our relationship with India is very important and I fully support developing closer strategic ties with India. I had the opportunity to visit India earlier this year, and I returned with a renewed appreciation of the vital relationship between our two countries.

One of the topics I discussed with senior Indian government officials was the proposed U.S.-India civil nuclear cooperation agreement that we are considering today. This agreement does a great deal more than bring our two countries closer; it dramatically shifts 30 years of nonproliferation policy and seriously undermines our efforts to limit the spread of nuclear weapons. If we pass this legislation today, we will be making America—and the world—less safe.

The cornerstone of the nuclear nonproliferation regime, the Nuclear Non-Proliferation Treaty, NPT, is based on the central premise that non-nuclear weapons states agree not to try to acquire nuclear weapons in exchange for cooperation on peaceful civilian nuclear energy programs. India chose not to take part in this grand bargain and instead decided to become a nuclear weapons state. That is India's sovereign right. But it is our sovereign right—and our longstanding policy—to not cooperate with any state that chooses to acquire nuclear weapons.

In fact, signatories to the NPT—including the United States—are specifically prohibited from assisting, encouraging, or inducing any nonsignatory to develop nuclear weapons. And yet it has been made clear by numerous experts and even by officials of this administration that this agreement could allow India to expand its weapons program by freeing up domestically produced nuclear materials.

If the Senate passes this bill, we will be undermining the Nuclear Non-Proliferation Treaty, the international nonproliferation regime, and U.S. national security. This agreement could fuel an arms race that would have direct implications for regional stability—a particularly worrisome outcome given the history of turbulence in the region. Given the gravity of this issue, I am extremely disappointed that the Congress is rushing consideration of the agreement—without time to consider the most relevant intelligence, without testimony from independent experts, and quite likely in violation of the Hyde Act.

As a member of the Senate Foreign Relations and Intelligence Committees, I have had a chance to study this issue closely. Over the past 2 years, I have spoken with a range of individuals from all sides: senior Bush administration officials, business groups, nonproliferation and arms control experts, senior Indian officials, and concerned constituents in my home state of Wisconsin. I have also reviewed the supporting classified documents—something I hope all my colleagues have also done. After reviewing those documents, I remain deeply concerned about how this agreement will impact our national security.

I laid my concerns last Congress when we first considered this issue. Since then, little has been done to address my core concerns. The threat of nuclear weapons to the United States, and the spread of these weapons and the material needed to make them, are among the gravest dangers that our country faces. By passing this legislation, we are weakening, not strengthening the international regime created to monitor and restrict their proliferation. The United States, as a signatory to the Nuclear Non-proliferation Treaty, should be working to strengthen the international treaties and regimes that have been designed to prevent the spread of nuclear weapons. By passing this agreement in its current format we are doing exactly the opposite.

This deal will not only undermine the nonproliferation regime, but it may also indirectly benefit India's weapons program. Two weeks ago, at a Senate Foreign Relations Committee hearing, Secretary Burns acknowledged that there can be no way to guarantee that cooperating with India's civilian energy program will not indirectly benefit its weapons program. And yet despite this frank response, supporters of this bill are determined to rush it though Congress. I am concerned that Pakistan could feel the need to respond to India's enhanced capacity by increasing its own production of nuclear materials, setting off an arms race in South Asia. Besides regional instability, there is another danger to increased Pakistani nuclear stockpiles: the risk that al-Qaida could obtain such weapons. This threat is real and should not be ignored.

In addition to these serious national security concerns, there are legitimate procedural ones. This bill appears not to meet the requirements of the legislation Congress overwhelmingly adopted to authorize the agreement, the Hyde Act. I opposed the Hyde Act because I didn't think it went far enough—now it turns out the administration does not even feel bound by it. To give just one example, the Hyde Act required that any technologies or materials transferred pursuant to this agreement must be maintained under safeguards forever. Indian officials have balked at this requirement and indicated that they would take materials out of safeguards if their fuel supply was interrupted. That means that if India tests a nuclear device and we cut off future trade, India could turn around and use all of the reactors and fuel we have provided for its weapons program, just as it did in 1974. The Bush administration couldn't be troubled to even get a promise from India that it would honor the safeguards and this legislation does nothing to address this problem.

In late August the 45 members of the Nuclear Suppliers Group, NSG, met in Vienna to discuss whether they should overturn 30 years of precedent and open up nuclear trade with India despite the lack of comprehensive safeguards on India's nuclear facilities. While some NSG members attempted to reduce the negative impact this change will inevitably have on our ability to prevent the spread of sensitive nuclear materials, in the end they were unsuccessful. In the face of the Bush administration's significant pressure for a ''clean'' exemption, there wasn't much they could do.

This undertaking by the Bush administration is particularly troubling in light of the recent report by the Institute for Science and International Security, ISIS, which indicates that the U.S. Government has not devoted sufficient attention to ensuring that India adequately protects sensitive nuclear and nuclear-related information. If this report is even partially accurate, we should all be gravely concerned. Thanks to our efforts, India is now eligible to buy advanced enrichment and reprocessing technologies. If these technologies are ever leaked, our ability to prevent acts of nuclear terrorism could be greatly diminished.

With everything else going on right now it is clear there has not been adequate time to review the agreement and its supporting documents. Instead, we are ramming this through Congress so we can hand the Bush administration a victory—regardless of the threat it poses to our national security.

Many of my colleagues have said that this agreement will bring India into the mainstream but that appears to be wishful thinking. Why should India sign the Comprehensive Test Ban Treaty or stop producing weapons grade material if it now has access to all the technology and know-how it could need? India can now enjoy almost all the benefits afforded under the NPT, regardless of the fact that it is still not a signatory.

Proponents of nuclear trade argue that because certain Indian facilities will be placed under safeguards, this agreement will inhibit proliferation. This is not true. The purpose of safeguards is to prevent the diversion of nuclear materials to weapons programs. By providing India new reactors and materials, this agreement frees up domestic resources for India's weapons program. Rather than bringing India into the ''nuclear mainstream,'' this deal could enable the expansion of its weapons program.

I am pleased to cosponsor the Dorgan-Bingaman amendment that would ensure that the United States cuts off trade with India in the wake of nuclear tests and that we sanction any other nation that continues such trade. I hope the Senate will adopt it, and I applaud the efforts of my colleagues to improve this bill. I offered an amendment in committee that would have helped close the loophole in the nonproliferation regime created by the NSG exemption, and I was disappointed that this amendment was defeated. However, after careful review, I have come to the conclusion that even if all of these improvements were adopted, this deal would be fatally flawed.

Passing this bill will undermine international nonproliferation standards, potentially encourage a disastrous regional arms race and threaten our country's security. I intend to vote against this agreement and urge my colleagues to do the same.

Mrs. FEINSTEIN. Mr. President, I rise today to express my support for the legislation approving the United States—India Nuclear Cooperation Agreement.

While I have concerns about this agreement's impact on the nuclear nonproliferation regime and the speed with which it has come to the floor for a vote, I have come to the conclusion that it is in the best interests of the United States and our relationship with India and, with vigorous oversight, will help strengthen our nuclear nonproliferation efforts.

This agreement has wide bipartisan support. The Senate Foreign Relations Committee reported this legislation favorably on a 19–2 vote. Last Saturday, the House approved this agreement by a vote of 298 to 117 and I am hopeful the Senate will follow suit tonight.

While far from perfect, I believe this agreement will mark a first step towards bringing India into the nuclear nonproliferation regime.

For years, India and the United States have failed to take advantage of our shared values of democracy, human rights, and the rule of law in developing a closer partnership.

I am hopeful this agreement will serve as a catalyst for solidifying relations with the world's largest democracy in a critical part of the world and enhance U.S.-India cooperation on a number of pressing issues: global warming, the war on terror, and stability in South Asia.

I do not take this vote lightly. As a U.S. Senator, I have worked hard to stop the development of new nuclear weapons and strengthen our nuclear nonproliferation efforts. I have introduced legislation calling for a strengthened Nuclear Non-proliferation Treaty. I have fought against the research and development of new nuclear weapons like the robust nuclear Earth penetrator and the reliable replacement warhead program. I have secured additional funding to remove vulnerable nuclear materials around the world. I have supported efforts to accelerate Nunn-Lugar threat reduction programs.

Because of my commitment to nuclear nonproliferation efforts, I initially approached plans for a U.S.-India nuclear cooperation agreement with some skepticism: 8 of India's 22 nuclear reactors—including India's fast breeder reactors, which can produce massive amounts of plutonium for nuclear weapon—will be classified for military uses and thus will remain outside of International Atomic Energy Agency safeguards. India will retain the right to designate future nuclear reactors as ''military'' and not subject to international safeguards. India will continue to manufacture fissile material

for nuclear weapons and has not signed the Comprehensive Test Ban Treaty.

Nevertheless, I supported the Hyde Act of 2006 which authorized the President to conclude a nuclear cooperation agreement with India because it included provisions which would help preserve the nuclear nonproliferation regime.

Under the terms of that bill any nuclear cooperation agreement will be terminated if India conducts a nuclear test, proliferates nuclear weapons or nuclear materials, or breaks its commitments to the International Atomic Energy Agency; the President must determine that India is meeting its nonproliferation commitments; the Nuclear Suppliers Group must decide by consensus and according to its rules to open nuclear trade with India; the export of any equipment, materials, or technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water is prohibited; the President must create a program to monitor the end use of items exported to India to ensure that they are not diverted to nonpeaceful activities; and no action may be taken to violate U.S. obligations under the Nuclear Non-Proliferation Treaty.

The question now before us is whether the agreement negotiated by the Bush administration conforms with the Hyde Act and U.S. nuclear nonproliferation efforts.

I understand the serious questions that have been raised by many nuclear nonproliferation experts and my colleagues about critical parts of this agreement. By opening trade in civil nuclear fuel and technologies, will this agreement indirectly benefit India's nuclear weapons program by freeing up domestic resources for military purposes? Does India agree with the administration that, under U.S. law, if India breaks its moratorium and tests a nuclear weapon U.S. nuclear trade will be terminated? Will our partners in the Nuclear Suppliers Group follow suit? Why has India not filed a declaration with the International Atomic Energy Agency of its civil nuclear facilities that will be subject to international safeguards as required by the Hyde Act? Why did the exemption for India approved by the Nuclear Suppliers Group not include guidelines baring transfer of sensitive nuclear technologies to states, like India, who have not signed the Nuclear Non-Proliferation Treaty?

I believe the legislation now before us addresses many of these concerns. It requires the President to certify that the agreement is consistent with our obligations as a party to the Nuclear Non-Proliferation Treaty and will not help India acquire or build nuclear weapons; states that it is the policy of the United States that, in the event nuclear trade between India and the United States is suspended, such as following a Indian nuclear test, the United States will work to prevent the transfer of nuclear technologies and materials from other members of the Nuclear Suppliers Group or any other source. It also requires the President to certify that the safeguards agreement between India and the International Atomic Energy Agency has come into force and India has filed a declaration of its civil nuclear facilities that will be subject to those safeguards before nuclear trade can begin. It also requires the President to certify that it is the policy of the United States to work with the other members of the Nuclear Suppliers Group to restrict the transfer of sensitive nuclear technologies relating to the enrichment of uranium and reprocessing of spent nuclear fuel.

And while I appreciate the assurances from the administration that, in accordance with U.S. law, nuclear trade with India would cease in the event a nuclear test, I will support an amendment by Senator DORGAN and Senator BINGAMAN to make this action clear.

As I indicated before, I would have preferred more time to debate this critical agreement. Yet I am also conscious of the fact that if we had used the full 30 days to consider this agreement, we would be presented with a simple up or down vote on a one sentence resolution approving the agreement.

I appreciate the fact that we have the opportunity with this legislation to lock in additional requirements and oversight of U.S.-Indian nuclear trade.

U.S.-Indian relations have come a long ways since the days of the Cold War. We have overcome distrust and skepticism and have begun to build a fruitful, mutually beneficial relationship between the world's largest democracy and the world's oldest democracy.

Whatever the problems we will face in the global arena in the next century, we will need to work with India.

By approving this legislation, we will not only open the door to the trade in nuclear materials and nuclear technology—and provide new opportunities for U.S. businesses—we will open the door to closer cooperation on issues vital to U.S. national security interests in South Asia and around the world.

This is not the end of our efforts to bring India into the nuclear nonproliferation mainstream. This is one step that should be followed by close congressional oversight and robust and sustained American diplomacy.

I urge my colleagues to support the bill.

Mr. AKAKA. Mr. President, I rise to express my opposition to the United States-India agreement on nuclear energy.

The agreement states it is intended for cooperation on the peaceful uses of nuclear energy and for other purposes. It is the phrase ''for other purposes'' that is most troubling. As I have seen over the years, it is always prudent that one requests all of the specific details of any agreement before approving such a deal. And the details of this agreement are most disturbing.

If you agree with me that the proliferation of weapons of mass destruction is one of the greatest threats to humanity's continued existence then you should agree that preventing proliferation should be one of the cornerstones of our foreign and national security policy. Thus, there are only two reasons to support this agreement: first, it would enhance our international efforts to prevent proliferation, and second, it would prevent further testing of nuclear weapons on the South Asian subcontinent.

Unfortunately, this agreement does neither. Instead it enhances the risk of proliferation and ensures additional testing of nuclear weapons in South Asia.

This agreement undermines the Nuclear Non-Proliferation Treaty, NPT, and other agreements that have been essential to our efforts for decades to prevent states from developing nuclear weapons. India is one of three states that has never signed the NPT, nor has it signed the Comprehensive Test Ban Treaty, CTBT. Nothing in this agreement requires India to do either. In effect, India will gain all the rights of a nuclear state and bear none of the responsibilities. Nothing in this agreement requires India to commit to eventual disarmament—an objective that even the United States, as a treaty signatory, accepts. It is possible to conceive of an end-state in which the United States and Russia disarm, but, in the case of India, there is nothing in this agreement that requires India to do so. This agreement would allow India to maintain a nuclear arsenal in perpetuity.

As of today, the United States is a signatory to the CTBT—although the Senate has not yet ratified the treaty—but India is not. The United States has agreed to greater safeguards and constraints on its nuclear weapons program than has India. This is an extraordinary exception that the Senate is being asked to accept.

Equally important, this agreement undermines our efforts to contain the spread of nuclear weapons to countries of concern. Right now those countries are North Korea and Iran. We do not know what adversaries tomorrow will bring. Even so, our concerns over the Iranian and North Korean clandestine nuclear programs are sufficient to warrant disapproving this exception for India's clandestine program. When the United States is trying to encourage Iran and North Korea to scale down and eliminate their nuclear weapons programs, to enter into a cooperation agreement with India for nuclear energy purposes would be sending the wrong message.

I wish to remind my colleagues that the United States has been arguing that the International Atomic Energy Agency, IAEA, and the United Nations

Security Council should impose stiffer sanctions on Iran and North Korea. In addition, pending before the Senate is H.R. 7112, the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008. This bill would place new sanctions on Iran. I support such sanctions, and I support similar efforts to establish accountability to the India program.

Another added concern is that India might support Iran's secret weapons program. Already a number of companies in India have been sanctioned under U.S. export control law for providing sensitive missile technologies to Iran. India's export control regime remains deeply flawed. We have a history of this administration not disclosing intelligence information that is derogatory to their argument. In the case of India, the administration did not report export control violations of Indian companies until critical votes had occurred in the House.

What assurances have we received from the administration that they are not withholding critical information at this time from the Congress? The Senate has received a classified annex to the public Nuclear Proliferation Assessment Statement, NPAS, but I would ask, is that document complete? Does it address all the critical questions? I would suggest to my colleagues that, until there is certainty that all the answers to these serious questions are satisfactory; it is better to vote no on this agreement.

Nothing in this agreement would prevent India from further testing of nuclear weapons. Some would argue that it makes it certain that India will continue testing, and, under this legislation, India can continue to receive nuclear materials from other countries even if the United States were to suspend any that it is providing. I believe that it is unlikely that the United States will find much of a new market for its nuclear products should this agreement be approved. India has a history of trading with Russia, France, and others in this area, and trade with these countries will, in the estimation of many experts, prosper.

As Michael Krepon, a noted analyst of the Pakistani and Indian nuclear programs, has observed, ''The upgrading of New Delhi's nuclear forces will most certainly require more nuclear testing.'' In the case of a test, I believe that India will argue that it was forced to in order to ensure the safety of its nuclear arsenal and India's nuclear trading partners will argue against sanctions in the name of preserving what few Indian nuclear facilities remain under IAEA safeguards.

India officials have made it abundantly clear that they maintain the right to test. India's Prime Minister, Dr. Manmohan Singh, said, ''Let me hence reiterate once again that a decision to undertake a future nuclear test would be our sovereign decision, one that rests solely with our government.'' He noted ''We want to keep the option [of conducting further nuclear tests] open if the situation demands. If the international situation requires, we may have to [conduct nuclear tests].'' M.K. Narayanan, a member of India's Atomic Energy Commission, observed that ''This deal deals primarily with civil nuclear cooperation. There is no reference here to the event of a test. If there is a test, we come to that later on.''

If India does test, Pakistan may retaliate. As Pakistan has already indicated, it would match India step by nuclear step. In April 2006, Pakistan's National Command Authority stated: ''In view of the fact the [U.S.-India] agreement would enable India to produce a significant quantity of fissile material and nuclear weapons from unsafeguarded nuclear reactors, the NCA expressed firm resolve that our credible minimum deterrence requirements will be met.'' There is already a nuclear and missile weapons race in South Asia. This agreement will only accelerate it, and nuclear tests will fan the flames even hotter. Is this prospect in the interest of the United States? Has a National Intelligence Estimate concluded that such a scenario would enhance our national security?

I return to the questions I posed at the beginning of my statement: does this agreement enhance our international efforts to prevent proliferation, and secondly, will it prevent the further testing of nuclear weapons on the South Asian subcontinent? The answer in both instances is a resounding no, and I urge my colleagues to oppose this legislation.

Mr. REID. Mr. President, I appreciate the opportunity to speak in support of H.R. 7081, the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act.

I had the privilege to be serving as the Democratic leader in the U.S. Senate in late 2006 when, on an overwhelmingly bipartisan basis, we passed the Henry J. Hyde United States and India Nuclear Cooperation Promotion Act, which laid out the specific steps that needed to be taken in order for our country to achieve a civilian nuclear agreement with the nation of India. At the time, I felt it was important for the Congress to pass the Hyde Act as a critical step in further strengthening the growing political, economic, and security partnership between the United States and India. Today, 2 years later, the Indian government has acted to meet the guidelines set forth in that piece of legislation, allowing us to consider H.R. 7081.

After our two countries reached a consensus on the text of the nuclear cooperation pact this past July, Indian Prime Minister Manmohan Singh faced a tough domestic battle to approve the agreement. However, his government worked diligently to form a coalition of supporters for the nuclear deal, and it eventually passed the Indian Parliament. On Saturday, in the House, Democrats and Republicans approved H.R. 7081 by a landslide: 298 to 117. Now, we are here today to take the next step in approving this agreement and sending it to the President.

As I did back in late 2006, I would like to remind my fellow Senators how important it is that we approve this measure to expand civilian nuclear cooperation with India. For much of the cold war, America's relationship with India—a leader in the movement of nonaligned countries—was too often characterized by ambivalence on both sides. But in the nearly 20 years since the walls that separated East from West have come down, our two countries have enjoyed an unprecedented level of engagement with one another that has proven truly beneficial for both parties. And the citizens of our two countries are increasingly interconnected through business, educational, and social linkages.

India has emerged as one of the world's most important leaders of the 21st century. India has experienced significant growth in the technological and service sectors, foreign investment has ballooned, and India has become a global center for cultural and artistic expression. The entrepreneurial spirit of the Indian people, coupled with their strong commitment to democratic values, has formed the backbone of a society whose potential for growth knows few boundaries.

By voting for this agreement, the Senate will cement the gains that we have achieved in our bilateral relationship and open two of the world's top scientific communities to the type of civilian nuclear cooperation befitting our strong alliance.

I would like to thank my colleagues on the Senate Foreign Relations Committee who, in conjunction with the Department of State, took the time to examine this agreement over the past 2 weeks. I am equally grateful to Senators DORGAN and BINGAMAN for their willingness to work with the Senate leadership on this important bill. As these two Senators, and others, have pointed out, we cannot undermine the nuclear nonproliferation regime's decades of successes, and I appreciate the goals of the Dorgan-Bingaman amendment to ensure the strength of our continued commitments to the nonproliferation regime. I certainly understand the concerns expressed in their amendment, but I believe that this historic agreement provides the necessary safeguards and oversight to ensure that our nonproliferation objectives will be respected.

I also am heartened by the repeated public and private commitments by officials of the U.S. Government to upholding nonproliferation. Because of Senator DORGAN and BINGAMAN's work, the Secretary of State stated in a letter to me today, which has been entered into the record, a clear commitment in the event of a nuclear test. Secretary Rice's letter states: ''We've been very clear with the Indians . . . should India test, as it has agreed not

to do, or should India in any way violate the IAEA safeguard[s] agreements to which it would be adhering, the deal, from our point of view, would at that point be off.'' With this commitment in hand, I am reluctant to vote for an amendment that I feel might jeopardize the important progress we have made over the past few years in securing this deal with the Government of India. The strong and growing partnership between India and the United States must move forward, and I am proud that Senate passage of H.R. 7081 tonight will further deepen this partnership.

In closing, I would like to remind my friends in the Chamber that the United States is the proud home to a large and vibrant community of Indian-Americans—my State of Nevada being no exception. America is a country that was built on the strength of our immigrants, and the contributions of the nearly 3 million Indian Americans currently living in the United States have enriched our society immeasurably. We in the Senate have a tremendous opportunity to show them our commitment to improving relations with the country of their ancestry. With that, I urge my colleagues to support this landmark agreement and vote to expand civilian nuclear cooperation between our great country and the world's largest democracy.

Mr. DOMENICI. Mr. President, India has over 1 billion people and a rapidly growing economy. They recognize the need to provide electricity that does not increase air pollution or greenhouse gases.

With this agreement we can help export U.S. technology and safeguards to monitor and support India's inevitable nuclear expansion or ignore India's growth as a nuclear power as we have for the past 30 years.

This agreement is good for the U.S. economy, good for international nuclear safeguards, and good for the environment.

As a rapidly growing economy, India will see an increased need for electricity over the coming decades. As India—and the world—seeks to find ways to increase generation while reducing greenhouse gas emissions, nuclear power will continue to grow. The civilian nuclear agreement with India will allow us to help export U.S. technology to monitor this expansion and will facilitate a global approach to the challenges of climate change.

India is not a signatory to the Nuclear Non-Proliferation Treaty, yet they have agreed to inspections by the International Atomic Energy Agency.

This will improve our ability to monitor and protect against proliferation of nuclear material.

India's growing civilian nuclear program will now be subject to international inspections.

India would like to cooperate with the United States in developing safer nuclear technology consistent with the administration's goals.

From a practical standpoint, this agreement will increase inspections, verify compliance, and encourage cooperation on new technology.

I would also point out that this agreement has the support of the world's leading nonproliferation watchdog, Mohammed El Baradei, Director General of the International Atomic Energy Agency.

He said, ''this agreement is an important step towards satisfying India's growing need for energy. It would also bring India closer as an important partner in the nonproliferation regime.'' He went on to say, ''It would be a step forward toward universalization of the international safeguards regime.''

I am of the belief that we need to advance the goals of the Nuclear Non-proliferation Treaty by opening up cooperation and transparency in India. Under this agreement, the United States and India will expand the use of safeguards on critical nuclear technology and processes in that country—something that is beyond our reach today.

India has developed its nuclear program for the past three decades and has not exported material or technology. However, there are strong and powerful political forces within India that would like to disclose less and make fewer sites subject to civilian inspection. This agreement subjects most of India's reactors to civilian inspection, including all of the breeder reactors. I believe if we reject this package, it will be years before we are able to negotiate another deal, and it is unlikely to provide as much openness and transparency as we have today.

With regard to the amendment offered by Senators DORGAN and BINGAMAN—two Members for whom I have enormous respect—I believe this amendment is duplicative and would only serve to delay, if not derail, this important agreement.

This administration has been very clear that India would face severe consequences if they tested another nuclear device. Also, this language duplicates the export controls and reporting requirements of Sections 103, 104 and 105 of the Hyde Act.

I do not believe this amendment will provide any additional protection or controls that are not already in place today, so I must recommend my colleagues oppose this amendment and adopt the India civilian nuclear agreement without changes.

Mr. CORNYN. Mr. President, over the years it has become more and more apparent that two great democracies, the United States and India, are well suited for not only a partnership but also a friendship. Our cooperation could mean not just increased economic opportunities for both nations but also the opportunity for the United States and India to join together to spread the fundamental principles of freedom, democracy, tolerance, and the rule of law throughout the world.

As a founder and cochair of the Senate India Caucus, I have had the privilege to work closely with Indian officials, Indian Americans, and many other friends of India here in the United States to help promote the already flourishing relationship between our two countries. There is no clearer evidence of this great friendship than the revolutionary civilian nuclear agreement before us, which the House recently passed and we will vote on today.

This landmark agreement represents the latest example of the United States and India, the world's largest democracy, working together on issues of mutual benefit. It will bring about an unprecedented level of cooperation between us, helping India to meet its growing energy demands, while forging new economic opportunities for everyone involved.

The initiative will serve both the interests of the United States and the interests of India, with its more than 1 billion citizens. In light of its track record as a responsible actor on nonproliferation issues, India is an appropriate and worthy partner in this historic deal. The agreement will pave the way for cooperative efforts in peaceful civilian nuclear power, while simultaneously addressing concerns about nuclear proliferation.

I understand well the need for careful monitoring to protect against the proliferation of nuclear weapons, and I am pleased with the safeguards contained in this agreement. But as the nation of India continues to grow, their need for new, clean, and affordable energy sources grows as well.

Helping India develop a safe and responsible nuclear industry will give its people the resources they need to grow their economy and strengthen their nation, while helping America's nuclear industry in the process.

Most importantly, if we do nothing, the people of India will have no option but to look elsewhere for nuclear assistance. That would be unfortunate for both nations. We must remain a strong partner for India, not just in the area of civil nuclear cooperation but also on larger geopolitical matters.

If we approve this long-overdue agreement, we will send a strong message that India and the United States stand together as friends to face even the most difficult and pressing issues of our time. As we look ahead to the future, each of our nations will do so with the confidence that it has a friend, ready to work together.

Mr. BIDEN. Mr. President, I am very pleased that the Senate has the opportunity to vote on the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act and to finally approve the peaceful nuclear cooperation agreement between the United States and India. This bill will seize the opportunity to build on the foundation laid by President Bill Clinton and cement a new, cooperative relationship with India, the world's largest democracy.

Two years ago, Chairman LUGAR and I worked with the administration to enact legislation that changed 30 years of U.S. non-proliferation policy. We agreed to let the administration negotiate and submit to Congress a peaceful nuclear cooperation agreement with India, despite the fact that India has a nuclear weapons program. That wasn't easy. It took soul-searching and compromise on the part of many Members of the Senate regarding the standards for such an agreement and for U.S. policy.

Since the President's submittal of the proposed Agreement three weeks ago, Senator DODD and Senator LUGAR have worked hard with the other Members of the Foreign Relations Committee, the chairman of the Foreign Affairs Committee of the House of Representatives HOWARD BERMAN, the ranking Republican member of that committee, ILEANA ROS-LEHTINEN, and with the administration, to forge a bipartisan compromise on this important and complex issue. Senator DODD and Senator LUGAR especially deserve a great deal of thanks for all the efforts that have been required of them to bring this bill, and this historic agreement, to this point.

Enactment of this bill will help the U.S.-India relationship grow, while advancing India's ability to meet its energy needs in a way that fits within the cooperation framework Congress has worked so hard to establish. It will help ensure that the agreement and any exports that flow from it will be consistent with U.S. law and our national security interests, by adding to the tools that the Congress and future administrations will have to keep watch over this agreement.

I look forward to the passage of this bill, its enactment into law, and the beginning of a stronger relationship between our two great democracies.

Mrs. BOXER. Mr. President, I rise today to express my opposition to the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy.

I do not feel any better about this agreement than I did when the Senate passed the Hyde Act back in November 2006. At that time, I strongly felt that the administration was giving up more than it was getting in return, and that India was essentially being rewarded for its continued failure to join the nonproliferation mainstream and sign the Non-Proliferation Treaty.

Today, I remain particularly concerned about two factors—the possibility that this deal will free up additional fissile material for India's nuclear weapons program and India's continued military cooperation with Iran.

While I am pleased that the Senate Foreign Relations Committee included language in the legislation requiring the President to certify that approving the agreement is consistent with our obligation under the Nuclear Non-Proliferation Treaty not to assist or encourage India to produce nuclear weapons I am afraid that this does not go far enough.

Some experts believe that this deal could allow India to vastly increase its production of nuclear weapons from an estimated 6 to 10 per year to several dozen a year, touching off an arms race in a region that is already facing significant security challenges.

I simply do not understand how the United States could champion a deal that rewards a country for producing nuclear weapons outside of the NPT at the same time we are trying so hard to get Iran and North Korea to give up their pursuit of illicit nuclear programs.

I also remain concerned about India's continued relationship with Iran, including its military relationship.

In 2006, Defense News reported that Iranian warships visited a port in the Indian city of Kochi to participate in a military training program. In 2007—nearly a year later—Defense News again reported on the military relationship between Iran and India, citing an agreement between the two nations to form a joint defense working group.

This continued military-to-military cooperation is particularly troublesome as Iran continues its reckless support of international terrorism and continues to enrich uranium in defiance of the United Nations Security Council—making the Middle East an infinitely more dangerous place.

Furthermore, Iran has supported Shiite militias in Baghdad who have in turn murdered American troops. It has also continued its support for Hezbollah and Hamas, and Iran's President has denied the Holocaust and threatened to ''wipe Israel off the map.''

Let me be clear—I value strong United States-India ties, and appreciate that it is in the United States interest that these ties are deepened.

But I regret that the Bush administration was unable to negotiate a better deal with India. Unfortunately the deal now before us has significant shortcomings that cannot be overlooked.

This is why I must vote against this bill today.

Mr. BYRD. Mr. President, I will vote against H.R. 7081, a bill to approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy. This agreement represents a major shift in U.S. nonproliferation policy, with widespread ramifications for regional and global security, yet it is being rushed through the Congress with unseemly haste and reckless disregard for the deliberative process outlined for such agreements in the 1954 Atomic Energy Act. There is no need for this rush to judgment; far from it, the Senate and the Nation would be better served, in my opinion, to put this off until the heat and fury of the election season has passed and we can give this agreement the prudent consideration that it merits.

The world recognizes India as an economic and a nuclear power. Its growing economy, large population and soaring energy requirements make nuclear power generation an attractive option. However, we cannot address assistance for India's electrical power needs without also considering that India is a military power with a sophisticated technological base that includes the ability to build and launch nuclear-capable intercontinental ballistic missiles and ballistic missile defense systems.

India has conducted nuclear tests since 1974 and has been under a global ban on trade in nuclear fuels and technology since that date. On September 27, after the House of Representatives voted in favor of this agreement, Indian Prime Minister Manmohan Singh addressed the Indian community in New York with these words: ''India will be liberated from the constraints of technology denial of 34 years. It will add an important strategic pillar to our bilateral partnership. We will widen our clean energy options.'' However, the Indian military and civilian nuclear programs are closely intertwined, and this new agreement will require new program separation measures that may prove difficult to ensure or fully enforce. There is a real risk in that providing U.S. technology and materials to the civilian side of that equation may result in enhancements in India's military nuclear program.

If the Congress approves this agreement, we must be prepared for the potential backlash of a nuclear arms race in the region. Pakistan, which has long had border disputes with India, has threatened to match any Indian nuclear capabilities. Pakistan has, like India, clandestinely developed a nuclear weapon capability and has conducted nuclear tests. Like India, Pakistan has not signed the Nuclear Nonproliferation Treaty (NPT), the Comprehensive Test Ban Treaty, or other nonproliferation agreements. But India will be rewarded for its three decades of defiance of international nonproliferation accords with access to nuclear technology and materials provided in this agreement, and it will not, in return, give up one iota of its military nuclear facilities or programs.

This agreement may have been a long time coming, but it is not yet final. In 2006, the Congress rejected President Bush's original U.S.-India nuclear cooperation agreement. Instead, the Congress adopted the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006, which proposed several additional safeguards requirements to the agreement. President Bush signed the act, but the agreement he is now pushing so hard to get approved before he leaves office neither meets all the requirements of the Hyde Act nor the procedures for consideration of these agreements outlined in the Atomic Energy Act of 1954.

India has not yet filed its declaration of the facilities to be safeguarded with the International Atomic Energy Agency. Nor has the Indian government

publicly acknowledged that the safeguards would last ''in perpetuity.'' There is no provision to terminate this agreement immediately in the event that India conducts another nuclear test, as it last did in 1998. Even though this is the first agreement of its kind to require an exemption under the Atomic Energy Act, because India is not a signatory to the Nuclear Nonproliferation Treaty, the Congress is being pushed to override the statutory period for consideration of the agreement.

At a time when the United States is strengthening its sanctions on Iran to halt its uranium enrichment, India has joined in non-aligned movement statements supporting Iran's nuclear position in its negotiations with the West and is a major supplier of refined petroleum products for Tehran. In addition, shortly after the House vote on the Hyde Act in 2006, the State Department reported that Indian entities were believed to have sold sensitive missile technologies to Iran.

According to those in the non-proliferation community, this agreement creates a dangerous distinction between ''good'' proliferators and ''bad'' proliferators and sends misleading signals to the international community with regard to Nuclear Nonproliferation Treaty norms, making the task of winning international support to contain and constrain the nuclear programs of North Korea, Iran, and potential proliferators more difficult.

We need to let the process work. There is no rush. The Congress will still be here come January. India will still be around come January. The Indian government may even have filed its facilities declaration with the International Atomic Energy Agency by January. Only President Bush will be leaving in January, but, if this agreement is approved, I can assure him that his Administration will get all due credit for negotiating it. Let us take a step back from this mad rush we are in, and do our job as the Founders intended, as a deliberative body, not a rubber stamp.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, momentarily we will be introducing a bill, but my colleague from New York is here and wants to be heard. I just wanted to take 30 seconds, if I could. We have wrapped up the debate on the U.S.-India nuclear accord and there will be no more discussion I know of about that at this point. I will maybe insert some materials in the RECORD but I did want to thank Senator BIDEN's staff and others. There is a list which I will put in the RECORD, but Brian McKeon, Ed Levine, Anthony Wier, Fulton Armstrong, and, from Senator LUGAR's staff, Kenny Myers and Tom Moore, just did a great job on this. I want my colleagues to reflect the effort of staff who have worked for years on this. I appreciate immensely their efforts. There will be a vote later this evening on that matter.

I yield the floor to my colleagues whom I know want to address the financial crisis issue or some other points. As soon as I have the amended version of the bill, I will send it to the desk for their consideration.

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

Mr. GREGG. Will the Senator from New York yield for a unanimous-consent request?

Mrs. CLINTON. Yes.

Mr. GREGG. Mr. President, I ask unanimous consent that at the conclusion of the statement of the Senator from New York, I be recognized for 10 minutes, and then other Republicans speaking on the rescue plan be allotted 10-minute segments from the Republican side.

Mr. DODD. Reserving the right to object, I am going to offer a unanimous-consent request that covers that. I will have my colleague look at it as well, so we may need some modification.

Mr. GREGG. I don't believe it covers the 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, reserving the right to object, I would like to be able to get in this line too, so I ask unanimous consent that I speak following the Senator from New Hampshire.

The ACTING PRESIDENT pro tempore. Is there objection?.

Mr. DODD. Let me object to this particular request of my colleague, and I will get back to it in a minute. I don't want to get to a situation where there are limits without some consideration to make sure there is a balance to it.

Mr. GREGG. Let's go forward with the Senator from New York.

Mr. DODD. Then the Senator from Montana.

FINANCIAL CRISIS

Mrs. CLINTON. Mr. President, I appreciate very much the extraordinary work that has been done with respect to the rescue package, led in a bipartisan fashion, which has certainly produced significant changes in the original request that came to the Congress from the Treasury Department. Tonight we will vote on legislation none of us wish we were considering and none of us can afford to see fail.

The costs of inaction are far too great. We are already seeing the consequences of a freezing credit market that will only worsen. I hear across my State of New York that small businesses are struggling to find affordable loans to keep their doors open and their inventories stocked. Even larger businesses are being pushed to the breaking point. Throughout the country, the impact of this credit crisis is beginning to be felt with students who are seeing the sources of student loans dry up, interest rates on car payments are rising, families who had saved up and acted responsibly are seeing higher mortgage rates shrinking their dream of home ownership.

Our economy runs on credit. Underlying that credit is trust. Both the credit and the trust is running out. Essentially, what we are doing in an intangible way is restoring trust and confidence, and in a very tangible way helping to restore credit. Banks will refuse to lend to businesses and even to one another; investors continue to withdraw to the safest investments: Treasury bills, even cash. Tens of thousands of jobs in New York have been lost. A study this morning projected that New York alone would lose at least 120,000 jobs.

I think we are here in some respects because we failed to tackle a home mortgage crisis. Now we are facing a market crisis. If we fail to tackle the market crisis, we risk an even deeper economic crisis. I do not think any of us want to see irresponsibility on Wall Street compounded by ineffectiveness in Washington.

That is why we must act, even as we do so with regret and reservations, because we have little choice. The proposal we are considering is far from perfect, but it is a far cry from the original plan sent over by the Treasury Department that instilled virtually unlimited powers in the hands of the Treasury Secretary. As I said when we first examined that original three-page proposal, we needed a plan that included checks and balances, not a blank check.

Thanks to the leadership in the Senate and in the House, we have negotiated through the Congress, on a bipartisan basis, a better alternative that instills taxpayer protections, asserts oversight, and maintains greater accountability.

As is the case very often in effective compromises, no one is happy. But we cannot let the perfect be the enemy of the good—or in this case, the enemy of what is necessary. But as we vote for this proposal tonight, we must do so considering what steps we will take next.

On the floor at this moment are three of the leaders who shaped this plan under the very able leadership of Chairman DODD, and the chief Republican negotiator, Senator GREGG, and, of course, the chairman of the Finance Committee, Chairman BAUCUS. But I think we all recognize this is not the end but the beginning of what we must do. I believe there are three big goals we will have to address even after we pass the rescue package tonight in the Senate and send it over to the House.

First, we must address the home mortgage crisis. For 2 years, I and others have called for action as wave after wave of defaults and foreclosures crashed against communities and the broader economy. We are not yet through the woods. Millions of mortgages are underwater or under the specter of adjustable rates set to rise.

I am proposing what we are calling the Home Owners Mortgage Enterprise,

an acronym obviously spelling ''home,'' to rewrite mortgages and homes so that creditworthy, responsible families can keep their homes and keep making affordable payments. Through such a HOME program we would also be able to consider freezing adjustable mortgage rates and even placing a short-term moratorium on foreclosures.

When our country enacted a similar program in the Great Depression, we saved 1 million homes without costing the taxpayers a dime. In fact, the program ended with a surplus. Only by rewriting the terms of the debt held by families whose mortgages can be salvaged will we recoup a great deal of the value of the debt we are purchasing from Wall Street firms.

I also believe we need to consider a real tax credit for home buyers to jump-start the housing market. This has been an effective tool in the past, and it can be an effective tool again. We have too much supply and too little demand. Getting the liquidity that will be injected into the credit markets to work its way through the entire economy will take time. I think we need not only a supply of liquidity but an increasing demand, particularly in the housing market.

Second, we must be vigilant on behalf of taxpayers, putting in place safeguards so the Treasury is maximizing the value of the assets purchased with taxpayer dollars.

We need to have the flexibility to ensure we are not just subsidizing investors and executives, but we should tie this debt relief to strong recapitalization requirements and greater accountability.

I also want to be sure that companies do not take undue advantage of this program and sell securities to the Treasury with one stroke of the pen and claim a deduction for the losses on those assets—in essence, double dipping, dumping their bad assets on taxpayers and getting a tax break as well.

I am proposing we build on a very creative provision in the bill before us and establish an e-TRUST program. That will stand for Transparent Rules Used to Safeguard Taxpayers. In the bill there is a provision that transactions be put on the Internet. I wish to ensure that the assets bought and sold by the Treasury Department are reported online in real time so any American can log on and see how their tax dollars are being spent. All assets bought and sold must be available on a publicly accessible Web site that discloses the buyers, sellers, and values of these assets. The American people are buying these securities, and so the American people must have easy access to their portfolio.

It is also important to the American people to understand that lying behind these complex transactions with all kinds of long names that you read in the newspaper—collateralized debt obligations and credit default swaps and all the other words that are used to in some way explain the complex financial transactions that brought us to this place—are real assets. There are real homes owned by real people on real land in real communities across America.

So we want to know how those securities that stand in for these real assets are being traded, bought and sold, and we want to be sure we realize for the taxpayer the benefits of these transactions.

Third, I think there is general agreement we must pursue a broader reform. That is one of the lessons of this turmoil. I know Chairman DODD and others will be holding hearings to try to untangle how we got to where we are. We know we have to rein in executive compensation by giving shareholders a greater role in and eliminating loopholes that allow boards to conceal the value of salary packages. We have to end the quarter-by-quarter mentality in which long term prosperity is subverted by short-term stock valuations. Obviously, we have to end the culture of recklessness in our financial markets endorsed by an ideology of indifference in Washington.

If the American people invest in these companies, I think we should ask the companies to invest in the American people. I think we should consider requiring financial institutions participating in this Treasury plan to create an American priorities fund, to be part of their portfolio, to invest in clean energy, infrastructure, mass transit, manufacturing, education and other public goods and goals that would be well served by greater private investment.

Along with the rescue package will be a number of tax credits that will be passed by the Senate tonight. Again, Chairman BAUCUS has done yeoman's work getting these tax credits put together. The Senate supported them before. In it is a fix for the alternative minimum tax and an energy production tax credit.

In fact, we will be stimulating the economy for Main Street while we pass this rescue package for our credit markets. I think that is the right combination. But we need to do more. Instead of toxic securities that nobody can understand, are so complex and lack all transparency and accountability, banks should be investing in clean energy facilities in Buffalo or new auto manufacturing plants in Detroit to build more fuel-efficient cars.

We should be repairing our bridges, our roads, our tunnels. We should be investing in high-speed rail and making sure Amtrak is not a second-class railroad but competes with the best anywhere in the world.

I think the agenda before the Congress is a very important one for our country. We cannot continue to shuttle from crisis to crisis. This is a sink or swim moment for our country. We cannot merely catch our breath. We must swim for the shores and we must do so together, not only as a united Congress but as a united country. There is so much work to be done in America, so many investments that make us richer and stronger and safer and smarter that will enable us to look in the eyes of our children and grandchildren and tell them we are leaving our country in as good, in fact, better shape than when we found it.

At this moment, we cannot say that. But I am absolutely sure, based on the bipartisan cooperation we saw on this bill, in responding to a real crisis, that we will see more of that in the months ahead.

Our new President will certainly demand it of us, but we should be demanding it of ourselves and demonstrate to the American people that the Congress will lead the way into a much more confident and optimistic future for America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I wish to thank the Senator from New York. She was eloquent and hit right on the exact theme. I think this is a sad moment in many ways but a moment we have to confront. As she so aptly describes, it is our job now not just to deal with this crisis but to put our country on a better footing. So I thank her for her message and her words today.

Mr. GREGG. I ask unanimous consent that I be recognized for 10 minutes, and at the conclusion of my remarks, the Senator from Montana be recognized.

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

Mr. GREGG. I further ask unanimous consent that when we get into the debate and the time has been divided, the Republican Members have 10 minutes to speak on the matter.

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

Mr. GREGG. Mr. President, first, I wish to recognize and acknowledge the Senator from Connecticut, the chairman of the Banking Committee, for the tremendous work he has done over the past few days to bring this piece of legislation to this point.

This is an emergency. This is a crisis. Those terms are often overused. In this instance, they are not being overused. We know the financial markets are under extreme duress. We have seen some of our largest and most significant financial institutions fail or be reorganized in the last few weeks.

We also know, regrettably, that the credit markets are basically locked up and that credit on Main Street is disappearing, that people are not able to get financing for the payrolls, financing for inventory, financing to buy a car, send children to school, rebuild the local hospital, rebuild the local school system. This is not a virtual event, it is not an event of theory, this is a real event of very severe economic consequences.

Action has to be taken. The chairman of the committee, working under

a bipartisan, bicameral format with the Secretary of Treasury, has come up with this proposal to try to address this issue. Is this the answer to the entire problem? Obviously not.

The way I describe this is we have a patient who has suffered a severe wound and is bleeding profusely. We are going to try to put a tourniquet on that patient so we can stabilize their condition, get them to the hospital, and hopefully take other action which will cure them and get them back on their feet, specifically get the economy back on its feet, make sure Americans are able to go to work and enjoy a prosperous lifestyle.

This proposal, as it came from the Treasury, was simple, with a purpose of basically going forward with a significant amount of taxpayers' dollars, $700 billion, taking those dollars and buying investments. That is an important point to remember, because there has been a lot of misrepresentation, regretably, demagoguery and hyperbole about how we are throwing money at Wall Street. That is not the case.

What is happening is we will be purchasing assets, assets that have value. The Federal taxpayer will own those assets. Down the road, we will probably sell those assets, and we will actually get money back in for the taxpayer, into the Federal Treasury. We may actually break even, we may lose some money, but it is more likely, in my opinion, that we will come close to breaking even, and we may actually, some people tell us, make money for the taxpayer. But this is not $700 billion out the window.

In doing this effort, we are going to free up credit, credit on Main Street, that makes it possible for people on Main Street to do what they usually do. America runs on readily available, reasonable, affordable credit. Every American has credit on something: their credit card, their home, their car, their kids going to school, the little company they work for, if they work for a mom and pop, and even a middle-sized company probably has credit to make their payroll, probably has credit to buy the inventory. All this is necessary in order to keep the economy going. Yet today we are seeing it dry up and we are seeing it freeze up.

We are going to try to relieve that pressure so Main Street can operate as it should. In addition to what the Treasury Secretary felt he needed to free up that credit, we as a Congress felt we needed to do some other things. We needed to protect the taxpayer, and we have done that in this bill. Every dollar that comes into the Treasury as a result of reselling these assets will go to reduce the Federal debt, it will not go to create new programs, it will go to reduce the Federal debt.

In addition, we wished to make sure nobody is going to game the system, nobody is going to make a lot of money on this at the expense of the taxpayer. So we have language in here that limits, and eliminates in some instances, any sort of golden parachute, limits the salaries of the heads, the CEOs of these major companies who may take advantage of this, and basically eliminates, as a result of the efforts of the Senator from Montana and his good ideas, eliminates the tax deductions for high-income individuals above a reasonable amount.

In addition, as a result of the leadership of the chairman of the committee, again, we focused a lot of attention on making sure we can keep people in their homes. We do not want people foreclosed on, and interestingly enough, as a result of the Federal Government buying these assets, which we will be buying, which are mostly mortgages, mortgage-backed securities, which we will be buying at 20 or 30 percent below face value, we as a government are going to be in a position to reorganize the mortgages of people who today cannot meet their payments because they bought a subprime mortgage and, as a result, they could not make the mortgage payments when the mortgage reset.

We are going to be able to adjust those mortgages. If a person lives in their property as a personal residence, and if they have a reasonable income, hopefully, we will be able to structure it so they can stay in that property today, something they most likely would not be able to do if the economy played out in the present scenario.

So we are going to keep people in their homes and protect their opportunity to participate in a reasonable mortgage; at the same time, maybe make money for the taxpayer, because once those mortgages start to perform again, they become more valuable, and we can resell them into the market.

Fourthly, we address the issue of oversight. We create massive transparency so everybody is going to know what is happening. As was mentioned earlier by the Senator from New York, things will be going up on the Internet, so people know what is happening, plus we have significant oversight. We have a board headed by the Federal Reserve Chairman to oversee the Treasury Secretary; we have a board for the Congress to oversee the Treasury Secretary. We have a new inspector general just for this issue, a new GAO initiative just for this issue.

There will be significant oversight so taxpayer dollars are watched carefully so we know proper actions are being taken. We heard from our colleagues in the House of Representatives that they had concerns in the area of give us an option of an insurance program. So as the negotiations went forward, we put in the option of an insurance program.

We heard from colleagues on the Democratic side: Make sure the taxpayers have an option, so if we do not recover all the money we put in, if there is some shortfall, there is an ability to go back to these financial institutions 4 or 5 years from now, when they are a little stronger, and get a payment to cover that shortfall. That option is in there.

Then, in addition, we have expanded the FDIC coverage with this bill so people can have confidence in the money they are putting in their savings accounts, in their checking accounts, in banks, is going to be safe, and they do not have to move it around and maintain these artificial caps in their accounts. So that step is forward.

This is a plan that addresses the needs of the Main Street America through freeing up credit, but it also does it with a lot of efforts to protect the taxpayer, protect the mortgagee, have the proper oversight, and do it in a way that is constructive and, hopefully, returns revenue to the Treasury rather than cost the Treasury revenue.

Is it the answer to the whole problem? No. Please do not assume that after we pass this bill—and hopefully we will pass this bill—suddenly the light is going to shine on the American economy. We are in for a difficult economy for a considerable period of time. We know that. Other institutions will be under significant pressure. Regrettably, probably some of these institutions will not survive this economic situation.

But the option of not doing anything at this time is to virtually guarantee that we as economy will begin a very significant downturn of disproportionate impact on people on Main Street. People will lose their jobs, people will lose their savings, people will find that they cannot get the credit necessary to keep their businesses open or to function at a reasonable level.

There is no question that if we do not get the credit markets working again, we will face a dramatic downturn of proportions which we have not been seen in my lifetime in the United States of America and in our economy

It is something we should not risk. We should not roll those dice. This is a program which we can do. It may not cost taxpayers anything. But if it does cost taxpayers something, it is not going to be a dramatic amount of money. We can do it with proper safeguards, as we have. As a result, it is an action we should take as a Congress, as representatives of our citizenry, in order to fulfill our obligation to make sure that when you see an impending crisis you know is going to have a huge adverse effect on the people you represent, you move on that crisis, you take action, and you try to revolve it.

That is what this proposal does. It is not the answer to all the problems we have in this economy, but without it, we are going to have a much more severe and difficult time.

I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Connecticut.

Mr. DODD. Before yielding to Senator BAUCUS, I announce that I have a number of Senators who I ask consent be recognized for 5 minutes: Senators BAUCUS, MIKULSKI, BROWN, CANTWELL, HARKIN, CONRAD, CASEY, BILL NELSON, REED, DURBIN, OBAMA, SCHUMER, BOXER, MENENDEZ, and KERRY.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Madam President, reserving the right to object, I wonder if I could amend that to 15 minutes.

Mr. DODD. Let's make it 12 minutes for my colleague from Montana.

Mr. BAUCUS. Given the gravity of this legislation, that time was a little short.

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

The Senator from Montana.

Mr. BAUCUS. Madam President, a cloud hangs over the American economy. It is a cloud made up of thousands of failures, and it is casting a shadow over our country. This cloud of failure is so vast that we have a hard time seeing where it starts and where it ends. This cloud is so thick, we cannot see all the dangers it hides. We cannot tell even if there is light right on the other side. And this cloud is moving fast. It is speedier and stormier than most of us have seen in our lifetimes. This cloud over the American economy contains the failures of people whom we trusted to make this country prosper. It holds the failures of many national institutions, their failure to be prudent, to be honest. This cloud is made up of the failures of the private and public institutions that are supposed to safeguard our financial security. Instead, they let it slip away.

Americans are frustrated by the negligence that let this cloud of economic crisis take shape. This week, many Americans were angry that the Government seemed at first to want to shelter Wall Street from the rain but not America's working families. I share Americans' concerns. I share Americans' frustrations. I share their anger.

I am pleased today because the Senate has heard America's voice. The bill the Senate will consider today improves the Treasury Department's original plan. We made it better. We made this bill work better for working families who are already weathering financial storms and who now face more rainy days because of Wall Street's greed.

The collapse of the financial markets does not sound like Main Street's problem. Most Americans are too busy making ends meet to figure out how frozen credit markets and a shortage of commercial paper affect their lives.

To most Americans, banks not lending to other banks sounds like a bank problem, not their problem. But these haywire markets are everyone's problem, and here is why.

If a bank cannot get credit, neither can its customers. Its customers are the local hardware store, the car dealership down the street. Its customers are college-bound young people and the new neighbor who just bought the house next door. These good people rely on their bank to pay their invoices and make payroll on time. The funds they depend on are also now beginning to dry up. For example, a Montana businessman called me this week. His company has an $11 million outstanding loan, a 3-year loan. He uses it to keep his business stocked with inventory. The bank has called that loan in. That 3-year loan is now being called in. He must pay it off, according to the bank, in the next 90 days—not 3 years, 90 days. The crisis is coming home for him now, that is for sure, and that threatens other good people.

If the hardware store and the car dealership lose business, pretty soon employees and suppliers get hurt. If a neighbor cannot get a mortgage, painters, movers, and handymen will have one less paying job. The young person who cannot afford college without a loan and the lady hoping to rent out her basement apartment or the guy who sells school books might come up a bit short. This financial crisis is closer to home than we realize. It affects Americans who earn an honest living, follow the rules, and work hard.

Honest Americans about to get hit harder by the financial storm are the reason I worked to improve this plan. Working families are the reason I insisted on tax relief for struggling homeowners who can't pay the mortgage and can't afford a tax hit when their indebtedness is forgiven. Working families are the reason I insisted on help for hometown banks in Montana and elsewhere that suffered when stock prices fell because of Wall Street's greed—not their fault at all, not the bankers, the Main Street bankers in our States. Working families are the reason we all insisted on finding a way to get back much of the money spent on this plan.

The Treasury will buy assets with the money it spends. Later, the Treasury can sell those assets or hold them to maturity. In either case, there is a good chance the Treasury will get back some or all of these dollars. When I say the Treasury, those are taxpayers' dollars. This bill, therefore, gives American taxpayers a stake in the companies they are helping and a share in their future profits. The American taxpayer's pocket should be the last place companies look for a bailout, but when these companies do ask for help, the American taxpayer should be the first to benefit when the firms get back on their feet. This bill makes sure of that.

Americans taxpayers are the reason I insisted on cutting paychecks and closing golden parachutes of Wall Street executives. In just the past 5 years, the five biggest Wall Street firms paid more than $3 billion to their top executives—5 years, five biggest firms, $3 billion to their top executives. That is not right. It is not right for executives to get more big paychecks while their companies are getting assistance from the Government. If companies ask for taxpayer help on the one hand, they can't give out big executive bonuses with the other. This bill limits compensation to executives with golden parachutes.

The Treasury will have to issue guidelines on cutting executive compensation. The Treasury Secretary will have to say: You can't play if you are going to overpay. These provisions are helpful, but we have a lot more in this legislation, even more guidance given to the Treasury Secretary on executive compensation.

I also developed some provisions to cut tax breaks companies get for executive pay and to make sure executives pay tax on more of their income than they do today. I don't want Main Street to subsidize severance pay on Wall Street.

For taxpayers' sake, I also wrote a provision creating a special watchdog to track and protect taxpayer dollars. I said that American resources must be used wisely and efficiently. This bill includes my proposal to create an independent inspector general to oversee this effort, this effort and nothing else, solely designed for this problem. I designed the office of this inspector general to be truly independent, with the necessary resources to fight for every taxpayer dollar. I designed this inspector general to be accountable only to Congress and to the American taxpayer. It will be my personal mission to make sure this watchdog does his or her job. I want this inspector general on the ground in New York inside the firms that facilitate Treasury auctions, watching every dollar that comes and goes. This investigator will hear from the Finance Committee as we work to protect the American people's interests in this effort.

Finally, America's working families are the reason I am so glad this bill now includes tax relief. Last night, Senators REID and MCCONNELL announced that this bill would include Senate-passed legislation—that is, earlier passed—that will create and extend tax incentives for renewable energy to protect 20 million Americans from paying what is called the alternative minimum tax and also extend a number of vital expiring tax credits for businesses and families. This is the right call. Adding this tax relief will ensure that regular working Americans get financial help in this time of crisis.

As soon as this legislation passes, good-paying jobs will open in green energy, as wind and solar projects get up and running. Twenty million Americans who can't afford a higher tax bill are protected from the alternative minimum tax. Families will get a break on college tuition, classroom expenses, and State and local sales taxes, and companies will get tax relief to do research and development, to grow, to offer even more good-paying jobs. Adding tax relief that creates jobs, supports families, and secures a new energy future for the country makes this bill a lot fairer for hard-working Americans.

A ''yes'' vote on the financial rescue plan is now a vote to rescue America's working families from this financial crisis with the right tax relief at just the right time. It is now time to act.

As a Senator, I was disturbed by this administration's attempt to rush

through a bill for business. But as an American, I am disgusted also by the negligence and greed that got us into this mess. But at this time of crisis, we must not let our anger paralyze us. So many have failed to act responsibly. We must do better. We here in the Senate cannot fail. Failure to act would make today's economic cloud even bigger and more dangerous. Failure to act could unleash the lightning bolts of recession and the downpour of unemployment. Failure to act could turn this cloud into a storm that tears through our entire economy.

The plan in front of us is not perfect. I wish we did a lot more here. I wish we did not have to be where we are. I know many Americans do not want it. But this is the best way to quickly disperse this economic cloud and guard against a bigger storm. Like it or not, we must have a plan big enough to counter our economic woes in a systematic, comprehensive way.

I will vote for this legislation because America is under a cloud, and we cannot linger here. Congress must make sure this crisis does not get worse. With the addition of significant tax relief to this legislation, Congress can actually lift the cloud a bit. Tax relief will make things a little better for Americans feeling financial hurt.

With this vote, Congress must also promise the American people that this will never happen again. The lesson of the cloud must lead us to build a strong financial framework that will not falter again. The lesson of the cloud must lead us to seek a brighter future for every American family that helps us to weather this storm.

I yield the floor.

Mr. ISAKSON. Will the Chair please notify me when 7 minutes has expired?

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. ISAKSON. Madam President, I stand before you today and perhaps later on this evening to cast what is without question the most challenging vote and the most important vote I have been asked to cast in 30 years as an elected official. I will vote in favor of the economic stabilization bill because it does precisely one thing that we can do to help unlock the credit markets and help the average working Georgian, the average Georgia retiree, the average Georgia child who is looking to the future, to benefit from what right now is a very difficult situation.

I commend Senator DODD for his leadership and Senator GREGG for his leadership. They have expended countless dollars in terms of political capital and countless hours to come up with a solution that works.

There are so many misunderstandings in the public about what this is and what this isn't. So just for the few minutes I have, I wish to talk about the core of it, why it is so important, why it makes sense, and why in the end we as a country will not only benefit but, more likely than not, we will profit from the investment our Treasury makes.

The core of this is the $700 billion authorization to buy mortgage-backed securities that are on the books of banks, savings and loans, insurance companies, and other entities in the United States.

The first misconception is that the money is going to Wall Street. Wall Street is not being bailed out. Everybody has forgotten that Lehman Brothers went broke. Merrill Lynch sold itself for 30 cents on the dollar. Bear Stearns sold itself or merged for 10 cents on the dollar. And AIG is paying the taxpayer 8.5 points over LIBOR to borrow $84 billion to dissolve itself. Those are no bailouts. This money goes to those who purchase the securities that were underwritten by Moody's and Standard & Poor's as investment grade and hold them on their balance sheets as an asset which is now valued virtually at zero.

As the Treasury comes in and Secretary Paulson buys these securities, he will make a market in these securities. Once he makes a market, there will be attraction of other investors to jump in for a very good reason. I don't know what price they will establish, but say it is 50 cents, 60 cents or 70 cents on the dollar. A lot of people don't realize that most of these securities, though some of them are in trouble, are not in trouble to the extent of 20, 30, or 40 percent.

By way of example, the worst foreclosure rate in the United States is the State of Nevada—19 percent. If you had a mortgage-backed security that was 100 percent mortgages in the State of Nevada, then, with a 19-percent foreclosure rate, if those foreclosures sold for nothing at sale, then that bond would be worth 81 cents on the dollar at maturity. If somebody paid 50, 60, or 70 percent for it, they would have an 11-, 21-, or 31-percent margin in that security. The power to hold it to its maturity and the power to buy the security and make a market is what makes this a genius proposal from the standpoint of getting to the heart of the American problem.

Then what it does is it establishes three things. One, it establishes a floor. I want to go back to what Senator GREGG said a few minutes ago. Inaction on the part of the Congress this week on this plan will continue a downward spiral that will accelerate, will deepen, and will touch the life of every American citizen, and it will touch it and harm it for a long period of time.

If we are able to pass it, and quickly go to the marketplace and establish the market for these securities, we create a foundation from which, over time, we can grow out of this. Americans' credit will be back again, albeit much tighter than it has been before. And it should be because we should have learned the lessons from some of the excesses of lending operations before. But credit will return.

What will happen is people will continue to have their jobs. What will happen is people who need to sell a house will now see that people are coming back into the marketplace so they can sell it. All in all, by loosening what is now a clogged credit system at mainstream banks and savings and loans all over the United States of America, we will return a sense of normality to the American economy. The failure of the Congress to do that will establish a continued downward spiral that will be a disastrous for the individual average American in whatever State they live.

So for me this is a difficult vote because you never want to find yourself in this situation. But tonight is not a night to say no to the future of the American people. Tonight is not a night to say no, we do not have a responsibility to help. Tonight is not a night to try to find some philosophical way to figure out how somebody else ought to do it.

It is on the shoulders of the Congress of the United States of America. The people affected are our citizens, the people who have voted for us and sent us here. It is absolutely critical we unclog the financial markets, free up credit to the average American and, over time, restore the American economy to what it has been and always will be: the best entrepreneurial capitalistic system in the world. But failure can sign an end to that very reputation this country so loves and so deserves.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, I believe I am part of the Democratic queue. Therefore, I seek recognition to discuss the so-called rescue plan.

The PRESIDING OFFICER. The Senator is recognized for up to 5 minutes.

Ms. MIKULSKI. Well, Madam President, I am here to talk about this rescue plan. Regrettably, a rescue plan is needed because I am afraid if we do not act today and we do not act with resolve, our economy could come to a crashing halt. I am afraid of massive layoffs. I am afraid of small businesses folding. I am worried that retirement and pension funds could shrink. Therefore, I will vote for this bill, but know that, like the taxpayers, who I know are angry and mad as hell, so am I. We all agree that greed on Wall Street and lax regulatory practices of this administration got us into this mess. Taxpayers who played by the rules are asking tough questions. What are their questions?

BARBARA, what did you do to prevent us from getting into this? What are you going to do to make sure it does not happen again? And what are you going to do to make sure that heads roll?

Well, let me tell you this: Heart and soul, I am a regulator and a reformer. Time and time again, we have seen the consequences of a lax regulatory culture and very wimpy enforcement. Time and time again, I voted for more teeth and better regulation. I voted for

regulation and more teeth in the Consumer Product Safety Commission to get lead paint out of toys and the lead out of the bureaucracy. I voted to strengthen FDA regulation to make sure it did not approve dangerous drugs. I also worked to stop predatory lending and flipping in the mortgage market.

I remember way back in 1999 how all this banking mess got started. Phil Gramm, a Senator from Texas, and Bliley, a House Member, advocated something called the banking deregulation bill. It passed, and it got us into this mess because it got rid of the distinction between investment banks and commercial banks, and lowered the bar on regulation. It allowed for casino economics.

During that debate, and that vote, I was one of nine Senators who voted against it because I said with what we were doing we were going to create an environment where we were creating whales and sharks, and the minnows would be eaten alive. Well, regrettably, my prediction proved right. During that debate, I was told: Get with it, BARB. We are in a global market. You are kind of old-fashioned.

You bet I am old-fashioned. I believe in old-fashioned values called honesty, integrity, putting the public good above private interests. Wall Street went around acting as if they were masters of the universe. Now they have taken us into a black hole in our economy.

We need to get back to basics, whether it is regulating toxic securities or tainted dog food. Our leader, Senator DODD of Connecticut, has done a masterful job in improving this bill.

But while we are looking at reform and regulation and rescue, there are those who also say: Are there going to be any heads that roll? Well, you bet. What we are doing here is for those who said ''let the good times roll,'' we are making sure we are bringing in the FBI so that heads roll.

I went to work when I smelled this crisis coming in January and at an Appropriations hearing said to Director Mueller of the FBI: What is happening in terms of mortgage fraud? He said: Senator MIKULSKI, we now have over 2,000 investigations going on. It has now tripled in number. I said: Do you need money?

He did not want to answer because OMB, the Bush administration, did not want to say they did. But working on a bipartisan basis, we added several million dollars to hire more FBI agents. And right this minute, they are investigating mortgage fraud, predatory practices, deceptive marketing, lending schemes, and so on.

So Senator MIKULSKI, while voting for reform, also made sure she has the FBI coming in against the scam artists who also helped get us into this mess.

So, yes, I have supported reform. Yes, I have supported going after the real crooks and the bad guys. Because not everybody in the mortgage market or in mortgage securities or in our financial matters is a crook. But we have to restore confidence. The way we will restore confidence is to vote for this rescue plan. It will deal with the credit crisis. If we do not deal with the credit crisis, I believe that Main Street economies will pay the bill, we will have to pay the bill for the bailout, and we will pay the bill once again in lost jobs, the ability to get a loan, and also with shrinking retirements and pensions. So, Madam President, I will vote for this bill. But I have heard the taxpayers loudly and clearly.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, once again, I thank my colleague from Maryland. We have served together a long time here over the years, and her passion, her eloquence are consistent in that same voice I heard several decades ago as a new Member of the House of Representatives. She has never retreated from those values. Once again, I heard them again today.

She is absolutely right, in my view, and I will speak at some length why this legislation is necessary, but also, as importantly, that the steps be taken so we never see America face another day such as this one again. So I thank my colleague from Maryland.

ORDER OF PROCEDURE—H.R. 1424

Mr. DODD. Madam President, I ask unanimous consent that with respect to H.R. 1424, in addition to the controlled time specified in the order for consideration of the measure, any other available time until 7 p.m. today be equally divided and controlled between the leaders or their designees, and that when appropriate Members speak in an alternating fashion—Democrat, Republican—that if two Members of any one party speak sequentially, due to availability, then it be in order for two Members of the other party to speak sequentially, if available; that prior to the vote on passage of H.R. 1424, as amended, if amended, the leaders may use whatever leader time they deem appropriate, and that the remaining provisions of the order with respect to this measure be in effect.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PAUL WELLSTONE MENTAL HEALTH AND ADDICTION EQUITY ACT OF 2008

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to H.R. 1424, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 1424) to amend section 712 of the Employee Retirement Income Security Act of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, as to that last unanimous consent agreement, let me translate that into English. Sometimes these unanimous consent agreements get a little confusing. What we are going to try to do over the remaining 3½ hours or so is to divide the time equally. The minority side has agreed to limit their Members to 10 minutes each. I have not made a similar request here, but I will at some point if Members are not understanding of the desire of everyone to be heard—or almost everyone—on this matter.

At a point in the next few minutes, I will share some remarks that will explain how this bill has arrived to the point that it has and why I think it is important we support this effort this evening.

Again, I am very grateful. I will have some comments to make about JUDD GREGG, my colleague from New Hampshire. Certainly, MAX BAUCUS, the chairman of the Finance Committee, has been an incredible ally and supporter over these last 2 weeks trying to fashion something that would give us a sense of confidence about emerging from this economic crisis. But I will reserve some comments in a few minutes about all that.

I see my colleague from Tennessee, who I would like the RECORD to reflect, while he is, I think, the most junior member on the minority side in the Banking Committee, his contribution should never be calibrated by the seat in which he sits in terms of seniority. I want my colleagues to know while BOB CORKER has not been a longtime Member of this body, his contribution is that of a very senior Member of this body. It has been invaluable.

He is knowledgeable, thoughtful, pragmatic, and made wonderful and comprehensive suggestions to the product we have before us today. I want my colleagues to recognize that. So I thank Senator CORKER of Tennessee for being a very good Senator in a moment such as this, which is a sad day, as I said earlier, but a day which we must address.

So with that, let me yield the floor for Senator CORKER to make some comments.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Madam President, I say to the Senator: Mr. Chairman, I thank you very much for those comments. I want to tell you, I have been in the Senate now for about a year and 9 months, and the way the Senate has responded over the last 10 days I am very proud of, and I thank you for your leadership on the Banking Committee.

I think the negotiations that took place right after the, quote, Paulson plan came forth have created a vehicle that will be successful.

I know your leadership was there, with your demeanor in dealing with people on both sides of the aisle, in making sure all good ideas were heard, but then, at the same time, shepherding forth a bill we can vote on tonight—one that is steeped with taxpayer protections, steeped with oversight, and gives the citizens of our country what they need to ensure they are protected.

I know, as you mentioned, all of us are angry at the situation. I know each of us hears the phone ring in our front offices and knows the number of people across the country who are upset we, as a country, are where we are. But, I say to the Senator, what you have done, Mr. Chairman, and what those who have worked with you at the table and people throughout this Senate have done, is to put aside blame, not let the anger cloud our judgment.

Certainly, there are things we want to deal with when we come back in January to ensure this does not happen again. But I think what you have done and what KENT and others in this body today have done, sitting at the table and in meetings and building support, was to let cooler heads prevail.

Let me say to you, thank you for letting me serve with you. I want to thank everybody in the Senate for the way everyone has responded to this critical situation.

We can spend a lot of time talking about how we got here, and I know there are colleagues who are bringing out old news articles about certain things that were said years ago to try to sort of express, if you will, their frustration. But, obviously, the matter before us is to solve this problem, to make sure we deal with it in a way that is appropriate to the American people.

I have been on the phone this week with bankers across our State. I was just on the phone with businesses across our State. Many of them are already dealing with this credit crisis. Many of them are very aware of how this can overwhelm the citizens of our State. Obviously, our care in pursuing this rescue package is to make sure that those hard-working people all across this country who wake up every day and do the things they are supposed to do—save for retirement, save for their children's education—are not tremendously adversely affected by excesses that have occurred in our financial systems.

A lot of people are having difficulty sort of comprehending, if you will, what has happened with our financial institutions. We have had a lot of discussions about technical issues, regarding the derivatives and regarding toxic assets and those kinds of things. But we have an adage in Tennessee talking about our farming community, our agriculture community that has to do with something called being land poor. In other words, people have assets, but those assets are not usable, if you will, to pay the monthly mortgage and to pay other kinds of things. Right now our financial institutions have assets on their books they cannot transfer. They cannot create liquidity. This is seizing up, if you will, the credit markets throughout our country. There is a lack of trust that exists between our financial institutions. My fear is if we don't do something prudent and drastic at this moment in time, again, those very hard-working people across our States will be very adversely affected.

Look, there are a lot of ways we can deal with this problem. There are a lot of ideas about how we place equity back into our financial markets. They all end up at the same place, and that is we have to create a cure, if you will, for the lack of liquidity, having those frozen assets on the books of these financial institutions.

I believe if the Treasury Secretary and those around him who are properly overseeing this carry out their responsibilities in an appropriate manner, with any degree of prudence—and I believe they will with the oversight measures we have built in—this is something where the taxpayers will not only get their money back but should, in fact, get a return. As all of us know, all of this money is coming back into the Federal Treasury to be spent to reduce our Federal deficit.

So let me say tonight, to me, is critical. It is something that is an unpleasant task because the general public sees this as something, in some cases, other than what it is, and that is something that is directly helping the people across our country. I think there is a reason for their anger. I, too, share that anger. But at the end of the day, this is something I believe needs to pass.

Upon passage, the next step that needs to occur is that the Treasury Secretary and all of those working with him need to put in place a very prudent, a very transparent process so that all of us can see the value of these assets that are being bought in real time. So tonight's vote is very important.

The next phase is also very important as it relates to making sure this vast amount of money we are talking about actually comes back into our Treasury.

Then there is a third component we all need to be committed to, and that is when we come back in January, we need to work together, as we have during this crisis, to be sure this never happens again. I know the chairman of our Banking Committee and all of us have been stunned at the fact that financial institutions could own hundreds of billions of dollars of assets outside the knowledge of regulators.

So tonight, to me, this vote in this body is the first step in a three-step process; that is, immediately giving the Treasury Secretary the ability to deal with this crisis in a way that is prudent, that gets our banking systems back in more of an orderly process, ensuring that payroll checks are cashed, that home mortgages are obtainable, and that student loans are obtainable. The second step is staying involved in ensuring that the Treasury Secretary implements prudent policies in making sure the taxpayer money comes back. And the third step is making sure we reform this process so these types of excesses never happen again.

Let me say in closing on that topic, I started out very skeptical. When we began talking to Secretary Paulson in our banking hearing, I was skeptical of his three-page bill. I think this body, working with the House, has exercised the right amount of due diligence and oversight. I think we have a bill tonight we can be proud of. There will be human mistakes made down the road. But we have a bill in place we can be proud of. I urge my colleagues to strongly support this legislation to help our country avert what I believe will be one of the greatest fiscal crises, financial crises, we will have dealt with as a country in modern times.

I wish to thank Chairman DODD for his leadership in this crisis, and his steady hand, which I believe with all my heart is going to make this country stronger.

Madam President, if I could have 2 minutes with unanimous consent to speak as in morning business, I would appreciate that.

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

TRIBUTE TO SENATORS

Mr. CORKER. Madam President, there are a number of distinguished Senators who are leaving this body this year. I know there have been a number of tributes given to all of them and their service. Senator WARNER is a very distinguished Senator whom I have known, it seems from afar, almost all of my life. I have watched him with great admiration, and I have watched him lead us on the Armed Services Committee. CHUCK HAGEL, who exercises this tremendous independence, somebody with whom I have really enjoyed serving on Foreign Relations; WAYNE ALLARD from Colorado who is honoring a two-term pledge to leave this body after two terms to go back to the people of Colorado, he has been distinguished in his service on the Banking Committee; LARRY CRAIG of Idaho who, again, in the energy area, has offered great counsel and made sure that wise decisions were made in that particular committee—I honor all of them. I wish them well. I think we are all better having had the opportunity to serve with them.

PETE DOMENICI

There is one particular Senator with whom I have spent more time than the others just because of committee assignments, and that is PETE DOMENICI. PETE is the ranking member on our Energy Committee. I have loved listening to his many insights. He has with him Frank and Scott who, hopefully, will stay with us and who, together as a group, I think have offered wise counsel to all of us on that committee.

There is something about PETE, though. His kindness and his encouragement to me as a person have been most unique. As Chairman DODD mentioned earlier, I am one of the most junior Members here, but PETE has constantly encouraged me to step out, to make my positions known, to go ahead and forget the fact that I am positioned where I am here in the Senate and to take on a leadership role where it is important for me to do so. There is a special place in my heart for people such as PETE DOMENICI who encourage all of us to step out and to try to exercise our full potential. I will miss him greatly. I know he loves this body. I know that in many ways he will be lost as he leaves this body. But I want to assure him today that as he leaves, this is one Senator he has encouraged, he has caused to be a better person, and PETE DOMENICI will always be a part of the Senate service I offer in this body. So I wish him well. I wish the others well.

Mr. DODD. Madam President, I thank my colleague from Tennessee. Again, I appreciate his tremendous efforts that have brought us to this moment.

AMENDMENT NO. 5685

I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 5685.

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

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

The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DODD. Madam President, I wish to take a few minutes to describe this amendment to my colleagues at this hour. I wish to talk as well about some of my colleagues who have helped us get to this point.

There is a crisis in our country. That has been said so many times now. I hope the impact of that statement is not being lost because of the repetition of it. We need to address it swiftly and forcefully. That is why we are here today.

Normally, when you talk about bringing up a bill, there is a certain amount of joy involved in putting something together that you think is proactively going to make a difference. In this case, we are coming together around a proposal and a bill that is in response to a situation that has angered millions of Americans and angers most of us here to be in this situation but also heightens the sense of responsibility that requires us to act. Therefore, we will spend the next few hours sharing with each other, as well as with the American people, why we are in this situation, to some degree, but clearly what our response is to it and our hopes that this proposal will make the difference that many Americans expect.

If Americans doubt we are living in perilous times in our Nation's history, they need to look no further than at what is happening in the financial markets over the last few days. Clearly, this is no ordinary time, no normal economic downturn. This is a day unlike other days. This crisis, and the choice it demands, is unlike few we have ever seen before, even those who have served in this Chamber for several decades. This Chamber may not be full, but millions, in time, will hear the words we speak, and millions will feel the vote we cast around 7 p.m. this evening. In the end, once the reputations we stake, for good and ill, have long since gone to dust; once this day has turned from flesh and blood to textbook page for a child who is not yet born; one of two things will be said about us and how we acted on this heavy day. They will say the Senate did what was right, or they will say the Senate washed its hands of this problem and walked away.

If this bill could be written as starkly as that, the vote would be unanimous. But bills never are. They are full of jargon and verbiage and compromise, and as necessary as they are, they can crust over and obscure the essence of our choice. We read stories of foolish choices in our history books and from our safe distance, it is so easy to shout: Why didn't they know any better? But up close, in the flesh and blood of the moment, even on a day such as today, making the wrong choice can be supremely easy.

Nearly eight decades ago, the men who sat in these chairs—and there were only men in those days—were faced with a crisis not unlike the one we face today. They faced a recession that threatened to turn much worse. They did what was easy. They lashed out at the world and threw up huge barriers to trade. They found someone to blame—not because it was good economics but because it felt good. President Hoover signed the 13 letters of his name with six gold pens and launched a trade war. The world retaliated. Commerce shut down. And passing a bill that felt good drove us deeper and deeper into depression.

This week, on both sides of the Capitol, I could imagine how pleasant it would feel to vote no. In that respect, those who stand on the other side of this issue will have a much happier week. What a rush of affirmation they will get as they stick a finger in the eye of the bankers and the tycoons whose greed brought us to this crisis. Believe me, I can sympathize.

But after the vote has been cast for pique and for spite, what then? After the rush of righteousness fades, what then? It has been said: ''Let justice be done, though heavens fall.'' It is a noble thought, but it is much easier to say when the heavens are in no danger of falling on you. Who will they fall on? They will fall on the million or more families who can lose their homes. They will fall on the mothers and fathers telling their children that the college loan isn't coming through and struggling to explain why. They will fall on workers laid off all over this country as credit dries up and as businesses fail to make their payrolls and as they send their employees home with pink slips through no fault of their own.

We are one Nation, one economy, and one body. We can take a cut at Wall Street, but Wall Street will not feel the worst of the pain—not by a long shot. The blood will not come from them. My colleagues know who will feel the pain, who will be bled the most by this crisis: those whose economic world is made up of credit cards and mortgage payments, not hedge funds and credit default swaps. The men and women and families we represent will feel the pain of a ''no'' vote.

The world will feel the pain, too, I might add, men and women and families just like ours who don't speak our language, who are asleep on the other side of the world as I speak these words right now but who are bound to us in a web of commerce more tightly than ever before in world history. They are watching, too, I might add.

Today's Washington Post quotes a banker in Germany, a man who did nothing to cause this crisis but who will suffer from it as much as if he did. And his faith in America, even now, even today, ought to inspire each and every one of us in this Chamber.

Let me quote him for you:

All I can say is that I simply cannot imagine that the Americans will not come up with some sort of a solution. Anything else is outside the realm of my imagination.

Outside the realm, Madam President, of his imagination that this Senate of ours will not solve this problem, in conjunction with the work of the other body. He is speaking of a nation of doers, of fixers, of problem-solvers, of people with optimism and confidence in our future. We can be that Nation again. In fact, we must be.

Madam President, I love my job here in the Senate. I normally sit in the seat right behind me here, my father's desk. I sit it in every day, have for 28 years. I love that desk, love this Chamber, and today there is not a place I would rather be. I am sure my colleagues, each one of them, have their own stories, 100 of them, of their love of this job and of this place and what it means to be a Senator. But how can we possibly weigh those hundred jobs, if you will, against the 600,000 or more that have been lost in America just this year alone and the million more that could follow if we could save those jobs by giving up our own? How could we not? Who could come to this floor and say with a clean conscience: I will save my job but put hundreds of thousands of jobs at risk all across this great country of ours. I don't believe a single Member of this body, regardless of party, would ever make that trade. They would be willing to give up their job to save that of others.

As Edmund Burke said to his constituents centuries ago:

The legislator's ''unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure; no, nor from your law and the constitution. They are a trust from Providence, for the abuse of which he is deeply answerable.''

I am answerable today, as are all of us in this Chamber, and I intend to answer correctly. I intend to answer yes, we ought to do this to get our country back on its feet again. That is the job of a Senator.

By now, it is well known how we arrived at this critical moment. Years of what Secretary Paulson himself has called bad lending practices went essentially unchecked by a regulatory system that was not on the job. These bad lending practices have been primarily in the area of mortgage lending.

As we all know, culpability for these practices exists in every link of the lending chain, from mortgage brokers to lenders to the investment banks. Certainly there are many borrowers who acted irresponsibly. They should not be excused for the consequences of their actions but neither should those whose culpability was significant and catastrophic in terms of their impact on mortgage lending and on the credit markets.

Almost 2 years ago, the Senate Banking Committee held the first congressional hearing of the new Congress on predatory lending. At that hearing, I and others of that committee, Democrats and Republicans, warned of a coming wave of foreclosures that could devastate millions of homeowners and have a devastating impact on our economy. Some, unfortunately, scoffed at those predictions. Well, no one is scoffing anymore. Financial market turmoil is affecting families and businesses all across this country, and the contagion has spread beyond the shores of our own Nation.

A paper in my State, the Connecticut Post of Bridgeport, CT, reported that, at Sacred Heart University, Julie Savino, dean of student financial assistance, is fielding calls from parents who never before sought financial aid. Laid off or without medical insurance or unable to secure a home equity line of credit, parents are suddenly on the hunt for alternative means to pay for their children's education. Some students have had to walk away from their educations all together, she points out.

Reuters News Service reported that Kansas City cabinetmaker Anthony Gallo had no debt 18 months ago. None. Now he is being forced to borrow just to make payroll.

Let me quote Mr. Gallo:

My line of credit has been cut to nothing. We are all hurting and wondering what is going to happen. They have got to do something to save the banks. They can't kill our economy.

The fact is, the banking and financial system is an essential part of our Nation's economy. A halt in the flow of money threatens not only Wall Street firms—which would not bring us here today—but endangers the way of life for millions of Americans far beyond Lower Manhattan. Right now, banks are afraid and in some cases unable to lend money, money companies need to make payroll, money families need to pay medical bills, money students need to pay for college, money small businesses need to stock their shelves with inventory, money a gas station needs to supply its pumps with gas, and money investors provide to entrepreneurs to start new businesses and create new jobs. We know that money isn't moving. That is what the credit crunch means.

Very few Americans have ever heard of something called the LIBOR, which stands for the London interbank offered rate. This is a rate banks charge when they make loans to other banks. It is also the rate that is used to calculate the cost of home loans, student loans, auto loans, and small businesses. Yesterday, LIBOR jumped over 400 percent in just 1 day.

In many ways, this is the canary in the coal mine, if you will. It is a sign of the strains that are threatening the essential flow of credit to the people of our country and, indeed, the industrial world.

Another canary in the coal mine is the rate on Treasury bills. Several days ago, fearful investors rushed into safe Treasury securities, sending yields on Treasurys into negative territory for the first time in at least half a century. When people see that the money they have placed in banks and money market funds is earning negative interest, they may feel compelled to pull their money out of such financial institutions. This could result in even further erosion of the supply of money in our economy.

Our economy is on a precipice—and that is not an exaggeration, that is not hyperbole—and we must do what we can to move it back from that brink. The legislation before us and the amendment I have offered, this comprehensive amendment before the Senate today, represents an effort to do just that.

Just 10 days ago, the administration—if I may just remind my colleagues, this is the bill, I hold it in my hands, three pages long—the administration sent to us a bill that called for $700 billion to go out without any questions asked, without any oversight, any accountability, or any taxpayer protection. Three pages. I might point out, as I said to some, a no-documentation loan for $100,000 to a subprime borrower a few years ago was four pages long. Here is a request for $700 billion that is three pages long. And my colleagues on both sides here said no to that, we are not going to do that.

As a result, over these last 2 weeks, we have put together a piece of legislation that gives us much more heightened protection about how this program would work. There are a lot of people who deserve tremendous credit, but I thank my colleagues for rejecting this offer of three pages for $700 billion in return for drafting a comprehensive bill that I believe will provide the kind of security people are looking for with a plan of this magnitude. I refused, along with my colleagues, to provide a blank check on this not just for this administration—I would do it with any administration, and my colleagues did as well. This crisis demanded we bring together Members of the House of Representatives, the Senate, Republicans and Democrats, and hammer out a better solution for the American people.

Our leader, Senator HARRY REID, the majority leader, deserves incredible credit for his determination to stick with it and not walk away and demand each and every day, when things began to fall apart, that we stay and work at it. He was joined by the minority leader, Senator MCCONNELL, equally committed, I would point out, to the same efforts, as well as a number of others who played significant roles.

JUDD GREGG of New Hampshire I have been talking about and spending a lot of time with over these last 2 weeks, working out this particular bill that we brought together, and I thank him for his efforts.

JACK REED of Rhode Island was the principal author of the warrants in this bill, to make sure the American taxpayer comes first. If these instruments turn out to be more profitable and they actually are sold and we make our money back, the people who will get the benefit of that first are the American taxpayers, and JACK REED demanded that.

PAT LEAHY looked at the provision of this original proposal which suggested that no court of law, no agency could ever question how this $700 billion was going to be used, and the chairman of the Judiciary Committee said that passage will not last and struck it and offered new language that provides judicial protection in this bill.

I have mentioned BOB CORKER already, Senator CORKER of Tennessee, who was valuable over the last 2 weeks, and MEL MARTINEZ and CHUCK HAGEL.

My colleague from New York, CHUCK SCHUMER, who is knowledgeable about this subject matter and who represents the State of New York—I can't begin to describe how valuable CHUCK SCHUMER has been in this process. From the very beginning, there hasn't been a meeting that has occurred or a discussion held where he hasn't played an invaluable role in seeing to it that we stayed with it.

DICK DURBIN, the majority whip, and Bob Bennett of Utah—again, the ranking Republican on the Banking Committee historically has played a very important role on so many issues during his tenure here and again was tremendously helpful.

MAX BAUCUS, whom I have mentioned—chairman of the Finance Committee—played a critical role as we fashioned this together.

My dear friend and colleague, KENT CONRAD, the chairman of the Budget Committee, was incredible in his determination that this package be fiscally sound, that we have provisions that would guarantee our debt would be retired as part of the effort here when resources are sold and the profits are gained. So I thank my friend. He is here, in fact, on the floor. My colleague has been a tremendous help in all of this, Madam President.

I want to also mention, from the other body, BARNEY FRANK of Massachusetts, my counterpart on the House Financial Services Committee, was, again, tireless over the last couple of weeks in this effort, and Congressman ROY BLUNT, Speaker PELOSI, Representative BOEHNER as well, and RAHM EMANUEL.

There are so many people, and I want to be careful, but clearly this was a huge effort. I wish in many ways that the American people could have been a witness to these gatherings that went on day after day. I think they would have been proud of their Congress at a time when Congress's reputation is not great. I think they would have been proud to see the effort that was being made, not where people were running to a political corner wearing a Republican or Democratic hat but coming together as Senators and Congressmen, along with those from the Treasury Department, to make a difference. All of these Members of Congress undertook the enormous and in many respects thankless but nevertheless vital task of crafting this proposal which we offer to our colleagues this afternoon—the Emergency Economic Stabilization Act of 2008.

This legislation would address, we hope, our Nation's economic emergency in three key ways: economic stabilization, taxpayer protection, and home ownership preservation.

This bill gives the Treasury Secretary the authority to respond quickly, forcibly, but responsibly to the current crisis. It authorizes him to buy a total of $700 billion in troubled assets, broken down into three separate tranches, with the final tranche subject to congressional review and approval.

Madam President, $700 billion is a staggering amount of money. We all understand and share the anger of the American people that they are being asked to commit that sum. But in a $14 trillion economy, this is the kind of financial firepower that must be brought to bear to contain the financial crisis.

Secondly, in consideration of the extraordinary burden this bill potentially places on the taxpayer, we maximize, to the extent possible, protections of the taxpayer.

The bill establishes an oversight board to review and shape the policies of the Treasury Department in carrying out this program. Unlike the original Treasury proposal, this bill subjects the actions of the Treasury Secretary to strong judicial review that would prohibit actions that are arbitrary, capricious, or otherwise unlawful. It places firm limits on executive compensation to help ensure that corporate executives whose companies receive taxpayer benefits do not walk away with golden parachutes and are not otherwise rewarded for wrongdoing.

We require taxpayers to receive warrants so that they can benefit when a company benefits from taxpayer assistance. In addition, we require that any profits generated from the sale of these assets purchased with public funds go to reducing our national debt.

We provide for extensive reports so that Members of Congress and the public at large will know how every dime of this program is being used. Within 48 hours of any transaction, the Treasury Secretary will have to report the amount, the terms, and the participants associated with that transaction. The General Accounting Office will have immediate and ongoing audit authority and report to Congress every 60 days. A special inspector general will be established to monitor and police the program's activities and its participants.

The third priority advanced by this legislation is home ownership. This is not an ancillary objective; it is inherent, in my view, to our efforts to resolve this economic crisis.

Chairman Bernanke himself has spoken forcefully on this point. Our economy will recover only when we put an end to the spiral of foreclosures that are pulling down our entire financial system. To that end, the legislation requires that all Federal agencies that own or control mortgages or mortgage-backed securities preserve home ownership. In addition, the legislation expands eligibility for the HOPE for Homeowners program, which allows lenders and borrowers to access Federal mortgage insurance in order to put homeowners on a path to security, not financial ruin.

This is not an easy vote. There will be no balloons or bunting or parades for Members at the end of this process, only the knowledge that at one of our Nation's moments of maximum economic peril we acted, not for the benefit of a particular few but for all Americans so that they and those who come after them may enjoy the full blessings of life in this great Nation of ours.

We are a nation of optimism and confidence. Americans deserve to have that restored. Our job tonight will give them a chance to do that. I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for up to 10 minutes.

Mr. COBURN. Madam President, it is tremendously ironic that we are here today. It is ironic in the sense that as we ignore what the Constitution tells us, we embrace defeat, difficulty, and peril.

Madam President, I ask unanimous consent that the full text of article I, section 8 of the Constitution be printed in the RECORD.

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

SECTION. 8. [1]The Congress shall have Power To lay and collect taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[2]To borrow money on the credit of the United States;

[3]To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

[4]To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

[5]To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

[6]To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

[7]To establish Post Offices and post Roads;

[8]To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

[9]To constitute Tribunals inferior to the supreme Court;

[10]To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

[11]To declare War, grant Letters of Marque and Reprisal and make Rules concerning Captures on Land and Water;

[12]To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

[13]To provide and maintain a Navy;

[14]To make Rules for the Government and Regulation on the land and naval Forces;

[15]To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

[16]To provide for organizing, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

[17]To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

[18]To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Mr. COBURN. I also ask unanimous consent that the 10th amendment to the Constitution be printed in the RECORD at this time.

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

The powers not delegated to the United States by the Constitution, nor prohibited

by it to the States, are reserved to the States respectively, or to the people.

Mr. COBURN. For those of you who are not familiar with those two portions of our Constitution, they are very clear. Article I, section 8 is the enumerated powers that are given to Congress. They are very specific. They are very direct. It tells us what we are to be dealing with and what we are not to be dealing with. It tells us the extent to which the Federal Government is to intervene in the lives of Americans.

The 10th amendment, on the other hand, says that whatever is not included, specifically listed right here in the enumerated powers, is totally and absolutely reserved for the rights of the States.

As a practicing physician, I compare where we are today to a physician who commits malpractice. We have a patient with cancer. They have a secondary pneumonia because of the cancer. We are going to treat the pneumonia. We are going to give the antibiotics, we are going to give something to lower the temperature, we are going to give something to suppress the cough, we are going to give something to thin the mucous, but we are not going to fix the cancer. We are going to ignore the cancer.

Let me tell you what the cancer is. The cancer is Congresses that, for years upon years, have totally ignored the Constitution of the United States and taken us to areas where we have no business being. There is no way you can justify, in the U.S. Constitution, that the country ought to be the source of mortgages for homeowners in this country. Yet Fannie Mae and Freddie Mac control 70 percent of the mortgages in this country.

I plan on voting for this bill. I support that we have to do something now. But how we got here is very important if we are going to fix things in the future. The fact is that, at the same time we are debating this very important issue, we have on the floor another violation of the enumerated powers, which is the Amtrak and Metro earmark fiasco. It is going to be very interesting to see the Members of this body as they vote to bail out the financial institutions in this country while at the same time they continue to commit the same error that got us there in the first place. There is no question Amtrak is going to get reauthorized. The American people are going to spend $2.3 billion subsidizing the riders on Amtrak in this country.

In 2006 we subsidized food on Amtrak to $100 billion—I think it is down to $70 million now—despite an explicit provision within the Amtrak bill that says they will never sell anything for less than its cost and they were to lose no money on food.

Where is the answer? The answer is there has been no oversight to make sure Amtrak doesn't lose money on food. We have ignored it. We have ignored the enumerated powers of the Constitution. We are now committing the same Federal error in a much smaller way on Amtrak as we did on housing. If anybody in America is mad about this situation, there is only one place they need to direct their anger and it is right in the Congress of the United States.

It is not specific Members, it is bad habits. We are not going to cut out the cancer. We are not going to give the radiation therapy. What we are going to do is we are going to continue to treat the symptoms rather than directly go after the cause that has created the greatest financial risk and peril this country has ever seen. We are not going after the cause.

The cause is get back within the bounds of the Constitution that very specifically says where we have business working and where we do not. Because we are out of those bounds, we have now put at risk every job in this country, the savings and retirement of people who worked for years, because we decided we would ignore the wisdom of our Founders and create systems that are outside the enumerated powers that were given to us because we know better.

We do not know better. It is obvious. There is no administration to blame. It is not the Clinton administration or the Bush administration's fault we are in this mess. Because if you say that, what you have to say is you did all the oversight, you had all the hearings, you knew what was going on and you didn't do anything about it. So either we didn't know or we did know and did nothing about it.

There is only one place to come to hold accountability and it is in this body. You are going to get to see tonight people continue to vote outside the bounds of the Constitution, as we reauthorize $2.3 billion of subsidies for Amtrak, and we do not hold Amtrak accountable. We are going to give $1.5 billion and the mother of all earmarks to Virginia and Maryland for a Metro system that the Federal employees use more than anybody, and we are subsidizing an additional $100 million through individual agencies to pay them to ride it. And we wonder why we have these problems.

It is very simple. We are committing malpractice. We are not living up to the oath we undertook when we became Members of this body. That oath says you will defend and uphold the Constitution. It doesn't say you will rewrite it because it pleases you politically. We are here today because of fatal errors on the part of Members of this body to do something that is totally outside the bounds of the wisdom and foresight our Founders gave us.

Those are tough words. But we are in tough times. If we do not get about withdrawing and getting back within the realms of the power granted to us, this is just the first in a very large roll of problems this country is going to face.

Madam President, how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. COBURN. Let me describe for a moment the problems that are coming if we get past this one. Here are the problems that are coming. We are on an unsustainable course. The unfunded liabilities for Medicare alone are $100 trillion. A child born today in this country faces $400,000 for taxes for things they will never get a benefit from—$400,000. Who in this country starting out even could absorb that debt, pay the interest on it, and ever hope to own a home or have a college education? Yet this body continues to spend more, authorize more, and create bigger and more intrusive Government, limiting the power of the great American experiment to, in fact, supply an increased standard of living.

We are in tough times, but they are going to get tougher until the American people hold this body accountable to live within the rules set out in a very wise, a very providential way that served this country well. We ignore this book, this Constitution, at our peril. We are reaping exactly what we have sown.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I want to recognize the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. Could I ask for an additional 5?

Madam President, first I thank Chairman DODD for his extraordinary leadership. Let me say to every Member, we are fortunate to have Chris Dodd at this critical position at this important time. He has conducted himself as a superb professional. Thank you, Chairman DODD, for the leadership you have provided for the country, and to the rest of the negotiating team from the Senate, Senator GREGG, who did such a strong job of leadership in those negotiations, Senator SCHUMER, Senator BAUCUS, Senator JACK REED—all of whom made major contributions; certainly our own leader HARRY REID, who insisted that we stay at it until the job was done.

Colleagues and countrymen, this is a defining moment. History is being written. Our economy is threatened. We all understand that at the heart of this matter is a housing crisis compounded by a fiscal crisis compounded by an energy crisis, all of them closing in on the country at this moment. The home foreclosure rate is the highest level ever. We have seen the stock market decline by more than 22 percent since its peak last October, with the most recent plunge, the day before yesterday, the Dow falling 777 points in 1 day. We all know that.

Even more important is what is happening in the credit markets. ''Credit Enters a Lock Down, and Wheels of Commerce Freeze Up.''

But in this story from the New York Times of September 26 are these two paragraphs:

With the economy already suffering the strains of plunging housing prices, growing joblessness, and the newfound austerity of debt-saturated consumers, many experts fear the fraying of the financial system could pin the nation in distress for years.

Without a mechanism to shed the bad loans on their books, financial institutions may continue to hoard their dollars and starve the economy of capital. Americans would be deprived of financing to buy houses, send children to college and start businesses. That would slow economic activity further, souring more loans, and making banks tighter still. In short, a downward spiral.

We can see the beginnings of precisely that dynamic in the credit markets. This, the spread between the 3-month rates on LIBOR and Treasury bills, is a measure of the risks banks see in lending to each other. It has shot up to record levels in these last 72 hours. That means credit is being choked up. That means credit is being locked up. That means the economy is being locked down. What is the result of all this? We have already seen major financial institution after institution fail: Fannie Mae, Freddie Mac, Bear Stearns, Lehman Brothers, Washington Mutual—the largest savings and loan association in America—AIG—the largest insurance company in the world—Wachovia, Merrill Lynch and, overseas, FORTIS and four other major financial institutions, just over the weekend.

Colleagues, we can connect the dots. Something dramatic and serious is occurring.

The Chairman of our own Federal Reserve said this to us: If we fail to act, unemployment could rise to 8 or 9 percent in the next 6 months. What would that mean? That would mean between 3 and 4½ million more Americans would lose their jobs in the next 6 months. Colleagues, let's focus on this point. The Chairman of the Federal Reserve is telling us, absent our action, 3 to 4½ million more of our countrymen could lose their jobs in the next 6 months.

The truth is, none of us knows if this package will be enough—but it is a beginning. It is a solid beginning. It is a bipartisan beginning. We may need to do more, but much has already been done.

Let's look at the package that was sent us. The administration sent us a package with no equity stake for taxpayers. That meant no upside for taxpayers. Seven hundred billion dollars was provided in a lump sum. All the power in the hands of one person, the Secretary of the Treasury, and no limits on executive compensation or golden parachutes.

In the negotiations from Thursday until now, we have dramatically changed this package. Taxpayers will now receive an equity stake, so they have a potential profit when markets recover. Funding is now to be released in three installments, not just one lump sum, allowing for additional congressional oversight.

An oversight board will now be created to ensure that the Treasury actions protect taxpayers and are in the Nation's economic interests. And now, no golden parachutes will be allowed, and executive compensation will be capped.

In addition, FDIC insurance is now raised from $100,000 per account to $250,000 an account.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. CONRAD. Madam President, this is a defining moment. All of us understand the anger of our constituents and our own anger. I must say, as I have been part of this effort over this last week, my own anger level has risen as I have heard descriptions of the extraordinary risky, reckless behavior of people all throughout the chain who have helped create this crisis.

We will hold them to account. Already the FBI has launched four investigations. People will be criminally charged, I believe, before this is over. Today, we have a decision to make. Do we support a package to soften the blow, to try to prevent this downward spiral from accelerating and intensifying?

That is our challenge. That is our charge. This is our best chance. This is our best chance. I ask my colleagues to support it. Again, we understand this is a tough vote. But our country needs us now. Our country is counting on us now. Let's not miss the chance to do something important for our Nation to prevent this crisis from intensifying.

I especially wish to thank the chairman of the Banking Committee who has given his all to this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, I rise to speak in support of the bipartisan legislation we will vote on tonight, that will help to stabilize our financial markets, to prevent catastrophic consequences for our entire economy.

Nobody is happy with the crisis we face, with the urgent pressure to take decisive action or with the very limited policy options available to us at this point. I share the anger of many of my constituents over this crisis, and I subscribe to the principles many of them invoke. As the Senator has pointed out, the initial proposal the Treasury Secretary presented to us was deeply flawed. That is why I pushed for strong taxpayer protections to be included in the plan. That is why I insisted that any plan include limitations on excessive compensation and golden parachutes for executives of the Wall Street firms that helped create the current crisis and that now seek Federal assistance.

Those controls and safeguards are part of the bipartisan package now before the Senate. That is why I advocated for strong oversight and accountability provisions rather than a blank check for the Secretary of the Treasury.

Those oversight and accountability protections, too, have been included in this package. I supported the proposal for a special inspector general to review the way this program will operate. But the fact is, unfortunately, we have to face the reality that the collapse of the housing bubble and the mortgages, the subprime mortgages and the exotic securities that floated along with them, do not just affect the executive suites on Wall Street. In fact, the ramifications cascade throughout our economy, affecting the credit lines needed by small businesses to meet their payroll, the young couple seeking to buy their first home, the automobile dealer trying to finance his inventory, the 55-year-old worker whose 401(k) plan lost a great deal of its value, and even our States and counties.

The State of Maine found itself unable to finance a routine $50 million transportation bond last week. How did we get here? Well, the culprits are many. They include the greedy Wall Street traders whose culture rewards risk taking and focuses on short-term problems.

They include unscrupulous mortgage brokers who pushed people into mortgages that were totally unsuitable for them. They include the naive or the deceptive borrower who simply did not understand or misrepresented their ability to pay once their mortgage rate reset.

They include, at the heart of this scandal, the Government-backed mortgage finance companies, Fannie Mae and Freddie Mac, that took on huge amounts of risk with paltry levels of capital.

Sixteen years ago, some Members of Congress warned of the potential systemic risks Fannie Mae and Freddie Mac presented. Officials in both the Clinton and Bush administrations issued warnings and proposed reforms. In 2005, legislation that would have made a difference was actually considered by the Senate Banking Committee and proposed by Republican members of that committee. The full House considered a bill that would have helped, although, unfortunately, it rejected some strengthening amendments.

Unfortunately, these reforms did not get enacted until this July, when the sheer pressure of the mortgage crisis finally forced Congress to act. This is a huge crisis. There are some $1 trillion worth of subprime mortgages in the country. Freddie Mac and Fannie Mae hold or guarantee more than 40 percent of America's mortgages and lately have been buying more than 80 percent of new mortgages because the private sector for the mortgage finance market has virtually disappeared.

As a former Maine financial securities and banking and insurance regulator, I understand this is a very complex problem. Its roots lie in the past

decade of the real estate bubble, the relaxed lending standards, the existence of this huge and exploding subprime mortgage market, the creation of complicated securities tied to mortgages that were not held by the originators of those mortgages, and then the sale of those securities when their risks were poorly disclosed, not well understood, and lightly regulated, if at all.

The subprime mortgages were bundled together into mortgage-backed securities that were, in turn, linked to complicated financial instruments that in some cases were not regulated at all. An example are the swaps we have heard discussed. The swaps are not securities so that, as such, they were not regulated by the SEC. While they perform a function very similar to an insurance policy, they are not insurance in the traditional sense, so they escaped regulation by State insurance regulators.

The lack of regulation set the stage for deep losses for countless investors and other entities that had entered into the swap contracts. But frustrated and angry though we are, the focus of our attention must be on averting the worsening storm of financial distress, and we must have the much-improved bipartisan package to halt its spread and to mitigate its damage.

We have all seen the big headline events, the bank failures, the Government takeover of Freddie Mac and Fannie Mae, the failures of Bear Stearns and Lehman Brothers, the forced sales of Merrill-Lynch and Wachovia. These are the big headline events, and they may seem detached from people's daily lives, but they are not. Millions of Americans are being reminded that the cost and supply of new mortgages, the value of our homes, the availability of student loans, the interest rates on our credit cards, the short-term loans for business payrolls and supplies, the value of our retirement savings, are all tightly connected to the global web of credit and finance.

Economists of every ideological leaning agree we face a catastrophic crisis if we do not act. Monday's sudden drop in the stock market, the disappearance of interbank lending, the flight from money market funds, all stand as indicators of trouble and signs of panic.

As the economists noted a few days ago:

> The potential costs of producing nothing, or too little too slowly, include a financial crisis and a deep recession spilling across the world.

Time is short, and I am not referring to the time until adjournment. We must act because the crisis will grow worse with delay and because the Treasury does not have unlimited authority or resources to continue case-by-case rescues.

The current compromise agreement includes principles for which I have pushed, including strong protections for taxpayers so it is very unlikely that taxpayers will be on the hook for $700 billion. In fact, there is a chance, with proper management of this program, that in some cases the taxpayers could actually make a profit. The bill now includes strong protections, curbs on excessive executive compensation, including golden parachutes, and tough oversight and accountability.

We must act now. None of us wants to see the further devastating consequences for our economy.

It also benefits from the addition of two new features. The first is temporarily raising the deposit-insurance protection for bank and credit-union customers from the current $100,000 per account per institution to $250,000. This is important to reassure consumers about the safety of the banking system in a time of turmoil, and to provide added protection for people who feel obliged to move assets to safe havens.

The second added feature is making the tax-extenders package that was overwhelmingly approved by the Senate in September a part of this stabilization package. Providing additional tax relief for individuals and small businesses in a time of stress and rising prices is in itself a step toward economic stability.

I am pleased to note that the tax provisions include energy-related measures such as new language on application of the wood-stove credit. We are not only providing general tax relief, but also targeted measures that will encourage more use of renewable resources and reduce our dependence on imported oil, whose increased cost aggravates the other injuries from which our economy suffers.

This bipartisan financial-stabilization package, endorsed by our congressional leadership and by both Presidential candidates, does not eliminate the need to keep reasonable questions in mind. While exchanging Treasury funds for currently depressed or unmarketable mortgage-related assets would obviously be a powerful tool for freeing the channels of credit and investment, many questions remain about how the Government would ensure that mortgages and mortgage-backed securities are carefully appraised so that taxpayers do not overpay or, worse yet, stand liable for debts used to purchase currently unmarketable assets; that the purchased assets are carefully managed; and that taxpayers are adequately protected through such devices as warrants or contingent equity interests in return for their financial exposure.

The bill before us now includes a provision that addresses those concerns in a comprehensive fashion. It directs the President, 5 years after the Troubled Asset Relief Program takes effect, to evaluate the ultimate cost, if any, to taxpayers, and to propose a program for recovering any shortfall from the financial industry. Considering that taxpayers may actually make money on the resale of troubled assets purchased by the Treasury, this added level of protection seems to insulate them from risk of losses.

The current upheaval in the financial markets certainly has created great strain on the lives of families throughout the country as well as our financial markets. And it threatens a terrible recession here and around the world. The bill before us is not perfect, but it reflects a consensus on the shape of an effective intervention, and it provides robust provisions for accountability and taxpayer protection.

I urge my colleagues to join me in support of this carefully crafted and urgently needed measure, and in my call for a thorough review of our financial regulatory system so that the current crisis does not occur again.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I ask unanimous consent that the Senator from Rhode Island be recognized for 6 minutes, the Senator from Pennsylvania for 5 minutes, and then my colleague and friend from New York for 6 minutes.

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

The Senator from Rhode Island.

Mr. REED. Madam President, first let me commend Senator DODD for his extraordinary leadership and also my colleagues Senators CONRAD, BAUCUS, GREGG, SCHUMER, CORKER, BENNETT, and our colleagues in the House, particularly BARNEY FRANK and SPENCER BACHUS. Last Thursday, under the direction of Chairman DODD, we worked on a bipartisan and bicameral basis and sketched out the outline of the bill we have today. We reacted to the blank check presented to us by the Treasury Secretary. We provided detail. We provided oversight. We provided protections for taxpayers. Now, this much-improved proposal has now come to this floor for a vote. I hope we can support it.

We are in the midst of a terrible economic crisis. The American people are justifiably outraged that they have been put in a position where they must essentially contribute $700 billion to stabilize our financial system and, indeed, the global financial system. They are also outraged that this is the result of lax oversight over many years. It is a result of indifference to the plight of homeowners and workers, because they have seen very little in terms of real, tangible support from this administration with respect to their problems and concerns, such as making a decent living, educating their children, and providing for health care for their families.

But we have to act, and we have to act decisively. Because what is threatened here is the welfare not just of a few but of all Americans. What is at stake is their financial welfare and their financial future.

It would be nice to say this proposal is a cure but, frankly, it is a tourniquet for a hemorrhaging economy. If we don't apply this tourniquet today, the chances of reviving the economy and restoring it are diminished dramatically. I believe we must act along the

lines outlined by Senator DODD and our colleagues in the Senate and the House. If this problem were only restricted to Wall Street, this would be a different bill. But every American feels the effect of this financial crisis, from the value of their pensions, their investments, and their overall wealth. It has spread beyond Wall Street and is affecting Main Street and the credit markets that are so central to everything we do. Auto sales are plummeting this month because credit is difficult to obtain. That means our car companies are facing an additional hurdle in terms of keeping thousands of Americans employed in good jobs. The cost and availability of college loans will be impacted if the credit crisis continues. The cost of small business expansion will increase. There are homeowners who are rushing to closings and discovering that the loan has been pulled because the banks won't lend. Their affairs are in disarray. We have to act and we have to act smartly.

What we have seen over the last several weeks and days is a deterioration in the financial and credit markets, and we have to counter that. The plan presented to us by the Secretary of the Treasury was virtually a blank check: Give me $700 billion and I will take care of things.

We would not accept such a blank check. We insisted, first, that there be an oversight mechanism so the Secretary's actions were not the only actions in terms of sound policy moving forward. Then we insisted, at my suggestion and the suggestion of others, that we provide for an equity interest that the taxpayers would receive in those companies that participate in this program. There would be an equity participation with warrants, so that taxpayers share in the recovery of these companies, not just the shareholders and executives of these companies. That is not only fair, it is sensible. When you assume risk on Wall Street, you get paid to do so. The American taxpayers deserve their share from the risk they are bearing. This is an improvement.

In addition, we addressed an issue that is critical to all hardworking Americans; that is, imposing restraints on excessive compensation of some executives.

However, we have to do much more. In fact, as soon as we conclude this debate, Chairman DODD will organize hearings so that we can get on with another fundamental responsibility—the restructuring of the regulatory framework for banking and finance. Part of that includes reviewing executive compensation and ensuring that shareholders have a say in compensation decisions. That is just one aspect of an elaborate agenda of reform that has to be undertaken. To stop now and simply provide support to the current crisis without a refinement and a rebalancing of our regulatory structure would be a terrible miscalculation on our part. We have to move forward.

In addition to the efforts underway today, we have to renew our focus in providing an approach to regulation that is sensible, sound, and does not interfere with innovation and ingenuity, but does not result in the indifference and lack of oversight that is a large part of this problem.

There are other aspects within this bill we need to address. First, there is language with respect to mark-to-market accounting rules. What we have done is affirmed the SEC's authority to enforce proper accounting practices. I hope, in response to this crisis, that we do not abandon the principle of mark-to-market accounting rules. Essentially what some people are urging is that we cook the books because we have a huge problem. In other words, let's make it go away with accounting techniques. That is how we got into this situation. To use that approach is adding, in my view, insult to injury. I hope we can maintain strong accounting standards and work our way through this problem without sacrificing these standards.

There is something else we have to recognize. We have to do more to help Americans who are facing foreclosure. It is only through helping the homeowners that we will we get to the bottom of the crisis.

I thank the chairman for his kindness and leadership on this bill.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, less than 2 weeks ago, the Treasury Secretary came to the American people with some bad news. He said he needed Congress to help. And soon, after significant debate, Congress will deliver.

The problem we face as a Nation is urgent and unprecedented. As a result of lax lending practices earlier in the decade, millions of Americans now find themselves either delinquent or unable to cover their mortgages.

If this were the only problem, we could address it individually by helping those who were victims of fraud and letting those who made bad judgments or who lied on their loan applications pay for their mistakes.

But what began as a problem in the subprime mortgage market has now spread throughout the entire economy. And here is where the crisis hits home.

After banks made these risky mortgages, they sold them. The institutions they sold them to then shopped them around the world. And now these troubled assets are frozen on the balance sheets of the businesses that you and I rely on to buy everything from dishwashers to new homes.

At the heart of the rescue plan is a need to lift these assets off the books and to restore confidence in the institutions that hold them. Then, once the housing market stabilizes, we will sell them back.

Many economists, including those at the nonpartisan Congressional Budget Office, predict that once the assets are sold off over the next few years, the net loss to taxpayers could be negligible.

But for now, the practical problem we face is this: credit, the lifeblood of our economy, is frozen. And unless we act, it is expected to remain that way.

This means that the lives of ordinary American families could be severely disrupted, commerce could dry up, and millions of jobs could be lost.

The original White House proposal for addressing this crisis was unacceptable to Members on both sides in its initial form. But both parties have since made sure that the taxpayers are protected once a final deal is reached.

For my part, I came to the Senate floor and put down a firm marker: if Congress was going to help companies that got us into this mess, then executives at these companies would play by our rules. I also said that the Government wouldn't be allowed to use this plan as an excuse to fund new programs: No golden parachutes, limits on executive pay, and no favors for special interests.

Thanks to bipartisan insistence on all of these points, the plan that the House voted on earlier this week included every single one of our initial demands. And so does the plan that the Senate will vote on tonight.

This process hasn't been easy.

For the past week, Members of Congress and their staffs have worked around the clock to craft a rescue plan that is designed to protect American families from the shockwaves of the credit crisis.

When that plan failed in the House, we picked up the pieces, and we put together an even better plan that we think will make it through the House, and onto the President's desk this week.

It is important that we act now, because the crisis is spreading.

Small business owners in Kentucky are writing urgent letters to my office saying that their interest rates are already skyrocketing and putting their businesses—and employees' jobs—at risk.

A woman in central Kentucky wrote that she is afraid she will have to sell off part of her family's farm.

A retired school counselor wrote to say she can't afford to see her small retirement savings vanish.

A small business owner in La Grange told me he might not be able to make payroll because, in just the past week, the interest rate on the loan he took out to finance his building more than tripled.

The current crisis may have its roots in the actions of a few. But its effects could potentially reach into every single home in Kentucky, and every other home in America.

This economic rescue plan is a necessary effort to protect the vast majority of Americans—whose day-to-day lives depend on ready access to credit—from the misdeeds of Wall Street. And at this point, doing nothing to prevent an economic collapse is no longer an option.

Here is what the second largest newspaper in America, the Wall Street

Journal, said about the rescue plan earlier this week: ''It deserves to pass because in reality it is an attempt to shield middle America from further harm caused by the mistakes of Wall Street and Washington.'' ''The current seizure in the credit markets is real,'' the Journal added, ''and it will do far more harm if not repaired soon.''

For lawmakers, failing to pass this economic rescue plan would be grossly irresponsible. The voters sent us to Washington to respond to crises, not to ignore them. To that end, we have acted swiftly. And lawmakers from both political parties have worked hard to protect taxpayers at the beginning and at the end of this plan.

Thanks to our insistence, this rescue plan will have strong Federal oversight. Not only will there be a strong and diverse executive oversight board watching every single transaction, but we will also have the ability to investigate, pursue, and punish any executive who engages in fraud or who attempts to use this plan for personal enrichment.

If the Government is forced to take over the biggest companies, the first thing we will do is wipe out existing compensation packages for failed executives. Then, we fire them.

For most other institutions we assist, failed executives will no longer get million dollar payouts. And those who previously negotiated severance packages will pay one fifth of them in taxes—on top of the standard 30 to 40 percent tax currently in place. This means that executives at these firms will have to hand over more than half of their existing pay packages to the taxpayer.

Moreover, no executive who hasn't already worked out a compensation package will be allowed to get one. At these companies, the days of golden parachutes are over.

As another way of protecting taxpayers, Republicans insisted early on that every dollar the government gets back as a result of this program goes directly to reduce the Federal debt. This plan guarantees it. Every dime we get back will be used to pay our debts.

Since Monday's House vote, we have made some significant improvements to the bill. In order to protect bank customers, Congress will allow the Federal Deposit Insurance Corp. to insure deposits up to $250,000 for 1 year, up from the current $100,000.

We also added significant tax relief for American families and businesses, including a temporary patch on the AMT middle class tax that will protect millions of Americans—including 135,000 Kentuckians—from an average $2,000 increase in their annual tax bill.

At the moment, this plan represents the best way to bring stability to the credit markets, avoid a credit meltdown, and put America on the road to economic recovery. But Congress's job does not end there. After completing this bipartisan effort, Members of Congress must recommit ourselves in strengthening America's long-term economic security.

We should refocus our attention on a balanced energy plan that enables us to find more American energy resources and use less, and by refusing to spend money we do not have on programs that we do not need, thus laying a strong economic foundation for our children to inherit.

Soon, Senators will cast this historic vote. And when we do, the American taxpayers should know this: This plan was written with their best interests in mind. Not a dime will be spent without strict oversight. Failed executives will be held accountable. No more golden parachutes. In the end, the American people can expect to recoup most, if not all, or even more of the money that is spent.

The legislation is not something any of us really wanted to consider. Under ordinary circumstances, high-flying businessmen who make bad decisions or abuse shareholder trust should be allowed to fail. But the situation we find ourselves in is serious, it is urgent, and failing to act now would have devastating consequences for our Nation's economy. We must contain the damage. The potential consequences of inaction for our Main Street economy are simply too great.

Madam President, I also wish to mention that as of earlier today, there were—I have a list of 106 groups supporting the rescue package. I would mention two that I think are noteworthy: the AARP and the Heritage Foundation. That pretty well sums up the broad ideological diversity, shall I say, of the organizations that support this rescue package. I ask unanimous consent to have that list printed in the RECORD at the end of my remarks.

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

(See Exhibit 1.)

Mr. MCCONNELL. Also, Madam President, I would say to my conservative friends who had reservations about this, the National Review supports this package. I mentioned that the Heritage Foundation supports the package. With mixed levels of enthusiasm, the columnists Charles Krauthammer and George Will would support the package. Larry Kudlow, the conservative commentator on CNBC, supports the package. Of course, the Wall Street Journal supports the package. Even Newt Gingrich, an early critic, said, when pressed a couple days ago, if he were here he would vote for the package.

So, Madam President, with that, I yield the floor.

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

GROUPS SUPPORTING A BI-PARTISAN FINANCIAL RESCUE PACKAGE

1. AARP
2. Air Conditioning Contractors of America
3. Air Transport Association of America
4. Alliance of Automobile Manufacturers
5. Aluminum Association
6. American Apparel and Footwear Association
7. American Bankers Association
8. American Boiler Manufacturers Association
9. American Business Conference
10. American Chemistry Council
11. American Concrete Pressure Pipe Association
12. American Council of Life Insurers
13. American Electronics Association
14. American Electric Power
15. American Financial Services Association
16. American Forest & Paper Association
17. American Hotel & Lodging Association
18. American Institute of Architects
19. American Land Rights Association
20. American Land Title Association
21. American Meat Institute
22. American Rental Association
23. American Resort Development
24. American Society of Appraisers
25. American Trucker Association
26. Americans for Prosperity
27. Appraisal Institute
28. Associated Builders and Contractors
29. Associated Equipment Distributors
30. Associated General Contractors
31. Association for Manufacturing Technology
32. Association of American Railroads
33. Association of Equipment Manufacturers
34. Association of International Automobile Manufacturers
35. Business Council for Sustainable Energy
36. Building Owners and Managers Association, International
37. Business Roundtable
38. California Chamber of Commerce
39. Consumer Bankers Association
40. Consumer Mortgage Association
41. Consumer Mortgage Coalition
42. CTIA—the Wireless Coalition
43. Duke Energy
44. Edison Electric Institute
45. Equipment Leasing and Finance Association
46. Farm Bureau
47. Financial Services Forum
48. Financial Services Roundtable
49. Food Marketing Institute
50. Ford
51. Heritage Foundation
52. Housing Policy Council
53. Independent Community Bankers of America
54. Independent Electrical Contractors
55. Independent Petroleum Association of America
56. Information Technology Industry Council
57. International Council of Shopping Centers
58. International Dairy Foods Association
59. International Franchise Association
60. International Paper
61. Investment Company Institute
62. Manufacture Housing Institute
63. Microsoft
64. Minority Business Roundtable
65. Mortgage Bankers Association
66. NASDAQ
67. National Apartment Association
68. National Association of Counties
69. National Association of Chain Drug Stores
70. National Association of Electrical Distributors
71. National Association of Federal Credit Unions
72. National Association of Home Builders
73. National Association of Industrial and Office Properties
74. National Association of Manufacturers
75. National Association of Plumbing, Heating and Cooling Contractors

76. National Association of Real Estate Investment Managers
77. National Association of Real Estate Investment Trusts
78. National Association of Realtors
79. National Association of Wholesaler-Distributors
80. National Automobile Dealers Association
81. National Black Church Initiative
82. National Education Association
83. National Electrical Contractors Association
84. National Federation of Independent Business
85. National League of Cities
86. National Lumber and Building Materials Dealers Association
87. National Multi Housing Council
88. National Restaurant Association
89. National Retail Federation
90. National Roofing Contractors Association
91. National Rural Electric Cooperative Association
92. NPES—The Association of Suppliers of Printing, Publishing and Converting Technologies
93. Moran Industries
94. Printing Industries of America
95. Real Estate Roundtable
96. Reinsurance Association of America
97. Retail Industry Leaders Association
98. Savings Coalition
99. Securities Industry & Financial Markets Association
100. Semiconductor Industry Association
101. Software & Information Industry Association
102. Technet
103. US Chamber of Commerce
104. US Telecom
105. Verizon
106. Whirlpool

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Madam President, thank you very much.

I rise today to talk for a few moments about the emergency economic stabilization bill.

First of all, I commend the work of a number of people here, but in particular Chairman DODD, who did not want this assignment, had a tough assignment to work with people in both parties in both Houses to get this done. We have a lot more work to do after this, but I commend him for his work and for his leadership under very difficult circumstances.

There are a lot of ways to describe the challenge we face in America today economically and many ways to describe what we have to get done, what we are going to vote on tonight. I think if you could boil it down to one word or a couple of words, it would be—one word would be ''credit,'' or lack of credit. I think that is the basic problem. The freezing or seizing up of credit markets is not some far-off economic concept. That means small businesses in Pennsylvania and across the country cannot have access to credit to meet payroll and to hire people and to grow the economy. Probably half of our economy is small business, if not more. It means that families, when they go to finance an education, higher education, or when they go to purchase an automobile or something for their home, they cannot get access to credit.

We live on credit, and thank God we have it. But that system we rely upon, that families rely upon, is put at risk now because of what has happened lately. We can spend a lot of time figuring out why this happened, and we should after the debate is over. But right now, we have to act.

One headline does not tell the whole story, but it gave me a sense of what was going on. This is from USA Today on Monday, September 29. The headline reads: ''Tight credit costs small-business owners.'' In one headline, I think it encapsulated the challenge this problem is for our economy.

I think I am seeing it not just in headlines and anecdotes about what is happening to people who own small businesses across the country; we are all seeing it, as well, in the unemployment rate, in the job loss across America, which I would argue, as bad as it is now—and a lot of families have been living in this recession. I don't care what the economists say, when you are paying higher prices for gasoline and food and education and health care and everything in the life of a family goes up, you are in a recession.

I think in the last couple of weeks we have seen a terrible downturn in the job market. In Pennsylvania, for example, between July and August of this year—and this does not even include September, where the numbers will be a lot worse—just in 1 month, we lost 31,000 jobs in Pennsylvania. This is not just in Philadelphia, with a little more than 21,000 jobs lost, or in Pittsburgh, with 7,700 jobs lost; I am talking about smaller communities as well. In Johnstown, PA, a small labor market on this list, they lost 500 jobs in 1 month. In Altoona, PA—again, right next door to Johnstown, a small market—500 jobs lost in 1 month. Again, none of this includes the month of September. So we are seeing it everywhere in our State. If small businesses cannot grow and cannot have access to credit, they are not going to create the jobs we need.

One more statistic, and then I will wrap up. The Pennsylvania foreclosure rate in August 2007 versus August 2008 went up 60 percent. So even in a State that has been relatively—relatively—free of some of the trauma that Nevada and California and Florida and some other States have been hit with, even in Pennsylvania that foreclosure rate is going up at a rate much higher than the national average.

So what is this bill about? We have heard a lot about the description of it. I do not believe it is a bailout. We can debate what that means. I do not believe it is. I think it is a bill to stabilize our economy and our businesses and our families.

But there are a lot of taxpayer protections built into this legislation that were not there when we started: taxpayer warrants, as Senator JACK REED talked about today; reimbursements, so at the end of the road 5 years from now, if taxpayers have not gotten what they deserve, these companies that might benefit will have to reimburse; very tough oversight, several levels of oversight.

We do not have time to go into all of them, but there is a special inspector general to crack down on what is happening when this program is implemented. There are limits on CEO and executive pay. It is the first time in American history that we have limited or put some restrictions on that pay. There are foreclosure prevention strategies, an expansion of the HOPE for Homeowners.

This is good legislation which we are making even stronger.

Finally, what we have to do after this is over, as important as this legislation is, is we have to get to work on regulation. We have to not just implement the right policies to regulate in a way we did not regulate before in America, but also, once those regulations are in place, we need to have people in Washington who are willing to crack heads—figuratively, of course—on those who abuse the public trust, those who abuse the rules and get people into mortgages, for example, they cannot pay for.

Finally, we have to make sure, in the months ahead and the years ahead, we invest in the long-term economy, invest in health care and education, the skills of our workers, to build a strong economy not just for this year and next year but for the next generation.

But in the end, this legislation we are voting on tonight is about credit. We are either going to do something about it and allow people to have access to credit or not. I think we have to act, and we have to act promptly.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I ask unanimous consent, with Senator DEMINT's permission, that he and I be switched in order in the unanimous consent roster.

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

Mr. VITTER. Thank you, Madam President.

Madam President, 12 days ago we were struck by two bolts almost out of the blue: the suggestion that our financial system was on the verge of collapse and a proposal under which unprecedented power, discretion, and taxpayer dollars would be given to the Federal Government essentially in the form of one person—the Treasury Secretary—to intervene in the market.

There have since been many amendments to this plan and much talk about taxpayer protection—all of it well intended, thoughtful window dressing. So make no mistake, if Congress passes this bill, it will be passing, 12 days later, an unprecedented expansion of Government power and discretion along with $700 billion of hard-earned taxpayer funds.

After listening to many people I deeply respect, including thousands of hard-working Louisianians, I will—indeed, I must—vote no. I will not vote

no because I do not think we face very serious economic challenges. We do. Credit is drying up, and that presents a real threat to all Americans. I will not vote no because I do not think the Federal Government needs to act. It does, as soon as responsible action is possible. I will vote no because we do not need to use $700 billion of hard-earned taxpayer money in this way, cross this line, set this precedent.

We need to stabilize the market and increase liquidity, not replace the market with unprecedented Government intervention at taxpayer risk and expense. We need to minimize the pain on average Americans who did nothing wrong, not wipe it away from politicians, lenders, and, yes, some borrowers who did plenty wrong who were plenty reckless.

My fundamental concerns with this plan are only heightened by the fact that to implement it, tens of thousands of judgment calls will have to be made as to what to buy and for how much. Those judgment calls will be made by whom? Teams of new bureaucrats who came from Wall Street and who want to go back there. That ensures bias and even corruption.

My deep general unease is only fueled by the fact that there has been no real discussion of the fundamental, long-term reforms that are needed—breaking up Fannie Mae and Freddie Mac, demanding real money down for all home purchases, and establishing aggressive, progrowth tax and economic policy. What is worse, there has probably been no real discussion of this because neither this Congress nor the one about to be elected will pass any of it.

A week ago, I may have voted in anger. Although that is still there, I act now with a profound sense of sadness and disappointment because this unprecedented expansion of Government intervention at taxpayer expense is the product of an appalling lack of political leadership—first, crying fire in a crowded movie theater, then demanding that the only escape is to take dangerous action like tearing down the walls though there are plenty of exit doors in sight.

I truly pray that much of what I have said is proven wrong. I will try very hard to do just that myself, particularly in terms of the next step, by working tirelessly to pass the fundamental reforms we need so that a repeat of this mess—however much a repeat is actually encouraged by this bailout—never happens again. However we vote on this first step, I hope we can come together on the next step in terms of meeting that challenge: passing the fundamental reforms we need. In that spirit, I ask the leaders of this Congress to call this Congress back this year immediately following the election to do just that.

Now is the time to enact real solutions that grow our economy, develop small businesses, and increase opportunities for all Americans. Now is the time to reform the misguided Government policies that caused this mess in the first place. And now is the time to stop knee-jerk political reactions and focus on real solutions to secure our Nation's future, not just for next week but for our next generation.

Madam President, I yield back the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, for how long would the Senator from Illinois like to be recognized?

Mr. OBAMA. Madam President, 6, 7 minutes.

Mr. DODD. I am in control of the time. How much time?

Mr. OBAMA. Madam President, 10 minutes.

Mr. DODD. Madam President, I yield the Senator from Illinois 10 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 10 minutes.

Mr. OBAMA. Thank you very much, Madam President. I thank the distinguished Senator from Connecticut not only for yielding time but also for the extraordinarily hard work he has put in over the last several days and, in fact, over a week. And I want to thank his counterparts on the other side, including Senator GREGG, for their hard work.

The fact that we are even here voting on a plan to rescue our economy from the greed and irresponsibility of Wall Street and some in Washington is an outrage. It is an outrage to every American who works hard, pays their taxes, and is doing their best every day to make a better life for themselves and their families. Understandably, people are frustrated. They are angry that Wall Street's mistakes have put their tax dollars at risk, and they should be. I am frustrated and angry too.

But while there is plenty of blame to go around and many in Washington and Wall Street who deserve it, all of us—all of us—have a responsibility to solve this crisis because it affects the financial well-being of every single American. There will be time to punish those who set this fire, but now is not the time to argue about how it got set, or whether the neighbor smoked in his bed or left the stove on. Now is the time for us to come together and to put out that fire.

When the House of Representatives failed to act on Monday, we saw the single largest decline in the stock market in two decades. Over $1 trillion of wealth was lost by the time the markets closed. It wasn't just the wealth of a few CEOs or Wall Street executives; the 401(k)s and retirement accounts that millions count on for their family's future became smaller. The State pension funds of teachers and government employees lost billions upon billions of dollars. Hard-working Americans who invested their nest egg to watch it grow saw it diminish and, in some cases, disappear.

But while that decline was devastating, the consequences of the credit crisis that caused it will be even worse if we do not act now.

We are in a very dangerous situation where financial institutions across this country are afraid to lend money. If all that meant was the failure of a few banks in New York, that would be one thing. But that is not what it means. What it means is if we don't act, it will be harder for Americans to get a mortgage for their home or the loans they need to buy a car or send their children to college. What it means is businesses will not be able to get the loans they need to open a new factory or make payroll for their workers. If they can't make payroll on Friday, then workers are laid off on Monday. If workers are laid off on Monday, then they can't pay their bills or pay back their loans to somebody else. It will go on and on and on, rippling through the entire economy. Potentially, we could see thousands of businesses close; millions of jobs could be lost, and a long and painful recession could follow.

In other words, this is not just a Wall Street crisis, it is an American crisis, and it is the American economy that needs this rescue plan. I understand completely why people would be skeptical when this President asked for a blank check to solve this problem. I was, too, as was Senator DODD and a whole bunch of us here. That is why, over a week ago, I demanded that this plan include some specific proposals to protect taxpayers—protections that the administration eventually agreed to, and thanks to the hard work of Senator DODD and Republican counterparts such as Senator GREGG, we in the Senate have agreed to, and now, hopefully, the House will agree to as well.

Let me go over those principles. No. 1, I said we needed an independent board to provide oversight and accountability for how and where this money is spent at every step of the way. No. 2, I said we cannot help banks on Wall Street without helping the millions of innocent homeowners who are struggling to stay in their homes. They deserve a plan too. No. 3, I said I would not allow this plan to become a welfare program for Wall Street executives whose greed and irresponsibility got us into this mess.

Finally, I said that if American taxpayers are financing this solution, then they have to be treated like investors. They should get every penny of their tax dollars back once the economy recovers.

This last part is important because it has been the most misunderstood and poorly communicated part of this plan. This is not a plan to just hand over $700 billion of taxpayer money to a few banks. If this is managed correctly—and that is an important ''if''—we will hopefully get most or all of our money back, and possibly even turn a profit, on the Government's investment—every penny of which will go directly back to the American people. If we fall short, we will levy a fee on financial institutions so that they can repay us for the losses they caused.

Now, let's acknowledge, even with all these taxpayer protections, this plan is not perfect. Democrats and Republicans in Congress have legitimate concerns about it. Some of my closest colleagues—people I have the greatest respect for—still have problems with it and may choose to vote against this bill, and I think we can respectfully disagree. I understand their frustrations. I also know many Americans share their concerns. But it is clear, from my perspective, that this is what we need to do right now to prevent a crisis from turning into a catastrophe.

It is conceivable, it is possible, that if we did nothing, everything would turn out OK. There is a possibility that is true. And there is no doubt there may be other plans out there that, had we had 2 or 3 or 6 months to develop, might be even more refined and might serve our purposes better. But we don't have that kind of time and we can't afford to take that risk that the economy of the United States of America—and, as a consequence, the worldwide economy—could be plunged into a very deep hole.

So to Democrats and Republicans who have opposed this plan, I say: Step up to the plate. Let's do what is right for the country at this time because the time to act is now.

I know many Americans are wondering what happens next. Passing this bill can't be the end of our work to strengthen our economy; it must be the beginning. Because one thing I think all of us who may end up supporting this bill understand is that even if we get this in place, we could still have enormous problems—and probably will have big problems—in the economy over the next several months and potentially longer. Because the fact is, we have had mismanagement of the fundamentals of the economy for a very long time, and we are not going to dig ourselves out of this hole immediately. So this is not the end; this is the beginning.

As soon as we pass this rescue plan, we need to move aggressively with the same sense of urgency to rescue families on Main Street who are struggling to pay their bills and keep their jobs. They have been in crisis a lot longer than Wall Street has. I have said it before and I say it again: We need to pass an economic stimulus package that will help ordinary Americans cope with rising food and gas prices, that can save 1 million jobs by rebuilding our schools and roads and our infrastructure, and help States and cities avoid budget cuts and tax increases. A plan that would extend expiring unemployment benefits for those Americans who lost their jobs and cannot find new ones. That is the right thing to do at a time when consumer confidence is down and we are in great danger of slipping into a big recession.

We also must do more than this rescue package in order to help homeowners stay in their homes. I will continue to advocate bankruptcy reforms. I know my colleague from Illinois, DICK DURBIN, has been a strong champion of this, as have many others. It is the right thing to do, to change our bankruptcy laws so that people have a better chance of staying in their homes, and so we don't see communities devastated by foreclosures all across the country. We should encourage Treasury to study the option of buying individual mortgages as we did successfully in the 1930s. Finally, while we all hope this rescue package succeeds, we should be prepared to take more vigorous actions in the months ahead to rebuild capital if necessary.

Just as families are planning for their future in tough times, Washington is going to have to do the same. Runaway spending and record deficits are not how families run their budgets; it can't be how Washington handles people's tax dollars. So we are going to have to return to the fiscal responsibility we had in the 1990s. The next White House and the next Congress are going to have to work together to make sure we go through our budget, we get rid of programs that don't work and make the ones we do need work better and cost less.

With less money flowing into the Treasury, some useful programs or policies might need to be delayed. Some might need to be stretched out over a longer period of time. But there are certain investments in our future we cannot delay precisely because our economy is in turmoil.

Mr. President, I have exceeded the time a little bit. I ask unanimous consent for a couple more minutes.

Mr. DODD. I ask unanimous consent that the Senator have as much time as he would like to have.

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

Mr. OBAMA. Mr. President, there are certain investments in our future that we can't delay precisely because the economy is in turmoil. We can't wait to help Americans keep up with rising costs and shrinking paychecks, and we are going to do that by making sure we are giving our workers a middle-class tax cut. We can't wait to relieve the burden of crushing health care costs. We can't wait to create millions of new jobs by rebuilding our roads and our bridges, by investing in broadband lines in rural communities, and by fixing our electricity grid so we can get renewable energy to population centers that need them. We need to develop an energy policy that prevents us from sending $700 billion a year to tyrants and dictators for their oil. We can't wait to educate the next generation of Americans with the skills and knowledge they need to compete with any workers, anywhere in the world. These are the priorities we cannot delay.

Let me close by saying this: I do not think this is going to be easy. It is not going to come without costs. We are all going to need to sacrifice. We are all going to need to pull our weight because, now more than ever, we are all in this together. That is part of what this crisis has taught us, that at the end of the day, there is no real separation between Wall Street and Main Street. There is only the road we are traveling on as Americans. We will rise or fall on that journey as one Nation and as one people.

I know many Americans are feeling anxiety right now about their jobs, about their homes, about their life savings. But I also know this: I know we can steer ourselves out of this crisis. We always have. During the great financial crisis of the last century, in his first fireside chat, FDR told his fellow Americans that:

> There is an element in the readjustment of our financial system more important than currency, more important than gold, and that is the confidence of the people themselves. Confidence and courage are the essentials of success in carrying out our plan. Let us unite in banishing fear. Together, we cannot fail.

We cannot fail. Not now, not tomorrow, not next year. This is a nation that has faced down war and depression, great challenges and great threats, and at each and every moment, we have risen to meet these challenges—not as Democrats, not as Republicans, but as Americans, with resolve and with confidence; with that fundamental belief that here in America, our destiny is not written for us, it is written by us. That is who we are, and that is the country I know we can be right now.

So I wish to thank again the extraordinary leadership of Chairman DODD and the Banking Committee, as well as Chairman BAUCUS and Majority Leader REID. They have worked tirelessly. I also wish to thank the leadership in the House of Representatives.

I urge my colleagues to join me in supporting this important legislation, understanding that this will not solve all our problems. It is a necessary but not sufficient step to make sure this economy, once again, works on behalf of all Americans in their pursuit of the American dream.

Thank you. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DEMINT. Mr. President, I have friends and colleagues whom I respect deeply who are on all sides of this bailout issue. One of them just spoke. We all to want do what is right for America, and I believe those who have crafted this plan had pure and noble motives. They want this country to succeed. They want prosperity. I just do not believe that this bill gets the job done. In fact, in the long term, I am

convinced it will do more harm than good.

We are the Nation that has been called the bastion of freedom, and we are the Nation that has sacrificed blood and treasure to share that freedom with the world. We have fought communism, dictators, and tyranny. We have helped establish democracies and free-market economies across the globe. Because of America, millions of people are now electing their leaders, and millions have been taken out of poverty and enjoyed prosperity. Yet as the blood of our young men and women falls on foreign soil in the defense of freedom, our own Government appears to be leading our country into the pit of socialism.

We have seen this Government socialize our education system and make our schools among the worst in the world. We have seen this Government take over most of our health care system, making private insurance less and less affordable. We have seen this Government socialize our energy resources and bring our Nation to its knees by cutting the development of our own oil and natural gas supplies. And now we see this Congress yielding its constitutional obligations to a Federal bureaucracy, giving it the power to control virtually our entire financial system. Americans understand this and they are angry. They are our judge and our jury. They are watching what we are doing, and they will render their verdict based on our actions.

If we were honest with the American people and explained the failures that have led to this financial crisis, we might have the credibility to ask our citizens to allow us to borrow another $700 billion in their name to try to fix this problem. But we are not being honest. This problem was not created by our free enterprise system. It was created by us, the Congress and the Federal Government.

With good intentions, we made a mess of things. We wanted our economy to grow faster, so we allowed the Federal Reserve to create easy and cheap credit. But this allowed people to borrow and lend irresponsibly. We wanted to help the poor, so we forced banks to make loans to people who could not afford to pay them back. We wanted every American to own a home, so we created Fannie Mae and Freddie Mac to encourage and guarantee mortgages for more people who could not afford them. And all of these easy mortgages, many of which required no downpayment, inadvertently increased the prices of homes to unsustainable levels and created a massive oversupply of unsold homes. Now the value of homes has fallen, as has the value of the mortgages attached to them.

We allowed and even encouraged Fannie Mae and Freddie Mac to bundle up these risky subprime mortgages so they could be sold as securities to investors in America and all over the world. We guaranteed these institutions with the full faith and credit of the Government so their securities could be sold at above-market rates, allowing them to borrow huge amounts and fuel an explosion in subprime mortgage lending. We also allowed these mortgage giants to use their taxpayer-supported profits to spend over $200 million lobbying Congress to keep us quiet, even when we saw that our brainchild had become a financial Frankenstein.

All of our good intentions are now blowing up in our face, and we are asking the American people to bail us out. We must also plead guilty to other misguided policies that have made the situation even worse. Our foolish energy policies have created a huge financial burden on every American family and severely damaged our economy. By not opening our own energy supplies, we are now sending nearly $700 billion a year to other countries to buy oil. This has dried up capital at home and made us dependent on foreign countries for our credit.

We have also squandered and wasted hundreds of billions of hard-earned tax dollars on unnecessary and ineffective Federal programs and thousands of wasteful earmarks. Last week, we passed a bill with the highest rate of pork spending in history. While our talk of gloom and doom has heightened the financial panic here and around the world, and while we are asking Americans to bail us out, we are still spending money as if there is no tomorrow. Years of wasteful spending and bad policies have resulted in a huge national debt of nearly $10 trillion. Much of this debt is held by China and Saudi Arabia and other foreign countries that some now say are dictating our financial policies.

We know Americans are now the victim of our misguided good intentions, along with our free enterprise system that has been severely damaged and weakened. We know our bad policies have taken the accountability out of our markets by artificially insulating investors from normal risk. This has led to careless lending, careless investing, many bad decisions, and possible criminal activity on Wall Street. While many are blaming Americans and our free enterprise system for the crisis, we know the Government is the root cause of this crisis.

I believe this Congress should admit its guilt, prove we have learned from our mistakes, and correct the bad policies immediately that have caused these problems. We should insist the Federal Reserve end the easy money policy. We should repeal the laws that require our banks to make risky loans, and fix the accounting requirements that force banks to undervalue their assets. We should develop a plan to break up Fannie Mae and Freddie Mac and sell them to private investors who will run them as private companies.

We should reduce corporate and capital gains taxes to encourage capital formation and boost asset values. We should also repeal the section of Sarbanes-Oxley that has driven billions of dollars of capital overseas. And we should do even more to grow our economy and lessen our dependence on foreign countries. We should immediately pass a law that expedites the development of our oil and natural gas reserves to help relieve the burden of high prices and gas shortages for our families.

We should immediately adopt a freeze on nonsecurity discretionary spending and pass a moratorium on earmarks until we fix this wasteful and corrupting system. We should sacrifice our political pork as we ask taxpayers to sacrifice for our mistakes.

We have caused a terrible financial mess, and we must honestly tell the American people that whether we pass this huge bailout or not, there will likely be suffering and pain for our great country. But Americans and our free market economy are resilient. And with fewer misguided laws and less onerous regulations, we will get through this crisis, as Americans have many times before. But we must tell Americans the truth.

Congress says it was deregulation and capitalist greed that has run wild and undermined our financial system. Instead of reducing our role in the economy, we are trying to use this crisis to expand our power to control and manage the free enterprise system. We are here saying that our banks and mortgage companies have stopped lending money, that people can't get loans to buy cars, homes, or to run a business, and that our economy of the United States is on the verge of collapse.

We are telling people not to worry because we are going to rescue them with their own money. Congress is going to allow the Treasury Secretary to take $700 billion from taxpayers to buy bad loans and investments from anyone he chooses anywhere in the world. This, we say, will free up capital, get the credit markets working again, and put our economy back on track.

But this Congress refuses to change our Nation's monetary policy that created the cheap money and inflated the housing bubble. We refuse to change the accounting laws and regulations, even though they are making the problem worse. We refuse to lower capital gains and other taxes to attract capital and promote growth. We refuse to repeal Sarbanes-Oxley, even though it hasn't worked and it has cost our economy billions. And we refuse to expedite the development of America's energy resources, even though it would help every American and grow our economy.

None of these things are even on the table for discussion. We are telling the American people to hand over $700 billion or the world economy is going to collapse. This is why people are so upset. It is because Congress is being dishonest and arrogant. We are not being honest with them about how we got into this mess, and we are not

being honest with them about what we need to get out of it.

I strongly oppose this legislation. It takes our country in the wrong direction. It forces innocent taxpayers to bail out Government policies and Wall Street mistakes. It asks the American people to take a leap of faith and trust people who have consistently misled them.

I am deeply saddened by the tone of this debate. I am afraid many of the supporters of this bill have bullied people into supporting it, using fear. There may be good reason for fear, but I think most people will agree that some of the statements have been reckless and irresponsible. I hope I am wrong and this bill will truly solve the problem.

Let me say again that I know every one of my colleagues is doing what they believe is right for America. But based on what I know, I cannot in good conscience support it. I know the Senate is going to pass it tonight, and I can only hope the House will defeat it so we can pursue better alternatives.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Michigan.

LOAN TRANSFER RIGHTS

Mr. LEVIN. Madam President, large numbers of mortgages acquired by the Government under this proposal are going to need to be modified. Large numbers of mortgages are going to need to be refinanced. If it becomes useful to hire outside companies that have the expertise and technology ready to work with borrowers and financial institutions to modify or refinance mortgages, it is important that the Government have the authority to do so.

Is it your understanding that Treasury, the FDIC, or whomever Treasury selects to manage the residential mortgage loans the Government purchases, has the authority to enter into contracts with private companies on a competitive basis to facilitate loan modifications or facilitate refinancings, should the Government decide to do so?

Mr. DODD. Yes, under current law and under the provisions in this bill, that authority exists.

Mr. LEVIN. Does Treasury have the authority to transfer the servicing rights to any modified or refinanced loan?

Mr. DODD. Yes.

Mr. LEVIN. I thank the Senator.

AMENDMENT NO. 5687

Mr. SANDERS. Madam President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS] proposes an amendment numbered 5687.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to increase the tax on high income individuals)

At the end add the following:

SEC. 304. SURTAX ON HIGH INCOME EARNERS.

(a) IN GENERAL.—Part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 1 the following new section:

''SEC. 1A. INCREASE IN TAX ON HIGH INCOME INDIVIDUALS.

''(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 10 percent of so much of modified adjusted gross income as exceeds $500,000 ($1,000,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)).

''(b) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term 'modified adjusted gross income' means adjusted gross income reduced by any deduction allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, a rule similar to the rule of section 67(e) shall apply for purposes of determining adjusted gross income for purposes of this section.

''(c) NONRESIDENT ALIEN.—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed by section 871(b) shall be taken into account under this section.

''(d) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.

''(e) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(f) TERMINATION.—This section shall not apply to taxable years beginning after the date which is 5 years after the date of the enactment of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 1 the following new item:

''Sec. 1A. Increase in tax on high income individuals.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(d) SECTION 15 NOT TO APPLY.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

Mr. SANDERS. Madam President, let me be very frank. While the bailout package we are dealing with tonight is far better than the absurd proposal that was originally presented to us by the Bush administration—which, if you can believe it, would have given the Secretary of the Treasury a blank check to spend $700 billion in any way he wanted, without any transparency, without any oversight, and without any judicial review—this bill, far better than that, is still short of where we should be. And I want to thank Senator DODD and others for their very hard work in improving this legislation. But in my view, this bill is still not good enough. It should be rejected by the Senate, unless an amendment I am about to offer is passed.

This country faces many serious problems in the financial market, in the stock market, and in our economy. We must act, but we must act in a way that improves the situation. We can do better than the legislation we are dealing with tonight.

This bill does not effectively address the issue of what the taxpayers of our country will actually own after they invest hundreds of billions of dollars in toxic assets.

This bill does not effectively address the issue of oversight, because the oversight board members were hand picked from the Bush administration.

This bill does not effectively deal with the issue of foreclosures, and addressing that very serious issue which is impacting millions of low- and moderate-income Americans in the aggressive, effective kind of way we should be.

This bill does not effectively deal with the issue of executive compensation and golden parachutes. Under this bill, the CEOs and the Wall Street insiders will still, with a little bit of imagination, continue to make out like bandits.

This bill does not deal at all with how we got into this crisis in the first place and the need to undo the deregulation fervor which created trillions of dollars in complicated and unregulated financial instruments, such as credit default swaps and hedge funds.

This bill does not address the issue that has taken us to where we are today, the concept of ''too big to fail,'' the need for taxpayers to bail out institutions which are so large that they will cause systemic damage to our entire economy if they go bankrupt. In fact, within the last several weeks we have sat idly by and watched gigantic financial institutions such as the Bank of America swallow other gigantic financial institutions such as Countrywide and Merrill Lynch.

Who is going to bail out the Bank of America if it begins to totter? Not one word about the issue of too big to fail in this legislation, at a time when that problem is, in fact, becoming even more serious. This bill does not deal with the absurdity of having the fox guarding the henhouse. Maybe I am the only person in America who thinks so, but I have a hard time understanding why we are giving $700 billion to the Secretary of the Treasury, who is the former CEO of Goldman Sachs, which, along with other financial institutions, actually got us into this problem. Maybe I am the only person in America who thinks that is a little bit weird, but that is what I think.

This bill does not address the major economic crises we face—growing unemployment, low wages, and the need to create decent-paying jobs, rebuilding our infrastructure, and moving us

to energy efficiency and sustainable energy.

On top of all that, there is one issue that is even more profound and more basic than everything else that I have mentioned, and that is, if a bailout is needed, if taxpayer money must be placed at risk, whose money should it be? In other words, who should be paying for this bailout which has been caused by the greed and recklessness of Wall Street operatives who have made billions in recent years? That is what my amendment is all about. It is an issue that we have to bring to the floor of the Senate because that is what the American people want to hear discussed.

The American people are bitter, they are angry, and they are confused. Over the last 7 years since George W. Bush has been President, 6 million Americans have slipped out of the middle class and are in poverty. Today, working families are lining up at emergency food shelves in order to get the food they need to feed their families. Since President Bush has been in office, median family income for working-age families has declined by over $2,000; 7 million Americans have lost their health insurance; 4 million have lost their pensions; consumer debt has more than doubled; and foreclosures are the highest on record.

Meanwhile, the cost of energy, food, health care, college, and other basic necessities has soared. While the middle class has declined under President Bush's reckless economic policies, the people on top have never had it so good. For the first 7 years of Bush's tenure, the wealthiest 400 individuals in our country saw a $670 billion increase in their wealth. At the end of 2007 they owned over $1.5 trillion in wealth. That is just 400 families—$670 billion increase in wealth since Bush has been in office.

In our country today we have the most unequal distribution of income and wealth of any major country on Earth, with the top 1 percent earning more income than the bottom 50 percent, and the top 1 percent owning more wealth than the bottom 90 percent. We are living at a time when we have seen a massive transfer of wealth from the middle class to the very wealthiest people in this country; when, among others, CEO's of Wall Street firms receive unbelievable amounts in bonuses, including $39 billion in bonuses in the year 2007 alone for just the five major investment houses.

We have seen the incredible greed of the financial service industry manifested in the hundreds of millions of dollars they have spent on campaign contributions and lobbyists in order to deregulate their industry so hedge funds and other unregulated financial institutions could flourish. We have seen them play with trillions and trillions of dollars in esoteric financial instruments in unregulated industries which no more than a handful of people even understand.

We have seen the financial services industry charge 30 percent interest rates on credit card loans and tack on outrageous late fees and other costs to unsuspecting customers. We have seen them engaged in despicable predatory lending practices, taking advantage of the vulnerable and the uneducated. We have seen them send out billions of deceptive solicitations to almost every mailbox in America.

I used to think that my home was the only one that was receiving them. It turns out that billions of other solicitations went out to probably every home in America. What they hoped to do was to gain new customers for credit card companies and then, through the very small print on the back of the solicitation, have the opportunity, have the ability to monkey around with interest rates so when people thought they were getting zero interest or 2 percent, it turns out that a few months later they were paying very high interest rates.

Most important, of course, we have seen the financial services industry lure people into mortgages they could not afford to pay, which is one of the basic reasons we are tonight in the midst of all of this. We have a bailout package today which says to the middle class that you are being asked to place at risk $700 billion, which is $2,200 for every man, woman, and child in this country. You are being asked to do that in order to undo the damage caused by this excessive Wall Street greed. In other words, the ''Masters of the Universe,'' those brilliant Wall Street insiders who have made more money than the average American can even dream of, have brought our financial system to the brink of collapse, and now, as the American and world financial systems teeter on the edge of a meltdown, these multimillionaires are demanding that the middle class, which has already suffered under Bush's disastrous economic policies, pick up the pieces they broke.

That is wrong and that is something I will not support. The major point I want to make this evening is, if we are going to bail out Wall Street, it should be those people who have caused the problem, those people who have benefited from Bush's tax breaks for millionaires and billionaires, those people who have taken advantage of deregulation—those people are the people who should pick up the tab and not ordinary working people.

I have introduced an amendment which gives the Senate a very clear choice. We can pay for this bailout of Wall Street by asking people all across this country, small businesses on Main Street, homeowners on Maple Street, elderly couples on Oak Street, college students on Campus Avenue, working families on Sunrise Lane—we can ask them to pay for this bailout. That is one way we can go or we can ask the people who have gained the most from the spasm of greed, the people whose incomes have been soaring under President Bush, to pick up the tab. They threw the party, they became drunk on greed, and now I believe they should foot the bill. What my amendment proposes is quite simple. It proposes to raise the tax rate on any individual earning $500,000 a year or more, or any family earning $1 million a year or more, by 10 percent. That 10-percent increase in the tax rate from 35 percent to 45 percent will raise over $300 billion in the next 5 years; $300 billion is almost half the cost of the bailout.

If what all the supporters of this legislation are saying is correct, that the Government will get back some of its money when the market calms down and the Government sells some of the assets it has purchased, this amount of $300 billion should be sufficient to make sure 99.7 percent of taxpayers do not have to pay one nickel for this bailout.

Most of my constituents did not earn a $38 million bonus in 2005 or make over $100 million in total compensation in 3 years, as did Mr. Henry Paulson, current Secretary of the Treasury and former CEO of Goldman Sachs. Most of my constituents did not make $354 million in total compensation over the past 5 years as did Richard Fuld, the CEO of Lehman Brothers.

Most of my constituents did not cash out $650 million in stock after a $29 billion bailout for Bear Stearns, after that failing company was bought out by JPMorgan Chase. Most of my constituents did not get a $161 million severance package as E. Stanley O'Neil, former CEO of Merrill Lynch, did.

Last week, I placed on my Web site, sanders.senate.gov, a letter to Secretary Paulson in support of the content of my amendment—which was pretty simple. It said that it should be those people best able to pay for this bailout, those people who have made out like bandits in recent years—they should be asked to pay for this bailout. It should not be the middle class.

To my amazement, and I am a Senator from a small State—to my amazement some 48,000 people—and here they are, these are their names, and I will not read them all off, 48,000 people have already cosigned this petition, and the names keep coming in and the message is very simple: We had nothing to do with causing this bailout. We are already under economic duress. Go to those people who have made out like bandits. Go to those people who have caused this crisis and ask them to pay for the bailout.

The time has come to assure our constituents in Vermont and all over this country that we are listening and understand their anger and their frustration. The time has come to say that we have the courage to stand up to all of the powerful financial institution lobbyists who are running amok, all over this building—from the Chamber of Commerce to the American Bankers Association to the Business Roundtable—all of these groups who make huge campaign contributions, spend all

kinds of money on lobbyists—they are here, loudly and clearly. They don't want to pay for this bailout. They want Middle America to pay for it.

So this is a moment of truth. I hope very much that this Senate will support the amendment I have offered.

Madam President, I reserve the remainder of my time.

Mr. DODD. I thank the Senator from Vermont for his passion, eloquence, and commitment. He is never shy. This institution could use a little bit more of similar expressions of feelings for constituents. I thank him for that speech.

I see my colleague from Alabama. We are going back and forth. At that point after Senator SESSIONS, Senator SCHUMER is next in line.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I believe I am to be recognized for 10 minutes, but I ask that I be notified after 5.

The PRESIDING OFFICER. The Senator will be notified.

Mr. SESSIONS. Madam President, I would like to say to Senator SANDERS a couple things. First, I think it is indeed breathtaking that this Senate would authorize basically one person with very little real oversight, a Wall Street maven himself, and allocate $700 billion in America's wealth, which I would have to say would be the largest single authorization of expenditure in the history of the Republic.

So I have to say, fundamentally, I think we have not done a good enough job in creating an oversight mechanism that will work, so I am not going to vote for the bill; I am not. I would say, however, and note this point, that my colleague, Senator SHELBY from Alabama, chaired the Banking Committee in 2005. He held hearings on the problems at Freddie Mac and Fannie Mae.

Alan Greenspan, the then-Chairman of the Federal Reserve, wrote a letter saying that if we did not fix Freddie and Fannie this very kind of calamity would occur. He put that in writing. Senator SHELBY pushed through legislation to regulate it. It came through the committee on a straight party-line vote; all Republicans, as I recall, voted for additional oversight and reform of Freddie Mac and Fannie Mae, and all Democrats voted against additional regulation of Freddie Mac and Fannie Mae.

So I wish to say, I am prepared to support good regulation, sound regulation, and I reject the idea that this problem all arose because Republicans opposed regulation.

AMTRAK

In a few minutes we are going to have a vote on Amtrak reauthorization and appropriations as a standalone bill. The majority leader, Senator REID, has filled the tree. That means we cannot offer any amendments. In the late 1990s, we directed that, after 2002, Amtrak would no longer receive funding from the Federal Government. We ordered that. And yet, we are again appropriating, for 5 years, almost $2 billion a year to fund this entity. We do not stand by our decision.

Why is Amtrak losing money? Primarily it is because long-distance trains account for 80 percent of its cash operating losses, while carrying only 15 percent of the passengers.

Now, I know people have romantic views about trains. They would like to see everybody ride in trains. But people are not riding trains for long distances. And as a result, the taxpayers are eating huge losses. I would say, fundamentally, we can do better about that, and we need to quit mandating, for political reasons, routes that might pass through our States but are dead losers.

The Heritage Foundation did a study on a predecessor bill that was very similar to the one we are considering. They found that the bill would only disrupt the necessary reform process and perpetuate low-quality service at a much higher cost to the taxpayers. This bill lacks any substantive reform proposal, it is replete with directives, alterations, restructurings, subsidies, reports, 5-year plans, and other forms of top-down micromanagement techniques that are designed to create the impression that Amtrak is making improvements. In fact, Heritage said, instead of reforming and improving Amtrak, the legislation may actually make it worse.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. SESSIONS. I would say one more thing. I checked the price of a train ticket from Birmingham, AL, to Washington, DC. I found that the train makes 18 stops and takes 18 hours. The Amtrak ticket is $445. What happens if you take a one-stop flight from Alabama to Washington? It costs a little over $300, and makes only one stop. So this is why people are making these choices. They have multiple choices on when they leave Birmingham and what time they want to leave on a flight to Washington. But a person on a train can only leave one time a day; it takes them 18 hours, and they have to eat on the train at high cost.

That is why we are having problems. We should have had reform in this Amtrak bill, and I do not like that it is brought up at the very last minute, and the majority leader has fixed it so there can be no real debate or amendments offered.

AMT

The alternative minimum tax patch is a huge part of the tax extenders package. It will cost almost $79 billion in tax revenue, just this year alone. And it is extraordinarily skewed to favor single individuals. In 2006, around 7 percent of married taxpayers with children were AMT filers, compared to less than 1 percent of single individuals.

Families with children are getting caught up in it, because when you calculate your alternative minimum taxable income, you can't claim personal exemptions. It is unfair to those families. It is also unfair to the low-tax States. High-tax States benefit much more than lower tax States such as Tennessee or Alabama, because you also can't claim deductions for state and local taxes.

We need a better AMT fix next year. Perhaps it is too late to do it this year. But I urge my colleagues next year when this issue comes up, we need to look at this very closely. We need to be sure we end this bias against struggling families; we need to end the bias against States that do not have high taxes.

I yield the floor and yield back the remainder of my time

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, the Senator from New York is next.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Madam President, first, I wish to compliment my colleague from Illinois, BARACK OBAMA. His speech was not only on the money, but the way he has handled himself throughout this crisis has been nothing short of Presidential. He has been erudite, he has been thoughtful, he has been effective, he has been behind the scenes, no showboating, no big statements, untrue to what he is. He was perfect.

Now I rise to support the legislation before us. It has become clear over the past few months we live in amazing and dangerous times. Who would have ever thought that the lowly mortgage, long regarded as the safest of investments, could bring our financial system to its knees.

The system was overleveraged, overextended, overoptimistic. Now we are all paying the price. But that is where we are. While we must look back and see what went wrong, we also have to look forward—that is our immediate task—and try to avoid a meltdown.

As we confront this crisis, we are faced with dangers on both sides; Scylla, the proverbial monster, from doing nothing, a real danger; Charybdis, the whirlpool, from doing the wrong thing. It is as bad to do the wrong thing as to do nothing.

There are real dangers to inaction. Chairman Bernanke held us spellbound in the Speaker's office Thursday night when he described the conditions of the economy, without hyperbole, without raising his voice. His discussion was, in short, frightening. Our economy's body is in terrible shape because its arteries, the financial system, is clogged. It will cause a heart attack, maybe in a day, maybe in 6 months, but we will get a heart attack for sure if we do not act.

So we must act. Unfortunately, when we act, we are not just acting for Wall Street. Unfortunately, Wall Street, with all its excesses, is connected to Main Street. Right now, you cannot get a car loan if you do not have a FICO score, a credit rating score that is very high, 720.

If that stays, we will sell 6 million fewer cars this year, and tens of thousands of workers in Buffalo, in Detroit,

and St. Louis will be laid off through no fault of their own. That is not right. That is not fair. That is the system in which we live.

If we do nothing, we hurt innocent workers, millions, even though they were not to blame. But there was also the danger of Charybdis, doing something wrong. Let's make no mistake about it. The plan Secretary Paulson first presented was awful—$700 billion, a blank check, an auction: you let me do it, I will figure it out, even exemptions from breaking the law, the language seemed to say.

Through the hard work of the chairman and many of us on the Banking Committee, both sides of the aisle, the other house, we changed it. There is real tough oversight. There is protection for the taxpayers. Senator REID did an amazing job in getting warrants written in the bill that are mandatory and tough. The taxpayer will come first, before the bondholder, before the shareholder, before the executive.

We worked hard as well to limit executive compensation. It is not everything the Senator from Montana, the chair of Finance, and I wanted in the negotiations but a good, large first step. We broke down the amount. There will have to be congressional approval for the second $350 billion. There will be a requirement that the President notify for $100 billion. So the first amount of money, $250 billion is given with this legislation, another $100 billion for the President, if he certifies real need; but $350 billion subject to congressional disapproval. Even if we are out of session, we will come back.

So the legislation was improved, and it was logical to improve it; $700 billion is a lot of money, even on Wall Street. None of the thousands of money managers would invest that sum without appropriate due diligence. There were times when the Secretary of the Treasury was saying: You do not have to do due diligence. We deferred.

So to Secretary Paulson's TARP proposal we have added some important provisions, THO, taxpayer protection, housing and oversight. The new additions add, because the new additions are AMT relief—I ask unanimous consent for an additional minute. I thought I was supposed to get 6.

Mr. DODD. I will give the Senator an additional minute.

Mr. SCHUMER. Thank you. We have added THO, taxpayer protection, money for homeowners and real oversight. And now more. The new additions Senator REID came up with will be money directly to Main Street, money for businesses that invest to create jobs during a time of economic downturn, tax breaks for new kinds of energy—solar, wind—that our economy awaits, relief from the AMT, which affects not the wealthy but in New York, at least, people making $50,000, $75,000, $100,000, $125,000 who were paying too much under the AMT.

So this package is an improvement. Is it the way I would have written it? No. Is it the way any of us would have individually written it? No. But given the improvements, this package is better, significantly better than doing nothing. I hope we will get strong bipartisan support tonight, I hope we will get strong bipartisan support in the House, and then we will move on to make the regulatory changes so this never happens again.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator from New Mexico.

Mr. DOMENICI. Madam President, I want to quickly thank a few people. It is obvious, the people who have worked extra hard and done such a marvelous job. But I have been involved many times in negotiations such as this. In fact, the last time we did one of these, I was chairman of the Budget Committee, and we had a savings and loan bailout. I remember it well. It is worth mentioning for a moment because, as Senator DODD will remember, just as our Secretary of the Treasury is telling us, if this works right, we could, in fact, make money instead of losing money. So whenever we talk about $700 billion as if it were being lost or given to somebody and they could run away with it, when we did the savings and loan bailout, we were told when you pay for all these assets and take them in, they may bring you as much money as you spent. And lo and behold, it took a few years, but the Treasury made money on that last bailout we had to put together. I predict that the amount of money that will be lost on this one will be much less than the 700. As a matter of fact, if it worked right, the taxpayer could get reimbursed and, in fact, some money could get paid down on the national debt. I start with that.

Having said that, I thank those who spent extra amounts of time, energy, and did a great job, starting with the chairman of the committee, Senator DODD. I don't think we ought to be partisan. I heard some Democrats talk about only Democrats that had been active in this. It wasn't you, Senator DODD. But you know that on your side you were busy. On our side we had a rather marvelous negotiator named JUDD GREGG. I believe we want to thank him unequivocally for his work. He surely has done a yeoman job with Republican Senators, explaining what you all were doing. From that, there are numbers of other people, and I say thanks to all. You have done a terrific job.

Our job here in the next few hours is to pass a bill and send it to the House and challenge them to vote for it. It is past time, but it is absolutely obvious that we must put confidence back into the credit system of the United States. We must put confidence back into the credit system of the United States. That means this rather fantastic credit system, which has gone awry without any doubt, because it has been manipulated, abused, but nonetheless it is still the greatest delivery system that the world has ever seen in terms of delivering money where money has to be, where money is needed, is now rocking. It is in the tenth round of a heavyweight bout, and it is about to be knocked out. We have to do something to make sure that doesn't happen.

I am very pleased that the Secretary of the Treasury, in spite of whatever faults have been enumerated on the floor—and he claims some faults himself. He talks about not being an eloquent speaker. I imagine he hears Senator DODD or he hears some other Senator, and he goes back and does his work, and he wonders why the good Lord made him so that he can't talk as well as them. But he knows a lot. For those who don't think he should have been in this job, they are mistaken. He has come up with solutions to this point.

He has told us how to solve the problem of the credit system being filled with toxic assets. Toxic assets have been explained enough here for me not to have to do it again, but essentially, for the most part, they are mortgaged-backed securities that are no good. They were no good from the beginning; ''no good'' meaning the person who bought the house and gave the mortgage could not have made the payments from the very beginning. They were given an opportunity to buy and sign the promissory notes, with people having full knowledge that they weren't earning enough. They were a credit risk, and they should not have had these mortgages.

There were so many of them issued over the past 10 to 12 years that they permeate the system. When they get there in sufficient numbers, they clog the system, much like cars on a freeway speeding at 65 miles an hour and having a crash. It is across all six lanes. All the cars are stopped until you move the broken-down, crumbled-up cars. You move them off, and then things run again. So we must move them off and let the part of the American financial system that is great, let the liquidity run its course so it is available where money should be available under the American free enterprise, capitalist system.

We are hopeful that Secretary Paulson, in analyzing this, analyzing the way to get that wreckage out of the way, in creating this $700 billion entity that could go out there and use that money to buy up this salvage, hold it in the name of the people, can then, believe it or not, sell it so that they might make money off of it. That is perhaps why Secretary Paulson came to us with four pieces of paper saying: This is what we ought to do. He clearly understood that while it is complicated, it is very simple. While it takes many pages because of the way we do legislation, four pages explains it in his language, as he would need the language to do his job.

In any event, the current situation in the United States has created a problem where the financial and credit markets are blocked up. No matter

how you say it, either say toxic assets, with salvage from a car wreck, call it what you may, you must get the toxic assets out of the way. That is what this fund is going to do.

I, for one, had a difficult time at the beginning understanding why we should do this. I actually was kind of upset and mad at the same time that we were in this situation at this particular time in our economic history, when such modernism has been imposed on the financial system in great gobs. It is terrifically efficient and modern, filled with all kinds of technological breakthroughs that make the system work. Here we were, nonetheless, loading a system with promissory notes and mortgages that from the very beginning were not going to make it, thousands upon thousands of them being packaged up, with a bow put on them, making them look like securities that were valuable and shipping them out and getting them through the market.

What we are being asked for here tonight is to vote yea for a bill that contains the proposed rescue mission that Secretary Paulson, on behalf of the President, has put together and submitted to us. We made it better in that we made sure it has oversight. We made sure that the other things our people were complaining about were taken care of. We have taken care of those, and it is a better bill in that regard.

Then we were shocked the other night when the House voted no on the bill. It has come back to the Senate, and here our people have thought it through. I hope House leaders have paid attention and listened. As I look down at my friend Senator DODD, I say I am hopeful and certainly almost positive that he and others have talked to the leadership on the House side about what we are going to do tonight and what we hope they will do, when they get the results of our vote.

I think I am safe in predicting the enthusiasm around here is to vote this out. It will pass overwhelmingly, in my opinion. Nobody is happy. Nonetheless, we are going to get it done. This is one of the most difficult situations to explain to the American people that I have ever been involved in.

This afternoon, I was on a little TV show, and the announcer said to me: Senator DOMENICI, I want to ask you a question that I was asked today.

I said: You mean this day, today?

Yes, an hour ago.

What was the question, I said.

He said: I have $250,000 and I would rather lose it than to see our banking system socialized. Why aren't you saying that? She said to the announcer, why aren't you condemning the socialization of our banking system?

Of course, it was my turn to answer. I said: My oh my, it is hard to explain to people. First of all, the Secretary is only given 2 years to accomplish this entire job, 2 years. In 2 years, I think we could hardly socialize a system as big as the United States banking and finance system. You are in and out and hope it works. So I believe many people in this country are paying attention and trying to understand it, but we are all having difficulty communicating.

I hope when we are finished tonight, we will be able to explain it better to our people. And before we are finished, some of the fear and trepidation that Members of the House have about voting for this can be dissuaded and we leave the scene. And we can vote with confidence for the country, for the right thing, and make sure that our finance system is given a chance to come out from under this absolutely perilous load that has been thrust upon it.

There will be plenty of time after that to assess blame. I would caution that if you read anything about it, either side ought to be careful about laying blame on the other side. I look to the Democrats and say: Be careful as you try to blame President Bush and Republicans exclusively for this. I say to Republicans the same thing.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I yield 5 minutes to my distinguished friend and colleague from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I am as angry as any New Jerseyan, as any American, about the economic situation we have been put in. But the truth is, for those who are honest with themselves, they know we are in an economic crisis and doing nothing is not an option. If we don't get credit flowing again, businesses won't be able to operate. People in our neighborhoods will lose their jobs. Getting a loan for a car, an education, or a home will become increasingly difficult, if not impossible. I believe the American dream itself is facing one of the greatest risks in recent history. What we have before us is an economic stabilization plan. It is not perfect. But it will help protect and create jobs by restoring stability and confidence to our economy.

We have taken the plan the administration sent us. We rejected it and reworked it. George Bush first sent us a plan with no accountability, a plan where the idea of checks and balances was: We write the check, and they fill in the blank. But we have changed that plan, made vast improvements, and put taxpayers first. The plan provides for oversight, accountability, an oversight board, and a special inspector general. The plan makes sure there is congressional review and, ultimately, approval for any additional funding over $350 billion. In this plan, taxpayers will be treated as investors. If we take on a risk, we will be given warrants, the equivalent of a shareholder, given a stake in any future profit that might lie ahead for that company.

If we step in during the decline, taxpayers must be allowed to share in the profit. So the plan is structured to reward taxpayers with profits while protecting them from losses.

This plan says there will be no more golden parachutes. People who led us into this mess cannot be rewarded for failure. Besides strengthening our economy's foundation, it creates jobs, provides relief for struggling homeowners, and will help small businesses access credit, the small businesses that create 75 percent of America's jobs.

Tonight's vote provides also tax relief for the middle class by taking care of the alternative minimum tax in the next year. It pushes for loan modifications to help struggling homeowners stay in their homes and stop property values from falling in our neighborhoods. This vote tonight invests in America's renewable energy, to drive down gas prices and create American jobs that can't be outsourced.

Now, this plan is not perfect, but it is necessary. We still have a long way to go toward tackling the root of this crisis, which is the housing market. I hope we will set the goal of saving at least a million families from foreclosure. We still have a long way to go to establish the strong regulatory enforcement I have called for in the past that prevents the kinds of abuses that got us into this situation in the first place. But, again, doing nothing is not an option. Jobs are on the line. People's cars, houses, and educations are on the line. Those who would reject this plan tonight out of ideology will be punishing not the CEOs but hundreds of thousands of Americans who will lose their jobs.

Madam President, I am going to heed the call of Senator OBAMA. It is time for us to come together and act in the best interests of this country. Clearly, we are experiencing unprecedented times. I, along with some of my colleagues, warned many times in the past about the gathering specter that irresponsible lending posed, but we were dismissed as alarmists. This is one instance where I wish I had been wrong.

But tonight is not about looking back and pointing fingers. It is about looking forward and preventing even further damage to our economy before it is really too late. Tonight is about keeping the American dream stable enough that we can make it a solid promise for tomorrow, and that is why I will be voting yes.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I ask unanimous consent to be recognized to speak for up to 15 minutes.

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

Mr. SHELBY. Madam President, I rise today to speak before we take what will be one of the most important votes, unrelated to war, many of us will cast in the U.S. Senate.

The proposal before us provides $700 billion to buy illiquid assets from financial institutions. The stated goal of this scheme is to return confidence and liquidity to our credit markets.

We did not get into this situation in a matter of days, and we are not going to fix it with a piece of legislation quickly cobbled together in back rooms of the U.S. Capitol.

In fact, this crisis has been years in the making. Over the last decade, trillions of dollars were poured into our mortgage finance markets, often at the direction of well-intended, albeit ill-conceived, Government programs.

At first, the money backed conventional mortgages with standard downpayments and properly verified incomes.

Over time, the number of home buyers who met conventional loan requirements dwindled. In order to fuel the upward spiral, mortgage products became more exotic, requiring less of borrowers and involving more risks.

Without regard for fiscal prudence and simple economics, mortgage brokers, realtors, homebuilders, mortgage bankers, and home buyers created the conditions that helped inflate the housing bubble.

At the same time, Wall Street was developing ever more sophisticated finance vehicles to ensure that money continued to flow into the mortgage markets to meet the demand.

Mortgages were pooled, packaged, and rated ''investment grade'' by the credit rating agencies. They were then sold into a market eager to purchase securities with a wide range of risks and yields.

Many purchasers employed massive amounts of leverage, layering risk upon risk in an effort to maximize return. To cover their risks, many of these buyers also bought credit protection from one another, entering into derivatives contracts with nominal values in the hundreds of trillions of dollars.

Eventually, economic reality caught up with us. Housing prices stalled and then began falling.

Many who bought homes with unconventional loans were unable to afford their rising payments. Because home values were dropping, they were unable to refinance and delinquency rates skyrocketed. This trend has not yet abated.

Once homeowners began defaulting, the value of mortgage-backed securities plummeted.

Collateralized debt obligations, or CDOs, that were comprised of the riskiest mortgage-backed securities became worthless. As a result, financial institutions holding securitized assets have suffered enormous losses and have been desperately trying to raise new capital.

I have been a member of the Senate Banking Committee for over 20 years. When I joined the committee, the savings and loan crisis was just beginning to unfold.

Let me remind my colleagues that it took nearly 10 years, five Congresses, and 3 administrations until that smaller, more contained crisis was resolved.

Personally, I learned a few solid lessons from that experience. I came to understand that bank management, bank capital, and sound regulatory policy make a major difference.

What I learned then has guided me ever since.

For example, in 1995, I opposed the expansion of the Community Reinvestment Act. I did not take this position because I am against lending to minorities or low-income individuals. My concerns were based on the simple fact that credit cannot be safely extended on any basis other than risk, and risk cannot be mitigated through social engineering.

The appropriate allocation of credit is not political, it is based on merit. Those with good credit receive the best terms and lowest rates. Those with bad credit receive the worst terms and the highest rates, or in some cases, no credit at all.

The CRA was an attempt to get around this fact and it failed. I remind my colleagues of this as we prepare to buy assets backed by the very same mortgages born of this flawed policy.

I find it ironic that many of those who supported the legislation that upended the basic concept of risk-based lending are now saying that our present circumstances are an indication that the free market failed. Federal policy, not free market decisions, fueled risky loans to unqualified borrowers.

In 1999, I opposed the financial modernization bill. Despite Alan Greenspan's proclamations, I did not think it provided a sufficient regulatory structure to oversee the financial system it created. I was also concerned that it lacked some basic consumer privacy protections. Many are now claiming that deregulatory effort led us directly to where we are today.

In 2001, I became concerned about the banking regulators' effort to modernize bank capital standards through what is known as Basel II. While it was very important to update those standards, it appeared to me that ''modernization'' was focused more on reducing bank capital levels than improving bank capital standards.

During the process, it often seemed that the regulators were more interested in industry priorities than protecting the banking system. I spent nearly 5 years trying to ensure that the regulators produced a balanced rule that focused on safety and soundness.

When I became chairman of the Banking Committee in 2003, I immediately became concerned with the financial health and regulatory structure of the Government sponsored enterprises, Fannie Mae and Freddie Mac.

I did not think the entities had sufficient capital, management controls, or regulatory oversight. I was particularly troubled about their size because their combined portfolios amounted to nearly $2 trillion at that time.

I believed that their operations posed a systemic risk to the financial markets. After each disclosed that they had committed serious accounting fraud, my concerns grew more focused and I stepped up my efforts to pass legislation.

Those efforts were rebuffed by the Democrats on the Banking Committee. And, let us be clear as to what the GSEs were doing at this time.

From 2004, when we began considering GSE legislation, up until very recently, the GSEs went on a nearly trillion dollar sub-prime and Alt-A mortgage-backed security buying spree. Madam President: $1 trillion.

I do not know for sure what motivated them in this effort, but I do know the GSEs were spending hundreds of millions of dollars lobbying Congress in an effort to stave off additional regulation.

Fannie's and Freddie's greatest allies were those that advocated and, at times, demanded that the GSEs continue to facilitate sub-prime and Alt-A borrowing. As long as they complied, real regulation was dead.

This symbiotic relationship, in turn, fueled an already over heated market to grow even hotter.

As the driving force in mortgage finance, this purchasing effort also broke down what scant underwriting standards remained in the market place. Many, if not most, of the toxic assets that this taxpayer-funded bailout is designed to buy were originated in an atmosphere created by the GSEs and facilitated by their supporters here in Congress.

During the securitization boom that took off in the last 5 years, I also became very concerned about the regulatory oversight of the credit rating agencies whose ratings were crucial to getting securities sold.

When I looked at the system in place, I soon realized it was dominated by two companies and that the regulatory structure provided no real oversight and actually prevented competitors from entering the market.

Considering the value that mutual, money market, retirement pension funds, and insurance companies, and other important investors place on the ratings, I recognized that immediate legislative action was necessary to address the shortcomings of the oversight regime. We took that action in the fall of 2006.

Unfortunately, it now appears even that effort came too late. The rating agencies provided investment-grade ratings on securities worth hundreds of billions. A large percentage of those ratings have since been downgraded.

I remind my colleagues that those securities also happen to make up the troubled assets that are now the focus of this bailout.

Finally, in 2007, I publicly questioned the adequacy of the Securities and Exchange Commission's Consolidated Supervised Entities Program.

This nonstatutory program was put in place by the SEC to allow the five big investment banks to meet European regulatory standards without having to submit to Federal Reserve

supervision as provided in the Financial Modernization Act. The program also allowed the investment banks to significantly reduce their capital requirements.

Because I already felt that the 1999 act did not provide adequate supervision, I was troubled that the investment banks continued to chafe even at this minimal supervision.

With their trillions in assets, global operations, and hundreds of thousands of employees, they were content to be ''regulated'' by a program with a staff of less than 20 people, and they vigorously lobbied the Banking Committee to keep it that way.

Needless to say, I had serious concerns about this arrangement.

These concerns crystallized when Chairman DODD marked up legislation that would not only have codified the SEC's regulatory concoction, but also would have expanded the powers of the investment banks, allowing them access to taxpayer-insured funds through ownership of insured depositories.

I requested that the Banking Committee hold hearings to examine this structure in greater detail before we ratified that which the SEC created through regulatory fiat. Once again, we did not.

Instead, my Democrat colleagues voted not only to codify the CSE program, but also to expand it. My Republican colleagues voted to reject it and argued for additional committee action.

Today, the CSE program is gone because our investment banks have either gone bankrupt, merged, or become that which they fought so hard to avoid: Bank holding companies supervised by the Federal Reserve.

I would also like to point out to my colleagues that a large number of the assets that will be purchased under the Paulson plan were either originated or held by the CSE regulated firms: Bear Stearns, Lehman Brothers, Merrill Lynch, Morgan Stanley, or Goldman Sachs.

We did not get to where we are today by accident, it was a path we chose.

My warnings about the risk of basing credit decisions on well-intended social mandates rather than sound, fact-based underwriting were dismissed.

My concerns about the inadequacy of the regulatory structure put in place in the financial modernization legislation went unacknowledged.

My efforts to ensure that bank capital standards were designed to ensure safety and soundness, rather than industry concerns, were conducted largely alone.

When I urged focus one of the SEC's Consolidated Supervised Entities Program, my Democrat colleagues ignored me and instead voted to ratify and expand the program.

When we attempted to pass meaningful GSE reforms, we were repeatedly stopped.

I commend Senator DODD, who in the end, worked with me to pass a bill. Unfortunately, that effort came too late because the GSEs had already gorged on billions of dollars of toxic sub prime paper and no longer could function on a stand-alone basis.

As often as I have argued that we needed to address systemic risks in the financial markets, my advice has been dismissed, and my concerns have proven to be fully justified.

I now have serious concerns about the bailout package we are preparing to pass.

My foremost concern relates to the manner in which we are attempting to address the problem.

The Paulson plan focuses on a single problem—illiquid assets held throughout the financial system.

I believe we have a number of interrelated problems that need to be addressed in order of their significance.

First, and most urgent, is liquidity. Then we must address the solvency of our financial institutions and declining home values, not to mention our entire regulatory structure.

I believe Congress can address the liquidity issue by increasing the combined resources of the Federal Reserve System and the Treasury.

By enhancing the Federal Government's existing lending facilities and guarantee programs, we can help stabilize money market funds and provide loans to troubled financial institutions without exposing taxpayers to massive losses. This act alone would allow us some time to consider thoroughly our next steps.

Thereafter, we must determine how to address the troubled assets on the books of financial institutions and continue the process of dealing with declining home values. This will likely be a long and difficult process, a fact that is not being shared with the American people.

As long as we address the immediate liquidity problem by expanding lending facilities using the illiquid securities as collateral, we can then take the necessary time to do our work in a more responsible and thoughtful manner. It appears, however, that we are not going to subject this bill to our normal process.

With that in mind, I would like to take some time to look more closely at what this unprecedented piece of legislation would do.

The Emergency Economic Stabilization Act of 2008 would create the Troubled Asset Relief Program.

It would authorize the Treasury Secretary to purchase up to $700 billion worth of troubled assets from just about any type of institution.

In exercising this authority, the Secretary would be vested with nearly unfettered power.

The Secretary could purchase any financial instrument he deems necessary to promote financial market stability. He could purchase not only mortgage-related assets, but securities based on credit card payments, auto loans, or even common stock.

The Secretary could purchase assets from any institution, not just financial institutions so long as they have ''significant operations in the United States.''

What constitutes ''significant operations'' is left undefined, leaving the Secretary a great deal of latitude in determining which institutions would qualify for the program.

Certainly the Secretary could purchase assets from private equity firms and hedge funds, but also corporations and State governments. Given the lack of standards and the breadth of the Secretary's authority, it should be no surprise if politically connected entities get special treatment under this program.

Under a provision hidden deep in the legislation, the Treasury Secretary also has the authority to purchase troubled assets from foreign central banks and governments.

The Secretary has unlimited authority on how the purchased assets are managed and sold. Treasury could even set up Government-run hedge funds that compete with private companies.

While the Treasury Secretary's authority expires at the end of 2009 and can be extended for only 1 additional year, the Treasury's authority to manage purchased assets is perpetual.

Treasury could also purchase assets after the termination of its authority, if it has entered into agreements to purchase prior to the termination date. This program will be with us for decades to come.

The few restrictions imposed on the Treasury Secretary's authority could undermine the effectiveness of the program. If the Secretary purchases more than $100 million in troubled assets from an institution, he must obtain non-voting common stock or preferred equity in the institution.

To complicate matters further, the bill does not provide clear guidance on how many warrants the Secretary should obtain or what their terms should be.

If the Secretary makes direct purchases of troubled assets, the selling institution must adopt standards on executive compensation and corporate governance.

If the Secretary purchases more than $300 million in troubled assets from an institution, the institution must adopt restrictions on executive pay and golden parachutes for any new senior executives it hires.

The legislation also restricts the amount of executive compensation participating institutions can deduct for tax purposes. While this may make us feel good, these provisions will likely limit the number of institutions that utilize the program.

Not to mention that the compensation restrictions are prospective. In other words, the people who created this mess get to walk away with cash in hand, and the people hired to clean it up get penalized.

This will no doubt undermine their efforts to resolve their financial problems by hindering their ability to hire new management

Upon enactment of the legislation, the Treasury Secretary is authorized to purchase up to $250 billion in troubled assets. This purchase authority can be increased by another $100 billion if the President certifies that such additional authority is needed.

The Secretary's authority can be, and likely will be, increased to $700 billion if the President certifies the need and Congress does not enact a joint resolution of disapproval.

It is extremely difficult to obtain the two-thirds votes in both the House and Senate to override a veto. Therefore, for all intents and purposes, this distribution system is a mirage. It does not effectively limit the Treasury Secretary's ability to spend $700 billion.

The bill would establish a Financial Stability Oversight Board to review and make recommendations on the Secretary's operation of the program. The oversight board is fatally flawed.

First, the Secretary of the Treasury is one of its members. This means that the Treasury Secretary is reviewing his own actions.

Second, the other members of the board include the Chairman of the Fed, the Director of the Federal Home Finance Agency, the Chairman of the SEC, and the Secretary of Housing and Urban Development. I think there is a constitutional question about whether a Secretary can have his actions reviewed by any person other than the President.

Even if the board is constitutional, why is the Chair of the FDIC not a member? After all, the FDIC has the most experience of any Federal agency in buying and selling bank assets. It also is concerned about resolving bank problems with the least cost to the taxpayers.

Regardless of who sits on the board, we will be setting a bad precedent by having heads of agencies oversee our Cabinet Secretaries.

Finally, the oversight board's authorities are not well defined, so it is not clear what happens if the oversight board disagrees with the Treasury Secretary's actions. Can it prevent him from acting? Will disagreements result in litigation? Such bureaucratic infighting could very well undermine the effectiveness of the program, to the extent it can be effective at all.

The bill also establishes a Congressional Oversight Panel, whose members will be selected by the leaders of the House and Senate. The panel is charged with providing reports on the program, the effectiveness of foreclosure mitigation efforts, and the state of our financial regulatory system.

This is work the Senate Banking Committee and House Financial Services Committee should be doing.

The bill also provides for oversight of the program by the Comptroller General, establishes an Office of the Special Inspector General for the program, and subjects the Secretary's actions to judicial review.

While I think it is important to oversee this new entity's activities, this hodgepodge of authority is likely to hamper the program's effectiveness as it struggles to satisfy redundant and time-consuming requests for information.

These oversight bodies might not check the Secretary's authority, but they will ensure that this program generates lots of paper. More importantly, they do nothing to address the fundamental flaws with this plan.

The Secretary is required to issue regulations to address conflicts of interest. Interestingly, the Secretary may start buying assets before these rules are put into place. This is a loophole that could have serious long-term consequences for the program.

The bill does not require that taxpayer losses be repaid by its beneficiaries. It only directs the President to present a legislative proposal to recoup such losses from the financial services industry.

This is something that the President could do even without this legislation. Furthermore, there is no guarantee that the beneficiaries of the program will pay.

Indeed, it is likely that companies that did not participate in the program would end up covering its costs.

The bill would grant the SEC the authority to suspend mark-to-market accounting, establishing a dangerous precedent that could lead to the politicization of our accounting standards, something I have fought for years.

The newest addition to the bill is a precipitous increase in the deposit insurance amount from $100,000 to $250,000. We are about to more than double the exposure of the already depleted deposit insurance fund, and by extension, the American taxpayer, on a whim.

I will remind my colleagues that the track record for overnight increases in deposit insurance is not pretty. In 1980, Congress increased deposit insurance coverage for all accounts from $40,000 to $100,000 without the benefit of hearings or open discussion.

At that time, proponents argued such a change was necessary to stabilize the banking industry. What followed was a massive bailout of the savings and loan industry to the tune of well over $100 billion.

This time around, we are proposing a 150 percent increase when the deposit insurance fund is already stressed and in need of recapitalization.

At a time the FDIC's problem bank list is growing and more failures are anticipated, this higher deposit insurance coverage will increase the FDIC's expected payments for failed insured depositories. Those costs, which would ordinarily be passed on to the banking system in the form of higher premiums, will instead be placed directly on taxpayers.

Let's also be realistic about this. To the extent this measure is intended to address the concerns of those who handle large transaction accounts, such as corporate treasury deposits, those people are not going to be comforted by additional coverage levels.

If they believe a bank is in trouble, they will withdraw their money because deposit insurance does not increase confidence in a failing institution.

Let's also be clear about what this means for taxpayers.

If, on the front end, the $700 billion bailout is not enough to shore things up, rest assured, there will now be more insurance on the back end should banks begin to fail. The American taxpayer will pay, both coming and going.

The bill does do some good things, however. It permits the Federal Reserve to pay interest on reserves, which will improve its ability to conduct monetary policy and serve as a lender of last resort.

The bill does marginally increase the availability of the HOPE for Homeowners program and requires the Secretary to implement a plan to assist homeowners to the extent it acquires mortgages or other assets backed by mortgages.

While I generally do not support bailing out corporations or individuals, if we are going to get into the bailout business, then funds should be directed to individuals as well. The provisions in this bill for individual homeowners, however, are inconsequential compared to the $700 billion going to Wall Street.

As I said, I am no advocate of bailouts. I voted against the Chrysler bailout. I can not say I would have supported a bailout in this instance, but I can say the chances would have been much greater if the underlying plan had been subjected to greater scrutiny and examination. That said, I agree that we need to do something to address the current liquidity crisis in the marketplace.

My greatest concern is that we have not spent any time determining whether we have chosen the best response. There are many well informed people who argue that we have not.

In fact, just this morning, a Nobel prize winning economist indicated that using a reverse auction program to buy distressed assets from financial institutions was not going to be enough to ''revive the operations of the banks.''

I am not sure whether he is right or wrong. I am also not certain whether the Secretary is right or wrong. To the extent other options exist, I believe we failed the American people greatly in not examining them.

Many around here are finding comfort in the notion that ''something is better than nothing.'' I believe that is a false choice. The choice we faced was between pursuing an informed response or panic.

Unfortunately, we chose panic and are now about to spend $700 billion on something we have not examined closely. Yes, in the end, we will have ''done

something.'' At the same time, however, we will have done nothing to determine whether it will accomplish anything at all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I have a unanimous consent that has been cleared on both sides. I ask unanimous consent that an additional 30 minutes be allocated for debate with respect to H.R. 1424, equally divided and controlled between the leaders or their designees, and that the debate with respect to the House message on H.R. 2095 be delayed accordingly, and that any other provisions remain in effect.

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

Mr. DODD. I yield 5 minutes to Senator NELSON of Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Madam President, the things that have been added to this bill such as the FDIC provisions as well as the energy tax extenders and other tax extenders that I have already voted in favor of, certainly I support them, but the underlying bill rewards the banks and leaves the little person with the short end of the stick, and that is not right. This plan rewards the investment banks that ran us into the ground and it hardly does anything to help the homeowners who are facing foreclosure.

If, under this bill, the financial institutions participate in the Treasury's program, they should accept reasonable limits on executive compensation, but under the bill they don't. The limits on executive compensation are left to the Treasury Secretary's discretion. Some CEOs who caused this crisis in the first place will benefit from this bailout and will also walk away with golden parachutes. That is not right. This creates a moral hazard the U.S. Government will undertake.

This bill sends a message to Wall Street that if they play fast and loose in the name of short-term profits, the Government will actually make up for their losses. And the bill does very little to help individual homeowners. Until we stabilize the housing market, which is the underlying ability to restructure the economy from this crisis—until we stabilize the housing market, and until we stem the record number of foreclosures, our market simply is not going to improve. While this bill authorizes the Treasury to develop and carry out a plan, it does not require financial institutions participating in the program to modify or refinance any loan. It only requires the Treasury to encourage loan modifications. Voluntary refinancing efforts will not solve our foreclosure crisis. We should mandate these efforts. We should start by requiring Fannie and Freddie to refinance the mortgages they hold on their books.

Furthermore, I think this bill should do more to investigate the business practices of major credit rating agencies. They fostered the enormous growth of the mortgage-backed securities. They gave securities, mainly consisting of subprime mortgages, the gold standard or the triple A rating. That rating gave investors the confidence that they were making safe investments. Without that triple A rating, insurance companies and pension funds and other investors would not have bought those products.

So I am calling for an investigation to probe the business practices of those agencies. Investors relied on and trusted those credit ratings, and the public deserves to know how these rating agencies concluded that such risky investments could receive such high credit ratings.

I could say a lot about this, but let me just say that the bottom line is, ultimately, this bill forces taxpayers to bail out investment banks that caused the crisis in the first place, and it does nothing to address the real problem, which is home foreclosures and a resuscitation of the housing market. Until we stop the record level of foreclosures, this crisis is going to continue to worsen, whether we pass this bill or not.

For these reasons, I oppose this bill. I think Congress can do better, and I think Congress can come up with a better, more targeted solution to this complex crisis.

It saddens me that I would oppose so many of my colleagues who have offered very cogent reasons. It is true we have to do something, but this particular legislation is not the right solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, I understand we have some time on our side. I ask unanimous consent that the Senator from South Carolina be recognized for 7 minutes, the Senator from Florida be recognized for 7 minutes, and that I be recognized for the remainder of the time, and that obviously we would go back and forth.

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

The Senator from South Carolina is recognized.

Mr. GRAHAM. Madam President, before we get too far into explaining the problems we face with this bill, I think we need to acknowledge the hard work on behalf of those who have brought us to this point. We know it is not perfect. The chairman knows it is not perfect, but I think he has done the country a great service. To the Senators who have negotiated this with their House colleagues, to the staff who has been working night and day, from my point of view, you have stepped to the plate and you have done the country a great service.

Do more, we will. Make no mistake about it. To those who wonder: Will more follow? Yes. There will be more corrective action following in the Congress. Please understand, after we take this decisive action, there will be more troubles lying ahead for America. But we have two choices as far as I am concerned: A bad choice we all recognize, and a catastrophic choice if we do nothing.

Now, there are a lot of people getting phone calls. I am a king of the phone calls. I have been involved in immigration, Gang of 14, you name it. People have called my office, and you are always welcome to call and I will listen to what you have to say. But the people are against this proposal. Who are the people? That is the first thing you have to decide as a Member of the Senate. Whom do you represent?

Do you represent every corner of society: Republicans, Democrats, Independents, libertarians, and vegetarians?

One thing I have found is that a phone call from mad people helps you only so much. There will always be people calling my office telling me what I can't do. I think it is up to me to have a little broader view of what to do.

I challenge you to come to South Carolina and walk up and down Main Street and not find concern on the faces of people in business. I challenge you to go to retirement communities in South Carolina and not see fear in the faces of people who depend on their 401(k) plans for their retirement. I have never seen anything like it.

This is not about investment banks; this is about the ability of Sonic Drive-in to expand their franchise—a very big business—but, more importantly, it is about the plumber who can't make payroll because he can't get credit. It is about the lady who owns the diner, second-generation owner in Greenville who wants to expand and can't get money. It is about people trying to buy a car and they can't buy the car, and the dealerships in South Carolina are about to fold. It is about you—the average American—soon, if we don't act, being unable to exercise your hopes and dreams because you will not be able to borrow money.

Borrowing money responsibly is the heart and soul of a free market economy. The reason we are here today is people have borrowed money irresponsibly, and all of us are to blame. But if this was about an investment bank and a few CEOs, I don't think 70 Senators would vote for this legislation.

This is about something more fundamental. This is about a problem that started and has infiltrated our economy to the point that if we can't muster the political courage to listen to the phone calls and act decisively and tell people who are mad: I am sorry, there has to be a solution even if you don't agree, then average, everyday people are going to lose everything they have worked for throughout their life. People are not going to be able to send their kids to school and small businesses and big businesses in this country are going to fold next week. I said next week.

If you told me that Wachovia Bank, one of the largest banks in America, would be sold at 10 cents on the dollar, I would have said I don't think that can happen. But I would have been wrong. It is happening, and it will continue to happen until we find a solution. This proposal, to those who crafted it, you have done a very good job after having been dealt a very difficult hand. It allows intervention in a way that will protect the taxpayer.

To those who say that $700 billion of taxpayer money will be spent and it is gone, you don't know what you are talking about. You are scaring people. That is absolutely not true. I am convinced we are going to get most of the money back, if not all of it back, by the way we have crafted this proposal. But I am equally convinced if we do nothing, we are headed to recession, maybe a depression. And you think it costs a lot now. Just do nothing and see what it costs. Nobody wants to be in this spot, but if you don't want to be in these spots, don't run for office.

So to the people of South Carolina, on Main Street, to the car dealerships, to the small business enterprises, to the manufacturers, to the retired communities, to those with whom I have met over the last day or so, I have your message too. I have gotten the phone call, but I have also gotten your message. At the end of the day, I have to rely upon what good sense God may have given me, and sometimes I doubt how much sense I have. A lot of people obviously doubt it because they call me a lot. But I am convinced a lot of smart people are telling me things that I can visualize and see with my own eyes; that it is no longer about academia.

I have been home. I have seen people not be able to get loans to make payroll.

I know what is going to happen if I don't act, if I don't take a risk. If I am not willing to take a political risk, I know what happens to people I represent in large numbers. They are going to lose a lot more than I will lose.

We can stand replacing a few Senators. We cannot stand being unable to borrow money at the most basic level. This is not about an investment bank. This is about banks, small and large banks, and lending institutions that are locked down and cannot loan money. This is about the availability of credit that is going to be so high that no average working person is going to be able to borrow a dime. This is about Main Street. This is about the people I grew up with, and I didn't grow up on Wall Street.

I am the first person to go to college in my family. My dad owned a liquor store. Everything I know about politics I learned in the liquor store, a pretty good place to learn from. We borrowed money to make inventory. We owned a restaurant right next door. My mom worked 18 hours a day. I know what it is like to see my parents work hard and cannot afford to get sick because there is no money coming in.

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

Mr. GRAHAM. I end with this thought: I know this is not a perfect bill, and I know this is a bad choice. But I also know from my common sense and my life experiences that I need to act and I need to act now, and I will.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, one quick thought. We are all entitled to our opinions. Pat Moynihan used to say everyone is entitled to their own opinions but not to their own facts.

As I listened to my friend from Florida, Senator NELSON, talk about the executive compensation section of this bill, I must respond.

As to this legislation, section 111, negotiated by Senator MAX BAUCUS, myself, and others, let me be very clear. When Treasury buys assets directly, the institution shall observe standards limiting incentives allowing clawback and prohibiting golden parachutes. When the Treasury buys assets at auction, an institution that has sold more than $300 million in assets is subject to additional taxes, including a 20-percent excise tax on golden parachute payments triggered by events other than retirement. And also we eliminated the deduction for compensation above $500,000, and we prohibit golden parachutes at other certain institutions—anything but mild. It is the first time ever in the history of the Congress that we are actually going to pass legislation dealing with golden parachutes. More will be done, but this bill does take very concrete, specific actions in that regard.

Again, you are entitled to your own opinions but not your own facts.

I yield 5 minutes to Senator KERRY of Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I am still trying to process the statement of my good friend, Senator GRAHAM, about everything he learned in the liquor store. I know him well enough to know he learned a lot more than that, and he practices it well. He promised me to sit down and define precisely what he did learn.

I listened carefully to a lot of our colleagues. Obviously, there is an extraordinary amount of anger here, and that anger runs deep all across the country, and it ought to run deep. It is hard to convey to some of our fellow citizens the degree to which a lot of us share that anger.

There is a stunning trail here of lack of accountability, of arrogance in the marketplace that literally built a kind of Ponzi scheme, a house of cards, out of greed. There is a stunning trail of ignored advice to people in positions of responsibility who could have done things. And there is a shocking trail of regulators who are in position, who have the authority, and who didn't use that authority. All of this we know as we come here tonight.

But the fact is, there are bigger stakes, and none of us has the luxury of standing around here sort of being angry and being frustrated. The truth is there is the potential of our financial system literally collapsing. That is not because Wall Street needs to be picked up and ''bailed out.'' It is because the liquidity crisis is preventing every-day businesses, community banks in local communities, small businesses that need to have working capital to make the purchase of the orders they need to fill. Everything is frozen. People are losing their earnest money on homes because the banks are not fulfilling the obligation. They are scared to lend. Cars are not being sold. It runs all the way down into the economy.

The stark reality is if we don't act tonight, if we don't act immediately, and if we don't act with strength, that whole system can come grinding to a halt and many more people are going to be hurt to a far greater degree—savings accounts wiped out, retirement accounts wiped out, the ability to be able to retire when they expect it, sending kids to college, paying off college loans—a whole host of things.

It is ugly that we are here. This is a distasteful vote. None of us likes this vote, but the fact is we have a responsibility to put our country, our economy, our security, and our strength ahead of all of those dislikes and do the responsible thing today.

I want to say that I believe the Senate has acted responsibly in this effort on a bipartisan basis. I salute what Senator DODD, Senator BAUCUS, working with us on the Finance Committee, and Senator GREGG, Senator CORKER, and others on the Republican side have done to be responsible to bring the bill together.

The fact is that more than 65 percent of the banks have significantly tightened their lending standards for small businesses. What happens is, one of the reasons it is important to take the FDIC funding up to $250,000 is some people are looking at their banks locally and they are scared, so they move money to another bank which has an impact on the bank that doesn't have any relationship to the real strength of the bank but then weakens it. By raising that amount, we are going to give confidence to community banks, midsize banks, and others.

The banks pay for that insurance, incidentally. It is not exactly a gift from the Government. The insurance is paid for.

Every day approximately 10,000 more homes are going into foreclosure; 5 million homeowners, 1 in 11 homes are either in default or foreclosure. It is the highest level since 1979. And this legislation we are going to pass tonight is going to help keep the mortgage credit flowing to keep people in their homes on a readjusted basis, something many of us have been fighting for some period of time.

In addition, it is going to help families get student loans so they can continue to help their kids get through

college and build the economy in the future.

Let me emphasize, this is not the original plan that was sent to us by the administration.

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

Mr. KERRY. Can I get 1 additional minute?

Mr. DODD. I yield 1 additional minute.

Mr. KERRY. We have strengthened this so significantly through the efforts of Senator DODD and others. There is an executive compensation limitation, contrary to what the Senator from Florida said. Executives are not going to walk away with millions of dollars. There is an effort to help homeowners. There is accountability with an inspector general. There is judicial review. Significantly in this effort the American taxpayer is going to take ownership of these assets at a lower cost. And when the economy comes back, which it will, those assets are going to rise in value, and the American taxpayers are going to recoup this.

I was on the Banking Committee back when we did the 1990 RTC. We saw this happen when we took good loans, separated them from bad loans, and restored confidence in the banking system.

Once again I say to my colleagues, this is not about party, this is not about politics. This is a vote—we don't always get them here—that is absolutely strictly about our country and our future. I hope the Senate is resoundingly going to pass this legislation tonight.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I thank my colleague from Massachusetts for an eloquent statement and a strong one.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MARTINEZ. Madam President, I begin by expressing my thanks to Chairman DODD, for his leadership in this effort, his tireless work, and my colleague Senator JUDD GREGG who has done a tremendous job stepping in and also providing a tremendous amount of leadership. I thank both of them for the work they have done to bring us to the point.

I also thank Secretary Paulson. I heard recently people expressing perhaps this is some sort of a power grab by the Secretary of the Treasury. This man will be out of office in 3 months or so after the next President is sworn into office. That is the last thing, I know, on his mind. He has worked tirelessly. He deserves our thanks for his patience, for explaining to some of us at all hours what it is he thinks is necessary we do.

This is important to all Americans, but I also understand their anger and frustration. While I was in Florida over the last 24 hours, I was speaking with an old friend, a schoolteacher. He is not someone who is involved in banking and finance. He said: This bothers me. I pay my bills. All my life, if I borrow money from a bank, nobody bails me out. What is going on? What are we going to do?

We talked about it. I explained to him the difficulties of our financial markets at this point in time. His last words to me were: Go up there and do something. Get something done. He understood, as I hope all Americans will come to understand, this is a very difficult moment, but it is a moment from which we cannot shrink.

How we got here, we could talk about that for hours, and we will. When we come back in January, we have to pick the bones. We have to go over how we got to this position and what we can do to revamp the regulatory scheme to make sure we don't get into a situation such as this again, and do what we can to revamp the regulatory situation which dates back to almost now a century. It needs to be reanalyzed and put in place in a different way.

There is something important this bill mentions too, which is mark to market. I spoke with many local bankers in Florida, small bankers, guys lending money to keep small businesses in business. They were very concerned about the mark-to-market accounting rules. We know that is in the purview of the SEC. Here it is talked about and encouraged to reassert the authority of the SEC to look into it. I know it will be a big difference to small banks struggling in Florida with liquidity to have the capital that every-day Floridians need to make their lives work.

I am also encouraged that we have strong oversight over the Secretary of the Treasury. There is an oversight board. I also understand and agree with Chairman DODD that, in fact, there are strong provisions in this bill that are going to prevent executive compensation abuses that none of us want to see happen as a result of what we are doing today.

The fact is, whether it is floor plans for car dealers, whether it is the car loans for those who would buy the cars, whether it is someone who is there to purchase a house but cannot get the money, we cannot get the housing market going again if there is no liquidity, if there is no credit; whether it is a line of credit for a small business.

I have another anecdote. A small businessman said: I always paid my bills. I was never late with a payment. I go to the bank to exercise my line of credit, and they tell me I can't. He now has to stop his plans. He can't do what he was planning to do in his business to expand it, grow it, buy new equipment, simply because the bank said you have done everything right; we just can't lend you the money because we don't have it ourselves. That is the situation with which we are dealing, providing the safeguards the American people expect us to do.

We have to come back in January to do regulatory reform, to do oversight of what we are doing now, which needs to be done repeatedly, congressional oversight over how this is being implemented, to make sure we provide the American people the confidence and the comfort of knowing that while we got into a real mess and while Wall Street got us into this mess, the fact is this is impacting every-day Americans, this is impacting Floridians of every walk of life.

To fulfill our responsibilities every now and then, a tough vote has to be taken. This is a tough vote. It isn't easy. A lot of people have great angst about it. I understand their angst, and I share their anger. At the same time, we are here to solve problems and get business done, working in a bipartisan manner, coming together.

This is a great country. We are going to come through this crisis, through this moment, and we will be stronger for it. In the meantime, we have to do the right thing. The bill may not be perfect, but the times will not wait for tomorrow. The times will not wait for us to have a perfect bill. We have no choice but to act, and we need to act now.

I encourage my colleagues to support this bill. We need a strong bipartisan vote to send a message to the House of Representatives, to send a message to America, that the Senate is going to stand strong and do the right thing for the American people.

I yield back my time.

The PRESIDING OFFICER. Who seeks time?

Mr. DODD. Madam President, I yield to my distinguished friend and colleague from California 5 minutes.

Mrs. BOXER. Madam President, I say thank you to the Americans whose outrage at the administration's original blank check bailout stopped that arrogant proposal in its tracks. We were all stunned. They and their allies were telling us the fundamentals of our economy were strong 2 weeks before we heard it was crashing. They had failed to use the powers Congress had given them to stop bad mortgages. Where was the oversight in their proposal? Where was the taxpayer equity? Where was the control over CEO pay? The answer back from Mr. Paulson on a phone call with dozens of Senators was: There would be no restrictions on this bailout. Well, count me out.

A far better plan then emerged from the Banking Committees, but for me it did not do enough.

I wrote to Mr. Paulson urging smaller installments; reforms. I pushed for direct investments or loans rather than toxic acid purchases. We didn't get it. But in this Senate legislation, we did get more FDIC protection for bank depositors, which is crucial to deterring an epidemic of bank closures, something that was at the heart of the Great Depression.

Broader FDIC protection will help small businesses that need certainty in meeting their payrolls. That is where working families come in. Most working families today can't miss even one

paycheck, given our high cost of living. We need to retain and create jobs, which is why I support another change in this legislation—$16 billion in incentives for job-producing renewable energy businesses. Plus, there are billions more in tax relief for businesses and individuals. We lost 84,000 jobs in August alone. We must act.

Another provision, originally written by Senators Wellstone and DOMENICI, will keep many families from going bankrupt by ensuring that mental health illness will be covered fairly. So this legislation before us is much improved, and I hope it will pass.

I wish to share what California treasurer Bill Lockyer says will happen if we do not act, but, first, Madam President, I ask unanimous consent to have printed in the RECORD a letter from Governor Schwarzenegger.

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

OCTOBER 1, 2008.

DEAR MEMBERS OF THE CALIFORNIA CONGRESSIONAL DELEGATION: It's now very clear that the financial crisis on Wall Street is affecting California—its businesses, its citizens' daily lives and its state government's ability to obtain financing to pay for critical services.

This is how serious the situation is: our State Treasurer warns that the credit market has already frozen up to the point that it chills even the State of California's ability to meet its short-term cash flow needs. Additionally, without immediate action from you and your colleagues in Congress, California will be unable to sell voter-approved bonds for the highway, school, housing and water construction projects that our state is relying on to help carry us through this difficult economy. The state of our already-slow economy makes the financial situation even more urgent.

It is daunting that California, the eighth-largest economy in the world, cannot obtain financing in the normal course of its business to bridge our annual lag between expenditures and revenues. This means California may soon be forced to delay payments for critical services, such as teachers, law enforcement and nursing homes. The same thing would happen to California's counties and cities. That is, unless Congress acts quickly to restore confidence in our financial system.

I am writing to urge you to vote in favor of the Emergency Economic Stabilization Act. This plan is critical to the well-being of every community in California, and across the nation. Swift action in Congress is needed to restore confidence in our financial system.

Let's be clear, this plan is not a ''bailout'' for Wall Street. To the contrary, the plan is about protecting Main Street.

We are currently witnessing the initial consequences of depositors and investors withdrawing assets from a financial system in which they have lost confidence and putting them in FDIC-insured accounts and federal obligations. That means there's little money for normal commerce and what money is available is too costly. This dramatically reduces economic activity, translating into fewer jobs, lower wages, reduced savings and threatened pensions. If the stabilization plan fails, these outcomes will materialize in scale.

California's businesses, both large and small, also face the prospect that banks will not be able to renew loans. It goes without saying that, when people and companies can't get the money to buy cars, inventory goods, plant crops, expand business and go to school, economic activity slows down, leading, to job losses, wage reductions, savings declines and pension failures all along Main Street, California.

The situation is urgent. The crisis we face demands swift action and bipartisan leadership. Congress must pass this economic stability plan without further delay.

Sincerely,

ARNOLD SCHWARZENEGGER.

Mrs. BOXER. Madam President, our treasurer says we would not be able to sell voter-approved highway, school, and water bonds that are desperately needed for California's economy and for the creation of good-paying new jobs. He says they would not be able to get the credit.

California also desperately needs access to short-term borrowing from banks to finance our budget.

Now, how did we get here? There are a lot of people saying don't point fingers and don't talk about it. I am going to talk about it. It was deregulation fever. That is my opinion. It started in the 1980s, with lawmakers interfering with Federal regulators over the savings and loan crisis. It continued in 1995, when the Republicans took over and they wanted to place a moratorium on all new regulations.

That effort failed, but their success came in 1999, when Senator Phil Gramm and his allies tore down the firewalls that separated various financial institutions. And then the deregulation of the energy business. You all remember Enron and those traders—that is T-R-A-D-E-R-S—saying: Well, grandma can't pay the bill, isn't it funny?

Phil Gramm recently said we are a nation of whiners. I say his legacy is a disaster.

I believe, and I hope, this package will do what is needed to restore trust in the short term. For the long term, we need regulatory reform and change that will bring us job-producing investments in America, not in foreign lands. Remember, $10 billion a month is going to Iraq. We need those dollars here at home.

So I look forward to that work on behalf of my great State of California and this great Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. If I could engage the chairman in a colloquy, as I understand it, we have about 15 minutes left on our side under the bill.

The PRESIDING OFFICER. There is 14 minutes remaining on the minority side.

Mr. GREGG. Fourteen minutes. How much time remains on the majority side?

The PRESIDING OFFICER. Seven minutes on the majority side.

Mr. GREGG. Then I understand we are going to Amtrak for half an hour?

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD. If I may inquire of my good friend and colleague who has been very generous, I may ask for a little generosity in terms of time. I am running into a crunch, and I have a couple Members who may wish to speak for a couple minutes. But let me get to that point.

Mr. GREGG. I thank the chair.

The PRESIDING OFFICER (Mr. CASEY). The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, we are here at a very significant time relative to the Congress's responsibility to act and try to avoid a significant crisis for our Nation. I listened to Ranking Member SHELBY, former Chairman SHELBY, whom I have the most tremendous respect for. And you know, when you think about how we got here, had this Nation listened to RICHARD SHELBY, we probably wouldn't be here. If there had been adequate capital formation of these institutions, if there had been adequate oversight, if there had been proper underwriting, we wouldn't be here.

Unfortunately, we are here, and the hand we have been dealt is a pretty bad hand, and the options are few. Our situation as a Congress is this: If we fail to act, we will fail the Nation. We will fail our constituents, we will fail the people on Main Street, and we will fail future generations.

The problem has been outlined here eloquently by a number of speakers. The Senator from Massachusetts, the Senator from South Carolina, and the Senator from Florida, since I have been on the floor. I know earlier today a number of Members spoke brilliantly about the problem. But let me simply restate it because we need to understand it clearly.

This isn't so much about the problem of Wall Street. This is about the problem that is coming at Main Street. America runs on credit—credit that is easily available and reasonably priced. There are very few Americans who haven't borrowed money to buy their car, to send their children to college or to expand their home. There are very few small businesses in this Nation—whether it is a restaurant on Main Street or a shoe store on Main Street or the local person who is taking a risk in the software industry—very few businesses in this Nation, small, medium or large but especially small that don't depend on their line of credit from the bank which finances them through difficult times and allows them to buy the things they use to resell. What we are seeing today is a closing down of that credit so the person on Main Street would not be able to buy a car, would not be able to send their child to college, and the people who pay them would not be able to finance their payroll, would not be able to buy the inventory they need in order to be financially successful, and the contraction feeds on itself and grows and expands.

It has been described here a number of times by the example of a four- or

eight-lane highway—in New Hampshire, it would be a four-lane highway—where you had a crash that blocked the highway. And behind that crash you had trucks carrying the checks that pay the people who work in town; you have trucks carrying the checks that maintain the hospitals, maintain the school system, allow the kids in the town to go to college, and allow the city to pick up the garbage, pave the streets, patrol the streets, and protect the people against fire. Those trucks are all stuck in that traffic jam and they can't move. What the Federal Government is suggesting we do, what the Treasury Department has suggested we do, and what we have worked out as a program to do is to come in, as a government, and take that crash off the highway so commerce can occur again in a reasonable manner.

Now, we have heard a lot about the cost of this program. There has been an immense amount of misrepresentation and theater and hyperbole and I am afraid some people in our society have decided to demagogue this issue for their own personal aggrandizement and benefit. They say it is $700 billion thrown at Wall Street to protect the fat cats of Wall Street. Well, that simply is inaccurate. We are going to put $700 billion into the process, but with that $700 billion we are going to buy assets, assets that have real value.

We are not throwing it out the window. What we are going to do is take nonperforming loans, mortgage-backed securities off the books of banks and allow those banks to replace those loans with assets they can lend against. What does that do? It creates credit. It allows those banks to start lending again. They can't lend today because they have, as their base, nonperforming assets. They can't lend against those assets. Their capital isn't adequate.

So we are going to take those assets, and we are going to hold them as a Federal government. We are going to take them at a fairly big discount from their face value. If it is a mortgage note, we might take it at 20 or 30 percent below what the original note was issued at. Then we are going to work with the people who have those mortgages, those people in homes who have those mortgages, if they are the principal residents of those homes and they have a job, and we are going to try to make it so there is no foreclosure against them, so they can stay in their home and so they can pay that mortgage. By doing that, we are going to make those mortgages valuable again. As the economy starts to recover, we are going to take those mortgages and we will resell them into the market or hold them until they are paid off. In either instance, it is very likely the taxpayers' dollars will be recovered; that there will be no loss to the taxpayer.

So when we hear these people in the public market, these talking heads, so to say, claim we are about to spend $700 billion to benefit Wall Street, they are totally inaccurate. Actually, what we are doing is we are trying to spend money to free up credit on Main Street so people can keep their jobs and at the same time do it in a way that protects the taxpayers of America by getting value back.

Now, after the original proposal came up here from the Treasury, at the request of the Congress, through the negotiation process with House and Senate Democrats and House and Senate Republicans at the table, we also did a few other things which I think were very good.

No. 1, we said any revenues we get from this—and we are going to get a lot of revenues. If we spend $700 billion, we may get $600 billion back, maybe $700 billion or we may get $800 billion back. All those revenues will go to reduce the Federal debt. It is not going to go to new programs. It goes to reduce the Federal debt. We intend to protect the taxpayer.

In addition, we said that if somebody participates in this program, we are not going to allow them to get a windfall. We are going to put a strict limit on their ability to get excess compensation if they are senior members of the company that participates. We are going to limit golden parachutes. We are going to make it clear that there can't be that type of gaming of the system.

In addition, we are going to take something called warrants on behalf of the American taxpayer. That says if there is an upside—beyond just getting the money back from the notes we take—if there is an upside to that company, we may benefit in it. If we buy the nonperforming debt off the books of the company at too high a price and there is a downside, the company will have to give us some equity to cover that. So the taxpayer, again, is protected, and we don't have excessive compensation.

As I mentioned earlier, we put in language, under the leadership of the chairman of the committee, Senator DODD, which we said that for people in their homes the stress will be to keep them in their homes. The prejudice will be to keep them in their homes. We don't want foreclosures.

Equally importantly, we put in place tremendous regulatory oversight so there will be absolute transparency and so the American people can look at what is happening and know what is happening and know what is being done. It will be reviewed. We have an oversight board headed up by the Federal Reserve Chairman, we have an oversight board for the Congress, and we have a special prosecutor and a special GAO team. In addition, we have a number of reports which are necessary to go forward.

Now, if we do all this, will it solve the problem? Is the economy suddenly going to turn around? No. No, it is not. We are in a very difficult economic time. There will be other failures, there is no question about it. There will be financial failures, and the economy will probably continue to slow. But if we fail to do this, we will confront catastrophic events which will affect every American in the area of their income and their savings. People will lose their jobs if we don't do this, literally hundreds of thousands of people, potentially. Tens of thousands anyway. Their assets will be reduced and their ability to have a normal commercial life on Main Street, to have a normal activity, will be dramatically harmed.

We saw a little glimmer of what is out there if we fail to act on Monday, when the stock market fell 777 points, which represented losing $1.2 trillion of American assets. That meant pension funds, 401(k)s, IRAs, and things people depend on were dramatically reduced. People close to retirement were shocked by that, and all of us were stunned. It was a statement by the markets of what they think would happen if we do not act and act aggressively and boldly, as this proposal is both aggressive and bold.

Some will say: Well, the markets have come back so it doesn't matter. Look at that. The markets have come back because they presume the Congress will act in a commonsense way and that we will actually pass this piece of legislation.

There is no question but that this is a time that tries the political soul of this institution. A ''yes'' vote here, as the Senator from Connecticut has mentioned a number of times, doesn't get you a whole lot of accolades anywhere. But there are times when, as Members of this body, we have a responsibility to act in a mature, thoughtful, and appropriate way, with our fundamental purpose being to avert a clear and present crisis that is going to confront this Nation. This is one of those times. To do nothing would neither be logical nor responsible. So we need to act. We need to pass this proposal.

I wish I could say that when we pass this the Nation will suddenly fire up and be reenergized and we will not see a further slowdown. That is not going to happen. But if we fail to pass this bill, I am fairly confident, as has been said by a number of people, including both Presidential candidates, the results will be a great period of trauma for our Nation, especially for everyday Americans who do not deserve it. They don't deserve it. That is why it is our responsibility to act at this time.

This is the vehicle before us. This is the opportunity that presents itself, to take action to try to mitigate what will be an overwhelmingly damaging event. Therefore, we should be voting for this piece of legislation.

I reserve the remainder of my time.

Mr. DODD. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I don't think 5 minutes would possibly be enough time for me to explain all

the things I would like to say. I am sure I could spend an hour talking about credit default swaps. I am sure I could spend 2 days talking about the lack of transparency in the financial markets. I am sure I could spend a lot of time explaining what I think is the right thing we should do to put as much liquidity into the markets as possible. So I will try to be succinct.

I came to the Senate knowing what it is like to take a tough vote. To make a decision that is right for the American public. It's most important to do the right thing. I also know what it is like to see millions of dollars in the stock market go away and watch a stock bubble burst. I also know what it is like to stand on the Senate floor, as I did 3 years ago, when someone tried to cram legislation in the Defense authorization bill to open up drilling in the Arctic Wildlife Refuge, and I said then that it was the equivalent to legislative blackmail.

I am not going to vote for this legislation tonight based on whether someone crams in tax credits, for which I actually have fought so hard. I am going to render my decision based on what I think is important for the American people.

I think there is something that is missing in our discussion. I applaud Chairman DODD who has worked hard on the Banking Committee. I applaud my colleague who just spoke, who spoke eloquently about the need to do something. But the problem with the legislation before us is that it is choosing winners and losers in corporate America. It is inserting the Federal Government in a role in which they decide, along with the private sector, exactly how funds should be allocated.

I am for the full faith and credit of the U.S. Government backing these institutions. What I am not for is turning the keys to the Treasury over to the private sector.

There is much we could agree on tonight. We could agree on the new changes to the FDIC rule. We could agree on mark to market accounting changes and to bringing better marketing and accountability to the system. We could agree on the uptick rule and other predictability measures that help the market understand that there is a broad commitment by this institution to do something to help stabilize the markets.

But I am very concerned about the ''pick here, pick there'' approach that has transpired in the last several weeks. I ask you to just think of one institution, in my State, Washington Mutual—which I would not necessarily applaud for its subprime lending rates or for its use and backing of credit default swaps, but I would ask you to consider the fact that as that institution was forced into sale by this Government, who were the winners and losers in that? J.P. Morgan got the assets of that institution and benefitted from that. In fact, J.P. Morgan predicted on a conference call the night they acquired Washington Mutual that after 1 year with their investment, they would have an over $500 million return on that investment. That is 27-percent returned in 1 year.

The FDIC got some money out of that, too. And then to say nothing about the over 60,000 shareholders who were wiped out.

My complaint is: where is J.P. Morgan who should be standing up for the retirement plans, the deferred compensation plans, and other packages that the employees at that company were due?

It is very convenient for us to now choose that we are going to add to J.P. Morgan's bottom line. In fact, if we would instead do what I am suggesting, we could have an equity proposal instead of having TARP, the Troubled Asset Relief Program, as the roof over America. Instead, we could have an equity program where the United States would leverage our capital and spur 10 to 12 times the private sector investment at the same time, our Nation would be better funded, better prepared, for the onslaught of trouble that is still going to remain after we pass this legislation.

I could not even get my amendment to be considered. So, so much for the transparency of the Senate.

I am going to continue to work for this idea, for equity, for a more leveraged position, and that we do the traditional role that Government has done time and time again: to use our equity to leverage the private sector to secure our economy.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, the Senator from Illinois wishes to speak. I ask for 5 minutes.

The PRESIDING OFFICER. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, 13 days ago I sat in on a meeting just a few feet away from this Chamber. At this meeting was the Chairman of the Federal Reserve and the Secretary of the Treasury. There were about 12 of us in the room: the leadership from the House and Senate, Democrats and Republicans. I listened as they told us in very serious tones that unless we did something, there would be a meltdown of the American economy and the global economy. And unless we acted quickly, we could face a collapse of our economy, businesses would fail, people would lose their jobs, they would lose their savings if we did not act.

That was a story told to 12 of us at the table who had heard a lot of things as politicians, but we never heard anything like that before. Of course, it was not told to us in the context of something we had never heard or considered. With all of the problems of Fannie Mae and Freddie Mac and Lehman Brothers and Bear Stearns and AIG, we knew there was a problem with the economy. We didn't know it was that bad.

Obviously, the first question is, How did we reach this point, this terrible crisis? I think it is very clear how we reached it. We reached it with reckless deregulation of the credit industry. We stepped aside and allowed these institutions to operate without oversight, without transparency, without accountability, and greed took over. People were making millions of dollars overnight, and they pushed the Government aside and said: Don't get in our way. There is money to be made.

Of course, we have this because of the reckless behavior of those on Wall Street who took advantage of the situation and a lot of innocent people. I can recall offering amendments on this floor to stop predatory lending practices like the subprime mortgage market generated. I can recall debating the high priest of deregulation, Phil Gramm of Texas, who warned that if DURBIN's amendment would pass it would destroy the subprime mortgage market. The year was 2001.

Wouldn't it have been better for America had my amendment passed and that mortgage market come to an end? I lost that amendment on the floor of the Senate by a vote of 50 to 49. The subprime mortgage market went forward, bringing us to this crisis today.

The bill produced by this administration, by Treasury Secretary Paulson, a three-page bill, easily read, was a stunning grab at power. It said there would be no accountability, that the actions of the Treasury Secretary in allocating $700 billion of taxpayer money could not be held accountable in any court in this land or by any administrative agency, and that any rules that were drawn up for his conduct would not be subject to the normal public approval process. It was an incredible grab for power.

We knew there was a crisis, but this was not the answer. CHRIS DODD of Connecticut and JUDD GREGG of New Hampshire went to work with their counterparts in the House, Democrats and Republicans, and made significant changes in this bill, changes that protect taxpayers on the upside so when the companies get well, the money will come back to us as it should; to protect, as well, that taxpayers will not pay for the million-dollar bonuses and golden parachutes of the CEOs who created this mess.

If we have to buy their mistakes, for goodness' sake, do we have to buy them a gold watch when they leave? No. In this bill we will not. We provide the oversight to make sure that taxpayer dollars are watched closely. We don't want any single-bid, Halliburton operations. We want to make sure this money is well spent by professionals who are held accountable.

I wish I didn't have to vote for this proposal. I can think of where $700 billion could be better spent in America today for families across Illinois and across this Nation. I would certainly be coming to the aid of those who are facing foreclosure, 10,000 families a day

who were lured into the tricks and traps of these rotten mortgages and now stand to lose their homes and everything they ever saved. There is not a penny in this bill for the kind of help they need.

We talked about it, but when it came to the bankruptcy provision that could have provided it, guess who overwhelmed us. The banks and the mortgage lenders. They had the last word and took out that bankruptcy provision.

I thank Chairman DODD for his efforts in including it, and for a lot of others, as well, on the House side. We didn't include it.

I wish I didn't have to vote for this bill, but if we fail to act and this economy clearly does go into a meltdown, we cannot say that in Congress we have met our responsibility by going home empty-handed.

I urge my colleagues to support this legislation.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. How much time is remaining on our side?

The PRESIDING OFFICER. There remains 1 minute 16 seconds.

Mrs. HUTCHISON. Mr. President, I would like to reserve that time and put it into the next bill coming forward, the Amtrak bill, so we would then have 16 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority has 4 minutes remaining.

Mr. DODD. Mr. President, I yield 3 minutes to my colleague and friend from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I understand I have 3 minutes.

The PRESIDING OFFICER. That is correct.

Mrs. FEINSTEIN. Mr. President, they say Senators have 6-year terms so they can take tough votes when tough votes are called for, so that they can vote for the best interests of their country even sometimes when their constituents do not understand it or may be opposed to it.

I have received 91,000 phone calls and e-mails from California, 85,000 of them opposed to this measure. There is a great deal of confusion out there. People don't understand. What was printed most prominently was the original Paulson proposal, a proposal which gave one man control over $700 billion to dispense as he chose, above the law, with no administrative view or legislative oversight.

This is not that proposal. I thank the chairman of the Banking Committee, both sides of the Banking Committee. It would be one thing if we had a choice, but I do not believe we have a choice. Let me give you an example.

In my State, we have 3.5 million small businesses. We have over 20 million people employed in those small businesses.

Now, some businesses function on cash. Most function on credit. When credit is frozen, they cannot make payroll. And when they cannot make a payroll, they give out pink slips. So you will see, through electrical and plumbing contractors, retail establishments, even grocery stores, computer stores, automobile sales, we are now hearing from people who say they want to buy a home, they cannot get a mortgage; they want to get a car, they cannot get a loan. This is what is beginning to happen.

This is not a give-away. This essentially is a strategic plan to buy assets, both good and bad, to pump liquidity into the market, to be able to free up credit, so that once again the economy can function. The Government will hold these assets. Over time we believe they will make money, and the Government will be the first paid back.

So I think if we do care about the livelihood of our constituents, there is only one vote and it is yes.

This bill is not the bill that was put forward by Secretary Paulson on September 20. His bill was essentially a nonstarter—startling in its unbridled allocation of power to one man: the Secretary of Treasury whom we know now, and to a Secretary of Treasury after January whom we do not know.

It placed this man above the law, above administrative oversight and above congressional action, and essentially gave him $700 billion to do with what he thought best.

This bill didn't fly with virtually anyone who looked at it, particularly constituents, who have called in the tens of thousands of phone calls all across this land.

My office has received over 91,000 calls and e-mails with over 86,000 opposed. The bill before us is not Paulson's 3-page proposal. Rather, it is a bipartisan effort that adds oversight, accountability, assistance to homeowners, executive compensation limits, and other measures to protect taxpayers.

But there still is a lot of misinformation on this bill.

This is not a $700 billion gift for Wall Street.

Rather, the—Federal Government will buy equity in certain assets, both good and bad to pump liquidity into the marketplace and unfreeze credit which is increasingly freezing and unavailable.

Over time, these assets will be sold and the Federal Government will be the first paid back on the investment. The belief is that by doing this the Federal Government will clear much of the bad debt on the books of certain strategic financial institutions, restoring stability, adding liquidity, and unfreezing credit.

Recently, we have seen major U.S. institutions fail: Bear Stearns, Fannie Mae and Freddie Mac, Lehman Brothers, Merrill Lynch, and AIG. And, two retail banks, not investment banks: Washington Mutual and Wachovia. If we do nothing, more institutions will fail.

Now, you may say: What does this mean to me? I work hard, I pay my bills, I pay cash.

Here's what it will mean to you: It will be harder for most Americans to get any credit. Therefore, jobs will be lost.

And we may well face a deep recession.

California has 3.75 million small businesses with an average of 5.6 employees. That adds up to over 20 million jobs.

Some of these businesses are funded with cash, but most are funded with credit. When credit freezes, payrolls cannot be met. And when payrolls cannot be met, pink slips are sent out.

And this will happen to retailers, grocery stores, restaurants, electrical and plumbing contractors, apparel manufacturers, computer and electronics stores, and auto dealerships.

Sales at auto dealerships have fallen dramatically in the past year. Ford sales are down 34 percent, Chrysler sales are down 33 percent, Toyota sales are down 29 percent, and GM sales are down 16 percent.

The list will go on and on.

Importantly, there have now been several improvements to this bill. First, The FDIC insurance rate covering bank deposits has been increased from $100,000 to $250,000. Americans will know that their deposits are secure up to $250,000.

The legislation will provide tax relief to working families.

One example: the Alternative Minimum Tax is a real problem. It was meant to apply only to 200 wealthy people, but it was never adjusted for inflation and it has crept down the income scale to the point where more than 25 million taxpayers today may well have to pay an Alternative Minimum Tax.

In California, 700,000 people paid this tax last year. But 4 million Californians will pay that tax this year unless we take action.

This bill takes that action. For 1 year it will prevent this tax increase.

The Congressional Budget Office has reviewed this bill and concluded that the net cost to taxpayers is ''likely to be substantially less than $700 billion.''

Again, these investments are first in line to be paid back.

It must be remembered that there was a great deal of criticism when the U.S. Government bailed out Mexico in 1996 with $20 billion. The fact is, the money was paid back ahead of time and $600 million in profit was made.

Let me give you the following points. This bill mandates that the Government provide loan modifications for the subprime mortgages it acquires. This will help keep families in homes rather than foreclosing and putting the house on a deteriorating housing market where property values drop and homes are looted. The bill limits executive compensation. It provides strong oversight and accountability, including a financial stability oversight board, a

five-member congressional oversight panel, an inspector general, and a constant presence at Treasury by the Government Accountability Office.

This is the only choice Congress can make.

One can rail against it and vote ''no'' on it, but that is not going to solve the problem. We have one chance, and one chance only, to solve the problem, and it is this bill.

I wish I could write it differently. Others wish they could write it differently, but the fact is that we are faced with this. Again, there is no question this is a tough vote.

But there is no question that this is a vote that I believe has to be made.

CONTRACTING PROCESS

Mr. MENENDEZ. Chairman DODD, with the scale of this undertaking and the volume of assets that will be managed, I want to ensure that the contracting provisions for asset managers under the package lead to the engagement of financially sound institutions that have the best and brightest financial minds.

The package gives the Treasury Secretary broad authority, including the explicit authority to waive certain portions of Federal acquisition regulations when retaining asset managers. Along those lines, I want to ensure that, despite the safeguards that have been provided, the Secretary does not take a narrow approach but, rather, seeks the broadest collection of asset management experts to assist him. Therefore, I ask my colleague from Connecticut, the chairman of the Banking Committee, do you believe that it is the intent of Congress that the contracting process must be as full and open as possible and that the Secretary should consider a broad range of asset managers, including broker-dealers, insurers, and other experts?

Mr. DODD. I absolutely agree with the gentleman from New Jersey. The scale of this undertaking is vast, and the exposure to the taxpayer must be well managed. Therefore, I urge the Secretary to look broadly for the best expertise in assisting him in managing this program.

Mr. MENENDEZ. I thank the Senator.

BIOMASS

Mr. NELSON of Florida. Mr. President, I have been working with Chairman BAUCUS and his staff for the past year on an amendment to the section 45 production tax credit. My amendment modifies the definitions of qualified open-loop and closed-loop biomass facilities to clarify that additional power generation units placed in service at existing qualified facilities are eligible for the production tax credit.

This clarification was necessary to remove an ambiguity as to whether such additional units of power qualify for credit. This ambiguity was inadvertently created by language in the Energy Policy Act of 2005 relating to additional units of power appended to municipal sold waste facilities.

As you know, my concern has been that the failure to clarify that additional units of power do qualify for the credit will discourage taxpayers from expanding existing biomass electricity production facilities and, thus, from producing more renewable biomass electricity.

However, it appears that the language that was adopted by the Senate on September 23 does not achieve the goal of eliminating this ambiguity in all circumstances. Is that your understanding as well?

Mr. BAUCUS. Yes, it is. I understand your concern that the language in the bill we adopted on September 23 could still leave some taxpayers in an ambiguous position with respect to additional units of power added to biomass facilities qualifying for the credit. Let me assure you that my staff and I will continue to work with you to address this matter.

Ms. SNOWE: I want to thank the chairman of the Finance Committee as well as Senator BILL NELSON for their work on addressing the incremental biomass production ambiguity. Clearly, at a time when our Nation's manufacturing industry is besieged by historic energy costs, we must provide the incentives for expanded biomass production. The production tax credit was intended to be provided for companies that expand their production in and beyond 2005, and I believe we must have concise and clear language that these facilities should receive the credit for producing renewable energy in their operations. I look forward to working with Chairman BAUCUS, Ranking Member GRASSLEY, and Senator NELSON to reconcile this inadvertent confusion.

BASIS REPORTING

Mr. BAUCUS. Mr. President, the energy policy in the pending legislation is partially paid for by a proposal that requires brokers to report to their clients and to the IRS the basis of securities that are sold during the year. This provision expands existing information reporting requirements that require brokers to report the sales proceeds of securities that are sold. The IRS estimates that in 2001 the tax gap associated with all capital gains was about $11 billion. Providing this information will reduce burden on axpayers and increase the accuracy of tax returns that are filed.

Mr. GRASSLEY. Senator BAUCUS and I asked the Government Accountability Office to review the accuracy of tax returns that are filed reporting capital gains. The GAO found that as many as 7 million individual taxpayers, or 36 percent, who sold securities in 2001 may have misreported capital gains or losses, and around half of those taxpayers did so because they misreported their basis. This information reporting proposal will reduce errors and help taxpayers to file their returns more accurately.

Mr. BAUCUS. Congress intends that the Treasury Department issue guidance and regulations that will help brokers implement this reporting requirement, including the issue of year-end reclassifications. The existing regulatory authority under Internal Revenue Code section 6045 fully applies to the new basis reporting rules proposed in this legislation.

Mr. GRASSLEY. The Congress further intends that the IRS will exercise its administrative authority to revise forms and take other actions as appropriate to help brokers and taxpayers understand and comply with this new law so that burden is reduced, errors decrease, and compliance is enhanced.

VEHICLE TAX CREDIT

Mr. BAYH. Mr. President, I rise today to seek clarification of an important provision that was included in the tax extenders package that the Senate approved on September 23.

As my good friend knows, the Senate amendment to H.R. 6049 establishes in section 205 a new tax credit for plug-in electric drive vehicles. The credit is for passenger vehicles and light trucks and varies in amount depending on the vehicle's weight and battery capacity. Your leadership has been critical to securing this credit, which I strongly support because it will help reduce America's dependence on foreign oil by giving people incentives to build and purchase advanced, fuel-efficient vehicles.

Indiana has consistently been a key contributor to innovation in vehicle manufacturing. We are proud that our auto manufacturers and suppliers are focused on building the next generation of fuel-efficient vehicles and components. This plug-in electric drive motor vehicle tax credit is essential to help consumers overcome any hesitation to purchase these vehicles and to provide investors with confidence that the Government is committed to the electrification of our Nation's transportation sector.

Section 205 of the Senate-passed amendment to H.R. 6049 describes the vehicles that would qualify for the tax credit. Eligible vehicles include, in part, motor vehicles with at least a 4 kilowatt hour battery used for propulsion, an offboard energy source to recharge the battery, and in the case of passenger vehicles or light trucks of no more than 8,500 pounds, a certificate of conformity under the Clean Air Act.

The bill language does not expressly state whether a van would qualify, but many commercial and government fleets use vans.

The relevant Environmental Protection Agency regulations referred to by the bill, such as 40 C.F.R. 86.082–2, define a van as a ''light-duty truck.'' It would appear that the committee intends that a plug-in electric drive van, meeting the appropriate weight and emission standards, would qualify for the new tax credit for plug-in electric drive motor vehicles. Mr. Chairman, is this analysis of the committee's intent correct?

Mr. BAUCUS. To my good friend from Indiana, the answer is yes. The new tax credit for plug-in electric drive motor vehicles was intended to be, within weight and emission limits, vehicle design neutral. Vans are clearly a subset of light trucks and would be eligible if they meet the weight, energy, and emission criteria under the provision.

ADMINISTRATIVE PROCEDURES ACT REVIEW

Mr. LEAHY. As the Senate considers extraordinary legislation to address the current economic crisis, I believe it is imperative for the RECORD to reflect the intent behind the provisions I worked with Senator DODD to include in this legislation. In an effort to ensure that there is no doubt about what we intended, I would ask the Banking Committee chairman, Senator DODD, whether it is his understanding that our efforts to ensure that any actions taken by the Treasury Secretary, under the authority of this legislation, be reviewable under the Administrative Procedures Act.

Mr. DODD. I would say to the distinguished chairman of the Judiciary Committee that is what we intend.

M. LEAHY. And the provision we have included in section 119 of the Senate's legislation, to ensure that this review is available, the word ''law,'' as it is used, means any State or Federal law, or common law interpreting such State and Federal laws?

Mr. DODD. Yes. The Senator from Vermont is correct. My understanding and intent is that this section would allow for review in the event any action by the Treasury Secretary was in violation of any State or Federal statute, or common law interpreting a statute.

Mr. LEAHY: I thank the Senator. It is not our intent to permit the Treasury Secretary to quash or alter any private right of action on the part of shareholders of entities from which the Secretary purchases assets, nor allow the Secretary to confer immunity from suit any participating financial institution.

Mr. DODD. I would say to the Senator from Vermont that is correct as well.

Mr. LEAHY. And with the savings clause we have added to the legislation, we also intend to prohibit the Treasury Secretary from interfering with or impairing in any way the claims or defenses available to any other person. For example, no person's claims in relation to any assets purchased by the Treasury Secretary under the Truth in Lending Act should be impaired, and no person who has been harmed by the conduct of a financial institution should have their claims affected in any way. Is this the understanding of the Senator from Connecticut as well?

Mr. DODD. It is. That is what we intend.

Mr. LEAHY. And by agreeing with the administration's request to automatically stay on appeal injunctions issued against the Treasury Secretary for actions taken under the authority of this legislation, we have assured that existing waivers of sovereign immunity under the Tucker Act, the Contracts Dispute Act, the Little Tucker Act, the Federal Tort Claims Act, and relevant civil rights laws would apply to the Treasury Department's new responsibilities, just as these laws have applied to the Treasury Department's actions prior to the bailout measure. Is that correct?

Mr. DODD. I say to the chairman of the Judiciary Committee that is what we intend with the savings clause.

Mr. LEAHY. We also included a provision to make sure that mortgagers whose mortgages are purchased by the Treasury maintain all of the claims and defenses they have in relation to those loans, whether pursuant to their contracts, or under State or Federal consumer protection law. It is not our intent to deprive homeowners any recourse they may have against lenders who committed fraud or other violations of law in inducing any homeowner into taking a mortgage. Does the Chairman of the Banking Committee agree with me on this point?

Mr. DODD. I do.

Mr. LEAHY. And finally, I ask as a general matter whether the Senator from Connecticut agrees with me that civil litigation brought by shareholders, or by or on behalf of financial institutions that purchased troubled assets, against officers, directors, and in some cases counterparties whose alleged misconduct caused or contributed to their losses, are matters for the justice system to resolve?

Mr. DODD. I agree with the chairman of the Judiciary Committee.

Mr. LEAHY. I thank the distinguished, chairman of the Banking Committee, Senator DODD, for engaging in this colloquy. And I thank him for consulting me early in this process to ensure that any legislation the Senate considers contains appropriate safeguards to ensure that the extraordinary authority given to the Treasury Secretary is reviewable, and that the rights of American citizens are preserved.

AUTO FINANCING COMPANY LOANS

Mr. LEVIN. As Treasury implements this new program, it is clear to me from reading the definition of financial institution that auto financing companies would be among the many financial institutions that would be eligible sellers to the government. Do you agree?

Mr. DODD. Yes, for purposes of this act, I agree that financial institution may encompass auto financing companies.

Mr. LEVIN. I thank the Senator. It also seems clear from the definition of troubled assets that, should the Treasury Secretary, after consulting with the Chairman of the Federal Reserve, determine that purchasing auto loans would promote financial market stability by opening up the market for car sales, that Treasury has the authority to make such purchases, so long as it transmits that determination to Congress.

Mr. DODD. Yes, should the Treasury Secretary, after consulting with the Chairman of the Federal Reserve System, determine that purchasing auto loans is necessary to promote financial market stability and transmits such determination in writing to the Congress, then the Treasury Secretary could engage in such purchases.

I am keenly aware of these issues as Chairman of the Banking Committee, which has jurisdiction over financial aid to commerce and industry and which wrote the Chrysler Corporation Loan Guarantee Act of 1979.

Ms. STABENOW. First, I want to commend Chairman DODD for his leadership on this bill. The credit crisis is having a significant impact on the hard-working men and women at GM in Michigan and throughout the country who proudly build American-made cars and trucks; the men and women who sell and finance Chrysler vehicles; and the individuals who service Ford vehicles in dealerships throughout the country.

With the credit markets having largely frozen up, domestic automobile manufacturers and finance companies face the most difficult conditions they have faced in decades. They have been hit with a double whammy: high gasoline and diesel prices, coupled with evaporating credit.

Considering the importance of the auto industry to our country I wanted to reiterate the points raised by my colleague, by clarifying that the Treasury has the authority to purchase auto loans and that auto financing companies could participate in the program if determined necessary by the Treasury, after consulting with the Chairman of the Federal Reserve System, to promote market stability.

Mr. DODD. This is correct. As previously stated, an auto financing company could be included in the definition of financial institution and auto debt could be included in the definition of troubled assets after the appropriate steps are taken.

Ms. STABENOW. I thank the Chairman. By getting credit back into the hands of our motor vehicle industry, we can help Main Street survive the credit crunch. We can get people back to work. And we can get cars and trucks moving again throughout the country.

DEFINITION OF A FINANCIAL INSTITUTION

Mr. REED. Mr. President, I would like to ask of the Committee on Banking, Housing, and Urban Development a question.

Is it Chairman DODD's understanding that the definition of a financial institution in section 3(5) of the Emergency Economic Stabilization Act includes the holding companies of such institutions described as ''any bank, savings association, credit union, security broker or dealer or insurance company''?

Mr. DODD. Yes, I completely agree that this would include holding companies of such companies listed and other companies that the Secretary may determine are eligible for this program.

Mr. REED. Section 113(d) of the Emergency Economic Stabilization Act states that warrants should be issued for companies that sell their assets to the Secretary, under the requirements of the section. Is it Chairman DODD's understanding that if a company selling such assets is a subsidiary that is not traded on an exchange but that has a holding company or parent that is traded on an exchange, that the stock of such holding or parent company would be referenced in the warrant?

Mr. DODD. Yes, it is the intent of the committee and of the Congress that this section intends that the securities of the parent or holding company of such a subsidiary would be used in the warrant. Nothing in this language is intended to exclude holding companies of subsidiaries and warrants should be exercised to the greatest extent possible for the benefit of the taxpayer.

Mr. REED. If I could ask one more question of the chairman, certain off-balance sheet entities or affiliates may sell troubled assets to the Government, to include but not limited to structured investment vehicles, qualified special purpose entities, special purpose entities, conduits, shell companies, and other legal entities. Is it the case that such entities or their holding or parent company would be required to enter into warrants with the Government?

Mr. DODD. Yes, I agree that this is the case and that it was the original intent of the committee and of the Congress to ensure that warrants are exercised to the greatest extent for the benefit of the taxpayer, to include recovery of losses and administrative expenses along with a premium set by Treasury.

TAX CREDIT INVESTMENTS

Mr. CARDIN. Mr. President, I want to commend the senior Senator from Connecticut, who chairs the Committee on Banking, Housing and Urban Affairs, for the extraordinary effort he and his staff have put in over the past several days to bring us to the point where we are preparing to vote on an economic stabilization package. While we all regret being in this situation, I think there is widespread recognition that we need to act to get our financial and credit markets operating again.

I have one particular concern I would like to address to the chairman, if I may. One of the problems created by the turmoil in the financial and credit markets is that many of the institutions needing liquidity, or those which normally would provide liquidity to the marketplace, hold illiquid low-income housing tax credit investments, many of which require further funding. These tax credit investments exist at the expense of the Federal Government since the holders of these investments achieve their return by taking credits against their taxes in the form of the section 42 low-income housing tax credit, LIHTC. Among the institutions with substantial holdings and which have historically provided liquidity to this market, but which can and no longer do so, are Fannie Mae and Freddie Mac, as well as several of the banking institutions which have been most adversely affected by the crisis in the markets. The ability of these institutions to use the credits has been severely impaired, and I am deeply concerned that, as with so many other financial assets, the holders will dump them into the market at distressed prices. The buyers at these distressed prices will be the very institutions that would have bought new credits at non-distressed prices. The result will be that instead of investing new money in new affordable housing, these buyers will instead use that money to buy existing credits at distressed prices and much less money will flow into the production of new affordable housing in the next few years. In fact, the turmoil in the capital markets has already severely restricted the flow of new funds into new affordable housing and this market has taken a serious downturn at a time when adding to the stock of affordable housing is critically important.

I would like to ask Chairman DODD if he believes that his amendment to H.R. 1424—specifically, section 3(9)(A) of division A—gives the Federal Government authority under the Troubled Asset Relief Program, TARP, to purchase existing low-income housing tax credit investments from the holders of those investments. Unlike many of the other assets the Government may purchase in other sectors, these investments can be purchased at little or no cost to the Treasury because the Government is already paying for them in the form of tax credits.

Mr. DODD. Mr. President, I want to assure my colleague from Maryland that I read that language as allowing such purchases, if necessary, to maintain liquidity in this particular market. I want to commend him for bringing this important matter to my attention as soon as we received the original Treasury proposal. My staff informed Senator CARDIN's staff that Treasury officials believed the proposal they sent to Congress authorized the purchase of such credits, and we concurred.

Mr. CARDIN. I thank the chairman for reassuring me. I think Treasury would bolster the market tremendously if it purchases such credits where necessary to: (1) create liquidity for those financial institutions currently holding these credits; and (2) stimulate the production of affordable housing in a market which has deteriorated substantially—all at little cost to the Government.

Mr. DODD. Mr. President, my colleague from Maryland has made an excellent suggestion for how Treasury ought to maintain liquidity with regard to the LIHTC. I thank him for his concern. The housing crisis in this country affects nearly everyone in some respect, including lower income individuals and families who cannot afford to buy homes and depend on the steady supply of affordable rental housing. My amendment to H.R. 1424 gives Treasury the authority, flexibility, and resources it needs to address this critical issue.

Mr. CARDIN. Mr. President, I thank the chairman for his assistance on this matter. We are being reminded, in the most painful way, that not all Americans can afford or want to own a home. Therefore, it is imperative that we maintain and add to the stock of affordable rental housing in this country during these difficult times. The LIHTC is the mechanism for doing that.

SECTION 101(C)(1)

Mr. AKAKA. Mr. President, I would like to ask the chairman of the Senate Banking Committee, the Senator from Connecticut, a question about the intent of section 101(c)(1) of the substitute amendment to H.R. 1424.

Section 101(c)(1) of the bill provides the Secretary with direct hiring authority, which is a useful tool to allow a Federal agency to make an immediate employment offer to an applicant. It is my understanding that this provision merely waives the normal approval process of direct hiring authority by the Office of Personnel Management and that section 101(c) does not otherwise waive application of title 5. Does the chairman agree with my interpretation?

Mr. DODD. Mr. President, I agree with the Senator from Hawaii's interpretation of that provision.

Mr. AKAKA. I thank the Senator very much for that clarification.

CARBON DIOXIDE SEQUESTRATION

Mrs. BOXER. Mr. President, I rise to enter into a colloquy with my good friend Senator BAUCUS, the distinguished chairman of the Committee on Finance. I wish to address section 115 of the bill, which provides a tax credit for carbon dioxide sequestration. Specifically, in section 115 of the bill, new section 45Q(d)(2) of the code provides that the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide to qualify for the $20 per ton credit, such that the carbon dioxide does not escape into the atmosphere or affect underground sources of drinking water. Carbon dioxide sequestration in this provision includes storage at deep saline formations and unminable coal seems under such conditions as the Secretary may determine under these regulations. Is my understanding correct that the legislation is intended to require that EPA, in consultation with the Secretary of the Treasury regarding the carbon sequestration tax credit under this provision, will establish the

specific substantive environmental criteria and requirements for security and other measures for the geologic storage of carbon dioxide such that it does not escape into the atmosphere or affect underground sources of drinking water, and that the Secretary of the Treasury will then apply such criteria and requirements in establishing the requirements to qualify for the tax credit under this section?

Mr. BAUCUS. Mr. President, the distinguished chairman of the Committee on Environment and Public Works is correct. The legislation is intended to leave the substantive environmental criteria and requirements for carbon sequestration to EPA, including security-related issues, and as was done with respect to carbon sequestration in section 706 of the Energy Independence and Security Act of 2007, this provision is not intended to limit the legal requirements and authorities of EPA. EPA's criteria and requirements for carbon sequestration will be applied by the Secretary of the Treasury after consultation.

FORECLOSURE PREVENTION PROVISIONS

Mr. REID. I would like to ask the chairman of the Committee, Senator DODD, a question about the elements of this bill that deal with foreclosure prevention. I know this has been a priority for the Senator from Connecticut. I wonder if he could review the provisions of the legislation that will help more Americans keep their homes.

Mr. DODD. I thank the leader for his question and for his leadership in helping guide us through this crisis. He is exactly right. I have been saying throughout this process that foreclosure prevention has been one of the key reasons we need to move forward with the Emergency Economic Stabilization Act.

The legislation has a number of key provisions dealing with foreclosure prevention:

First, it requires that the Secretary of the Treasury ''implement a plan that seeks to maximize assistance for homeowners'' in keeping their homes. This means Congress has rejected an ad hoc approach by the Treasury in favor of a programwide system to keep families in homes.

In the case where the Secretary owns whole loans, we expect him to modify those loans to ensure long-term affordability for American families. The legislation outlines that this should be done by a reduction in principal, a reduction in the interest rate, a refinance through the HOPE for Homeowners Program, or any equivalent method that ensures that these hard working Americans are restored to sustainable home ownership.

I want to remind my colleagues that millions of Americans were sold loans that the mortgage brokers and lenders knew or should have known the borrowers could never afford. These ''exploding'' adjustable rate mortgages, ARMs, interest-only loans, and payment-option ARMs were designed to entice borrowers with low initial payments. Yet, after a couple of years, the payments would explode, increasing by 20 percent, 30 percent, or more. This is driving delinquency and foreclosure rates to historically high levels and driving home prices down, creating the economic downturn we are now facing.

Second, all other Federal agencies that own or control mortgages, including the FDIC, the Federal Housing Finance Agency, FHFA, and the Federal Reserve Board, must also implement plans to maximize assistance to homeowners. The FDIC, under the leadership of Chairman Sheila Bair, has already started down this road with the assets it has taken from IndyMac Bank, and we expect the other agencies to work with the FDIC in developing their own programs. The FHFA, which is the conservator for Fannie Mae and Freddie Mac, now oversees hundreds of billions of dollars of mortgages and mortgage-backed securities, MBS, which they will now be obligated to aggressively modify as a result of this legislation.

Third, one of the serious complications the modern mortgage market has created is the difficulty of doing modifications for loans that have been pooled and securitized into a host of MBS. It is often difficult to get the various investors in the numerous MBS backed by a particular pool of mortgages to all agree to do a modification.

This legislation, however, mandates that the Treasury and the other Federal agencies that own or control MBS must aggressively pursue loan modifications with other investors and must consent to all requests from servicers for reasonable modifications. In fact, it is our hope that the Federal Government will gain control of sufficient percentages of these pools that their ongoing pursuit of modifications and reasonableness in their willingness to accept offers that ensure families can keep their homes will tip the balance and lead to more modifications.

Finally, this bill includes three new provisions for the HOPE for Homeowners that should expand its reach and allow us to help many more homeowners avoid foreclosure and get into affordable, stable, FHA-insured mortgages.

As I have been saying for well over a year, the epicenter of the current financial and economic crisis is the housing crisis and the heart of the housing crisis is the foreclosure crisis. I understand the need to move to stabilize the financial system as a whole—that is why I have devoted countless hours over the past weeks to negotiate this final package.

But I would not support this bill, nor ask my colleagues to do so, if I was not convinced that it adds important new tools to address the core problem—rising delinquencies and foreclosures. Obviously, this bill does not include everything I would want but it is an important step forward.

Mr. REID. I want to thank my colleague for laying out these important points. The Senator has been one of the earliest and strongest voices raising the alarm about the danger of increased foreclosures. I thank him for his leadership.

Mr. BAUCUS. Mr. President, I ask unanimous consent to have printed in the RECORD the attached technical explanation of the tax provisions of the Emergency Economic Stabilization Act of 2008.

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

TECHNICAL EXPLANATION OF TITLE III (TAX PROVISIONS) OF DIVISION A OF H.R. 1424, THE ''EMERGENCY ECONOMIC STABILIZATION ACT OF 2008''

INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, provides a technical explanation of Title III (Tax Provisions) of Division A of H.R. 1424, the ''Emergency Economic Stabilization Act of 2008,'' scheduled for consideration by the Senate on October 1, 2008.

A. TREAT GAIN OR LOSS FROM SALE OR EXCHANGE OF CERTAIN PREFERRED STOCK BY APPLICABLE FINANCIAL INSTITUTIONS AS ORDINARY INCOME OR LOSS (SEC. 301 OF THE BILL)

PRESENT LAW

Under section 582(c)(1), the sale or exchange of a bond, debenture, note, or certificate or other evidence of indebtedness by a financial institution described in section 582(c)(2) is not considered a sale or exchange of a capital asset. The financial institutions described in section 582(c)(2) are (i) any bank (including any corporation which would be a bank except for the fact that it is a foreign corporation), (ii) any financial institution referred to in section 591, which includes mutual savings banks, cooperative banks, domestic building and loan associations, and other savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, (iii) any small business investment company operating under the Small Business Investment Act of 1958, and (iv) any business development corporation, defined as a corporation which was created by or pursuant to an act of a State legislature for purposes of promoting, maintaining, and assisting the economy and industry within such State on a regional or statewide basis by making loans to be used in trades and businesses which would generally not be made by banks within such region or State in the ordinary course of their business (except on the basis of a partial participation) and which is operated primarily for such purposes. In the case of a foreign corporation, section 582(c)(1) applies only with respect to gains or losses that are effectively connected with the conduct of a banking business in the United States.

Preferred stock issued by the Federal National Mortgage Corporation (''Fannie Mae'') or the Federal Home Loan Mortgage Corporation (''Freddie Mac'') is not treated as indebtedness for Federal income tax purposes, and therefore is not treated as an asset to which section 582(c)(1) applies. Accordingly, a financial institution described in section 582(c)(2) that holds Fannie Mae or Freddie Mac preferred stock as a capital asset generally will recognize capital gain or loss upon the sale or taxable exchange of that stock. Section 1211 provides that, in the case of a corporation, losses from sales or exchanges of capital assets are allowed only to the extent of gains from such sales or exchanges. Thus, in taxable years in which a

corporation does not recognize gain from the sale of capital assets, its capital losses do not reduce its income.

EXPLANATION OF PROVISION

Under the provision, gain or loss recognized by an ''applicable financial institution'' from the sale or exchange of ''applicable preferred stock'' is treated as ordinary income or loss. An applicable financial institution is a financial institution referred to in section 582(c)(2) or a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)). Applicable preferred stock is preferred stock of Fannie Mae or Freddie Mac that was (i) held by the applicable financial institution on September 6, 2008, or (ii) was sold or exchanged by the applicable financial institution on or after January 1, 2008, and before September 7, 2008.

In the case of a sale or exchange of applicable preferred stock on or after January 1, 2008, and before September 7, 2008, the provision applies only to taxpayers that were applicable financial institutions at the time of such sale or exchange. In the case of a sale or exchange of applicable preferred stock after September 6, 2008, by a taxpayer that held such preferred stock on September 6, 2008, the provision applies only where the taxpayer was an applicable financial institution at all times .during the period beginning on September 6, 2008, and ending on the date of the sale or exchange of the applicable preferred stock. Thus, the provision is generally inapplicable to any Fannie Mae or Freddie Mac preferred stock held by a taxpayer that was not an applicable financial institution on September 6, 2008 (even if such taxpayer subsequently became an applicable financial institution).

The provision grants the Secretary authority to extend the provision to cases in which gain or loss is recognized on the sale or exchange of applicable preferred stock acquired in a carryover basis transaction by an applicable financial institution after September 6, 2008. For example, if after September 6, 2008, Bank A, an entity that was an applicable financial institution at all times during the period beginning on September 6, 2008, acquired assets of Bank T, an entity that also was an applicable financial institution at all times during the period beginning on September 6, 2008, in a transaction in which no gain or loss was recognized under section 368(a)(1), regulations could provide that Fannie Mae and Freddie Mac stock that was applicable preferred stock in the hands of Bank T will continue to be applicable preferred stock in the hands of Bank A.

In addition, the Secretary may, through regulations, extend the provision to cases in which the applicable financial institution is a partner in a partnership that (i) held preferred stock of Fannie Mae or Freddie Mac on September 6, 2008, and later sold or exchanged such stock, or (ii) sold or exchanged such preferred stock on or after January 1, 2008, and before September 7, 2008. It is intended that Treasury guidance will provide that loss (or gain) attributable to Fannie Mae or Freddie Mac preferred stock of a partnership is characterized as ordinary in the hands of a partner only if the partner is an applicable financial institution, and only if the institution would have been eligible for ordinary treatment under section 301 of the bill had the institution held the underlying preferred stock directly for the time period during which both (i) the partnership holds the preferred stock and (ii) the institution holds substantially the same partnership interest.

In particular, substantial amounts of the preferred stock of Fannie Mae and Freddie Mac are held through ''pass-through trusts'' analyzed as partnerships for Federal income tax purposes. Substantially all the assets of such a pass-through trust comprise Fannie Mae or Freddie Mac preferred stock, and the trust in turn passes through dividends received on such stock to its two outstanding classes of certificates (partnership interests): an auction-rate class, where the share of the underlying preferred stock dividend is determined by periodic auctions, and a residual class, which receives the remainder of any dividends received on the underlying stock. The bill's delegation of authority to the Secretary anticipates that regulations will promptly be issued confirming in general that losses recognized by such a trust on or after January 1, 2008, in respect of the preferred stock of Fannie Mae or Freddie Mac that it acquired before September 6, 2008, will be characterized as ordinary loss in the hands of a certificate holder that is an applicable financial institution and that would be eligible for the relief contemplated by this provision if the applicable financial institution had held the underlying preferred stock directly for the same period that it held the pass-through certificate. In light of the substantial amount of such pass-through certificates in the marketplace, and the importance of the prompt resolution of the character of any resulting losses allocated to certificate holders that are applicable financial institutions for purposes of their regulatory and investor financial statement filings, unnecessary disruptions to the marketplace could best be avoided if the Secretary were to exercise the regulatory authority granted under the provision to address this case as soon as possible and, in any event, by October 31, 2008.

EFFECTIVE DATE

This provision applies to sales or exchanges occurring after December 31, 2007, in taxable years ending after such date.

B. SPECIAL RULES FOR TAX TREATMENT OF EXECUTIVE COMPENSATION OF EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM (SEC. 302 OF THE BILL AND SECS. 162(M) AND 280G OF THE CODE)

PRESENT LAW

In general

An employer generally may deduct reasonable compensation for personal services as an ordinary and necessary business expense. Sections 162(m) and 280G provide explicit limitations on the deductibility of compensation expenses in the case of corporate employers.

Section 162(m)

IN GENERAL

The otherwise allowable deduction for compensation paid or accrued with respect to a covered employee of a publicly held corporation is limited to no more than $1 million per year. The deduction limitation applies when the deduction would otherwise be taken. Thus, for example, in the case of compensation resulting from a transfer of property in connection with the performance of services, such compensation is taken into account in applying the deduction limitation for the year for which the compensation is deductible under section 83 (i.e., generally the year in which the employee's right to the property is no longer subject to a substantial risk of forfeiture).

Covered employees

Section 162(m) defines a covered employee as (1) the chief executive officer of the corporation (or an individual acting in such capacity) as of the close of the taxable year and (2) the four most highly compensated officers for the taxable year (other than the chief executive officer). Treasury regulations under section 162(m) provide that whether an employee is the chief executive officer or among the four most highly compensated officers should be determined pursuant to the executive compensation disclosure rules promulgated under the Securities Exchange Act of 1934 (''Exchange Act'').

In 2006, the Securities and Exchange Commission amended certain rules relating to executive compensation, including which executive officers' compensation must be disclosed under the Exchange Act. Under the new rules, such officers consist of (1) the principal executive officer (or an individual acting in such capacity), (2) the principal financial officer (or an individual acting in such capacity), and (3) the three most highly compensated executive officers, other than the principal executive officer or financial officer.

In response to the Securities and Exchange Commission's new disclosure rules, the Internal Revenue Service issued updated guidance on identifying which employees are covered by section 162(m). The new guidance provides that ''covered employee'' means any employee who is (1) the principal executive officer (or an individual acting in such capacity) defined in reference to the Exchange Act, or (2) among the three most highly compensated officers for the taxable year (other than the principal executive officer), again defined by reference to the Exchange Act. Thus, under current guidance, only four employees are covered under section 162(m) for any taxable year. Under Treasury regulations, the requirement that the individual meet the criteria as of the last day of the taxable year applies to both the principal executive officer and the three highest compensated officers.

Compensation subject to the deduction limitation

In general.—Unless specifically excluded, the deduction limitation applies to all remuneration for services, including cash and the cash value of all remuneration (including benefits) paid in a medium other than cash. If an individual is a covered employee for a taxable year, the deduction limitation applies to all compensation not explicitly excluded from the deduction limitation, regardless of whether the compensation is for services as a covered employee and regardless of when the compensation was earned. The $1 million cap is reduced by excess parachute payments (as defined in sec. 280G, discussed below) that are not deductible by the corporation.

Certain types of compensation are not subject to the deduction limit and are not taken into account in determining whether other compensation exceeds $1 million. The following types of compensation are not taken into account: (1) remuneration payable on a commission basis; (2) remuneration payable solely on account of the attainment of one or more performance goals if certain outside director and shareholder approval requirements are met (''performance-based compensation''); (3) payments to a tax-qualified retirement plan (including salary reduction contributions); (4) amounts that are excludable from the executive's gross income (such as employer-provided health benefits and miscellaneous fringe benefits (sec. 132)); and (5) any remuneration payable under a written binding contract which was in effect on February 17, 1993. In addition, remuneration does not include compensation for which a deduction is allowable after a covered employee ceases to be a covered employee. Thus, the deduction limitation often does not apply to deferred compensation that is otherwise subject to the deduction limitation (e.g., is not performance-based compensation) because the payment of compensation is deferred until after termination of employment.

Performance-based compensation.—Compensation qualifies for the exception for performance-based compensation only if (1) it is paid solely on account of the attainment of one or more performance goals, (2) the performance goals are established by a compensation committee consisting solely of two or more outside directors, (3) the material terms under which the compensation is to be paid, including the performance goals, are disclosed to and approved by the shareholders in a separate vote prior to payment, and (4) prior to payment, the compensation committee certifies that the performance goals and any other material terms were in fact satisfied.

Compensation (other than stock options or other stock appreciation rights) is not treated as paid solely on account of the attainment of one or more performance goals unless the compensation is paid to the particular executive pursuant to a pre-established objective performance formula or standard that precludes discretion. Stock options or other stock appreciation rights generally are treated as meeting the exception for performance-based compensation, provided that the requirements for outside director and shareholder approval are met (without the need for certification that the performance standards have been met), because the amount of compensation attributable to the options or other rights received by the executive would be based solely on an increase in the corporation's stock price. Stock-based compensation is not treated as performance-based if it is dependent on factors other than corporate performance. For example, if a stock option is granted to an executive with an exercise price that is less than the current fair market value of the stock at the time of grant, then the executive would have the right to receive compensation on the exercise of the option even if the stock price decreases or stays the same. In contrast to options or other stock appreciation rights, grants of restricted stock are not inherently performance-based because the executive may receive compensation even if the stock price decreases or stays the same. Thus, a grant of restricted stock does not satisfy the definition of performance-based compensation unless the grant or vesting of the restricted stock is based upon the attainment of a performance goal and otherwise satisfies the standards for performance-based compensation.

Section 280G

In general

In some cases, a compensation agreement for a corporate executive may provide for payments to be made if there is a change in control of the executive's employer, even if the executive does not lose his or her job as part of the change in control. Such payments are sometimes referred to as ''golden parachute payments.'' The Code contains limits on the amount of certain types of such payments, referred to as ''excess parachute payments.'' Excess parachute payments are not deductible by a corporation. In addition, an excise tax is imposed on the recipient of any excess parachute payment equal to 20 percent of the amount of such payment.

Definition of parachute payment

A ''parachute payment'' is any payment in the nature of compensation to (or for the benefit of) a disqualified individual which is contingent on a change in the ownership or effective control of a corporation or on a change in the ownership of a substantial portion of the assets of a corporation (''acquired corporation''), if the aggregate present value of all such payments made or to be made to the disqualified individual equals or exceeds three times the individual's ''base amount.''

The individual's base amount is the average annual compensation payable by the acquired corporation and includible in the individual's gross income over the five-taxable years of such individual preceding the individual's taxable year in which the change in ownership or control occurs.

The term parachute payment also includes any payment in the nature of compensation to a disqualified individual if the payment is made pursuant to an agreement which violates any generally enforced securities laws or regulations.

Certain amounts are not considered parachute payments, including payments under a qualified retirement plan, and payments that are reasonable compensation for services rendered on or after the date of the change in control. In addition, the term parachute payment does not include any payment to a disqualified individual with respect to a small business corporation or a corporation no stock of which was readily tradable, if certain shareholder approval requirements are satisfied.

Disqualified individual

A disqualified individual is any individual who is an employee, independent contractor, or other person specified in Treasury regulations who performs personal services for the corporation and who is an officer, shareholder, or highly compensated individual of the corporation. Personal service corporations and similar entities generally are treated as individuals for this purpose. A highly compensated individual is defined for this purpose as an employee (or a former employee) who is among the highest-paid one percent of individuals performing services for the corporation (or an affiliated corporation) or the 250 highest paid individuals who perform services for a corporation (or affiliated group).

Excess parachute payments

In general, excess parachute payments are any parachute payments in excess of the base amount allocated to the payment. The amount treated as an excess parachute payment is reduced by the portion of the payment that the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services actually rendered before the change in control.

EXPLANATION OF PROVISION

Section 162(m)

In general

Under the provision, the section 162(m) limit is reduced to $500,000 in the case of otherwise deductible compensation of a covered executive for any applicable taxable year of an applicable employer.

An applicable employer means any employer from which one or more troubled assets are acquired under the ''troubled assets relief program'' (''TARP'') established by the bill if the aggregate amount of the assets so acquired for all taxable years (including assets acquired through a direct purchase by the Treasury Department, within the meaning of section 113(c) of Title I of the bill) exceeds $300,000,000. However, such term does not include any employer from which troubled assets are acquired by the Treasury Department solely through direct purchases (within the meaning of section 113(c) of Title I of the bill). For example, if a firm sells $250,000,000 in assets through an auction system managed by the Treasury Department, and $100,000,000 to the Treasury Department in direct purchases, then the firm is an applicable employer. Conversely, if all $350,000,000 in sales take the form of direct purchases, then the firm would not be an applicable employer.

Unlike section 162(m), an applicable employer under this provision is not limited to publicly held corporations (or even limited to corporations). For example, an applicable employer could be a partnership if the partnership is an employer from which a troubled asset is acquired. The aggregation rules of Code section 414(b) and (c) apply in determining whether an employer is an applicable employer. However, these rules are applied disregarding the rules for brother-sister controlled groups and combined groups in sections 1563(a)(2) and (3). Thus, this aggregation rule only applies to parent-subsidiary controlled groups. A similar controlled group rule applies for trades and businesses under common control.

The result of this aggregation rule is that all corporations in the same controlled group are treated as a single employer for purposes of identifying the covered executives of that employer and all compensation from all members of the controlled group are taken into account for purposes of applying the $500,000 deduction limit. Further, all sales of assets under the TARP from all members of the controlled group are considered in determining whether such sales exceed $300,000,000.

An applicable taxable year with respect to an applicable employer means the first taxable year which includes any portion of the period during which the authorities for the TARP established under the bill are in effect (the ''authorities period'') if the aggregate amount of troubled assets acquired from the employer under that authority during the taxable year (when added to the aggregate amount so acquired for all preceding taxable years) exceeds $300,000,000, and includes any subsequent taxable year which includes any portion of the authorities period.

A special rule applies in the case of compensation that relates to services that a covered executive performs during an applicable taxable year but that is not deductible until a later year (''deferred deduction executive remuneration''), such as nonqualified deferred compensation. Under the special rule, the unused portion (if any) of the $500,000 limit for the applicable tax year is carried forward until the year in which the compensation is otherwise deductible, and the remaining unused limit is then applied to the compensation.

For example, assume a covered executive is paid $400,000 in cash salary by an applicable employer in 2008 (assuming 2008 is an applicable taxable year) and the covered executive earns $100,000 in nonqualified deferred compensation (along with the right to future earnings credits) payable in 2020. Assume further that the $100,000 has grown to $300,000 in 2020. The full $400,000 in cash salary is deductible under the $500,000 limit in 2008. In 2020, the applicable employer's deduction with respect to the $300,000 will be limited to $100,000 (the lesser of the $300,000 in deductible compensation before considering the special limitation, and $500,000 less $400,000, which represents the unused portion of the $500,000 limit from 2008).

Deferred deduction executive remuneration that is properly deductible in an applicable taxable year (before application of the limitation under the provision) but is attributable to services performed in a prior applicable taxable year is subject to the special rule described above and is not double-counted. For example, assume the same facts as above, except that the nonqualified deferred compensation is deferred until 2009 and that 2009 is an applicable taxable year. The employer's deduction for the nonqualified deferred compensation for 2009 would be limited to $100,000 (as in the example above). The limit that would apply under the provision for executive remuneration that is in a form other than deferred deduction executive remuneration and that is otherwise deductible for 2009 is $500,000. For example, if

the covered executive is paid $500,000 in cash compensation for 2009, all $500,000 of that cash compensation would be deductible in 2009 under the provision.

Covered executive

The term covered executive means any individual who is the chief executive officer or the chief financial officer of an applicable employer, or an individual acting in that capacity, at any time during a portion of the taxable year that includes the authorities period. It also includes any employee who is one of the three highest compensated officers of the applicable employer for the applicable taxable year (other than the chief executive officer or the chief financial officer and only taking into account employees employed during any portion of the taxable year that includes the authorities period).

The determination of the three highest compensated officers is made on the basis of the shareholder disclosure rules for compensation under the Exchange Act, except to the extent that the shareholder disclosure rules are inconsistent with the provision. Such shareholder disclosure rules are applied without regard to whether those rules actually apply to the employer under the Exchange Act. If an employee is a covered executive with respect to an applicable employer for any applicable taxable year, the employee will be treated as a covered executive for all subsequent applicable taxable years (and will be treated as a covered executive for purposes of any subsequent taxable year for purposes of the special rule for deferred deduction executive remuneration).

Executive remuneration

The provision generally incorporates the present law definition of applicable employee remuneration. However, the present law exceptions for remuneration payable on commission and performance-based compensation do not apply for purposes of the new $500,000 limit. In addition, the new $500,000 limit only applies to executive remuneration which is attributable to services performed by a covered executive during an applicable taxable year. For example, assume the same facts as in the example above, except that the covered executive also receives in 2008 a payment of $300,000 in nonqualified deferred compensation that was attributable to services performed in 2006. Such payment is not treated as executive remuneration for purposes of the new $500,000 limit.

Other rules

The modification to section 162(m) provides the same coordination rules with disallowed parachute payment and stock compensation of insiders in expatriated corporations as exist under present law section 162(m). Thus, the $500,000 deduction limit under this section is reduced (but not below zero) by any parachute payments (including parachute payments under the expanded definition under this provision) paid during the authorities period and any payment of the excise tax under section 4985 for stock compensation of insiders in expatriated corporations.

The modification authorizes the Secretary of the Treasury to prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of the $500,000 deduction limit, including the application of the limit in the case of any acquisition, merger, or reorganization of an applicable employer.

Section 280G

The provision also modifies section 280G by expanding the definition of parachute payment in the case of a covered executive of an applicable employer. For this purpose, the terms ''covered executive,'' ''applicable taxable year,'' and ''applicable employer'' have the same meaning as under the modifications to section 162(m) (described above).

Under the modification, a parachute payment means any payments in the nature of compensation to (or for the benefit of) a covered executive made during an applicable taxable year on account of an applicable severance from employment during the authorities period if the aggregate present value of such payments equals or exceeds an amount equal to three times the covered executive's base amount. An applicable severance from employment is any severance from employment of a covered executive (1) by reason of an involuntary termination of the executive by the employer or (2) in connection with a bankruptcy, liquidation, or receivership of the employer.

Whether a payment is on account of the employee's severance from employment is generally determined in the same manner as under present law. Thus, a payment is on account of the employee's severance from employment if the payment would not have been made at that time if the severance from employment had not occurred. Such payments include amounts that are payable upon severance from employment (or separation from service), vest or are no longer subject to a substantial risk of forfeiture on account of such a separation, or are accelerated on account of severance from employment. As under present law, the modified definition of parachute payment does not include amounts paid to a covered executive from certain tax qualified retirement plans.

A parachute payment during an applicable taxable year that is paid on account of a covered executive's applicable severance from employment is nondeductible on the part of the employer (and the covered executive is subject to the section 4999 excise tax) to the extent of the amount of the payment that is equal to the excess over the employee's base amount that is allocable to such payment. For example, assume that a covered executive's annualized includible compensation is $1 million and the covered executive's only parachute payment under the provision is a lump sum payment of $5 million. The covered executive's base amount is $1 million and the excess parachute payment is $4 million.

The modifications to section 280G do not apply in the case of a payment that is treated as a parachute payment under present law. The modifications further authorize the Secretary of Treasury to issue regulations to carry out the purposes of the provision, including the application of the provision in the case of a covered executive who receives payments some of which are treated as parachute payments under present law section 280G and others of which are treated as parachute payments on account of this provision, and the application of the provision in the event of any acquisition, merger, or reorganization of an applicable employer. The regulations shall also prevent the avoidance of the application of the provision through the mischaracterization of a severance from employment as other than an applicable severance from employment. It is intended that the regulations prevent the avoidance of the provision through the acceleration, delay, or other modification of payment dates with respect to existing compensation arrangements.

EFFECTIVE DATE

The provision is effective for taxable years ending on or after date of enactment, except that the modifications to section 280G are effective for payments with respect to severances occurring during the authorities period.

C. EXCLUDE DISCHARGES OF ACQUISITION INDEBTEDNESS ON PRINCIPAL RESIDENCES FROM GROSS INCOME (SEC. 303 OF THE BILL AND SEC. 108 OF THE CODE)

PRESENT LAW

In general

Gross income includes income that is realized by a debtor from the discharge of indebtedness, subject to certain exceptions for debtors in Title 11 bankruptcy cases, insolvent debtors, certain student loans, certain farm indebtedness, and certain real property business indebtedness (secs. 61(a)(12) and 108). In cases involving discharges of indebtedness that are excluded from gross income under the exceptions to the general rule, taxpayers generally reduce certain tax attributes, including basis in property, by the amount of the discharge of indebtedness.

The amount of discharge of indebtedness excluded from income by an insolvent debtor not in a Title 11 bankruptcy case cannot exceed the amount by which the debtor is insolvent. In the case of a discharge in bankruptcy or where the debtor is insolvent, any reduction in basis may not exceed the excess of the aggregate bases of properties held by the taxpayer immediately after the discharge over the aggregate of the liabilities of the taxpayer immediately after the discharge (sec. 1017).

For all taxpayers, the amount of discharge of indebtedness generally is equal to the difference between the adjusted issue price of the debt being cancelled and the amount used to satisfy the debt. These rules generally apply to the exchange of an old obligation for a new obligation, including a modification of indebtedness that is treated as an exchange (a debt-for-debt exchange).

Qualified principal residence indebtedness

An exclusion from gross income is provided for any discharge of indebtedness income by reason of a discharge (in whole or in part) of qualified principal residence indebtedness. Qualified principal residence indebtedness means acquisition indebtedness (within the meaning of section 163(h)(3)(B), except that the dollar limitation is $2,000,000) with respect to the taxpayer's principal residence. Acquisition indebtedness with respect to a principal residence generally means indebtedness which is incurred in the acquisition, construction, or substantial improvement of the principal residence of the individual and is secured by the residence. It also includes refinancing of such indebtedness to the extent the amount of the indebtedness resulting from such refinancing does not exceed the amount of the refinanced indebtedness. For these purposes, the term ''principal residence'' has the same meaning as under section 121 of the Code.

If, immediately before the discharge, only a portion of a discharged indebtedness is qualified principal residence indebtedness, the exclusion applies only to so much of the amount discharged as exceeds the portion of the debt which is not qualified principal residence indebtedness. Thus, assume that a principal residence is secured by an indebtedness of $1 million, of which $800,000 is qualified principal residence indebtedness. If the residence is sold for $700,000 and $300,000 debt is discharged, then only $100,000 of the amount discharged may be excluded from gross income under the qualified principal residence indebtedness exclusion.

The basis of the individual's principal residence is reduced by the amount excluded from income under the provision.

The qualified principal residence indebtedness exclusion does not apply to a taxpayer in a Title 11 case; instead the general exclusion rules apply. In the case of an insolvent taxpayer not in a Title 11 case, the qualified

principal residence indebtedness exclusion applies unless the taxpayer elects to have the general exclusion rules apply instead.

The exclusion does not apply to the discharge of a loan if the discharge is on account of services performed for the lender or any other factor not directly related to a decline in the value of the residence or to the financial condition of the taxpayer.

The exclusion for qualified principal residence indebtedness is effective for discharges of indebtedness before January 1, 2010.

EXPLANATION OF PROVISION

The provision extends for three additional years the exclusion from gross income for discharges of qualified principal residence indebtedness.

EFFECTIVE DATE

The provision is effective for discharges of indebtedness on or after January 1, 2010, and before January 1, 2013.

Mr. BYRD. Mr. President, this is an enormous package—$700 billion. That ain't chicken feed! That is 17 times what we spend annually on health care for our Nation's veterans. That is 14 times what we spend annually on highways and mass transportation. That is more than the annual defense budget, which supplies our troops and fuels our planes and naval vessels around the globe. That is more than the total amount the Federal Government will spend on homeland security over the next 17 years. And that number actually hides the real potential cost because the Treasury Secretary would be authorized to buy and sell an unlimited amount of these troubled assets in the next 2 years.

It is an enormous amount of money. And it involves granting an enormous amount of authority to the Secretary of the Treasury. I believe many Americans, and that includes this Senator, would not pretend to understand all of the nuances of the financial mess that we are told is creeping into our Main Street communities and threatens to jeopardize the security of millions of Americans. But we all understand that, when working families were suffering because of the economic policies of these past 8 years, nobody in the Treasury Department or the Federal Reserve told us about the dangerous course we were on. When the Senate tried to pass an economic stimulus bill just last week, which included unemployment benefits and financial assistance for these same working families struggling with rising energy and food prices, those efforts were met with filibusters and fierce opposition from the White House that now wants a bailout of Wall Street. Apparently Wall Street institutions are too big and too important to be allowed to fail, but the same isn't true when it comes to working families.

West Virginia has always had its share of economic troubles. But, it has been further battered by the Bush administration's feckless fiscal policies. The annual budget cuts imposed by the Bush administration and its allies in the Congress have punished the people of my State and many other States. Everything from health care, to law enforcement, to programs for children have been put on the chopping block.

I grew up in the Great Depression. That economic collapse followed a decade of business prosperity. Three Republican administrations had pursued policies that brought the country to the brink of economic ruin. Those administrations pushed to get the government off the backs of business, a ''return to normalcy,'' President Harding called it. They had pushed through enormous tax cuts, including the largest tax cut in American history to that point all the while proclaiming the virtues of big business: ''The business of America, is business,'' thundered President Coolidge.

For the past 8 years, we have again heard the same slogans reflecting the same philosophy and seen another Republican administration follow the same reckless path. ''Unleash capitalism'', has been the cry for the past 8 years. ''Get the Government off our backs.'' The government is the problem, not the solution. We have heard it all before.

Well, the financial oversight agencies have had an 8 year holiday. For 8 years, Wall Street has run wild, as they loaned money they did not have, to people who could not afford these loans, to buy houses and other real estate that were enormously overpriced. Now, faced with financial troubles, the Wall Street barons look to the very Government that they had been resisting to save them to the tune of $700 billion. As the fear spreads and confidence erodes, now the turmoil on Wall Street threatens to wash over Main Street as banks refuse credit, old loans default, and investments that fund the pensions of the average American plummet in value.

Republicans espouse the theory of trickle down economics—that the benefits of economic growth will trickle down to the working family. What hogwash. This crisis proves that the only thing that trickles down to the working family is the losses that come from Wall Street run wild. I fear the enormity of the potential crisis that looms over our entire economy. The scope and the cost of the bill speak to the severity of the challenge that our financial leaders believe our country is confronting. This is legislation I do not want to support, yet I fear the consequences of its failure in this body. I fear opposing this legislation because I fear even more what might happen to our States, our workers, their pensions, and their jobs if this turmoil on Wall Street spreads further into our economy.

I am somewhat comforted by the improvements Congress has made in an otherwise total giveaway of funds and authority to the executive branch. The EESA bill is 113 pages compared to the 3-page proposal requested by the administration. Much of the new language includes checks on the new authority:

No. 1 sunsets the legislation on December 31, 2009—15 months from now—but the Treasury may extend the program until 2 years after the date of enactment;

No. 2 releases $700 billion to the Treasury in parts—the first $250 billion is available immediately, the next $100 billion is available after Presidential certification, and the next $350 billion is available unless a joint resolution of disapproval, subject to expedited procedures, is passed within 15 days of the Treasury request;

No. 3 includes the Appropriations Committees in the list of congressional committees that will receive regular reports;

No. 4 creates a new Congressional Oversight Panel in the legislative branch, which would be required to report to the Congress 30 days after the Treasury Secretary first exercises his authorities and every 30 days thereafter. The members of the panel would be appointed by the House Speaker, the Senate majority leader, the House and Senate minority leaders;

No. 5 requires the Comptroller General to report to the Congress every 60 days;

No. 6 creates a special inspector general, which would be subject to Presidential appointment and Senate confirmation, and would be required to report to the Congress within 60 days of confirmation and quarterly thereafter;

No. 7 creates a Financial Stability Oversight Board in the executive branch. The board would consist of the chairman of the Federal Reserve, Treasury Secretary, Chairman of the Securities and Exchange Commission, Secretary of Housing and Urban Development, the Director of the Federal Housing Finance Agency, the overseer for Fannie Mae and Freddie Mac, and would be required to report to the Congress quarterly. In addition, 60 days after the Treasury Secretary first exercises his authorities and every month thereafter, and 7 days after the purchasing authority reaches each $50 billion tranche, the Secretary would be required to report to the Congress;

No. 8 within 2 days of the Secretary exercising his authority under the act or within 45 days of enactment, the Secretary would be required to publish program guidelines explaining how troubled assets would be selected, priced, and purchased.

I believe that our duty is clear. We must pass this legislation or further destabilize our country's economic situation. But after we pass it, if we do, we must then go after all of those who so cavalierly put the rest of us at such incredible risk.

Mr. DORGAN. Mr. President, providing a $700 billion financial rescue plan without requiring reform and regulation of the financial markets is a serious mistake. That is exactly what this legislation does.

I believe that we are in an economic crisis that does require a response by Congress.

But it cannot be a response that commits the American taxpayers to a large

rescue fund for many of America's biggest financial institutions while still leaving in place unregulated financial markets that allowed this financial crisis to happen.

Despite my best efforts there is nothing in this legislation that will require the regulation of the very financial markets that have, in recent years, helped create a casinolike atmosphere with large financial institutions exhibiting unprecedented greed in search of short-term profits and big bonuses that knew no bounds.

I will not vote for a plan that I believe fails to address the central cause of this crisis: unregulated financial markets that hide the unbelievable speculation and reckless investments by some major financial institutions whose losses are now being loaded on the backs of the American taxpayers. Those financial markets must be regulated now!

In 1999 when Congress debated a large deregulation bill titled the Financial Modernization Act, I was one of only eight Senators who voted no and I warned then in Senate debate that ''this bill will also raise the likelihood of future massive taxpayer bailouts.'' I wish I had been wrong.

Nine years later we are considering a ''massive taxpayer bailout'' plan that provides no regulation of the hedge funds and derivative trading that has caused much of the financial wreckage in our economy.

The plan also fails to restore the protections that were removed in the Financial Modernization Act to separate FDIC insured bank operations from the risky speculative investments in real estate and securities.

Under this plan the creation of exotic securities that are traded in financial darkness by unregulated hedge funds and other institutions can continue. It is estimated that there is a notional value of more than $60 trillion of credit default swaps in our economy. No one knows where they are, whose balance sheets they may threaten, or how much additional risk they pose to financial firms. Yet, I was told this plan could not require regulation and transparency of these financial markets because there was opposition in Congress and the White House. That is not a satisfactory answer for me. And I don't believe it is satisfactory to the taxpayers.

The legislation contains some provisions that I strongly support. I believe we should increase the FDIC insurance to $250,000 per account. I also strongly support the tax extenders and the tax incentives for renewable energy.

But in the end, if this plan is about restoring confidence, the failure to include reform and regulatory measures along with the money is a fatal flaw that I believe will end up hurting our country.

The following are the six steps I called for including in the financial rescue plan. While there was some improvement in the plan along the way, it fails to do what I think is necessary to protect both the economy and taxpayers.

1. Restoring the stability and safety of the banking system by re-creating protections of the Glass-Steagall Act, which prohibited the merging of banking businesses with riskier investments. That post-Depression Era protection served us well for seven decades before its repeal.

2. Addressing the wildly excessive compensation on Wall Street, which has incentivized reckless behavior. In recent years, Wall Street has doled out more than $100 billion in bonuses to the very people who have steered us into this mess, including more than $33 billion in each of 2007 and 2006.

3. Developing a system of regulation that would require accountability for the speculative investment activities of hedge funds and investment banks that create and sell complex securities.

4. Providing for a period of forbearance on mortgages where homeowners could continue to pay mortgages at a set rate.

5. Creating a Taxpayer Protection Task Force that would investigate and claw back ill-gotten gains. This would be targeted at individuals and firms that profited from creating and selling worthless securities and toxic products. Despite the fact that this practice caused the current economic crisis, many of these individuals and firms now seek to benefit from a Government bailout.

6. Making sure that U.S. taxpayers get to share in the increased values, not just the burden of risk, of the firms they are bailing out.

Mr. LEVIN. Mr. President, our Nation's economy is in crisis, the likes of which we have not seen since the 1930s. For years, we have traveled a disturbing path: foreclosures and unemployment are up while median income and purchasing power are down. CEO pay has skyrocketed while regular Americans are suffering. Economic growth has slowed because tight credit has forced businesses large and small to put investments for the future on hold while they focus on making sure they have capital to buy inventory or even make payroll.

But in just the last few weeks, we have seen something even more startling appear on the horizon: our current path ends at a cliff, and if we do not take quick action to change the course of our economy, we could go over the edge. The reasons we are at this cliff are many. The path we have traveled has been marked by an appalling lack of oversight by the regulators of the marketplace. Wall Street has run amok with greed while the Bush administration and others urged them on in the name of deregulation. As in the runup to the Great Depression, our free markets are running wild. We have reduced capital requirements, removed the authority of the Securities and Exchange Commission to regulate swaps, and speculators took over the majority of some commodity trading, like oil. Still, echoing Roosevelt's opponents in the 1930s, some opponents of government stabilization actions argue that the kind of rescue plan before us today—and regulation of the practices that brought us here—threatens the freedom of our markets and our people.

The opposite is true. In a free country, we need to have stoplights and cops to maintain order, keep everyone safe, and give everyone fair treatment and fair opportunity. The same is true of a free economy: when stoplights and cops are replaced by a drive to achieve total deregulation, the country is left with an absolute mess—and that is what we face today. Cops have been taken off the beat in our financial markets; stoplights to put a hold on free markets running wild have been dismantled; and now, regular Americans are suffering, and face even more dire consequences.

There is plenty of blame to go around, and the excesses that continue to surface as this unfolds will no doubt be shocking. In the immediate term, however, the most pressing issue is how we turn our unstable economic situation around to avoid an even more dire result.

If we fail to take action, pensions and savings could quickly be decimated by a wrecked stock market, and Americans could suffer with significant job losses and less ability to buy everything from groceries to a new car or house. Small businesses and even large ones are likely to see their access to capital further reduced, home mortgages could become even more difficult to acquire or refinance, foreclosures could further skyrocket, and auto and student loans could be much more difficult to get. Construction jobs would likely disappear, automakers would cut back even further on production and lay off workers, and retail and service jobs would be cut. Retirees who are counting on a 401(k) or other type of pension would see their nest eggs shattered. If the stock market crashes, investments—even those made years or decades ago in supposedly ''safe'' assets—would be drowned.

It is clear to me that we cannot allow our Nation's economy to fall off this cliff. We need to take action before it is too late. Doing nothing is not an option. But it is with reluctance that I will vote for this rescue plan because it is not entirely clear that it will unlock enough credit and stop enough foreclosures to turn things around. It is also evident that this plan only includes the first steps towards getting regulatory cops back on the beat to make sure our markets are not allowed to continue running wild. But there also is no better alternative at this time, so I will vote for this plan with the hope that allowing the Government to buy up a significant portion of the troubled assets that are weighing down banks and other financial institutions will unlock enough capital to restore flexibility and credit to businesses and

consumers, before Americans suffer even greater consequences of our current course. In addition, if done right, the Government can use this plan to purchase, modify, refinance, and resell mortgages that are based on accurate home values, have fair, longer-term repayment terms that homeowners can meet, and will return mortgage repayment rates to their historic high levels of dependability and profitability. If that is how this program is carried out, it can avert a disaster. Unlocking credit and restructuring mortgages will also help soothe investor concerns and, therefore, protect pensions, savings and investments.

I could not have supported the original plan sent to Congress by the Bush administration. It did nothing to protect taxpayers or provide any oversight. It also did nothing to address the core of the problem, which is the foreclosure crisis. I think, however, that we in Congress have decided that if taxpayer dollars are used to clean up the financial mess, the administration is going to have to accept taxpayer safeguards and taxpayer oversight.

Congress has done significant work to add in some of the needed taxpayer protections, and to make sure that this plan is grounded in helping regular Americans. Among other safeguards, this rescue bill provides the government, and thus the taxpayers, with options to acquire an equity stake in companies that take advantage of the program. By doing so, the government is providing some financial protection to taxpayers.

The bill also includes limits on executive compensation for entities that take advantage of government assistance, though, like other provisions, the effectiveness of these provisions will depend upon how well they are implemented. The bill also imposes needed internal controls and oversight provisions to make sure this unprecedented power and amount of money is used responsibly. These controls include immediate public reporting of the assets purchased, including the price paid; GAO audits of those financial reports; and Inspector General oversight to prevent fraud, favoritism, waste of taxpayer dollars, and abuse of power. In addition, a special House-Senate oversight panel will be established to track this program and ensure that taxpayer interests are protected. These protections are important. Still more important is that Congress revamp oversight and regulation of our financial markets to prevent future financial disasters like this one.

There are other provisions in the bill that are particularly important that I want to mention.

I am pleased that this bill, in sections 109 and 110, requires the Treasury Department to maximize assistance for homeowners and encourage mortgage service providers to minimize foreclosures so as to keep families in their homes. Rampant foreclosures are at the core of this economic crisis, and a recovery can only come when the housing market turns around. This effort to limit foreclosures will be bolstered when the Federal government holds, owns or controls mortgages or mortgage backed securities. As the owner of loans that are at risk to be foreclosed upon, the government can consent to modifications, and can rework mortgages so that the homeowner can continue to make payments. Homeowners, communities and taxpayers generally will be better off than if these mortgages go into foreclosure.

It should be noted that foreclosure mitigation measures will become much more difficult to enforce when the government buys mortgages that have been securitized and divided up into smaller parts. In these cases, section 109 requires Treasury to coordinate with the Federal Deposit Insurance Corporation, the Federal Reserve, Fannie Mae, Freddie Mac, the Department of Housing and Urban Development and other Federal entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets. This will enable Treasury to improve the loan modification and restructuring process.

All of the homeowner assistance and foreclosure mitigation programs included in this bill set worthy goals, but they could be stronger. Rather than encouraging servicers to modify unaffordable loans, the United States should undertake a systematic effort to minimize foreclosures, and the Treasury's efforts should be built around that principle. I would also like to have seen a similar requirement in any mortgage-related asset that the United States resold to the private sector. Unfortunately, such a carry-forward provision is not included in the final bill.

I also support the bill provisions in section 108 that require Treasury to issue regulations or guidelines to ''manage or prohibit'' conflicts of interest. One conflict of interest that deserves special attention involves companies that service residential mortgages. These companies make a stream of revenue from servicing the loans. They may not specialize in loan modifications or refinancing. If a mortgage loan is refinanced through FHA or otherwise, the loan servicer may lose the business. For that reason, some loan servicers may have a conflict of interest when it comes to implementing the bill's policies promoting loan modifications and the HOPE for Homeowners Program. Therefore, in addition to companies that service loans, the Treasury Department should consider hiring companies who have the experience and technology to modify and refinance loans with and without FHA insurance. These companies need to be committed to working with borrowers to develop a loan that they can pay, and the companies need not be worried about servicing the modified or restructured loan. I am assured that the Treasury Department has the authority to accomplish this.

Another important bill provision limits purchases of troubled assets to ''financial institutions'' which are ''established and regulated under the laws of the United States.'' We cannot afford to bail out offshore hedge funds, foreign banks, and sovereign wealth funds that purchased high risk mortgage-backed securities and other high risk investments to obtain high returns. I am relieved that we are focusing our efforts on U.S. institutions subject to U.S. regulation.

I am also pleased that many state and regional banks, auto finance companies and other off-Wall Street entities will be eligible for participation in the troubled asset relief program. These entities are hurting, and their financial stability has a direct impact on American consumers; they should have access to this new market for otherwise illiquid assets. Furthermore, under this bill, the Treasury Secretary has the authority to purchase troubled assets that are not mortgage-related, so long as, after consulting with the Chairman of the Federal Reserve, he or she determines that doing so would promote financial market stability.

While this final bill is miles ahead of the Bush administration proposal sent to Congress, I am disappointed that it does not contain a number of additional taxpayer protections I advocated. Those missing protections included limits on the types of assets that could be purchased, requirements for contract competition, policies to minimize foreclosures, and regulation of credit default swaps.

One of the taxpayer safeguards I advocated, for example, was to limit the bail out to purchasing troubled mortgages on ''real estate located in the United States.'' That limitation was not, however, included in the final bill. Its absence means that, as currently written, Treasury is able to purchase troubled mortgages on real estate located in Germany, Japan, China, anywhere in the world where U.S. financial institutions bought mortgages. That doesn't make sense, and I don't know why this basic limitation was left out of the bill. We can't afford to bail out mortgages or mortgage-backed securities on real estate in other countries, and I hope we won't.

Another problem is that the bill does not require that competition be used to select the contractors who will manage the hundreds of billions of dollars in troubled assets that will be purchased under this act. A prior draft version of the bill stated that the Secretary ''shall solicit proposals from a broad range of qualified vendors interested in performing the work.'' That language disappeared from the final bill. The American taxpayer is left hoping that the Bush administration or the next administration will not continue the Bush administration's prior record of awarding huge, no-bid contracts to a favored few.

Finally, I am disappointed that the bailout bill does not restore the authority of the United States to regulate one of the prime culprits responsible for this financial disaster, credit default swaps.

Credit default swaps are a type of financial derivative typically used to insure payment of a debt obligation. Some companies, such as AIG, issued them to the debt holder in place of insurance policies to assure payment, while others used them like short sales, betting on whether an unrelated company will fail to pay its debts. These bets, called credit default swaps, are primarily responsible for the Federal bailout of AIG, they are the focus of an ongoing SEC investigation into market manipulation, and they continue to threaten U.S. financial market stability because so many financial firms have credit default swaps on their books.

Eight years ago, the Commodity Futures Modernization Act of 2000 prohibited the Securities and Exchange Commission from regulating all types of swap agreements, including credit default swaps. As a result, a completely unregulated $60 trillion credit default swap market has developed with no capital requirements like insurance companies have, no disclosures, no safeguards, and no oversight by any federal agency.

The statutory bar against regulating swaps is a prime example of the deregulatory policies that landed American taxpayers in this $700 billion mess. It is a prime reason why financial institutions are afraid to lend to each other—no one knows who has how many credit default swaps outstanding, with which counterparties, involving how much money. Yet this bill fails to address this problem.

At a Senate hearing on September 23, SEC Chairman Christopher Cox testified that the credit default swap market ''is completely lacking in transparency,'' ''is regulated by no one,'' and ''is ripe for fraud and manipulation.'' He stated that the SEC's lack of regulatory authority over swaps is a ''regulatory hole that must be immediately addressed,'' warning that otherwise ''we will have another crisis on our hands.'' Chairman Cox stated: ''I urge you to provide in statute the authority to regulate [credit default swap] products to enhance investor protection and ensure the operation of fair and orderly markets.''

Three days later, on Friday, September 26, SEC Chairman Cox repeated his warning and the need for SEC regulation: ''[I]t is critical that Congress ensure there are no similar major gaps in our regulatory framework. Unfortunately, as I reported to Congress this week, a massive hole remains: the approximately $60 trillion credit default swap market, which is regulated by no agency of government. Neither the SEC nor any regulator has authority even to require minimum disclosure. I urge Congress to take swift action to address this.''

Congress should have heeded that call and addressed the problem in this bill. This bill should have repealed the existing statutory prohibition and given the SEC general authority to regulate swap agreements. Such a provision would have closed the swaps regulatory loophole, while giving regulators and Congress additional time to determine what specific regulation might be appropriate. But neither this nor any other provision to regulate credit default swaps, or swaps in general, was included. It is a missed opportunity that we can only hope does not come back to haunt us. I hope the next Congress will address this issue as part of an effort to strengthen regulation.

A final provision in the bill that was added at the last minute may also come back to haunt the American public. Section 132 authorizes the SEC to suspend the generally accepted accounting rule that requires publicly traded corporations to report the fair value of their assets in their financial statements.

If it were to suspend this accounting rule, the SEC would strike a blow against honest accounting. Such suspension could essentially allow corporations to inflate their asset values by reporting something other than their fair market value—presumably allowing them to use instead historical data, mathematical models, best estimates—who knows? In a blink of an eye, corporations would have stronger balance sheets than they do now, essentially cooking their books with the approval of the SEC. It is an approach that echoes the excesses of the Enron debacle.

The bill seems to prompt the SEC to allow this fantasy accounting at the very time that financial institutions are leery of lending money to each other, under the mistaken impression that artificially inflated balance sheets will encourage lending. But allowing inaccurate financial reporting, with inflated asset values, will not increase confidence in the markets and it will not unlock credit.

As far as I know the SEC has never reached into the generally accepted accounting principles to suspend a particular rule, and I hope it doesn't start now. It would be a terrible precedent. And to the extent that including this provision in this economic stabilization bill was an effort to convey Congressional approval of that approach, I would like to make it clear that I oppose suspension of Financial Accounting Standards Board Rule 157. Honest accounting, using fair market values, is essential to resolving the financial disaster that now threatens our markets.

The financial mess we are in is the result of 8 years of inadequate regulation of U.S. financial markets by the Bush administration. It is long past time to strengthen market oversight. The regulatory gaps are everywhere. Unfortunately, due to the urgency of adopting this legislation, many much-needed reforms were simply not included in the rescue plan.

In 2004, the SEC voluntarily weakened the net capital rule that establishes capital reserves for securities firms. We need to restore the net capital rule that was weakened in 2004, and resulted in securities firms overborrowing. Another glaring problem is the absence of regulation of the more than 8,000 hedge funds that use American markets. They don't even have to register with the SEC. Still another problem is the weak regulation of credit rating agencies, including the failure to resolve the conflicts of interest inherent in these agencies' rating the securities of the firms that hire them. Weak accounting rules that allow companies to hide their liabilities and over-value their assets continue to undermine investor confidence. We must also take action, as I have already mentioned, to regulate credit default swaps and other derivatives that financial institutions have loaded up on with little or no disclosure, regulation, or oversight. The collapse of credit card securities is another crisis waiting to happen due to abusive practices, excessive interest rates, growing debt, and the lack of credit card reform. There was talk early on of this bill setting an expedited schedule for addressing these and other financial regulatory issues, but nothing was included in the bill.

I am pleased that the Senate has chosen to include in this legislation its tax extenders bill, which the Senate passed separately last week. With regard to tax incentives for advanced and alternative energy technologies, the extension of many critical existing tax incentives—including those for wind, solar, biomass, and alternative fuels production and infrastructure—will facilitate the development and commercialization of all of these technologies. I am particularly pleased about the inclusion of a new tax credit for plug-in hybrid and all-electric vehicles, which is essential not only to the development of these technologies but also to consumer acceptance and widespread use of these vehicles. In addition to the energy tax provisions, tax extenders, and the adjustment to the alternative minimum tax, the legislation before us now also includes the important provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act. Mental health parity is about basic fairness and equity. Individuals suffering from mental health illnesses deserve access to adequate and appropriate health care. I have spoken previously about the significance of addressing this issue, and I am glad that Congress is righting this wrong. I hope the House will accept this package.

In conclusion, I will vote for this rescue package with many qualms but with the hope that it will prevent even greater harm to our economy and hard working American families. It is clear that a financial regulatory overhaul

should be one of the first priorities of the next President and the new Congress.

Mr. WARNER. Mr. President, I rise today to share my views on the economic stabilization plan, as now amended by the Senate, and the precarious state of our economy.

The instability in the housing market, the soaring energy prices, and, more recently, the institutional failures within our credit and financial markets have all been serious blows to our economy.

We must decide between the risks of doing nothing, thereby subjecting the free market to the extraordinary level of unknowns of this critical situation, or the value of seeking legislation in the hopes to reduce the severity of serious consequences to almost every single aspect of our economy.

The bill before us contains several improvements to the House bill, improvements that have strengthened the measure. And, in my view, without some form of Congressional action now, the credit markets could freeze up. Without money flowing through our economy, car loans, student loans, mortgage lines of credit, could become inadequate. Job losses could follow and with it an increase in the number of Americans without health insurance. I could go on and on.

My careful deliberations on this legislation and my understanding of the economic problems facing our Nation lead me to believe that the consequences of not taking this action poses an ever greater threat to our economy and to all Americans.

For this reason, Mr. President, I intend to vote aye in support of the bill, as amended.

Mr. FEINGOLD. Mr. President, I will oppose the Wall Street bailout plan. Though well intentioned, and certainly much improved over the original Treasury proposal, it is deeply flawed and in effect asks the taxpayer to bear the burden of serious lapses of judgment by private financial institutions, their regulators, and the enablers in Washington who paved the way for this catastrophe by enacting measures removing the safeguards that had protected consumers and the economy since the Great Depression.

I regret Senate leadership has opted to add a number of unrelated measures to this package. Whether this was done as a sweetener to make the bailout pill go down a bit more easily or as a way to dispose of remaining legislation in one giant package, the end result is a package that is less straightforward and much more likely to spur doubts among voters about the bailout portion of the package. The bailout package was already a big enough question mark in the public's mind before this dubious maneuver was concocted.

I strongly support some of the unrelated measures being added to the bailout package. The mental health parity provisions are long overdue. And I was pleased to support the tax extenders, disaster tax relief, and mental health parity package when it was considered by the Senate just a few days ago. But that legislation could have proceeded on its own, without being attached to the emergency bailout bill.

There is one new provision being added to the bailout proposal that is not only relevant but makes good sense, and that is the language raising the cap on the size of an account that can be insured by the FDIC. I have supported raising FDIC insurance limits for many years. It should go a long way toward helping our community banks continue to attract and retain the deposits so critical to their ability to provide credit to consumers and Main Street businesses.

That brings me to the rest of the bailout measure. Though it is lacking in several areas, I will focus my attention on three critical defects in the legislation. First, it places the financial burden squarely on the average taxpayer. In fact, because it is funded through increased debt, the burden is actually placed on future taxpayers. Regrettably, no offset was seriously considered, and as a result, our debt is at risk of rising by another $700 billion. That is $700 billion more that must be paid off by our children and grandchildren in the form of increased taxes or fewer government services.

A second defect of the bailout bill is its failure to adequately address the housing crisis which underlies much of the financial market collapse. It does not include meaningful provisions to help individual homeowners stay in their homes. As foreclosures continue to increase throughout the country, including in Wisconsin, we need to ensure that any legislation actually helps actual homeowners, not just Wall Street banks and investment firms. This is not just a matter of fairness, though it is surely that. It is also common sense. It is the housing crisis that underlies the collapse of the credit markets. Without addressing those root causes, any bailout is less likely to succeed.

This does not mean that we should reward homeowners who took out bigger mortgages than they could afford to repay or who sought to flip homes for investments. But for the homeowners who were misled or who fell prey to predatory lending, Congress should do something to ensure that those homeowners have the ability to work with their servicers to modify their home loans. Unfortunately, this bailout bill is too skimpy on protections for the individual homeowner.

I am also disappointed that this bill does not include language that would allow bankruptcy judges to alter the mortgage terms of a homeowner's primary residence when that homeowner has declared bankruptcy. These sorts of loan modifications already can take place for vacation homes and other types of personal debt. It is troubling that the Bankruptcy Code would allow these modifications to take place on different types of debt but not a family's primary residence. Congress should address this issue and pass legislation to reform the Bankruptcy Code to permit loan modifications to owner-occupied primary residences.

It is true this bailout bill contains provisions directing the Secretary of the Treasury to implement a plan to ''encourage'' servicers to take advantage of various programs to minimize foreclosures. But unfortunately, the legislation seems to lack real teeth to ensure that these servicers actually modify the terms of nonfederally owned mortgages in order to prevent foreclosures. As we have seen with the Bush Administration's Hope Now Alliance, voluntary encouragement of loan modifications is not enough. While there are a number of factors contributing to the high rates of home foreclosures around this country, I am worried that unless Congress passes stronger legislation to do more than encourage servicers to modify the terms of these mortgages, we will continue to see high foreclosure rates plague our communities.

Finally, and perhaps most importantly, this legislation fails to include steps to reform the financial markets to ensure that we will not need another bailout in the future.

If the taxpayers are being asked to bail out Wall Street, the least we can do, the very least, is to ensure it will not happen again. Nothing in this legislation does that. Indeed, the administration has pushed hard to keep the bill free of the kinds of regulatory reforms we need to prevent this kind of financial crisis from occurring again. We are told that such reforms should be the focus of future legislation.

This is an old tactic. In my days in the Wisconsin State senate, we used to call that the ''trailer bill'' promise. Of course, after promising all would be made well in some future ''trailer bill,'' that mythical legislation never materialized, or if it did, it failed to accomplish what it was promised to do.

If anyone fell for the ''trailer bill'' maneuver once, I can tell you that they didn't fall for it a second time, and no one should fall for it now.

The bottom line is this, Mr. President. Any regulatory reform legislation considered separately will almost certainly be inadequate, and it might even do further damage, because of the influence of the financial industry. The last two decades have seen a string of almost uninterrupted victories by that industry in these halls. We have seen sound laws and regulations that protected consumers and the stability of the financial system repealed or weakened. Just 9 years ago, the icing was put on that deregulatory cake with the enactment of the Gramm-Leach-Bliley Act, a law which tore down what was left of the protective firewalls in our financial system. Little surprise, then, that without those firewalls the fire has indeed spread across the financial landscape.

We are paying the price for years of regulatory neglect, and the responsibility for that neglect is truly bipartisan. Both parties rushed to enact those measures; both parties have worked to ensure that financial derivatives—what Warren Buffett has called financial weapons of mass destruction—remained largely unregulated. Both parties worked to prevent the inclusion of even the most modest reforms in this bailout package. And I am concerned that any separate reform package we might consider in the next Congress will also be bipartisan in its inadequacies.

There is a chance that Members will have learned a costly lesson, and that meaningful reform may yet be enacted. But I am skeptical. The leverage for meaningful reform was this bailout package. Once that passes, the financial interests that have had their way in this building for the last two decades will be free to lobby against anything that may inconvenience them.

Mr. AKAKA. Mr. President, I support the Emergency Economic Stabilization Act of 2008. While this compromise does not include all of what I wanted, we must enact this legislation in an attempt to protect our credit markets and our economy.

The administration has not effectively informed the public on why this action is needed. The Bush administration has so little trust and has been such a bad example of governance, I understand why so many people are skeptical. However, this is a time, where due to instability and deterioration of the credit markets, we must act. In addition, I value the expertise of the Federal Reserve Chairman Ben Bernanke. I have enjoyed working with the Chairman during his tenure. I agree with his assessment that the situation is as dire as he believes.

Banks and investment banks have failed. Credit has become harder to get. Uncertainty and anxiety are high. When Chairman Bernanke and Treasury Secretary Paulson came to us and explained how tenuous the credit markets are, I understood that we must avert further deterioration. It is clear that we must try and prevent the absolute collapse of the financial services industry, which would likely lead to an even more severe economic downturn, by enacting this bill quickly.

Access to credit is becoming much harder to obtain. Fewer car loans are being approved. Small businesses are finding credit to be much more expensive and harder to obtain. The State of Hawaii recently delayed the sale of bonds due to the poor market conditions.

Our economy cannot function without access to affordable credit. Credit helps families buy homes or pay for their child's college education. Businesses rely on credit for operations and investments. State governments utilize credit to make much needed infrastructure improvements.

Without access to affordable credit, businesses will fail, more people will become unemployed, and our aging infrastructure will continue to deteriorate. We must enact this legislation to improve the likelihood of a swift economic recovery and try to avert a severe economic contraction.

The original Treasury proposal included no oversight and was not a well thought out proposal. It was offensive due to its lack of accountability and oversight provisions. The purchase and sale of assets has great potential to be abused and lead to corruption. We must make sure that this situation, which has been caused partially by greed, will not be exploited to further enrich the individuals or corporations that caused this situation.

By working together with the Chairman, we have included more oversight and accountably provisions to prevent abuse, ensure proper management, and reduce conflicts of interest. The legislation includes additional reporting requirements to Congress, mandated audits of the program by the Government Accountability Office, GAO, and the creation of a special treasury Inspector General to oversee the Troubled Assets Relief Program, TARP.

We will have to closely monitor this program through aggressive oversight by the Banking Committee and other relevant committees. The legislation establishes a financial stability oversight board to review and make recommendations regarding the exercise of authority by the Secretary of Treasury under this act.

Although the Secretary is able to waive provisions of the Federal Acquisition Regulation, FAR, the Secretary would need to provide Congress justification for the determination that there are urgent and compelling circumstances that make such waiver necessary. This justification must be reported to the Committees on Oversight and Government Reform and Financial Services of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Banking, Housing, and Urban Affairs of the Senate within 7 days of the request. Furthermore, if the Secretary waives any provisions of the FAR pertaining to minority contracting, the Secretary shall develop and implement standards and procedures to ensure the inclusion of minority contractors.

Furthermore, under this act, the Secretary will be required, within 2 business days of exercising his authority, to publicly disclose the details of any transaction. It also requires the Comptroller General of the United States to conduct ongoing oversight of the activities and performance of TARP, report every 60 days to Congress, and conduct an annual audit of TARP. It would also establish the Office of the Special Inspector General for TARP. This office would be required to conduct, supervise, and coordinate audits and investigations of the actions undertaken by the Secretary and would report quarterly to Congress. This is very important, as we have found with the Special Inspector General for Iraq Reconstruction, SIGIR, the SIGIR has been instrumental in ensuring oversight of our efforts in Iraq. Establishing a similar office to oversee TARP is a critical component to monitor the actions approved by this act.

Another important aspect of this proposal is that the authorization for TARP is graduated. The Secretary will be able to immediately access up to $250 billion. However, for an additional $100 billion, a Presidential certification would be needed. The final $350 billion could only be accessed if the President transmits a written report to Congress requesting such authority. However, should Congress pass a joint resolution of disapproval within 15 days of this additional authority, the additional authority given to the Secretary may not be used.

The Act also requires the Secretary of the Treasury to implement a plan to mitigate foreclosures and to encourage servicers of mortgages to modify loans through HOPE for Homeowners and other programs. The Secretary would also be required to coordinate with other Federal entities that hold troubled assets to identify opportunities to modify loans. I will continue to advocate for additional relief for homeowners so that people can stay in their homes.

Finally, we must reform the financial regulatory system to prevent future credit crises from occurring. A lack of effective regulation has contributed significantly to the current crisis. This legislation establishes a congressional oversight panel to review the state of the financial markets, the regulatory system, and the use of authority under TARP. The panel is required to report to Congress every 30 days and to submit a special report on regulatory reform prior to January 20, 2009. A comprehensive set of hearings will need to be conducted by the Banking Committee during the next session to determine what regulator reforms will be necessary to ensure that future Federal intervention of this magnitude will not be necessary.

In closing, this is not a perfect bill, but a necessary one to protect access to credit and ensure that working families can access mortgages and student loans. It is needed so that businesses can access credit to pay their expenses and fund expansion. This act is needed to help ensure that State governments can afford to finance necessary infrastructure improvements.

I thank Senator DODD for his leadership in helping craft this proposal. I also greatly appreciate the efforts made by Senators REID, SCHUMER, and REED. I look forward to continuing to work with them and the other members of the Banking Committee to oversee and improve the troubled asset program.

Mr. JOHNSON. Mr. President, it is no exaggeration to say that our economy is currently undergoing a period of extraordinary stress and volatility.

South Dakota has not seen the highs and lows of the housing market in the same way as other areas of the country, and South Dakotans exercised strong personal responsibility when it came to buying their homes, which is why this mess is all so frustrating.

It is very unfortunate that greedy, Wall Street investors brought us to this point, and that the regulators were asleep at the switch when we needed them most.

There is no question that something must be done to address this situation. But, throughout this process, I have made clear that while this may be a necessary evil, it cannot be a gift that puts undue burden on the American taxpayer.

I have struggled with this decision, as has the entire Congress. There is no question that there are reasonable people on both sides of this issue, and that the package before the Senate tonight is an improved version of the proposal the administration sent to Congress 2 weeks ago. However, despite the fact that this proposal has merits, I continue to have concerns that it lacks the necessary protections to fix the abuses that caused this problem, provides little direct assistance to American families, does not go far enough to cut the golden parachutes of irresponsible CEOs, and does not do enough to address American tax dollars benefiting foreign banks.

The inclusion of the tax extenders package, a bill which I wholly support, and increases in Federal deposit insurance are important additions, but they do not address the underlying risk the $700 billion package is to our taxpayers.

If we are to ask the American people to shoulder such a large and enduring burden because of the irresponsible and greedy actions of Wall Street then it is important that we get it right. This is closer, but it is not close enough. Consequently, I will vote against this bill tonight.

Mr. HATCH. Mr. President, I rise today to express my great concern about our economy. Time is of the essence. We must usurp the opportunity to be proactive, instead of reactive to our financial situation.

On Monday, my colleagues on the other side of the Capitol voiced the opinion of their constituents and many Americans. If we are going to spend up to $700 billion in taxpayer dollars, we need to reach out beyond Wall Street and into Main Street. Many people fear that the economy is facing a perfect storm. While this fear may be justified, we need to make sure that the next step we take, is a step in the right direction.

There have been several proposals discussed since the House rescue bill failed to pass. While there have been disagreements as to the type of plan, everyone agrees that something must be done immediately. Economists, professors, and government officials all are in concert that the consequences of inaction far outweigh the cost of a plan to stabilize the economy.

The Economist magazine pointed out that the current situation ''cannot last long without causing immense damage. Companies will be unable to raise new money, and more importantly, refinance old loans. Corporate bankruptcies will soar. Consumers will also find it difficult, or expensive, to borrow. The result will be a sharp downturn in demand that will push the economy into a deep recession.''

Scott Schaefer, a professor of finance at the University of Utah's School of Business, agrees that the ''idea of 'do nothing' isn't feasible—when banks fail they necessarily fall in the lap of the FDIC. So the losses from failed banks fall on taxpayers.''

Kristin Forbes, an MIT professor and former member of the President Bush Economic Counsel, has stated that while this may not be a perfect bill, ''the risks of not passing it are greater than passing it. If we wait too long, it might cost us much more.''

Hussan Ally, an economics professor at Ohio State University, sees the failure to act as resulting in ''the whole economy being in a depressed state for a long time. We're talking about the Great Depression all over again.''

I believe that one reason why the financial rescue legislation failed to pass in the House was because the American people are not convinced that this bill would help Main Street America or them personally. Along with this, I believe that many Americans fail to see the connection with the current crisis with our financial markets and their own future economic well being. To better illustrate how our failure to address this situation could affect everyday Utahns, and Americans everywhere, I want to discuss three hypothetical families.

First is Anne Wilson, a single mother of two high schoolers whom she hopes will be college-bound in a few years. Anne earns $55,000 per year as an executive assistant. Through hard work and sacrifice, she purchased her own home a few years ago. However, she recently refinanced with an adjustable rate loan. With the savings on her monthly mortgage payment, Anne set up a 529 college savings plan to begin saving for her children's education. Even though Anne knows the cost of education is rising rapidly, she has a plan to see that her children can go to college. With decent returns on her investment in her 529 account, combined with student loans and possibly scholarship money, she believes it will be possible.

However, our failure to provide a financial rescue plan could put Anne's dream of college for those kids in jeopardy. First, we can expect the securities in which she has invested through the 529 plan will be growing much slower or possibly not at all. In fact, there is a good chance that she will lose some of the money she now has invested. Second, education loans may not be available because of the credit crunch, which could grow far worse without the actions of the federal government.

Until the housing crisis, Anne had some equity in her home that she might have tapped to help with the college costs. But that equity has evaporated, and even if it had not, it might be very difficult to get a loan. Anne will certainly have to readjust her plan, or even abandon the hope of providing college for her kids altogether. Moreover, if interest rates continue to increase, which is likely in the absence of action on a rescue plan, her mortgage payments will go up, adding to her anxiety.

Next, let us consider, John Baker, a 64-year-old sheet metal shop supervisor, who hopes to retire in 2 years. For the past 25 years, John has put the maximum amount of money in his company's 401(k) plan. Over the years, this nest egg has grown into a tidy sum. In fact, combined with the Social Security he plans to receive and the earnings from a part-time job, John thought he was all set. Now, however, things have changed drastically. His investment portfolio in his 401(k) took a nosedive and is not likely to recover anytime soon.

Moreover, with rising unemployment, he is not as sure as he used to be that he can get the good part-time job he was planning on. All in all, John is having serious second thoughts about retiring and is wondering if he needs to keep working to age 70 or maybe beyond. Now a new worry is crossing John's mind. He heard his company's CEO say the other day that if business does not pick up, there will have to be some layoffs in his shop. Given his age and relatively high pay, John is nervous that he might be one of the first to be let go.

Finally, we have Amanda and Derek Peterson, who five years ago started a small flower shop. With Amanda's business background and Derek's artistic imagination, the business soon took off and they now have three locations and a total of 15 employees. The Peterson's had been talking of expanding the business to two more locations in a nearby city, but such a move would take an investment of at least $500,000. Based on their track record so far, getting a business expansion loan would not have been a problem before the financial crisis.

Now, however, Amanda cannot find a single bank that will extend them a loan. Moreover, they recently have had to rely on credit card financing for running the day-to-day operations of the business. Their new worry is that their credit card limit will not be reduced or that the interest rate does not increase. Tragically, instead of making plans to expand their business, the Petersons are now talking about which employees they will have to let go if business does not soon improve.

The families in these scenarios, as well as all Utah and American families, have a great deal to lose if we do not

act to build confidence and ease the credit crisis. Jobs and livelihoods are at stake.

This financial rescue is not a question of bailing out wealthy Wall Street bank managers who made bad investment decisions. It is about staving off a financial crisis on Main Street that threatens every one of us and our plans for our families, our hopes for the future, and the growth we all depend on to keep American what it is.

While the failed bill would have saved the banking industry, we could be more proactive in jumpstarting the economy. The failed plan was only a remedy to a crisis and not a cure for the economy. In order to cure the economy, we must spur job growth and investment. The most obvious and substantial way to achieve this is by providing tax relief to Americans. Let's put money back into the pockets of taxpayers.

That is why I have proposed including the tax extenders legislation for several reasons. First, it is long overdue. Businesses and individuals depend on these tax incentives in order to invest. Businesses invest in research and technology which in turn creates jobs. Individuals invest in retirement savings, college tuition, and health care costs.

Adding the AMT patch would protect 23 million additional American families from the clutches of the alternative minimum tax for this year. The research credit, which is vital to U.S. economic growth and job creation, and the energy tax incentives, which will also add many new jobs and help us move to energy independence. It is estimated that the solar and wind tax credits alone are predicted to create more than 116,000 jobs. I have also proposed other tax incentives aimed at encouraging private investment of troubled mortgage-backed security instruments.

In order to build more confidence in our banking system, I have suggested increasing the FDIC insurance limit. This insurance limit has not been adjusted since 1980 and increasing it will give individuals much-needed assurance that their deposited savings are secure.

We can do more to improve the economic situation. I do not believe the answer is providing one bailout over another bailout. I do not believe we should be handing out rebate check after rebate check. I believe we need to assist in slowing the inevitable route our economy is heading and providing incentives for investment and job growth. That is why I have proposed including the tax extenders, providing incentives to invest in mortgage-backed securities, and raising the FDIC insurance limit.

Instead of stabilizing the economy by only injecting cash into the system, we should reverse the direction the economy is headed by laying the groundwork for a strong economic future. Extending these tax credits will provide for more growth, innovation and job demand into the future.

I would like to now spend some time and drill-down into some of the finer points in this legislation and address some of the broader concerns raised by our current economic situation.

As I noted before, we should move ahead with the package to support the consumers of the financial sector's services—depositors, check-writers, credit card users and the merchants who rely on them, people who need to transfer cash or who need to borrow working capital for their businesses—not the shareholders or managers of the institutions in trouble. We must unfreeze the credit markets in a manner that lets depositors have the full use of their money, and that allows the check-writing and payments mechanisms to function. Otherwise, perfectly solvent individuals and businesses will not be able to pay bills or pay their employees, even though they have cash.

Toward that end, the Federal Reserve should be willing to let banks use the impaired securities as collateral at the discount window, at some fraction of their face value that represents a reasonable first guess at the real value of the assets. The banks will be responsible for repaying the Federal Reserve the amount they borrowed, whether the bonds turn out to be worth more or less than this amount later on. This will tide the financial system over until the Treasury purchase of the distressed assets gets under way.

The proposal before us would have the Treasury arrange for the evaluation and unbundling of the mortgage-backed bonds. The process will have to determine which of the loans are performing, and which are not. As the content and status of the mortgages' underlying assets becomes known, people will know what the securities are worth, and the market can then attract private capital to take them over.

Ultimately, banks that do not have enough capital to be able to function will either have to raise additional funds in the market, or the FDIC must step in to close them or arrange a sale or merger to a stronger bank.

I support the increase in the amount of deposits covered by the FDIC. While the uncertainty over the health of the banking system continues, I would like to go further and extend deposit insurance temporarily to all checkable deposits, including money market funds. All institutions so protected should be charged a fee, such as the banks pay now, to replace any losses the FDIC incurs.

The FDIC is allowed to borrow from the Treasury. That borrowing facility should be reaffirmed and enlarged as needed. The limit on the national debt will be increased under this bill, to enable the Treasury to purchase assets. If further increases are needed to allow for additional borrowing by the FDIC, they should be forthcoming. However, expansion of FDIC coverage might well discourage withdrawals from bank and money market accounts, and render the additional assistance unnecessary.

Other steps need to be taken in the short and long run. Urgent regulatory changes must be made to support this program. More broadly, Congress must insist that there be better coordination between regulatory, monetary, and tax policy in this country in the future.

We still need to come to grips with Fannie Mae, Freddie Mac, and the rest of the Federal agencies that intervene in the housing sector. Relying on the institutions that contributed to the financial chaos to clean it up does not strike me as the best approach.

Part of the current problem stems from the unfortunate interaction of two regulatory excesses: minimum capital requirements for financial institutions, coupled with a blind, rigid mark-to-market rule for valuing assets on a bank's books. The SEC and the Financial Accounting Standards Board, the latter a private entity, are discussing changes in these areas. In my view, they need to move at once to suspend mark-to-market rules and to ease capital requirements.

When markets malfunction, and trading in a class of securities simply stops, it is wrong to force institutions to pretend that assets have no value, when, in the longer term, they are clearly worth something close to their face amount. This is especially damaging when the forced write-downs cause the institution to fall below minimum capital requirements. They must then be closed or merged, often at fire sale prices. This further shakes confidence in the financial system, discouraging lending among banks, lowering asset prices further, and making more institutions run afoul of the regulations.

Down the road, Congress needs to hold hearings to review the damage that mark-to-market rules and capital requirements have done in the present situation, and what changes would be advisable. We also need to consider the process that generated these rules. We need to examine why these difficulties were not foreseen when the regulations were written, and whether some alternative arrangements for input by the Treasury and the Federal Reserve, as well as the business community, might produce better results in the future.

The rest of the economy is in urgent need of attention too. This package fails to address broader economic problems. The long economic expansion is aging, as the stimulus to investment and hiring enacted in 2003 has run its course. Investment spending is slowing, which would lower productivity gains and wage growth. We need to keep business fixed investment in new plant and equipment and commercial construction moving forward. That would help keep employment, productivity, and wages growing, and keep the rest of the economy healthy.

The 2008 stimulus package contained one progrowth investment incentive.

That was bonus expensing, immediate write-off of one half of investment in equipment undertaken by the end of 2008. We should extend that provision through 2010. Ideally, this reduction in the tax burden on creating and operating capital in the United States should be made permanent, as should the 15 percent tax rates on dividends and capital gains. These steps would raise real returns to people doing business fixed investment, leading to stronger growth. It would raise returns to savers and lending institutions as well, aiding in the financial recovery.

Congress has paid too little attention to the impact of taxation and regulation on economy activity and expansion. We have been content in recent years to dump responsibility for economic growth on the Federal Reserve, while we have let fiscal policy run amok, letting taxes rise and spending the proceeds several times over. Those few recent tax changes that were aimed at promoting saving, investment, and hiring are scheduled to expire. We need to remember that it is Federal tax and regulatory policies that primarily affect real economic activity. Lowering the tax and regulatory barriers to growth helps to expand the private sector. Government spending largely displaces private activity, and forces higher taxes that retard growth.

We have tasked the Federal Reserve with maintaining stable prices and low unemployment. In fact, an overly simulative monetary policy that generates inflation and weakens the dollar ultimately raises tax rates on investment, destroys growth and jobs, and injures people on fixed incomes. Any initial expansion of real output quickly decays into speculative bubbles in commodities, housing, or an inflation of the general price level. The Federal Reserve can hit both targets only by focusing on the goal of stable prices and a sound currency.

Unfortunately, beginning in the late 1990s, the Federal Reserve abandoned a decade of reasonably steady monetary policy, and indulged in a policy of go-stop-go. It eased excessively after financial disturbances and the Y2K panic of the late 1990s, contributing to the dot.com bubble. It tightened too much in 2000, contributing to the recession. It eased too much, and held short term interest rates too low too long, following the recession, contributing to the commodity and housing bubble, and the weak dollar. Now, we have seen the resulting imbalances force the economy to a stop.

We need to have a reconsideration of the Humphrey Hawkins Act, which gives the Federal Reserve a congressional mandate to pursue apparently conflicting goals. At least, they conflict if the conventional wisdom of the 1930–1980 period is applied, in which printing more money and encouraging a little inflation is considered beneficial, rather that counterproductive. We need to have a heart-to-heart discussion with the Federal Reserve about keeping to a stable policy, and keeping its eye on the long-term prize.

The country would have been better served if the 2003 tax changes had been enacted in 2001 in place of the Federal Reserve's aggressive easing in the 2002–2005 period. The correct policy mix, then, now, and always, is sound money, low tax rates at the margin on work, saving, and investment, and a sensible regulatory scheme in which the pieces do not conflict and the costs are kept to a minimum. That policy mix rescued us from the stagflation of the 1970s. It can do the same today.

Unfortunately, Congress deals with these issues on a piecemeal basis. The executive branch is divided into many departments and agencies that have their own narrow focus and push different agendas. Differing views on how the economy works add to the confusion. Somehow, we need to get some coordination and oversight of this whole process, and make certain that all the players understand the broad objective and the role that each must play to make it work. I intend to push for that in the year ahead.

Mr. BINGAMAN. Mr. President, I rise today in support of H.R. 1424, a bill whose two components represent an important investment in America's economy and whose passage is critical for ensuring our Nation's long-term prosperity. First, the bill includes the Emergency Economic Stabilization Act of 2008, which will ''provide authority and facilities that the Secretary of the Treasury can use to restore liquidity and stability to the financial system of the United States.'' Second, the bill incorporates the Senate substitute to H.R. 6049, which extends tax incentives addressing our country's most pressing challenges.

I have previously come to the floor, on several occasions, to explain why we must commit to passing the ''tax extenders'' legislation. And I was glad that on September 23, this Chamber approved H.R. 6049 on a 93 to 2 vote. In particular, the bill contains a robust package of tax incentives for clean, renewable energy and energy efficiency incentives that I, and many of my colleagues, have worked for since the beginning of this Congress. These incentives will enable us to become a more energy efficient nation, wean us off our dependence on fossil fuels, and reduce our greenhouse gas emissions. I continue to support the extenders bill, and I hope that including the extenders bill in the package that will soon come before us will increase the likelihood that the extenders will become law. But I will focus my remarks today on the Emergency Economic Stabilization Act.

While we can dispute the causes, there is no denying that our country is facing a credit crisis. Paralyzed by illiquid loans on their books, banks of all sizes and in all corners of our country have demonstrated reluctance to make loans to businesses, individuals, and other financial institutions. The fallout has been especially apparent on Wall Street, where we have witnessed the collapse or near-collapse of 3 of the 5 independent U.S. investment banks, alongside the failure or near-failure of many additional institutions that play a central role in our Nation's financial services infrastructure. But let's be clear: The pain extends far beyond Wall Street.

With lending frozen, Americans are challenged in obtaining financing for the most important transactions they undertake. The so-called TED spread, which reflects lending willingness among banks, has reached its highest level in 25 years. When banks charge one another high premiums, those costs are ultimately borne by those who seek to borrow. And as mortgage lending remains tight, fewer Americans are able to purchase homes. Similarly, the approval rate for auto loans has fallen from 83 percent last year to a mere 63 percent this year. More than 25 major lenders have either cut back in private lending to students or have cut off student lending altogether. And nearly 3 in 4 small business owners say they are having trouble finding loans. Without loans, many of these businesses will be unable to expand; others will fail.

So, too, are our States, counties, and cities feeling the impact, as they face skyrocketing costs to issue the bonds that pay for day-to-day operations and capital projects. And I note with great concern the credit crunch's impact on the Nation's utility infrastructure. Our public and private utility companies rely heavily on debt to finance infrastructure enhancements, but the volume of bond issuances by utilities fell 50 percent in the last quarter and 25 percent year-over-year. Being unable to obtain financing inhibits U.S. utility companies from providing low-cost and reliable electricity, water, and gas to the Nation's businesses and households.

Like my colleagues, I have heard from many who are concerned by the prospect of a Government intervention in the credit markets. But I have also heard from people across New Mexico about the tremendous pressures they are facing because of this crisis. In Ruidoso, a rural community more than 2,000 miles from Wall Street, the credit crunch left the municipal school district with just one bidder for a $3 million bond issue. Unable to delay the school repairs and expansions that these bonds will finance, the school board was forced last month to sell the bonds at far less than it would have received just weeks earlier. In Carlsbad, the Community Foundation's endowment has declined significantly with the stock market, prompting the Foundation to announce that it may scale back grant awards and scholarships. In northwestern New Mexico, along our States border with Arizona, the Navajo Nation's Budget and Finance Committee is now meeting to identify which projects to cut because of financial losses directly tied to the credit

crisis. And in the capital city of Santa Fe, Lehman Brothers' failure has forced the Transportation Department to refinance bonds for highway construction. The refinanced terms will cost our State an additional $78,000 annually in debt service payments.

Failing to address the lack of available credit threatens to create a downward spiral that will cripple our Nation's economy. Without access to credit, businesses cannot stay afloat and grow. As Federal Reserve Chairman Ben Bernanke testified last week, without a rescue plan, the country stands to lose an additional 3.5 million jobs over the next 6 months. And if we do not pass this legislation, we are sure to see further declines in our Nation's capital markets, impacting everything from families' college savings plans to workers' 401(k)s and pensions to university and hospital endowments. Finally, we need to act to prevent our entire financial services sector from suffering major disruption. The sector's gross liabilities have climbed from 21 percent of GDP in 1980 to 116 percent last year, much of which is owed from one bank to another. This, says the Financial Times' Martin Wolf, means that absent swift action to restore liquidity, ''collapse will follow.''

These challenges come at a time when America is hardly in the position to weather a storm. To take just a few indicators: One in eleven mortgages is delinquent or in foreclosure; credit card defaults have increased by 15 percent from 2001; the Nation has lost more than 600,000 jobs this year; and more than half of our States have moved to cut spending, use reserves, or raise revenues to address funding shortfalls.

Based on this evidence, I have concluded that Congress faces an imperative to act. Of course, in doing so, we must be responsive and politically realistic. The plan before us today does not represent the best possible solution—but it is a responsive and politically realistic one.

I did not feel the same about Secretary Paulson's initial plan, which he released on September 21. I had read his 3-page proposal to suggest that the Secretary was asking for what amounted to a $700 billion blank check, and I would have voted against that proposal. Fortunately, Congressional leaders have significantly enhanced the Secretary's 3-page proposal. I applaud the Chairmen of the Senate Banking and House Financial Services Committee for stepping in to move us in the direction of greater transparency, oversight, and protection for the American taxpayer. And I appreciate my colleagues who led the negotiations—particularly Senators DODD and GREGG—for developing a bipartisan compromise that I could support.

First, the plan minimizes risks to taxpayers, a critical priority given our dangerously high national debt of nearly $10 trillion. As CBO Director Peter Orszag has testified, the ultimate cost of the plan will be far less than $700 billion, for the simple reason that the Government will be able to sell the assets it acquires. But we cannot be sure the cost is zero, and that is why I have conditioned my support on ensuring that the Treasury receive equity in firms that benefit from an infusion of public funds. I applaud the inclusion of such a provision in this bill, as well as a requirement that the President propose legislation to recover any anticipated losses.

Second, we have added significant oversight and reporting requirements, including a Congressional oversight panel; audits by the comptroller general; and the appointment of an inspector general for the program. I have great respect for the Treasury Secretary, but feel that no single individual should ever be entrusted with such a herculean undertaking without oversight.

Third, participating companies would be required to limit executive compensation. Like so many Americans, I am troubled by reports of executives who walk away from failed financial service firms with stratospheric paychecks. This bill begins to address that justifiable concern.

We cannot afford to sit by idly and let this crisis take a further toll on the economy. But we also must be realistic about the limitations of this legislation: It is a band-aid intended to stop the bleeding. It will not address the inadequate regulatory framework that allowed this crisis to develop, and Congress must commit to enacting comprehensive reforms that will ensure we never again find ourselves in such a precarious position.

Ms. MIKULSKI. Mr. President, regrettably a rescue plan is needed. Greed on Wall Street and lax regulatory practices from this administration got us into this mess. Taxpayers are angry and so am I. Americans who played by the rules are being asked to pay the bills for those that didn't. Now, Congress must take steps to protect taxpayers, protect the economy, protect the middle class, and protect our way of life. I stand ready to do my part.

But if I am going to vote for this rescue plan I want reform and a real commitment: regulation, oversight, and strong enforcement to what's on the books not a blind eye to those who cooked the books.

Heart and soul I am a regulator and a reformer. Time and time again we've seen the consequences of a lax regulatory culture and wimpy enforcement. Well I've voted over and over for more teeth and better regulation—to strengthen the Consumer Product Safety Commission, to get rid of lead paint in toys and lead in the bureaucracy, to make sure the FDA doesn't approve dangerous drugs and stop predatory lending and flipping.

The bill that got us into this mess in the first place was Graham-Leach-Biley. It got rid of the distinction between investment banks and commercial banks. That lowered the bar on regulation and allowed for casino economics. I was one of nine Senators to vote against it. I said we were going to create an environment where we were creating whales and sharks and the minnows would be eaten alive. Regrettably, my prediction proved right.

I was told I was old fashioned. I was told ''Get with it Barb, we're in a global market.'' Yes, I do believe in old fashioned values: honesty and integrity.

We need to get back to basics. It is not only about this bill. From tainted dog food to toxic securities Wall Street acted like they were masters of the universe but now they took us into a black hole.

The U.S. is in a credit crisis and that crisis affects everyone. As Tom Friedman said today in the New York Times,

> We're all connected . . . you can't save Main Street and punish Wall Street anymore than you can be in a rowboat with someone you hate and think that the leak in the bottom of the boat at his end is not going to sink you too.

The credit crisis affects jobs, and what's going on in our economy. Someone who wants a car to get to work can't get a loan to buy the car and that means the car dealer won't get the money to restock inventory and that car factories might shut down. And it means that person might not be able to get to their job.

It is a chain reaction.

Even if you don't think you own stocks your pension does. Towns and cities use credit to build and improve schools. Local governments use credit to fix intersections, and build highways and bridges.

That single mother who wants to go to community college uses credit to invest in herself. She won't be able to get help unless we act.

We need rescue, reform, and retribution. No blank checks and no checks without balances. We also need a 21st century regulatory structure to protect taxpayers, help homeowners and guarantee no golden parachutes for the people who got us into this mess.

Senators DODD and GREGG and my other colleagues did a good job of improving the Bush plan. This bill is much better than the Bush plan and goes to my principles. It protects taxpayers, has oversight and transparency, makes sure taxpayers benefit when economy improves, and it says no to golden parachutes.

However, I am disappointed in what is in here for homeowners. This was an opportunity to help homeowners, and show them whose side we were on.

There is some help but not enough. More people will get out of subprime mortgages and into FHA's. This bill should have said that families could have a work out plan to save their home. But unfortunately bill goes all out to help Wall Street and only halfway to help homeowners.

Many of these homeowners were hurt by predatory lending and deceptive advertising. These fraudulent lenders said let the good times roll. Well the good times are over and it's time for heads to roll.

That is why I went to work getting money in the Federal checkbook for the FBI to do mortgage fraud retribution.

The FBI's mortgage fraud workload increased 200 percent in 3 years. At April 16, 2008, at my CJS hearing, I asked FBI Director Mueller, ''How have cases increased? What do you need?'' He answered that he needed more funding for agents dedicated to mortgage fraud investigations.

So I provided $10 million to hire at least 25 additional FBI agents dedicated to investigation of mortgage fraud. So I'm coming after the scam artists and predatory lenders and won't stop until they get what they deserve.

I have great reservations about this legislation but I will vote for this bill. I don't think it goes far enough. I wanted more help for homeowners and more teeth in the oversight.

Is this a good bill? It is a lifeboat bill. We have no guarantees but it's a step we have to take. It's an immediate crisis and we have to restore confidence and restore stability so we save jobs and save our economy.

It will deal with the credit crisis. If we do not deal with the credit crisis, I believe that the Main Street economy will have to pay the bill for the bailout and pay the bill again in lost jobs, the ability to get along and in shrinking retirement and pension. So I will vote for this bill. But I heard the taxpayers loud and clear.

Mr. BURR. Mr. President, I rise today to speak on the financial crisis threatening our Nation. Like my fellow North Carolinians, I am very concerned and angry about the circumstances that have brought our country's economy to the brink and that now necessitate the Congress to act. While pointing fingers is easy, the grave fact remains that we are facing one of the most significant economic challenges we have ever confronted—one that threatens our very way of life.

I have heard from thousands of hard-working citizens who have spent their entire lives acting responsibly, only buying a home that they could afford, working hard to put food on the table, saving money to send their kids to college, and only borrowing responsibly when necessary. They are angry, and they have every right to be. I am angry, too. It is wrong and it is disgraceful that responsible, hard working people of this country are now being asked to step in to fix a mess caused by the irresponsible and greedy behavior of others. Much of what got us to this point was not only reckless behavior on Wall Street but also the fact that many people took out risky mortgages that they simply could never afford. A boom of easy money has led to a bust, which has now resulted in a collapse of housing markets all over the country and a potential collapse of our system of credit—the very lifeblood of our economy.

Let me be clear—this crisis threatens the financial security of each and every one of us—whether you have a retirement savings account or a pension, own a home, want to buy a home or a car, or have a savings account for your child's education or want to borrow for college. The current financial instability, if left unchecked, threatens the ability of small businesses and family farms to meet their payrolls, purchase fuel, and pay for their day-to-day business operations as their credit lines dry up and disappear. While many believe that this action is a bailout of Wall Street, the fundamental reason the Senate is compelled to act today is to stop an economic collapse of Main Street. Every day that goes by, our financial system grinds closer to a complete halt. We must act to get to the roots of this financial turmoil and get our financial system moving again.

As the health of our financial system has rapidly deteriorated, many banks have restricted or stopped lending altogether. Families, businesses, and local governments have found it harder to borrow money, money that is needed just to keep daily operations going. Without access to credit, businesses can't borrow money to buy equipment needed to produce their products. Cities and towns can't borrow money for water and sewer systems, roads, or other critically important community projects.

Over the past 2 weeks, I have heard from small businesses, cities, and towns in North Carolina that have been stranded by this economic crisis—businesses that can't get their standard lines of credit to operate and whose loans have been called. I have heard from counties throughout my State recounting how this national financial crisis is making it impossible to borrow from banks to pay for their schools and other critical projects. These businesses and local governments aren't folks with poor credit ratings or folks who have been late on or missed their loan payments. These are folks with strong credit histories who are the innocent victims currently caught up by our current financial crisis, and these are the honest, hard-working folks this legislation before us is meant to help by getting credit, the necessary lifeblood of our economy, flowing again.

Whether we like it or not, we now face a financial crisis that is unprecedented in scope, with repercussions so far-reaching that no American would be immune. So we now face a choice. We could do nothing and just let our entire country—which depends on credit to function every day—seize up and come to a halt. We could do that, but history has painfully shown us what happens when you do nothing and credit dries up. America felt this during the Great Depression. The result was a 40-percent foreclosure rate, massive unemployment, and years of economic hardship for millions.

Like many of my Republican colleagues in Congress, I cannot stand the notion of supporting something that violates my fundamental belief in free enterprise, the freedom to succeed, and the freedom to fail. That we have to consider this legislation at all marks a sad day in our Nation's history. But as a public servant, and as an elected representative of the Great State of North Carolina, I do not believe I can sit by and let this country fall into the worst economic state that it has ever faced. The risks of just rolling the dice, doing nothing, and letting the chips fall where they may are, in my opinion, too high. A working credit system is core to a strong economy. The bipartisan bill before us is our best chance, and perhaps our last chance, to avert this looming crisis.

While the need for this legislation is regrettable, I am heartened that the plan before the Senate includes very important protections for taxpayers, limits on executive compensation for Wall Street, and strong measures to ensure proper oversight and accountability. Under the legislation:

Those companies that sell their bad assets to the Federal Government must also provide warrants—a type of ownership stake—so that taxpayers will benefit from any future profits. If the program ends up making money for taxpayers, that money must go toward paying down the national debt. If the program loses money for taxpayers, then the President will be required to submit a proposal to Congress for recouping those losses from the financial institutions.

Corporate executives will have their golden parachutes clipped and any unearned corporate bonuses must be returned. In addition, companies will pay taxes on executive pay and, in many cases, must limit executive pay.

The FBI has already begun preliminary investigations into criminal wrongdoing by the management of 26 financial institutions, including Fannie Mae, Freddie Mac, AIG, and Lehman Brothers. The FBI is also pursuing over 1,400 mortgage fraud cases nationwide. This legislation will beef up that enforcement.

Savings deposits will be insured up to $250,000 by the Federal Deposit Insurance Corporation, FDIC, up from the $100,000 limit currently in place. This additional protection is very important for retirees, near retirees, and small businesses so that they know their savings and basic business operation accounts are indeed safe.

An oversight board will be established to monitor the Treasury's activities. In addition, a new inspector general will be appointed to protect taxpayers against fraud, waste, and abuse.

Rather than giving the Treasury all the funds at once, the legislation gives the Treasury $250 billion immediately and then requires the President to certify that additional funds are needed. Congress will have the power to deny those funds.

After we weather this crisis, and I am confident we can, I look forward to working with my colleagues in the Congress to improve the regulatory structures that govern our financial system. As this crisis makes abundantly clear, many of our regulations

to deal with financial markets are outdated. It is also important that we prosecute any corporation or individual who broke the law and contributed to this mess to the full extent possible. We must never find ourselves in this situation again and never again place American taxpayers and their livelihoods at risk.

Ms. COLLINS. Mr. President, I rise to discuss the energy tax provisions of Senator DODD's amendment to the Emergency Economic Stabilization Act. These provisions were included in the tax extenders, H.R. 6049, passed by the Senate last week. I strongly support these provisions, and I am pleased that they are included in the financial rescue plan we are voting on today.

The United States needs a balanced, comprehensive national energy policy that addresses our immediate problems and future needs without compromising the health of the environment. In fact, I believe we must embark on a national effort to achieve energy independence by 2020. This effort will require a stronger commitment to renewable energy sources and energy efficiency and conservation.

Some of the best ideas about what we need to do now and over the next 5 years to address our Nation's energy crisis are coming from people in my State of Maine. A professor at the University of Maine has a plan for clean, renewable offshore wind power to supply as much as 40 percent of the Nation's energy. Offshore wind production that is out of sight from land could provide an affordable source of renewable energy directly to population centers on each coast while supplying thousands of new jobs. In addition, it would expand Maine's electricity supply so that people could transition away from using oil.

Maine is also well positioned to take a leading role in the development of this tidal power. The U.S. wave and tidal energy resource potential that reasonably could be harnessed is about 10 percent of national energy demand. In Maine, a consortium of the University of Maine, Maine Maritime Academy, and industry is poised to become a key test bed site for tidal energy devices.

Maine also has a large supply of wood that could be used as an energy source. These stoves dramatically reduce both indoor and outdoor air pollution, use up to 50 percent less wood for the same amount of heat and utilize one of Maine's renewable resources. I am pleased that the energy tax bill includes a provision I authored to provide a $300 tax credit for replacing an old, inefficient wood stove with a cleanburning wood or wood pellet stove.

This credit will be an important tool to help people in my home State and throughout the Nation find affordable ways to heat their homes this winter. This legislation provides a credit for home heating systems which have thermal efficiencies greater than 75 percent and which use renewable, biomass fuels. Efficient, clean-burning biomass equipment currently is available that can achieve this thermal efficiency, and I believe that equipment should and would be eligible for tax incentives in this amendment.

Mr. President, again I am pleased that we are discussing renewable energy and energy efficiency tax credits today. I look forward to seeing these credits signed into law soon.

Mr. BUNNING. Mr. President, I rise to say a few words in response to what I have heard on the floor of the Senate today. Many Senators have stood up and spoken in favor of the Wall Street bailout bill we will be voting on later tonight. That is their right, but they are only telling one side of the story.

I have heard a lot about changes made to this bill in the last few days, but make no mistake about it, this is the same bailout that the House of Representatives rejected Monday afternoon. The only thing that is different is the packaging. The failed House bill has been attached to a tax bill which the Senate has already passed overwhelmingly, a mental health parity bill which is broadly supported in the Senate, and an increase in FDIC insurance limits. In other words, a few sweeteners have been added to buy off a few more votes. But the bailout remains the same.

Now, let me say a few words about some of that lipstick. Though the tax extenders bill does not have everything I hoped for in it, I strongly support it and voted for it just a few weeks ago. I also have cosponsored the Senate version of the mental health parity bill. I still support both and want to see them become law. I am disappointed that I am being put in a position of having to vote against those bills.

I have been clear since Secretary Paulson proposed his plan that I thought it was a bad idea and would not work. I still think so, and apparently so does a majority of the House of Representatives. The House rightly rejected the bailout we will be voting on tonight because it is a bailout of Wall Street at the expense of Main Street. The American people are outraged by this proposal, and all any Senator needs to do is stand around their front office and listen to the phone calls to understand that.

Now, about the proposal itself, I have no confidence it will work, and the only people I have heard that have confidence that it will work are the Treasury Secretary and the Chairman of the Federal Reserve, the people who proposed it in the first place. Even Senators supporting this bill say things like ''I hope this will work'' or ''we have to do this because nothing is not an option.'' I say that $700 billion is a lot of money to gamble on hope, especially when there are other options.

Sadly, no other options have been considered. Secretary Paulson and Chairman Bernanke both admitted they did not consider other proposals. Congress certainly has not considered any other option. Why not? Because we are told there is not time and we have to do something now. Well, here we are, 2 weeks after the initial proposal, and the sky has not fallen.

Now, I recognize there are real problems in our financial markets and those problems could hurt the overall economy and average Americans. As I have said on this floor as recently as last week, we have both policy and structural problems in our financial system that need to be addressed. Those problems are largely a result of bad monetary policy, bad governmental policies, and bad oversight by regulators. But these problems cannot be fixed by just throwing money at Wall Street as we run out the door to go home and campaign. They require serious thought and serious work.

While the problems in our financial markets have been a long time in the making and cannot be solved overnight, the freeze in the credit markets and the panic that we are seeing now came about rather quickly. That is because Secretary Paulson and Chairman Bernanke set expectations for Government intervention when they bailed out Bear Stearns in March. The markets operated all summer with the belief that the Government would step in and rescue failing firms. Then they let Lehman Brothers fail, and the markets had to adjust to the idea that Wall Street would have to take the losses for Wall Street's bad decisions, not the taxpayers. That new uncertainty could be the most significant contributing factor to why the markets have lost confidence. Even worse, to sell the public and Congress on this Wall Street bailout, the President, Secretary Paulson, and Chairman Bernanke have pushed the media and public to the edge of panic by telling everyone we are staring at the second coming of the Great Depression.

But this bill is not going to solve those problems. I am not alone in my concerns about this bill. Last week, I entered into the RECORD two letters from nearly 300 economists who said it will not work. I have also heard from many market participants that this program will not work. In fact, the only way anyone has any confidence that this plan will work is if the Government overpays and gives a windfall to the banks and others selling their bad investments. But that is not just dishonest, it is also not even the most efficient way of getting funds into the institutions.

This bill also has no requirements that the institutions take their newfound cash and use it to lend to Main Street or anyone else. They are going to put that money to the use they think is in their best interest, not in the best interest of the average American.

Now, I do support taking action to address the mess Government created. To restore confidence, instead of giving

the Secretary $700 billion, we should send a signal that we are serious about this and stay in Washington until we have a real solution. One way we could do that is to give the Secretary a far smaller amount of funds to use to unfreeze the markets and take a few weeks to hold some hearings, meet with experts who might have different ideas, and find a way to fix what is broken. We certainly should not just rely on the opinions of the people who created this mess and stand to benefit the most from this proposal.

There are plenty of other ideas that are worth exploring but, unfortunately, have been ignored. We could allow companies with earnings overseas to bring that money back to the United States tax free if they invested it in the same troubled assets the Secretary wants to buy. Rather than buying toxic paper, we could create a system to support the top-quality, AAA-rated, debt market, which must begin functioning for the credit crunch to end. We should also immediately put in place policies that will encourage economic growth, such as energy exploration and development and tax policies to encourage job creation. We also need to address the regulatory and structural problems I mentioned earlier. I am sure there are plenty of other ideas that could help as well. My intent here is not to list everything that needs to be done but to point out that there is a lot that should be considered and is not even being discussed.

Finally, I want to say that I hope for the best with this bill. I am going to vote against it, and I hope that I am wrong. Even if this bill passes and becomes law, I am not going to give up on looking for the right long-term solutions to our problems.

Mr. CARDIN. Mr. President, we are here tonight to take emergency action to rescue our Nation's economy. Before us is a compromise measure—the product of an intense process that Congress has entered into reluctantly. It is the result of negotiations between Democrats and Republicans, between House and Senate, and between Congress and the Administration. This evening, as we prepare to vote, Americans still have many questions as to how the bill's provisions will be implemented and what the eventual impact will be on our economy. We remain stunned that the greed of a few necessitates sacrifice from all of us. For these reasons, I understand the opposition of so many Americans to the news of this bill, one of whose goals is to restore stability to the markets. I have heard from many Marylanders who have expressed to me their anger, a sentiment that I share.

This vote is one of the most unpleasant I will have taken during my 22 years in Congress, and I come to the floor with anger and sadness, but also with determination to do what is right for this country.

This is not the bill that I would have written, but it represents our collective deliberations. Our economy is in dire straits, and our time is limited. Not because of a pre-determined adjournment date, but because markets across the world are looking to the United States hour by hour for action that will restore the world's confidence in our economy, and every day that we delay diminishes that confidence.

This crisis was created in large part by the Bush administration's hands-off approach to financial institutions. Over the last 8 years, we have seen unemployment rise, real wages and property values plummet, budget and trade deficits soar, and a burgeoning dependence on foreign capital and foreign energy.

At the start of 2001, we had projected surpluses of $5.6 trillion over the next decade. But in the last 8 years, the administration's economic policies have squandered those surpluses and produced annual deficits that now near $500 billion. But what was occurring out of the view of most Americans created the tipping point. Deregulation of Wall Street led to a new paradigm in which greed was rewarded. Financial institutions were incentivized to create complex financial shell games that enriched the few while hiding the true cost to this Nation of too-easy credit and ill-advised mortgages. And so, today, the first day of fiscal year 2009, we are faced with a catastrophic economic situation—tightening credit, shrinking 401(k) plans and money market accounts, a wildly lurching stock market, a drastic restructuring of major American corporations, banks that will not lend to other banks, and the lowest levels of consumer confidence in our Nation's history.

Nearly 2 years ago, I took the oath of office for the U.S. Senate. It reads in part, ''I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic.'' In the closing days of this administration, our enemy presents in the form of a severe crisis of confidence in the American economy—one of the gravest that our Nation has ever faced. No nation can continue to thrive without solid economic footing, and so it is imperative that we act in the best interest of the United States and do our best to resolve this crisis. This measure, crafted under the leadership of Majority Leader REID, Senators DODD and GREGG, and many others in this body, as well as our colleagues in the House, is the result of that effort. I believe it is an honest and responsible attempt to bring near-term stability to our situation.

If we do not act, we are jeopardizing far more than the future of the financial district. This is not about the balance sheets of a New York brokerage house or even a few national banks. Rather, it is about the balance sheet of every American family. If we do not act, we will endanger Americans' ability to secure an affordable car loan, mortgage, or college loan. We will jeopardize the retirement savings accounts of near-retirees who hope to leave the workforce in the next few years, and families trying to build a secure future for the years to come. More than 50 percent of families have a stake in the markets—either through mutual funds, 401(k) plans, TSPs for Federal employees, or stocks.

If we do not act, we will place at risk our small and large businesses—access to loans is critical to their ability to survive and thrive, and if credit is unavailable, these businesses will be unable to make payroll, stock their shelves, or keep their doors open. With that in mind, many Members, including myself, awaited the administration's proposal, which they submitted to Congress on Saturday morning, September 20. In that three-page proposal, President Bush asked Congress and the American taxpayers to follow him into uncharted territory and restructure our entire financial system. The Treasury Department proposal asked Congress for unprecedented authority to spend $700 billion over the next 2 years to purchase distressed mortgage-related assets to provide stability to financial markets and our banking system. The proposal sought authority, ''without limitation,'' to enter into contracts, to designate financial institutions as financial agents of the Government, and to establish ''vehicles'' for purchasing mortgage-related assets and issuing obligations, among other things. Further, the proposal stipulated that any actions the Secretary takes ''may not be reviewed by any court of law or any administrative agency.''

Brevity may indeed be the soul of wit, as Shakespeare wrote in Hamlet. But it shouldn't be the ''soul'' of a legislative proposal—or the sole legislative proposal—to shore up a badly faltering economy.

According to the administration, the role for Congress—a coequal branch of Government—was to authorize the enterprise and then wait for semi-annual status reports from the Treasury Department. We were also told to pass it right away, without amendment, because each day we delayed, the markets would continue to crumble.

The administration wanted a bill to bail out Wall Street; Congress is poised to pass a bipartisan bill that will protect the American economy, begin to reform financial practices, and require the strong oversight that has been so lacking during this administration.

It is our duty to protect the taxpayer, ensure transparency and accountability in our financial systems, and to make improvements in their interactions with American taxpayers and the Federal Government.

This bill will provide up to $700 billion to the Secretary of the Treasury to buy mortgages and other assets that are crippling financial institutions across the Nation. EESA also establishes a program that would allow companies to insure their troubled assets.

EESA requires the Treasury to modify troubled loans—many the result of

predatory lending practices—wherever possible to help American families keep their homes. It also directs other Federal agencies to modify loans that they own or control. Finally, it improves the HOPE for Homeowners program by expanding eligibility and increasing the tools available to the Department of Housing and Urban Development to help more families keep their homes. I am pleased that this evening Chairman DODD and I were able to clarify the authority for Treasury to purchase low income housing tax credits under this legislation. This authority will allow Treasury to keep liquidity in the market for these critical tax credits and thus provide for the continued development of affordable housing nationwide, at little or no additional cost to taxpayers. However, I am disappointed that in negotiations, the President rejected our efforts to provide more extensive help for homeowners through the bankruptcy courts. With default rates and foreclosures at the highest levels in our history, I look forward to the next Congress during which we must do more to protect Americans' homes.

This bill also requires companies whose assets are purchased by the government to provide warrants so that taxpayers will benefit from any future growth these companies may experience as a result of participation in this program. The legislation also requires the President to submit legislation that would cover taxpayer losses resulting from this program by charging a broad-based fee on all financial institutions. I am disappointed that requirement for the financial institutions responsible for these losses to pay was not included in this legislation.

This bill does include provisions to limit executive compensation. Executives who made catastrophic decisions should not be allowed to unload their toxic assets on working American families and still make high salaries and bonuses. Under this bill, some companies will lose certain tax benefits for salaries in excess of $500,000 and their bonuses and so called ''golden parachutes'' will be prohibited for their top five executives. The bill also requires recovery of bonuses that are paid based on statements of earnings and gains that are later proven to be ''materially inaccurate.''

Rather than giving the Treasury all the funds at once, as the original Bush plan stipulated, this legislation gives the Treasury the authority to spend $250 billion immediately, and requires the President to certify that additional funds are needed—$100 billion, then $350 billion subject to Congressional disapproval. The Treasury must report on the use of the funds and the progress made in addressing the crisis.

I joined Finance Committee Chairman BAUCUS' push for the creation of a special inspector general to oversee this effort. The magnitude of both this bill's pricetag and the task assigned to the Treasury Department are such that rigorous, independent efforts are necessary to prevent waste, fraud and abuse. This provision is a necessary element of the bill, and it will lead to a better, more responsibly executed program.

Over the past week, as anxiety about our economy has heightened and banks have collapsed, Americans have begun to openly consider the so-called ''Serta Option'' for hiding their cash. That's why I am supportive of the provision added this week to increase temporarily the FDIC limits from $100,000 to $250,000. It is more important than ever, during these times of uncertainty, to instill confidence in every American who has a savings account that their hard-earned deposits are secure.

As I said at the outset, Americans are angry that we are in this position. The vast majority of Americans acknowledge that something must be done. They want action from this Congress, and by last Tuesday morning, after the largest 1-day point drop ever in the Dow Jones average, most recognized that our inaction is not an option.

I will vote for this bill, and I urge my colleagues to join me in answering the call for urgent action. In three short months, the 111th Congress will convene. I will continue to push for the types of reassurances that America's communities are looking for, not just those that our financial markets seek. This is a time of crisis for our country, but it is also a time of opportunity; an opportunity to ensure that we never again leave our Nation's families vulnerable to economic meltdown while corporate executives walk away with millions of dollars; an opportunity to protect working Americans' investments in their homes and communities; an opportunity to ensure that small businesses can access the credit they need to prosper and expand. I ask my colleagues to join me tonight in this vote, and in January, when we take on the longer and even more challenging task of getting our country back on track.

Ms. SNOWE. Mr. President, although long overdue, I am very pleased that the Senate has incorporated a bipartisan agreement to renew expiring tax provisions in the Emergency Economic Stabilization Act of 2008. These tax provisions are critical to families across America, and provide incentives for the production of clean energy and conservation that could create 100,000 new jobs. As working families are struggling to put food on the table and gas in their cars, I am especially grateful that the package assists the least fortunate among us by including a proposal to lower the income threshold for the refundable child tax credit that Senator LINCOLN and I have championed.

I would especially like to thank Senators BAUCUS and GRASSLEY as well as their staffs for working days, nights, and weekends in forging this agreement. These two leaders exemplify the bipartisan tradition of the Senate and how this body can get its work done if Members are willing to reach across the aisle to find the middle ground.

Unfortunately, partisan gridlock too often ties the hands of even these Senate stalwarts. I find it hard to fathom that, in what could potentially be the closing hours of this Congress, we are only now moving a step closer to enacting this legislation. At a time when renewable energy projects are being mothballed because of this uncertainty and Americans are demanding action on energy policy, I cannot believe that we have been abrogating our duty to serve the American people by our inaction on this time-sensitive issue. It seems to me that these tax extensions should have been the low-hanging fruit that we could have done much sooner.

We could have unleashed sooner renewable energy projects creating jobs, provided targeted tax relief to low-income working families struggling to pay the high cost of food and fuel, encourage an infusion of capital into rural and urban communities, provide tax incentives for retail businesses looking to grow their business, and help keep the jobs associated with film production within our borders.

This is occurring at a time when our economy teeters on the brink of recession; when we have seen the collapse of a banking institution founded in 1850, when the U.S. government has seen no other way but to take over major financial institutions; when unemployment surged to 6.1 percent last month—the highest rate since 2003; when gasoline at the pump is near $4 a gallon; when oil costs remain at $100 per barrel; and when foreclosures have hit historic levels, do we really want to say that we can't extend a renewable energy tax credit that caused 45 percent growth in wind energy production last year and that we can't adopt energy efficiency tax credits that create necessary incentives to reduce energy demand?

Consider the economic impact of inaction. Dr. Mark Cooper of the Consumer Federation of America estimates that from 2002 to 2008 annual household expenditures on energy increased from about $2,600 to an astonishing $5,300! In my state of Maine, where 80 percent of households use heating oil to get through winter, it's going to be even worse.

Last year at this time, heating oil prices were at a challenging $2.70 per gallon—for a Mainer who on average uses 850 gallons of oil, that is $2,295. With current prices at $3.80 per gallon, the cost per Mainer to stay warm will be at least $3,230, and that is not even considering gasoline costs. That is the difference between a burden and a crisis.

Now is not the time to allow energy efficiency tax incentives and the renewable production tax credit to expire. But that is what we are doing unless we pass this bipartisan package

today. Energy efficiency is by far the most effective investment that our country can make to address the calamity of an absent energy policy. Jerry Howard with the National Association of Home Builders states:

Our members build homes that are significantly more energy efficient than those of a generation ago. But in today's economic climate, home builders need incentives to spur them to even more action.

It constitutes a dereliction of duty if Congress allows energy efficiency tax credits to expire. In fact, some tax credits already have expired, and as a result, there are currently no incentives to purchase efficient furnaces. At a time when Americans are worried about paying heating bills this winter, we must provide the assistance to encourage investment in energy-efficient products that will reduce our collective demand for energy, and save Americans money.

Yet we have jettisoned a $300 tax credit to purchase high-efficiency oil furnaces, which would produce more than $430 in annual savings for an average home—according to calculations based on Department of Energy data and recent home heating prices. We have sidelined an extension of a tax credit for highly efficient natural gas furnaces that would save an individual $100 per year. However, this tax credit ended at the beginning of this year—when oil prices began their historic rise.

That is why it is so critical that the extenders package that earlier passed the Senate included a significant portion of my EXTEND Act, which I have championed with Senator FEINSTEIN. This legislation, supported by a sizeable group of businesses and environmental advocates, would revolutionize our building infrastructure and save our country expensive energy. My legislation included a long-term extension for energy-efficient commercial buildings, as well as an extension for energy-efficient residential buildings and new homes, investments that will reduce energy consumption for generations. This legislation would save our country $25 billion annually in utility bills by 2018.

I also wish to highlight the important provision that provides a tax credit for biomass stoves, a proposal initially introduced by Senator SUNUNU. When the costs of other heating sources are excessively high we should be providing options to consumers. I look forward to publicizing this tax credit to ensure that it can be utilized by homeowners this winter.

And for businesses that are competing against countries that subsidize oil, the situation is untenable. Earlier this summer, Katahdin Paper Company in my State announced that the cost of oil used to operate its boilers has caused the company to consider closing the mill's doors. Talks are underway to find alternative solutions to restart the mill's operations and revive its 208 jobs, but it is undeniable that these jobs hang in the balance because of unprecedented energy costs.

One remedy would be to create more renewable energy jobs that would help right a listless economy and boost investment in a secure energy future. Indeed, more than 100,000 Americans could have been put to work this year if clean energy production tax credits had been extended. We earlier could have unleashed renewable energy projects creating jobs, but instead, projects currently underway may soon be mothballed. Rhone Resch, president of the Solar Industries Association, says ''It is scaring away investment, just as our industry is beginning to get a toehold.'' Can you believe that? We are actually ''scaring away investment'' during these unprecedented economic times. Gregory Wetstone of the American Wind Energy Association said recently:

If Congress fails to act, it's a real blow to renewable energy. It means that fewer wind turbines will be used to generate pollution-free power in the United States.

Clean energy incentives for energy-efficient buildings, appliances, and other technologies, as well as additional funding for weatherizing homes, would similarly serve to stimulate economic activity, reduce residential energy costs, and generate new manufacturing and construction jobs. It is irresponsible to allow a bright spot in our economy, the renewable energy industry and energy efficiency industries, to falter when the output of these industries is so essential to the future of this country.

Extending these expiring clean energy tax credits will ensure a stronger, more stable environment for new investments and ensure continued robust growth in a bright spot in an otherwise slowing economy. I am encouraged by the bipartisan agreement that is before us today. We must not lose yet another opportunity to raise the bar for future domestic energy systems and energy efficiencies, benefiting our economy, our health, our environment, and our national security. I hope that the House of Representatives will quickly take up and pass this package.

Some may argue this is an election year and we must lower our expectations for getting things accomplished. I could not disagree more. And I met a remarkable woman from Maine earlier this year who could not disagree more—because time is quickly running out on this Congress to take necessary steps to help Americans like her. She told me she had three jobs—the first to pay for the mortgage, the second to pay for heating oil, and the third to pay for gas to be able to drive to her other two jobs—and this was back in April.

Solving this crisis is not about party labels. It is not about Republicans or Democrats—or red States or blue States. It is about what is good for America, and what unites us as Americans under the red, white, and blue. We must move in that direction as a country.

But, there is much more in this package beyond energy tax incentives. The legislation before us will extend the New Markets Tax Credit through 2009. Based on the New Markets Tax Credit Extension Act of 2007, which I introduced with Senator ROCKEFELLER, this provision will help to ensure that investment dollars continue to flow to underserved communities.

Additionally, the tax extenders package will enable retailers who own their properties to depreciate over 15 years, instead of 39 years, improvements to those structures. Based on my legislation, this Main Street-friendly provision levels the playing field between owner-occupied and leased retail space and will help to generate additional construction and renovations to stores nationwide by lowering the cost of capital in a tightening credit market.

Also included is a provision that will allow companies to claim accelerated depreciation for the purchase of recycling equipment. This provision is based on my Recycling Investment Saves Energy, RISE, Act and will save energy, create jobs, strengthen local recycling programs, and improve the quantity and quality of recycled materials.

So as you can see, this package is more than just extending expiring tax provisions. This legislation will create jobs, move us closer to energy independence, encourage investment in low-income communities, and provide much-needed relief to low-income families struggling to meet basic needs. For these reasons, I strongly urge my colleagues in the House to swiftly take up this legislation and finally send it to the President for his signature.

I hope that when the Second Session of the 110th Congress adjourns, we can say we extended this critical tax package. I would also hope that at the beginning of next year, when a new Congress is sworn in, we will commit ourselves to serving those who have entrusted us with their votes, where reaching across the aisle is the norm, not the exception—where looking for consensus is viewed as the answer, not an aberration.

Ms. SNOWE. Mr. President, I rise today with respect to the unprecedented financial rescue legislation that is before us in the U.S. Senate. And let me begin by first applauding Senator DODD, Senator GREGG, Senator BENNETT and Senator CORKER for their perseverance in negotiating and developing a package, as well as the Republican and Democratic leaders' bipartisan work in what are most assuredly the most difficult of circumstances.

Where we stand today is at the precipice of a financial crisis, the magnitude of which is already of historic proportions—threatening future economic growth, jobs for hardworking American families, retirement savings for our seniors, and the ability of Americans throughout the country from all walks of life to access credit for attending college, purchasing a

house or automobile, and running their small businesses. Indeed, the very underpinnings of our economy are imperiled.

This is where we are. The options we face looking forward are not ones that any of us here would choose—far from it. The American people are angry—and I share that anger. Indisputably, the dimensions of greed that precipitated this crisis are unconscionable and outrageous—and there should be no debate whatsoever that those responsible must be held fully accountable.

The question before us now is, Should the Federal Government intervene in our financial institutions? Does the current situation's gravity necessitate an action that would, under almost any other circumstance, run counter to our fundamental economic tenets? Or do we allow this current crisis of confidence, liquidity and solvency to continue, with the attendant fear it perpetuates, undermining the functional future of our economy? What would be the consequences if we failed to attempt to stem the financial hemorrhaging when we had the opportunity to do so, before the sequence of corrosive events truly becomes unstoppable and irreversible?

So, it is little wonder that people in my home State of Maine and in every State in the Union are rightly asking, How could this have happened? How could some possess such a voracious appetite for wealth combined with a stunning lack of moral fiber that they would so cavalierly allow their wanton financial wagers to cripple our economy—to the extent that every American family is now steeped in anxiety and fear about our future?

And how exactly could nearly $3 trillion worth of toxic financial securities that were previously rarely used and little known have been swapped around like betting parlor wagers—with no transparency, no oversight, and no questions being asked by those who should have an obligation to do so?

We have already witnessed the dramatic beginnings of the dangerous tailspin this investment shell game has produced. The recent bankruptcy of the 158 year old institution Lehman Brothers, the Federal takeovers of American International Group and Bear Stearns, the implosion of Fannie Mae and Freddie Mac and their entry into Federal conservatorship, the $557 billion in losses and write-downs on subprime investment worldwide, the single largest bank failure in the history of the United States with Washington Mutual following the collapse of IndyMac, the firesale of nearly insolvent Wachovia—the fourth largest bank in the country—to Citigroup all demonstrate the expansive reach of the crisis. They illustrate at the very least a catastrophic failure to accurately calculate the risk of these investments and the resulting, paralyzing lack of confidence and solvency currently crippling our financial system.

According to Treasury Secretary Henry Paulson, this is the first time we have ever had the failure of AAA-rated bonds—the most highly rated bonds outside of Treasury bonds. This is unheard of, and has sent shockwaves throughout the markets, leading everyone from large corporations to the retirees living on their interest payments to ask, what can they trust if they can't trust AAA-rated bonds? But we now know that many of those bundled, subprime securities were passed-off as high, investment grade securities when in fact they were anything but. So we must ask where were the rating agencies in fulfilling their vital role in accurately identifying these risks?

Moreover, as the instability and loss of value in mortgage securities has become crushingly apparent, investment firms have now ceased extending short-term loans to investment banks—which sounded the ultimate death knell for those firms that have already gone under. And because subprime assets can no longer be valued or sold, banks continue to carry these nonperforming loans on their books—and therefore they cannot move forward in generating the credit that is the lifeblood of our economic growth.

Small firms—which have generated 60 to 80 percent of net new jobs annually over the last decade, are finding it difficult to access credit as existing credit lines are shut down and loans canceled. One owner of a small firm had his business credit card limit severely reduced the day before payday. This reduction may force him to temporarily close his business, leaves him unable to pay his workers, and in arrears to the IRS for $20,000. Further, the National Small Business Association just released their findings that, this past February, 55 percent of small business owners believed their business had been affected by the credit crunch—and as of August, that number had jumped to 67 percent.

The crunch is even affecting the ability of States to implement transportation projects that enhance economic competitiveness and create jobs—at a time when America is already suffering under a 6.1 percent unemployment rate, with 605,000 jobs so far this year and another 100,000 estimated lost in September. Last week, incredibly, my home State of Maine was unable to sell a $50 million, AA-rated transportation bond because frozen credit left officials with no market for these bonds. And I am told that when Maine is finally able to issue the bond, the liquidity crunch will have driven up rates compelling Maine taxpayers to pay millions of dollars in extra interest payments on these necessary road projects.

As further evidence our capital markets are clogged, one need look no further than the London interbank offered rate, LIBOR, which is the benchmark rate at which banks will loan unsecured funds to one another. Prior to yesterday, the LIBOR had reached 3.93 percent—near an 8-month high. Then in the last 24 hours, the LIBOR surged more than four percentage points to 6.9 percent—to the highest level ever! This is more than three times the percentage that would prevail under normal market conditions and means that financial firms are reluctant to lend to one another under reasonable terms.

Moreover, community banks play an especially important role in providing credit and capital to small businesses; 48 percent of small businesses are customers at banks with less than $1 billion in assets. If the nonperforming loans remain with the community banks, it could decrease the banking system's lending capacity by as much as $450 billion.

Given what we have already experienced this September—that regular investors pulled $335 billion out of money market funds, that the cost of overnight lending between banks jumped 116 percent, that capital has evaporated, that major banks have failed, that small firms—as well as large—have been suddenly denied access to existing credit lines, never mind new loans—that on this Monday alone the U.S. stock markets lost $1.2 trillion, it is difficult to conclude there won't be serious and systemic consequences for our economy—for household finances, for American jobs—when the full impact of this meltdown truly manifests itself and we face the imminent threat of a severe recession.

And so we return to the original and central question—are circumstances compelling enough to warrant government intervention? Regrettably, given this travesty of unfathomable proportions for American taypayers and families, they are. In the words of Treasury Secretary Paulson:

> These illiquid assets are clogging up our financial system, and undermining the strength of our otherwise sound financial institutions. As a result, Americans' personal savings are threatened, and the ability of consumers and businesses to borrow and finance spending, investment, and job creation has been disrupted. To restore confidence in our markets and our financial institutions, so they can fuel continued growth and prosperity, we must address the underlying problem.

And Federal Reserve Chairman Ben Bernanke has warned:

> This is the most significant financial crisis of the postwar period.

When our government's financial leadership employs words such as ''undermining,'' ''threatening,'' ''most significant financial crisis,'' it must be considered with the utmost seriousness that it is time to move from the ad hoc approach of assisting companies only at the point they are failing and act prescriptively, now, to stem the tide of a looming financial meltdown.

I well recall the savings and loans crisis, from when I served in the U.S. House of Representatives. During that time, 747 savings and loan institutions went bankrupt, leading to the loss of $160.1 billion in depositor assets. Yet it was only after these failures that Congress finally established, in 1989, the

Resolution Trust Corporation to sell off assets of these already failed financial institutions. Today, it is imperative we act before a similar but far more pervasive cascade of financial failures paralyses our markets and destroys the value of $5.6 trillion in retirement and private pension investments that are imperiled by this ongoing market turmoil.

Again, I commend the tireless work of Senators DODD and GREGG for crafting legislation that ensures that this rescue process will not be open-ended, ambiguous, or unfettered for placing taxpayers front and center for repayment and building in strong taxpayer protections throughout the proposal, for clamping down on executive compensation with tough restrictions that will prevent corporate managers from profiting on the backs of taxpayers for providing necessary, timely, and crucial mortgage relief to families facing foreclosure, for calming banks and depositors by increasing deposit insurance to $250,000, and by including the extension of critical tax incentives and a patch for the alternative minimum tax to ensure millions of middle-class American taxpayers do not fall victim to this onerous levy.

With the passage of this legislation comes the forceful responsibility to recover all of the costs of this program for taxpayers. To fulfill this mandate taxpayers are given an ownership stake in participating companies which ensures they will be first to profit when these companies recover. If, after 5 years, taxpayers have not been made whole, for the costs of this rescue, the President is required to act to recoup any shortfall from the companies which benefited from the Treasury's actions.

Importantly, in addition to provisions limiting executive compensation, are measures addressing so-called retirement ''golden parachutes,'' payments that are often extremely generous and disconnected from performance. Under this bill, for participating financial institutions, the Secretary of the Treasury would be empowered to set compensation standards to exclude incentives for excessive risk taking, recover bonuses paid based on inaccurate earnings statements; and prohibit future golden parachute payments. For companies selling more than $300 million of the toxic securities to the government, tax deductible executive compensation would be limited.

To guarantee strong and comprehensive oversight, I supported provisions championed by Senators BAUCUS and GRASSLEY to establish an independent inspector general that will focus solely on the Treasury's purchase and sale of illiquid assets. I also championed the inclusion of provisions that require Federal agencies to cooperate with the Federal Bureau of Investigations to investigate fraud, misrepresentation, and malfeasance with respect to development, advertising, and sale of the financial products which created this systemic crisis. This became section 127 of the bill.

Passing this legislation—to stabilize markets and restore American's confidence in their financial firms in order to return to the normalcy necessary for credit and commercial activity to revive—must be the first phase of our action to restore the system for American taxpayers, but it can by no means be the last.

The second phase of our obligation is for Congress to demand accountability for the massive malfeasance that has been perpetrated on the American people. The congressional pursuit—through hearings that Senator DODD has indicated he will hold—must occur in tandem with the legal investigation and prosecution of those responsible for this meltdown. Both must receive the same rigorous attention we have applied to this rescue package—and not subsumed by the routine of day-to-day legislative process moving forward.

Therefore, I will introduce legislation to form a dedicated office within the Justice Department whose sole mission is to ferret out the rout causes of this catastrophe and bring to account those who are criminally responsible for bringing our financial system to its knees. It would be inconceivable to me to devote anything less than 100 percent of our resources to investigating those responsible for this crisis. No one should reap rewards from this colossal failure. And frankly, any Wall Street individual who is found criminally responsible must follow the Enron executives to prison!

Finally, as the third phase of congressional action, as we have an ironclad obligation to ensure that this calamity is never repeated, we are required to reform and rebuild our financial regulatory structure. Congress must demand the restoration of accountability and transparency from all of our financial products, including complex securities such as mortgage backed investments or credit default swaps, whose risk characteristics largely have been black boxes in the past. It is essential that people must know—and the federal government is aware of—the level of financial risks that companies are taking. We must understand whether firms are creating systemic risks that could undermine the foundations of our financial system.

It is essential we must utilize the remainder of this year to develop the fundamental reforms necessary to fix this systemic problem. Again, Senator DODD has announced hearings over the next couple of months to examine the root causes of this catastrophe. Congress must also consider all proposals for reform, such as the ''Blueprint for a Modernized Regulatory Structure'' that Treasury Secretary Hank Paulson put forward in March. As Secretary Paulson's plan concludes, ''the existing functional regulatory framework no longer provides efficient and effective safeguards against poor prudential behaviour of financial services firms.''

Indeed, as we have unmistakably learned, the current regulatory structure, which has been largely knitted together over the past 75 years, can not protect us from the type of systemic risks that are ravaging our financial markets and economy. Financial institutions have developed products and complex risk-hedging strategies that today's regulatory structure has failed to properly evaluate and oversee—with disastrous results. We can never again allow the U.S. financial industry to act with impunity, and make the highly speculative investments that have today put in jeopardy the health, stability, and growth of our economy.

The bottom line is that we do not have a moment to lose in developing a regulatory oversight structure that keeps pace with whatever new financial instruments may be developed in the future. We can never again find ourselves in the position of having to vote for another financial rescue package. Instead, we must take the weeks ahead to draft bipartisan and bicameral legislation to eliminate systemic risk in financial markets and protect our economy over the long term.

Mr. GRASSLEY. Mr. President, this Congress is on the cusp of making an extremely difficult decision that will not only affect our financial markets in the near term, but it will also leave a lasting footprint on the direction of the our economy for years to come.

We face an unprecedented economic challenge—failing banks, declining credit, rising unemployment, and a likely recession. These problems have led us to the point of placing hundreds of billions of taxpayer dollars at risk to purchase risky subprime mortgages in an effort to avoid, or lessen the impact of these looming problems. Allow me to discuss a few of the factors that led us to where we are today.

In response to the high-tech, dot-com bust in 2000, the Federal Reserve began a series of interest rate cuts reducing the Fed Funds rate from 6.5 percent to 1.0 percent. The rate averaged 1.4 percent from 2002 through 2004.

As cheap credit flooded the markets, financial institutions borrowed money at low short-term rates and invested at higher long-term rates—playing the spread. They adopted reckless lending practices under the political banner of increasing homeownership. These practices included ''liar loans,'' i.e. no credit check, no-money down, interest-only, negative amortization, i.e. missed payments are added to the principal, adjustable-rates, and balloon payments.

As these risky loans were extended to marginal borrowers who could not afford their overpriced homes, the financial wizards on Wall Street devised schemes to theoretically insure themselves against default. These so called ''credit default swaps'' allowed investors who purchased mortgage-backed securities to pay fees to underwriters, like AIG, in exchange for a promise to cover any losses. However, the underwriters often failed to acquire and

maintain adequate reserves to cover such losses.

There is plenty of blame to go around for getting us into this mess. But the financial problems we face are much bigger and more fundamental than the home mortgage market itself.

Our financial system is based on the fundamentally unstable practice of maturity transformation—more commonly known as borrowing short and lending long.

The consequences of this practice are illustrated in the classic movie ''It's a Wonderful Life.'' In this movie, Jimmy Stewart plays the owner of the Bailey Building and Loan Association. In the wake of the Great Depression, the citizens of Bedford Falls panic and begin a run on his bank. Stewart's character explains that he does not have their money, but rather it has been used to build their homes. He asks them to be patient, and they will eventually get their money back. But they persist. He ultimately stops the run by convincing them to take only what they need right away. He uses his own money that he was saving for his honeymoon to repay his customers.

The scene from this movie illustrates the fundamental instability of our current financial system. We operate under the illusion that we can deposit our money in a bank and then withdraw it anytime we choose. But at the same time we expect the bank to pay us interest on our deposits.

However, the interest we receive can only be achieved by giving our money to someone else to invest for weeks, or months, or years.

Maturity transformation works only as long as people have confidence in our banking system. Federal deposit insurance was created to instill this confidence. By having the Government stand behind our banks ready to provide the cash necessary to repay our deposits, there is no reason to have a run on a bank. Moreover, if there is a run, banking regulators can swiftly close down the failed bank, or orchestrate a takeover by a healthier bank, and promptly resolve the problem.

Deposit insurance is not a perfect system, as we learned from the savings & loan fiasco in the late 80s and early 90s. Deposit insurance creates moral hazard. Because depositors are protected from their bank's failure, they have no incentive to question the reckless lending practices of their bank. Without adequate oversight, risk-based premiums, and adequate capital requirements, deposit insurance is unsustainable in the long run.

The current home mortgage mess is merely an extension of the maturity transformation and moral hazard problem. But in this case, instead of depositors and deposit insurance, we have overnight loans and too-big-to-fail institutions.

Essentially what happened is Wall Street created an alternate banking system in which participants loaned each other money overnight and invested in mortgage backed securities. They treated their overnight loans as deposits, and they relied on the widely-held belief that once their activities reached critical mass, they would be too-big-to-fail and the Government would bail them all out if anything went wrong.

This financial house of cards collapsed as home prices began to fall and default rates began to rise. At that point, investors became unwilling to rollover their overnight loans. Participants began to suggest there was not enough liquidity. That is a fancy way of saying investors were no longer willing to lend money overnight to buy long-term assets that were declining in value.

So what is the solution?

Last week, the President asked Congress to enact legislation to address this problem. The original plan proposed by Treasury Secretary Paulson would have authorized the Government to buy $700 billion in mortgage-related assets. By taking these troubled assets off the books of financial institutions, it was hoped the government could stabilize falling asset prices and restore investor confidence. Since this plan was first proposed, improvements have been made.

The bill we are considering isn't perfect. Like my constituents, I am outraged that we are in this position today. But the fact is, we are facing a global economic meltdown. Irresponsible lenders and greedy investors have put small businesses, farmers, and families at risk. While many in Iowa may not yet see the effects, our inaction will lead them to understand how dire this problem truly is. We must unfreeze the financial markets as soon as we can, and this is the only solution on the table that will come close to working. We can't guarantee to the taxpayers that this solution will work. What we can say is that we are doing the best we can, representing our constituents the best we can, and trying to solve the problem before the American people really have to suffer the consequences.

What I have come to learn is that the credit crunch doesn't just impact Wall Street. Our economy depends on America's small businesses. We are nine meals away from a revolution, making the farmer an integral part of our country's survival. But farmers and businesses are at risk. Parents who are hoping to send their children to college may not get the loans they need. Individuals that need loans to purchase autos or homes may be left without a ride to their workplace or a roof over their head. There is a trickle-down effect that is sure to be felt if Congress sidelines this bill today.

Since Congress was urged to act, I have stated—in public and private sessions—that there are core principles that must be addressed before I would vote for the bill. I wanted to see strong oversight of the program, including an independent inspector general. I wanted strict executive compensation restrictions for CEOs that got us in this mess. I wanted those who are responsible to give up their pin-striped suits for orange jump suits and to be held accountable. I wanted assurances that the Government would take equity in the firms we bail out. The bill, unlike the original Treasury proposal, includes the core principles I wanted to see. This bill is an improvement from the Treasury plan because there is transparency, oversight, and more protections for taxpayers.

One of the duties I take most seriously as a U.S. Senator is overseeing the policies and activities of the Federal Government. Government must have its checks and balances in place to prevent waste, fraud, and abuse by bureaucrats in Washington. I have been the chief supporter of inspectors general at Federal agencies, and making sure they remain independent overseers of taxpayer dollars. The proposal brought forward by the Secretary of the Treasury failed to include any oversight. Because the emergency plan is sure to be one of the most complex and difficult tasks ever undertaken, I pushed the leaders in the House and Senate to include a special inspector general to monitor the activities of the Treasury Department and its contractors. Timely, comprehensive and truly independent reporting is critical to these oversight efforts.

I am glad oversight was included in this bill. Not only will there be a special inspector general, but we will also have a financial stability oversight board responsible for reviewing the exercise of authority under the program, including the review of policies and making recommendations to the Secretary. Additionally, there is established a congressional oversight panel to review the current state of the financial markets and the regulatory system. This panel will be independent, tasked with reviewing the administration of the program. They will also study the effectiveness of foreclosure mitigation efforts and the effectiveness of the program from the standpoint of minimizing long-term costs to the taxpayers.

Despite these oversight boards and panels, you can be sure that I will not let up on my efforts to reign in fraud, abuse and misconduct. I will not tolerate bureaucrats taking advantage of taxpayer money, and will do my best to make sure heads roll if conflicts of interests by those who run the program are suspected.

Like all Iowans, I am concerned about the risk that this plan places on hard working and responsible taxpayers. Since we began discussing this plan, using taxpayer dollars responsibly has been the top priority. That's why many taxpayer protections were added to the bill.

Treasury's proposal had minimal oversight to protect taxpayer dollars. Like I said earlier, this compromise enhances the oversight structure by creating a financial stability oversight

board, a special inspector general, and a congressional oversight panel. It also requires the Secretary to develop regulations and guidelines necessary to prohibit or, in specific cases, manage any conflicts of interest with respect to contractors, advisors, and asset managers.

The Secretary also has to take steps to prevent ''unjust enrichment''—or paying more for a troubled asset than what the seller paid to purchase it. The Secretary—in considering the purchase of troubled assets—must take into account the ''long term viability'' of the financial institution. The bill requires Treasury to take an equity stake in the companies from which it purchases troubled assets. And it requires the Treasury Department to be transparent when they buy and sell. In fact, they must post, within 2 days, the purchases, amounts, and pricing of assets acquired. These provisions will help shield taxpayers from losses and may provide taxpayers with potential future benefits.

Should taxpayers lose out, the bill allows the government to go back after 5 years to recoup losses from financial companies. The Office of Management and Budget and the Congressional Budget Office will report on the net amount lost in the TARP after 5 years. The Government can assess a fee on companies that use TARP to make sure taxpayers don't lose out in the long run.

I am also glad that the final bill does not siphon profits from the program for an existing housing trust fund, as was proposed by the other side of the aisle. I firmly believe that all proceeds of sales must go to the Treasury and back to the taxpayers.

Taxpayers are protected because the final bill doesn't provide $700 billion upfront. The Administration originally wanted the authority to have it all at once, but this bill provides for the program to be implemented in stages. Only $250 billion will be provided immediately, and another $100 billion will be provided upon a written certification of need by the President. Finally, the remaining $350 billion will be provided unless Congress acts. Let's be clear. Congress can act anytime to revoke the Treasury's authority. They will be watched, and they will be questioned. And if Congress doesn't like what it sees, we can repeal this economic stabilization plan.

Finally, this bill provides for an increase in the deposit insurance cap through the Federal Deposit Insurance Corporation. The last time we increased the level was in 1980. The provision temporarily increases from $100,000 to $250,000 the amount of deposit coverage for banks and share coverage for credit unions. The coverage amount reverts back to $100,000 after December 31, 2009. The bill that was voted on by the House did not include this provision, which is an added protection for American families and businesses.

I am supportive of a provision in the bill to modify the tax treatment for banks holding preferred stock in Fannie Mae and Freddie Mac. The proposal would allow banks to treat gains and losses on Fannie Mae and Freddie Mac preferred stock as ordinary, instead of as capital, for tax purposes.

I have heard this relief is important for a number of Iowa community banks. These banks were permitted and even encouraged to hold these investments. These investments were believed to be safe. They had the backing of the Federal Government and provided reliable revenue streams through quarterly dividends.

In the wake of Treasury's acquisition of close to 80 percent of Fannie Mae and Freddie Mac, these preferred shares became virtually worthless. These small banks generally don't have capital gains. Accordingly, without this provision, they would not be able to recognize a tax deduction for their losses. This provision will help community banks satisfy their regulatory capital standards in order to continue to lend and support economic activity and growth in their local communities.

This legislation includes limits on executive compensation. I will be honest: I wish the executive compensation limitations were stronger. However, the limitations included in the bill are a step in the right direction. Why? Because those executives that got us into this mess should not be able to walk away from the institution that they ran with oodles of money. Not only should they be prohibited from walking away with oodles of money, they should go before the board of directors—before the public—and before the stockholders and bow deeply and apologize for their mismanagement. Like the Japanese do. But I will say this—I will take what I can get, and I will look forward to taking a closer look at excessive executive compensation in the next Congress.

Despite my reluctant support for this bill, I remain concerned about the lack of provisions that will bring about long-term changes to our financial health. I would have liked to see language to address the underlying problems that led us to this emergency relief bill. However, I realize this situation calls for an emergency reaction, and we must temporarily forego consideration of provisions that would beef up the securities markets, and toughen regulations for companies that do business on Wall Street.

Take hedge funds, for example. Two years ago, I started conducting oversight of the Securities and Exchange Commission in response to a whistleblower who came to my office complaining that SEC supervisors were pulling their punches in their investigation of a major hedge fund. Nearly a year and a half ago, I came to this floor to introduce an important piece of legislation based on what I learned from my oversight. The bill was aimed at closing a loophole in our securities laws. In light of the current instability in our financial system, I think it is critical that Senators take another look at this bill. It is S. 1402 the The Hedge Fund Registration Act. It is pretty simple, only two pages long. All it does is clarify that the Securities and Exchange Commission has the authority to require hedge funds to register, so the Government knows who they are and what they're doing.

Given the SEC's current attempts to halt manipulative short selling and other transactions by hedge funds that threaten the stability of our markets, I am disappointed that the Senate did not adopt this legislation long ago. If it had, then the SEC might have more of the tools it needs now in these nervous markets.

One major cause of the current crisis is a lack of transparency. Markets need a free flow of information to function properly. Transparency was the focus of our system of securities regulations adopted in the 1930's. Unfortunately, over time, the wizards on Wall Street figured out a million clever ways to avoid transparency. The result is the confusion and uncertainty fueling the crisis we see today. This bill would have been one important step toward greater transparency on Wall Street, but so far it has been a lonely effort on my part.

Another problem in bringing about transparency in the market is the notion of suspending mark-to-market Rules. Mark-to-market accounting requires entities to calculate fair market value by estimating the price that would be received for that asset in an orderly transaction occurring on a specific date, i.e. willing buyer-willing seller. Contrary to public perception, the mark-to-market rule is not new. Other existing accounting standards have and continue to require certain assets to be written down if the asset value falls below cost. This is often referred to ''lower of cost or market''. Under mark-to-market, assets are required to reflect fair market value so they are measured above cost or below cost depending on market conditions. According to the Center for Audit Quality, an autonomous public policy organization affiliated with the American Institute of Certified Public Accountants, AICPA,''suspending mark-to-market accounting would throw financial accounting back to a time of less comparability, less consistency and less transparency''. This position is supported by the Council of Institutional Investors and the CFA Institute. The chairman of the Financial Accounting Standards Board said it best when he said ''the harsh reality is that we can't just suspend or modify the financial reporting rules when there is bad news.''

I hope Congress will consider these key statutory changes that are needed when we return early next year.

Aside from the economic stabilization plan that we are voting on today,

we are again discussing legislation designed in part to deal with time-sensitive tax matters. I strongly support this part of the package.

These identical AMT relief, disaster tax relief, and individual, business, and energy tax extender provisions were passed by the Senate by an overwhelming vote of 93–2 just last week. There are five categories of tax relief provided in the bill. The first one is the AMT patch. It expired on December 31 of last year. If we don't act, 24 million families will face an average tax increase of at least $2,000 each.

The second category of tax relief includes several tax benefits available to middle income taxpayers. They expired on December 31 of last year.

Included are deductions for out-of-pocket expenses for teachers, sales tax, and college tuition. Millions of taxpaying families would face an unexpected tax increase.

The third category consists of many valuable business incentives, like the research and development tax credit, that likewise expired.

In this time of high oil prices and instability in the energy markets, Congress should send a clear signal in support of alternative energy and conservation. This is the fourth category. We will not let the wide assortment of tax incentives for alternative energy and conservation expire this year.

The fifth and final category deals with disasters that have ravaged the Nation's heartland and the gulf coast. We need to respond to the folks in those regions, including my home State of Iowa.

This is must-do business. Congress cannot dawdle any longer. With a sense of urgency, Senators REID and MCCONNELL have devised a path for the Senate to complete action on these provisions. I would have rather processed this time-sensitive business several months ago, but better late than never.

Our leaders provided Chairman BAUCUS and me with the authority to make the deal. That was the critical step. I pulled out my notepad and resharpened my pencil. Chairman BAUCUS did the same thing. We have a bipartisan deal evidenced by our 93–2 vote last week.

Last year, I laid out the principles Senate Republicans would follow when it came to revenue raisers. The first principle would be whether the proposal is good tax policy. If the proposal is good tax policy, then we would support and vice-versa. This compromise meets that principle.

The crackdown on offshore deferred compensation plans is appropriate tax policy. I am pleased that we made it tougher on hedge fund managers by removing a charitable loophole. Likewise, the offsets in the energy portion of the bill are appropriate policy.

The second principle deals with how revenue raisers are accounted for. This is where the parties differ. How do they differ? Republicans don't want to go down the slippery slope of building in a bias towards tax increases and against current law tax relief. This is especially compelling when appropriations are wholly outside the Democratic version of pay-go. Likewise, $1.2 trillion of expiring entitlement spending does not figure into pay-go. The Democratic version of pay-go sets us down an irreversible path of higher taxes and higher spending.

If expiring tax relief and expiring spending and appropriations were treated similarly, maybe the deficit reduction rationale behind pay-go would be somewhat credible. As it exists now, it only reinforces an ideology of higher taxes and spending. The rejection of Senator MCCONNELL's deficit neutral offer on AMT and extenders proves my point.

In any event, we found ourselves at an impasse. Democrats insisted on offsetting current law tax relief and Republicans resisted more tax and spend. Republicans were willing to use revenue raisers for new policy and for long-term or permanent tax policy. Republicans did not want to use revenue raisers for new spending.

We came to a compromise by looking at this impasse as a kind of prism. A prism breaks one beam of light into several different shades. Each side can look at the different shades of the prism from their own viewpoint and see that their principles were upheld.

At the end of the day, we will have an AMT patch, extenders, energy, and disaster relief package that is a compromise. Republicans will see that the compromise meets their principles. The offsets are good policy. From a Republicans standpoint, there is enough new policy in the energy part of the deal to tie the non-energy offsets. Otherwise, energy incentives are reformed. Republicans can see that the biggest item in the bill, the AMT patch is not offset. That preserves our point that the unfair AMT should not be a reason to raise taxes on other taxpayers. Likewise, there is enough new and modified policy to tie to the offshore deferred compensation revenue. Bottom line is that the leaders were able to secure a longer term extension of current policy as well with the revenue.

Democrats are able to see the offset policy from their standpoint. Democrats wanted significant revenue raisers and they got them. Both sides wanted the underlying revenue losing extensions and new policy.

Most prisms are delicate and transitory. This one is no different. Our friends in the House need to see that. They can break this fragile prism. The shards will cut millions of taxpaying families.

This deal defers the very vital debate between Republicans and Democrats on whether we tax our way out of this fiscal situation, the Democratic view. Or do we restrain spending, the Republican view.

That important debate, which has held us up for so long, is deferred to another day.

Each side holds to its principles. Each side does the Peoples Business. I thank Chairman BAUCUS and the leaders on both sides.

The tax provisions of this bill present the opportunity to preserve tax relief for millions of middle income families.

I would like to end by saying that I reluctantly support this bill. Again, I am outraged that Congress is in this position to relieve Wall Street and our financial industry. But, unfortunately, this is the hand we have been dealt and the options we have are limited.

I know people in Iowa are opposed to this bill. They would rather see companies fail than to have their dollars used to bail them out of this mess. My vote for this bill is not easy because I respect those concerns, and I agree with them. At the same time, this legislation is the best opportunity we have today to avoid a credit crunch that might cripple our economy. No doubt credit will be tighter with or without this bill as the system becomes more cautious after acting too fast and loose for too long. The argument for this bill is that by unplugging the pipeline that is clogged up with bad debt, good credit can flow. The U.S. Treasury can hold all that bad debt until its value returns with the goal of having the taxpayers recover some of the money, and possibly a great deal of the money, that's being committed with this legislation.

I have to vote in favor of this plan because I want to protect the people back home from what is coming their way if we don't act. I hope my constituents will understand why I feel the need to support this bill.

Mr. NELSON of Nebraska. Mr. President, I rise today to express my anger and frustration, and the downright outrage of many of my constituents, about the legislation the Senate is about to consider. The average American taxpayers did nothing to create this crisis, yet they will be asked to bear the heavy expense of government intervention to avoid further harm to our financial system. The recklessness, greed, and lack of foresight on Wall Street have brought us to the brink of a crisis that threatens our entire economy. The outpouring of opposition to this legislation that I have received over the past week in my office is genuine, and it is justified.

However, as elected leaders, we must not lose sight of the dire situation we face as a nation, regardless of how we feel about it. Many of my constituents oppose a ''bailout'' of Wall Street, and rightfully so. But this legislation is more than that. I am not sympathetic to Wall Street. If the financial crisis we are facing ended with them, I would say ''write off your losses, you deserve it.'' But unfortunately, our economy lies at the intersection of Main Street and Wall Street. We depend on a free flow of credit to keep our businesses running, to reverse rising unemployment, and repair our economy so it can once again work for the middle class. Wall Street's mismanagement now threatens the availability of credit on every Main Street throughout our country.

Among the many letters I received during this crisis, some have stood out and articulated far better than I can the reasons why the Senate must act, even though many of us would rather not. For example, Joe Masek, who runs a small business in Gering, NE—the Masek Golf Car Company—recently wrote to me. Masek's employs 32 people and needs to have credit to pay the employees and finance materials from the time they manufacture their product to when the products are sold.

Here are Mr. Masek's concerns, in his own words:

If I go to the bank to draw on that line, and they are forced to tell me that funds are not available because the credit markets are not working, then I have to cancel two contracts with two Colorado golf courses that are depending on me to do what I committed to do. I can see that it would then not take long for our business to collapse. We are now up to employing 32 people, all of whom are paying mortgages and rent and taxes, and putting money aside for retirement in the 401k, etc. Our collapse and thousands of companies like us would ''really'' collapse the entire economy . . . . all for the lack of credit availability which should not be a problem. Yes there are flaws in the ''big bailout'' but we would rather live with some flaws than go out of business. You need to get this one fixed, and not wait until the election to do it.

Credit is crucial to our families, businesses, local governments, and other institutions such as hospitals and schools. We need credit to buy homes, receive student loans, to continue using credit cards for everyday purchases, for small businesses to obtain operating loans to carry them from one season to the next, for farmers to get all of the fertilizer, seed and other materials needed to plant crops, and for cities and towns to meet payroll.

For the reasons above, and for all the Joe Maseks in Nebraska and around the country, I intend to cast my vote for the Emergency Economic Stabilization Act. But I want to be very clear that I would have been the first in line to oppose the administration's initial ''blank check proposal.''

I wish to thank my colleague, Chairman DODD, for leading the effort to address major flaws in the administration's proposal. Nine days ago, after first reviewing the administration's initial proposal, I wrote to Chairman DODD to outline the changes that I demanded if I were to be expected to support this bill. I ask unanimous consent to have printed in the RECORD the full text of my letter following these remarks.

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

(See exhibit 1.)

Mr. NELSON of Nebraska. To briefly summarize, I said that the taxpayer should come first, and all the proceeds of this program be used to retire the public debt. I said there could be no free rides for these institutions—that CEO compensation must be addressed to eliminate taxpayer-subsidized golden parachutes, and that participation in the program should require an equity or debt stake so the taxpayer can share in future profits of the firms that benefit. I said there should be shared responsibility with the rest of the world, and shared benefit between the holders of securities and the borrowers struggling to stay out of foreclosure. I demanded full congressional and legal oversight of the program. These changes were included in the proposal before the Senate today. I am still not eager to support this legislation, but these essential provisions were necessary steps to protect the American taxpayer's interests.

In addition, I called for, and this bill adopts, an incremental approach to the authority to purchase troubled assets. This approach is necessary so that Congress, as we conduct oversight and monitor every action the Treasury department takes with the authority granted them under this legislation, can further protect the taxpayer by cutting off the funds for this program, either if it is not working as we intended, or if the problem can be solved with fewer funds than the total authorized.

When Congress passes this bill, responsibility will fall first to the Treasury Department to make it work. Wise and careful judgment must be exercised by the Treasury Department to try to earn back every taxpayer dollar extended in the effort to shore up our financial system. The burden is on them.

Furthermore, when the Congress passes this bill, our work will not be finished. No, our work is just beginning because not only do we need to conduct vigorous oversight of the unprecedented authority we are granting the Treasury, we need to take a comprehensive approach to rewriting the regulations of our financial sector to insure that we never face this choice again.

If we can move ahead to protect our economy, the next President must change the way Government keeps an eye on Wall Street—for consumer protection. For years, this administration gambled that ''look the other way'' regulation would lead to prosperity, and we see where that got us—mired in a global economic crisis. Having been both a regulator and someone who worked in the industry I used to regulate, I know first-hand the importance of regulation. And I know first-hand that the free market can function prosperously in an appropriately regulated environment.

The next President must end the ''culture of complacency'' allowed to grow in recent years. Obviously, better regulation needs to be imposed. That may take additional legislation, but it is certainly going to mean that the regulations that are already in place are enforced, and that the Federal regulators must get off the sidelines and do a better job. The bottom line is that this financial crisis was avoidable. I hope the next President, whoever he is, will take corrective action to reform these Federal agencies so we can avoid future crises.

In conclusion, I will reluctantly cast my vote for this legislation. I do not do this for Wall Street, but rather for Main Street because of the fundamental truth that the fate of our financial system and the fate of our hometown economic prosperity are inexorably linked. I will support the administration's proposal, with the improvements made by Congress. Only time will tell whether this can avert the crisis we all fear, but the risk of inaction is too great. The people of Nebraska sent me here to make difficult choices, and this is among the most difficult I have made or will make. I want them to know that I share their frustration and anger, but when the day is done, I have to do what I feel is necessary to protect and promote the prosperity of the American economy, from McCook to Madison Avenue, and back again.

EXHIBIT 1

SEPTEMBER 22, 2008.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs;

Hon. RICHARD C. SHELBY,
Ranking Member, Committee on Banking, Housing, and Urban Affairs.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: As the Committee on Banking, Housing, and Urban Affairs responds to the legislative proposal by the U.S. Department of the Treasury for a bailout plan, I write to voice my serious concerns, as well as those of my constituents. The American taxpayers did nothing to create this crisis, yet they will be asked to bear the heavy expense of government intervention. While my Nebraska constituents understand that the cost of inaction may well be greater than the cost of this $700 billion proposal, they rightfully demand strong protection of the taxpayers' investment, together with accountability, shared responsibility and benefit, and strong oversight.

The initial proposal delivered by Treasury raises some serious questions, as it amounts to a ''blank check'' for the largest ever government intervention in the private markets. If my constituents are to be expected to finance this program, significant changes should be made to this legislation and to regulation and oversight of Wall Street, so that this chapter of history never repeats itself. On behalf of Nebraska taxpayers, I urge you to consider the following as you draft this historic legislation.

First, it is the responsibility of Congress to ensure that the federal government's actions reflect the taxpayers' best interests. If taxpayers are to be expected to finance this bailout effort, changes should be considered to protect that investment and to ensure that all profits of this program are returned to the taxpayer. Net proceeds of this program should accrue foremost to retirement of the public debt.

Second, this cannot be a free ride for reckless financial institutions; the assistance offered to troubled firms should operate as much like a loan as possible while still achieving the necessary effect of calming the crisis. The program should require participating firms to issue ownership shares or collateral to the U.S. Treasury in exchange for assistance. Our responsibility to the taxpayer demands as much. Future generations

should not bear the cost of Wall Street's failures, and the cost of this program should be shared with those who participate in it. There should be no golden parachutes for the executives who presided over these distressed firms, and any plan should include limits on executive compensation.

Furthermore, the benefit of this program should not accrue solely to the holders of distressed assets. The legislation should reflect that the root cause of this crisis is rising foreclosures and dropping home values; and to the extent that assets owned or held by the government can be increased in value by assistance to homeowners, that approach should be accommodated by this legislation. In other words, we should not rescue Wall Street from itself without a strong commitment to America's Main Streets, in my home state of Nebraska and throughout our great nation.

Third, there should be shared responsibility with other countries, particularly regarding foreign financial interest. The U.S. government's actions are intended to control a deepening global financial crisis, yet the cost will all be borne at home by American taxpayers. Other nations should share in this effort if their financial institutions hope to benefit from this program.

Finally, Congressional and legal oversight of this asset purchase program must be strengthened. Reports to Congress should come more frequently than twice yearly, and the reporting requirement should stand for as long as any mortgage-related assets remain in the Treasury Department's possession. The Government Accountability Office should have full and unfettered access to all aspects of the program, because taxpayers demand transparency and accountability if they are to be expected to finance this program.

Congress faces unattractive options for addressing this unprecedented problem. If we are to ask American taxpayers to bear this heavy burden, we must craft a responsible solution to this crisis, one worthy of the taxpayer's investment. I ask you to address the principles I outlined above to ensure that Main Street is not forgotten in any bailout of Wall Street.

Thank you for your consideration. I look forward to working with you and our colleagues in the Senate to address this crisis.

Sincerely,

E. BENJAMIN NELSON,
U.S. Senator.

Mr. LEAHY. Mr. President, this financial crisis is rooted in material actions involving executive greed and ineptitude, flawed economic policies, and the incompetence of on-the-scene regulatory agencies. And we are dealing with this crisis at the unfortunate intersection of two toxic trends: the loss of confidence in our financial system, and the public's loss of confidence in the Bush administration. Many have come to agree with those of us who have long felt that ''trust me'' is not enough when this White House asks for sweeping new powers.

As this crisis spreads, threatening to harm our families, businesses and communities, the clock has been running out on the Federal Government's opportunity to try to staunch the damage. I opposed the original Bush plan, which was fatally flawed on several counts. Since then I have worked in good faith to fix its shortcomings, and by now several constructive changes have been made. After many fits and starts and long negotiations that have run through many nights, the clock is close to running out. As the Senate has prepared to vote on this revised plan, I have weighed its flaws and its improvements against the need for action to avert a wider credit crisis and the harm that would bring to Vermont and the Nation. I decided that this national emergency tips the balance in favor of this revised plan.

Vermonters are divided on this, and I know that many Vermonters feel strongly that this is the wrong answer. But with credit conditions for businesses, public institutions, States, localities, and average Americans deteriorating every day, I believe that acting now to help put our economy on an even keel has become an urgent priority.

The bill that the Senate is voting on tonight has changed significantly since President Bush first proposed a $700 billion blank check last week. It provides greater checks and balances on the Government's authority and preserves the rights of people affected by the conduct of financial institutions that participate in the Government's plan. Any actions taken by the Treasury Secretary should be approved by an oversight board, supervised by an inspector general, reviewed under the Administrative Procedures Act, and examined by the courts if there is a question of fraud or abuse. I fought and won in adding the check and balance of judicial review.

It increases the Government's insurance of consumers' and business's bank deposits from $100,000 to $250,000. This would safeguard the savings deposits of families and businesses and farmers in Vermont and protect the checking accounts of businesses that continually need to buy materials, sell their products and make payroll.

This plan now also tightens the restrictions on executive pay and banning golden parachutes for firms participating in the program. Under current law, there are no restrictions on the amount of executive compensation that Wall Street CEOs can be paid. With these people having their hand out for a Federal bailout, we should limit executive pay and prohibit greedy executives from walking away from the mess they created with millions while regular American investors lose their savings and retirement funds.

Senator OBAMA spoke eloquently and persuasively on this tonight. His argument weighed heavily with me. My decision to support this remedy did not come easily, but the worsening crisis has made the choice increasingly clear and the stakes of doing nothing, significantly higher.

Mr. SPECTER. Mr. President, I am supporting this Federal economic aid legislation because the failure of Congress to take some decisive, substantial, action would run the risk of dire consequences to U.S. and world markets. The 777 point plunge in the Dow plunge on Tuesday, in the wake of the House's rejection of this legislation, demonstrates the potential for even greater problems if Congress does nothing.

My affirmative vote is made with substantial misgivings. It is a very unpopular vote, evidenced by constituents' calls and letters and personal contacts overwhelmingly against the plan. It is understandable that the American taxpayers are opposed to footing the bill for unwise speculation on Wall Street and federal officials who failed in the regulatory process. Congress should follow the teachings of Edmund Burke, the greatest philosopher, who said in 1774 that, in a representative democracy, elected officials should consider their constituents' views, but in the final analysis they owe their constituents their independent judgment as to what should be done.

From the outset, I cautioned against Congress's rushing to judgment. When the initial proposal was made, I wrote to Majority Leader HARRY REID and Republican Leader MITCH MCCONNELL by letter dated September 21, 2008, urging we take the time necessary to get the legislation right. By letter dated September 23, 2008, I wrote to Treasury Secretary Henry Paulson and Federal Reserve Chairman Ben Bernanke asking a series of questions which have not yet been answered. Then by letter dated September 27, 2008, accompanied by a floor statement, I made a series of suggestions to the executive and legislative negotiators. Again, there has been insufficient time for a reply.

The rush to judgment began in mid-September when Treasury Secretary Henry Paulson and Federal Reserve Chairman Bernanke warned of an imminent meltdown in financial markets which would threaten retirement funds, jeopardize the jobs of millions of Americans, and subject homeowners to more evictions. A few days later Secretary Paulson issued a three page economic rescue plan which has since grown to a 112-page bill before additional provisions were added.

Whenever we deviate from regular order which has been developed during more than 200 years of serving our country very well, we are on thin ice. On regular order, the legislative process customarily begins with a bill which members of Congress can study and analyze. Here, we were presented with a bill which Congress was asked to act upon within hours after completion. Customarily, after the legislation

is in hand, there are hearings with proponents and opponents of the bill and an opportunity for members to examine, really cross examine, to get to the heart of the issues and alternatives. There have been limited hearings with executive branch officials, but not in the context of analyzing the finished bill or an opportunity for opponents or advocates of alternatives.

After the hearings, regular order calls for a markup in the committee of jurisdiction going over the language line by line with an opportunity to make changes with votes on those proposed modifications. Then the committee files a report which is reviewed by members in advance of floor action where amendments can be offered and debate occurs. The action by each house is then subjected to further refinement by a conference committee which makes the presentment to the president for yet another line of review.

The current process drastically shortcuts regular order. For example, there was no opportunity for members to offer amendments to substitute loans or a governmental insurance policy for the plan to authorize the Treasury Secretary to buy toxic securities which is problemsome because there is no market which establishes value. So the government, and then the taxpayers, may well be overpaying. If loans were made like the AIG model with senior secured provisions, the government might well pay less, as I suggested in my letter dated September 27. In that letter I further suggested that consideration be given to government insurance which would have eliminated the uncertain values in purchases and would have limited the government obligation to being an insurer of the specific commercial transactions which require governmental aid.

In my letter of September 27 I further raised the issue of exercising care to avoid running afoul of the Supreme Court decision in INS v. Chadha. It is uncertain whether the stipulation giving Congress the authority to reject the last installment of $350 billion would satisfy the Chadha standard.

In addition there has not yet been an adequate showing as to how the overall figure of $700 billion was determined. In my letter of September 27, I called for a detailed explanation for Congress as to how that figure was arrived at and the necessity for such a large sum. Similarly I sought justification for an initial expenditure of $250 billion.

We have been working against a backdrop that unless immediate or very prompt action is taken, there is an enormous risk of an economic collapse. In my letters, I expressed my judgment that this would not occur as long as it was seen that the Congress was determined to do something significant and was working as promptly as practicable to come up with remedial legislation. In fact, the market rose on September 25 and 26, when the Congress appeared to be moving toward a legislative solution. The Dow then dropped on September 29 when the House rejected the proposed legislation. Had the House not taken that negative vote when the vote count was not solid, there may well have been enough time to improve the bill without causing the market's collapse.

Even now, there has been a limited time for deliberation and Members have not had an opportunity to debate and vote on alternatives.

It is true that the proposed legislation is enormously improved over the first Paulson proposal, but it still grants enormous authority to the Treasury Secretary. The $700 billion is not to be authorized immediately, but instead there are installments of $250 billion, $100 billion at the request of the President and $350 billion more subject to congressional objection, although the latter phase may be unconstitutional under Chadha. For protection of the taxpayers, the proposal contains a provision that if the government does not regain its money after 5 years, the President would be required to submit a plan for compensating the Treasury ''from entities benefiting from the programs.'' While that provision is a far way from a guarantee or even assurances that such recovery legislation would be enacted, it gives some important comfort to the taxpayers' position.

There are also provisions for multiple layers of oversight including a Financial Stability Oversight Board comprised of the Chairman of the Fed, the Treasury Secretary, the Director of the Federal Home Finance Agency, the Chairman of the Securities and Exchange Commission, SEC, and the Secretary of Housing and Urban Development, HUD, that will meet monthly to oversee the program. The Secretary will be required to report to Congress on a regular basis on the actions taken, along with a detailed financial statement. These reports will include information on each of the agreements made, insurance contracts entered into, and the nature of the asset purchased and projected costs and liabilities. Additional oversight will be provided by the Comptroller General—reports to Congress—a new inspector general—audits and quarterly reports—a congressionally appointed oversight panel—market and regulatory review, and reports to Congress on the program and the effectiveness of foreclosure mitigation efforts—and by OMB and CBO—cost estimates. A report will be required from the Secretary of the Treasury with an analysis of the current financial regulatory framework and recommendations for improvements.

There are substantial limitations on having benefits for entities which created the problem and limitations on executive pay. The executive compensation and corporate governance provisions provide that Treasury Department would have to promulgate executive compensation rules governing financial institutions that sell its troubled assets.

In cases where financial institutions sell troubled assets directly to the government with no competitive bidding and where the government receives a meaningful equity position, the legislation states that, until that equity stake is sold, executives would not get incentives ''to take unnecessary and excessive risks'' and would have to give up or repay bonuses or other incentives based on financial statements that ''are later proven to be materially inaccurate.'' The bill also would prohibit ''any golden parachute payment to senior executives.''

The legislation is less stringent in provisions for financial institutions that sell their assets to the government through an auction. Such provisions would apply only to companies that sell more than $300 million in assets and would subject companies and employees to extra taxes. Corporations would not be able to deduct any salary or deferred compensation of more than $500,000, and top executives would face a 20 percent excise tax on golden parachute payments if they left for any reason other than retirement. In evaluating limitations on executive salaries, it is relevant to note that the Institute for Public Studies found that chief executives of large U.S. companies made an average of $10.5 million last year. That is more than 300 times the pay of the average worker.

The final proposal does provide for debt insurance, but leaves it to the Secretary of the Treasury to utilize that approach so it seems unlikely that it will be implemented in light of the fact that Secretary Paulson has bluntly stated his disagreement with it. Had there been floor amendments, Congress could have structured standards for utilization of debt insurance.

Had we followed regular order with an opportunity to propose amendments, consideration could have been given to my proposal, S. 2133, which would have authorized the bankruptcy courts to restructure interest and scheduling of payments. The so-called variable rate mortgages have confronted many homeowners with the surprise that original payments, illustratively, of $1,200 a month were soon raised to $2,000 which resulted in defaults. Individualized examination by the bankruptcy courts might show misrepresentation or even fraud to justify revising the interest payments and rearranging the payment schedule. Or consideration could have been given to Senator DURBIN's proposed legislation, S. 2136, which would have authorized the bankruptcy courts to reset the principal balance depending on the value of the home. I opposed that bill because I thought it would discourage future lending and in the long run raise the cost to homebuyers. But at least, following regular order, there would have been an opportunity to consider Senator DURBIN's proposal as well as my suggested legislation.

The legislation contains authority for the Treasury Secretary to compensate foreign central banks under some conditions. It provides that troubled assets held by foreign financial authorities and banks are eligible for the TARP program if the banks hold such assets as a result of having extended financing to financial institutions that have failed or defaulted. Had there been an opportunity for floor debate, that provision might have been sufficiently unpopular to be rejected or at least sharply circumscribed with conditions.

As a step to help keep borrowers in their homes, I proposed language found in Section 119(b) of the bill to address the concern that some loan servicers have been reluctant to modify home mortgage loan terms because they fear litigation from investors who hold securities or other vehicles backed by the mortgage in question. The loan servicers have a legal duty to the investors to maximize the return on their investments. In testimony on December 6, 2007, before the House Committee on Financial Services, Mark Pearce, speaking on behalf of the conference of State Bank supervisors, discussed a meeting with the top 20 subprime servicers. He explained that ''many of them brought up fear of investor lawsuits'' as a hurdle to voluntary loan modification efforts. Because the rescue legislation encourages the government to seek voluntary loan modifications, it is important to remove any impediments to such modifications. To that end, the language provides a legal safe harbor for mortgage servicers making loan modifications, if the loan modifiers take reasonable mitigation steps, including accepting partial payments from homeowners.

On reforms to prevent a recurrence of this crisis, we need to question whether the rating agencies adequately analyzed mortgage-backed securities before issuing investment-grade ratings. They appear to have failed, in July of 2007, when it became apparent that ratings issued by the big three rating agencies—Moody's, S&P and Fitch—could not be relied upon, I urged the relevant committees to look into the ratings that those agencies issued in recent years regarding mortgage-backed securities.

Financial institutions that issue asset-backed securities obtain ratings for such securities. The failure to issue reliable ratings misrepresented the facts and fed the ability of financial institutions to tout the value of securities even though their value was declining. Congress and the regulators need to take up the rating agencies issue, and consider whether ratings agencies that have utterly failed to detect and reflect the risks associated with the securities they were rating should be accorded any reliance or role in our financial system. Some have suggested they should be regulated and we may need to consider that.

In addition, Congress and the regulators should review ''off-balance sheet'' transactions and leveraging. There should be a close examination on whether banks are sufficiently transparent and providing accurate accounting that truly reflects risk and leverage.

Similarly there should be a review on credit default swaps, CDS, which are privately traded derivatives contracts that have ballooned to make up what is a $2 trillion market according to the Bank of International Settlements. They are a fast-growing major type of financial derivative. Many experts assert that they have played a critical role in this financial crisis as various financial players believed that they were safe because they thought CDS fully insured or protected them, but the CDS market is unregulated and no one really knows what exposure everyone else has from the CDS contracts. Consideration should be given to subjecting all over-the-counter derivatives onto a regulated exchange similar to that used by listed options in the equity markets.

Excessive overleveraging has been a contributing factor in the turmoil that now threatens our financial institutions. We have seen a massive expansion of the practice of leveraged financial institutions—banks, investment banks, and hedge funds—making investments with borrowed money. In turn, they borrow more money by using the assets they just purchased as collateral. This sequence is continued again and again. The financial system, in its efforts to deleverage, is contracting credit. They must guard against future losses by holding more capital. Deleveraging is leading to difficulty on Main Street for individuals seeking to get a mortgage or buy a car. If a financial institution is able to unload its toxic assets onto the government, it will again be able to resume its lending activities that are crucial for economic growth in the United States. Unfortunately, much of the financial crisis has arisen from miscalculations of the risks involved with purchasing large amounts of securities backed by subprime mortgages and other toxic assets. We now see a situation where we are not just talking about a handful of firms. This is a widespread problem that should be addressed by this package and in future reforms of our financial regulatory structure.

In addition, the package crafted by Senate leaders includes two notable changes from the version that was rejected by the House on Monday. It will include a tax package that was previously passed in the Senate by a vote of 93–2 on September 23, 2008, but has since been rejected by the House in a dispute over revenue offsets. It includes tax incentives for wind, solar, biomass, and other alternative energy technologies. It also includes critically important relief from the alternative minimum tax, which threatens to raise the tax liability of over 22 million unintended filers in 2008 if no action is taken. Finally, the package includes a host of provisions that either expired in 2007 or are set to expire in 2008, including the research and development tax credit, rail line improvement incentives, and quicker restaurant and retail depreciation schedules. I supported the Senate-passed tax extenders bill because it struck a responsible balance on the issue of revenue raising offsets.

The package also includes a provision to temporarily increase the Federal Deposit Insurance Corporation, FDIC, insurance limit to $250,000. Currently, the FDIC provides deposit insurance which guarantees the safety of checking and savings deposits in member banks, up to $100,000 per depositor per bank. Member banks pay a fee to participate. The current $100,000 limit has been unchanged since 1980 despite inflation. This approach is supported by both Senator MCCAIN and Senator OBAMA, by House Republicans, and by the FDIC Chairman Sheila Bair, who sent a request for this change to Congress on Tuesday. Raising the cap could stem a potential run on deposits by bank customers, particularly businesses, who fear losing their money. Such fears contributed to the collapse of Washington Mutual and Wachovia Bank in the past week. However, some economists warn that raising this limit creates a ''moral hazard'' where banks have less incentive to protect assets when there is a government backstop. The coverage amount reverts back to $100,000 after December 31, 2009.

Congress is now called upon to make the best of a very bad situation. We must pledge to our constituent taxpayers that we will learn from the mistakes which led to the brink and take corrective, vigilant, action to prevent a recurrence.

Mr. LEAHY. Mr. President, responding to the national economic crisis has been the focus of our efforts here in the Senate for over a week. I have been consulted by Senator CHRISTOPHER DODD, chairman of the Banking Committee, on the financial bailout proposal. I thank him for all of his hard work to address this complex problem. As chairman of the Senate Judiciary Committee, I wish to inform all my fellow Senators about the intent with which the judicial review provisions were drafted. I believe it is especially important for Senators to have this understanding before Members of the Senate vote on this legislation.

From the very moment I received the administration's proposal, I have objected to any measure that strips the courts from playing their indispensible role as a check on executive power. I have insisted at every stage in the negotiations that the traditional Administrative Procedures Act review apply to the Secretary of Treasury's actions, as well as any constitutional review that our courts are charged with in our democracy.

It was of utmost importance to me to see that judicial review has been maintained in the version that we will be considering in light of the authority this legislation will give to the Treasury Secretary. This review is primarily based on traditional court review under the Administrative Procedures Act. In that section, the word ''law'' means any State or Federal law or common law interpreting such State and Federal laws. This is a crucial distinction, and it is not the intent of the drafters of these provisions to allow the Secretary of the Treasury to vitiate any private right of action on behalf of shareholders based on Federal statute or judicial interpretation of a Federal statute. With this legislation, Congress does not intend to allow any financial institution that participates in this plan to gain immunity from suit, nor permit the Secretary to confer such immunity on any participant.

As chairman of the Senate Judiciary Committee, my other top priority for this legislation has been that the Secretary not be able to interfere with or impair the claims or defenses available to any other person. Americans harmed by corruption on Wall Street should not have their causes of action affected by the Secretary in any way. Truth in Lending Act claims should be allowed to proceed in due course. Shareholders who have been injured by the misconduct of corporate board members or executives should be able to file and continue their claims against those corporations. It is my understanding and intention that none of these causes of action should be harmed or otherwise affected by our bailout legislation. This is why we included a savings clause to make this explicit.

We heard repeatedly from the administration that they were concerned that rogue judges would award injunctions and thwart the emergency actions needed for the Secretary to calm the financial crisis. By agreeing to the administration's request on injunctions, we intend for damages actions to be the avenue of relief for any misconduct, should it occur, on the part of the Secretary. We were assured that existing waivers of sovereign immunity under the Tucker Act, the Contracts Dispute Act, the Little Tucker Act, the Federal Tort Claims Act and relevant civil rights laws would apply to the Treasury Department's new responsibilities, just as these laws have applied to the Treasury Department's actions prior to the bailout measure.

We have also insisted on protection for consumers who are parties to mortgage agreements by including a provision to make sure that any rights or claims held by a consumer in relation to those loans, whether under the terms of the mortgage or Federal or State law, are preserved in the event those loans are transferred to the Federal Government. It is not the intent of Congress to deprive homeowners of recourse against those lenders who, through greed, irresponsible lending, or outright fraud, led people into taking out unadvisable loan products and who were responsible for contributing to those homeowners' current mortgage struggles. Once again, it is imperative that the extraordinary authority Congress has given to the Treasury Secretary not be at the expense of the rights of American citizens to enforce the terms of their contracts or to rely upon State and Federal laws that protect against fraudulent lending practices or other deceptive behavior.

Even in emergencies, it is important that the Federal Government exercise its authority consistent with the rule of law. Congressional negotiators were aware of the administration's call for immediate reaction, but I believe we acted responsibly by taking the time to ensure that adequate legal protections were provided in the legislation. The courts play a fundamental role in our democratic system of government and will be especially important in ensuring that these new authorities are used responsibly.

Americans must have the confidence that those harmed by the conduct of any financial institution can access their courts for redress, despite this legislation. The Congress is aware of civil litigation brought by shareholders or by or on behalf of financial institutions that purchased troubled assets, against officers, directors, and in some cases counterparties whose alleged misconduct caused or contributed to their losses. The Congress is also aware of media reports of criminal investigations. These matters are for the justice system to resolve on an individual basis, but the Secretary and the executive branch should generally cooperate with public and private efforts to recover losses from wrongdoers in the financial markets, whether brought by a governmental entity, securities purchasers, the corporation itself, or asserted on behalf of the corporation derivatively. Nothing in this act is meant to detract from any rights or recovery against private parties to redress wrongdoing that exist under Federal or State law.

I thank the leadership for consulting me during the drafting and redrafting process and for incorporating my language into the provisions providing for judicial review.

Mr. ENZI. Mr. President, I rise today to speak about the historic vote that will occur today on the Emergency Economic Stabilization Act of 2008. Members of Congress and the U.S. Treasury Department have spent the last two weeks debating a response to the declining U.S. credit markets and a plan to get America's economic machine running again. The final product is a far cry from the Treasury's initial 3-page proposal. However, I am still not convinced that this is the best solution for our country.

Throughout this debate, I have listened to arguments from both sides. I studied this legislative proposal line by line, and tried to measure the benefit this legislation would bring to our financial markets against its enormous cost to our taxpayers. Ultimately, I do not believe this is the best solution for our economy or the taxpayer. Has Congress been rushed? Have we decided to do something, anything, even if it's wrong because of the dire warnings of an economic apocalypse? Yes, but in this case the wrong proposal is just too costly for our country in terms of dollars and in terms of our economic future. Something does need to be done to save our economy, but this package is just a very costly band-aide for big banks that will do very little to help patients who need major surgery.

Had Congress been able to use the regular committee process to craft a bipartisan and comprehensive legislation, the resulting bill may have gained my support. Unfortunately, Congress has been pressured into passing this bill in two weeks by Treasury and Wall Street. A rescue plan of this scale requires a clear plan of action with a substantial chance of success. This plan has neither.

When Treasury Secretary Paulson and FED Chairman Bernanke first came to the Hill to ask for help, my colleagues on the Senate Banking Committee and I told him that even his dire warnings of a global economic meltdown would not allow us to give him a blank check. Since that time, the markets have soared and plunged on each new development out of Washington. But the warnings about global collapse have not been realized yet, and I pray that they won't. By passing this legislation are we vastly underestimating the resilience of our markets and overestimating the need for this legislation? This does not provide us with any measurable goals for success.

This plan inadequately addresses the root cause of our market crisis, home foreclosure. Without addressing the root of our economic problem, I have little confidence that it will be successful. I cannot vote for a bill to authorize $700 billion in taxpayer money without a substantial chance of success.

What I was hoping for was a solution that would get closer to the real problem and to the people. The housing crisis accelerated the financial problem. The response was to bailout banks and investment firms and forget the hurting homeowner. That is still what we are doing while claiming to make the credit market more liquid using taxpayer money. The public still sees it as a big bank bailout.

In addition, this plan offers no clear plan to solve our market crisis. I questioned Secretary Paulson and Chairman Bernanke about the asset purchase program last Sunday, and again during the Senate Banking Committee hearing last Tuesday. I did not receive satisfactory answers, and many doubts about this program still remain. The primary purpose of this program is to find the true value of these mortgage assets through a Treasury purchase

program. Yet this legislation provides no details on how that process works, who will participate, and how these assets will be priced.

I understand why many of my colleagues voted for this bill and why some of my constituents encouraged me to do the same. This was one of the hardest decisions I've ever had to make as a senator. I hope that, if this bill ultimately passes, that it does help. I really do. I know this economic hole is dark and there is a real risk of many Wyoming people suffering, but I believe there are other steps that we could try before jumping off a cliff $700 billion high.

I will continue to work with my colleagues to craft comprehensive, accountable, and common-sense reforms to our financial markets. We must consider reforming the fair value accounting method when there is no market. The current rules prevent banks from understanding the true price of their assets in the long term. We need to enact reforms that make federal financial regulation more efficient, vigorous, and transparent. The role of Fannie Mae and Freddie Mac also needs to be re-evaluated in order to restructure the mortgage market from the bottom up. Finally, we should consider changes to our tax code, including capital gains and mortgage interest deduction, which will encourage liquidity in the marketplace. Another idea would be to expand the tax credit to those buying up foreclosed homes or homes on the market over 180 days.

The best way to solve this problem was to never get in the situation in the first place, but at this point that is not an option. Further disruption of our free market system by rewarding bad decisions with taxpayer money will only make this problem worse. That is why I oppose this legislation. We've got a lot more work to do and I look forward to working with my colleagues to reform our financial markets to ensure this situation never happens again.

Mr. SALAZAR. Mr. President, I rise to discuss the economic crisis that is gripping our country and the bipartisan economic rescue package currently before the Senate.

These are troubling times for the American people. We are facing a devastating credit freeze and the possibility of a catastrophic economic collapse. The problems that started with the excesses and ''anything goes'' attitude on Wall Street, are, unfortunately, not contained to Wall Street. The news from Colorado over the last few days has been grim.

Small businesses are worrying that their credit will dry up and they won't be able to make payroll.

Workers are seeing their pensions and retirement savings hanging in the balance. Young families are worrying they won't be able to borrow money for their first home. Students fear that their bank won't extend their college loans.

Farmers and ranchers worry that credit will not be available and interest rates will skyrocket, making it more difficult to buy seed, fuel, and fertilizer.

And construction projects in Colorado are grinding to a halt. Borrowing money is getting too expensive.

To be sure, the economic pain inflicted by the financial credit crunch is not new to middle-class families in Colorado and across the Nation.

Over the last 8 years, middle-class families have seen their incomes drop, while the cost of energy and health care and education have skyrocketed. Gas is still near $4 a gallon. Meanwhile, in the last 2 years, millions of families have been forced into foreclosure or have seen the value of their homes plummet.

For these families on Main Street who have been playing by the rules but who have been left behind by the failed economic policies of the last 8 years, it is entirely legitimate to ask who was ''minding the store'' on Wall Street over the past 8 years.

While ordinary Americans were struggling to pay the bills and fill the tank, and while many of my colleagues and I were calling for action, the administration was twiddling its thumbs.

We heard over and over that the fundamentals of our economy were strong.

In March, we heard that the credit crisis would be contained if the Federal Reserve came to the rescue of Bear Stearns. Then we heard the same thing when the administration asked for the authority to back up Fannie Mae and Freddie Mac, when it was forced to use that authority, and when the Fed loaned $85 billion to AIG.

I can understand why Americans are angry and frustrated. I am angry and frustrated.

But today, we must do our very best to concentrate on the task at hand.

The question before this body is whether the proposal that has been negotiated by congressional leaders in both parties and the administration can unfreeze the credit markets that are so vital to healthy economic activity, prevent future financial failures, and prevent economic paralysis. Millions of jobs are at stake. American prosperity is at stake. The economic security of middle-class families is at stake.

With that in mind, the Senate today is considering an economic rescue package that aims to protect middle-class Americans from the Nation's financial crisis. The package would create the Troubled Assets Relief Program, or TARP. The goal of the program is to inject liquidity into a cash-strapped market and restore the confidence of investors, lenders, and borrowers.

I strongly support this goal.

But let me be clear: I am glad that Congress has overhauled the administration's original proposal and not handed the Secretary of the Treasury a blank check. The proposal before us contains a number of provisions that will ensure strong, independent oversight of the program; better protect the taxpayer; impose limitations on executive compensation for participating companies; and increase foreclosure mitigation assistance to distressed homeowners.

First, I am especially pleased that the money will be provided in installments: $250 billion of the $700 billion requested will be made available at the outset. The President would have to certi the need for an added $100 billion, and the final $350 billion would be contingent on congressional approval. I believe this structure provides an important safeguard in the event that the program does not achieve its intended objectives.

Second, the proposal before us requires the Treasury Department and other Federal agencies to try and work out the mortgages it purchases or controls in an effort to keep families in their homes. It also expands eligibility for the Home for Homeowners program, which was created as part of the housing stimulus bill earlier this year, and which would offer FHA-insured refinancing to distressed homeowners.

Third, in order to provide as much protection for taxpayer dollars as possible, the bill requires companies that sell some of their bad assets to the Government to provide warrants so that taxpayers will benefit from any future growth these companies may experience as a result of participation in the program. It also requires the President to submit legislation that would cover any losses to taxpayers resulting from this program.

Fourth, the proposal contains a number of provisions designed to limit executive compensation for participating companies, including the elimination or limitation of certain tax benefits and, in some cases, caps on compensation. In addition, the bill limits or penalizes the excessive severance packages for departing executives frequently referred to as ''golden parachutes.''

Finally, the legislation includes strong oversight mechanisms and reporting requirements to ensure that Congress and the American public have timely and relevant information about the program and its activities every step of the way. Specifically, the bill requires the Treasury Secretary to report regularly on the use of funds and the progress made in addressing the crisis, and establishes two independent oversight mechanisms: a bipartisan oversight board and a special inspector general for the program.

Each of these provisions represents a vast improvement over the bill that Secretary Paulson and President Bush submitted to Congress, and I joined many of my colleagues in urging their inclusion through the course of the negotiations.

I am also pleased that after the first attempt to pass the economic rescue package in the House of Representatives earlier this week, additional improvements were made to the bill to

provide greater protection to middle-class Americans whose savings are at risk.

Importantly, this bill increases the FDIC limits from $100,000 to $250,000. This will better protect the savings of ordinary Americans and helps ease concerns that I had with the initial compromise.

In addition, I am extremely pleased that, in passing this economy recovery package, we will extend a wide range of important tax relief provisions for middle-class families, including protection from the Alternative minimum tax for 23 million Americans and deductions for college tuition and teachers' out-of-pocket classroom expenses.

This package would also create jobs through a new set of tax incentives to promote renewable energy and energy efficiency. These tax provisions are vital to setting our economy back on the track to prosperity by spurring investment in a new generation of clean energy technologies. In the 3 years between 2004 and 2007, renewable energy sector jobs in the Denver metro area surged from 5,760 to 13,940 and the number of renewable energy companies in the 9 counties surrounding Denver rose from 104 to 1,010. Extending and expanding these tax incentives will be critical to enabling the continued growth of this industry in my State and across the Nation.

Having said all of that, despite these modifications to the administration's original proposal, I believe there are a number of additional areas that need to be addressed and important questions that need to be answered.

For example, as we consider whether and how to protect the American public from the consequences of the failures of our financial sector, we must take steps to ensure this situation does not occur again in the future: That means stronger oversight and regulation of our financial industry.

While I understand that we must act quickly and that the proposal must be focused, I urge my colleagues to join ale in pledging to enact a strong and effective regulatory structure within the next 6 months.

In addition, there are legitimate questions about how the administration settled on $700 billion, why Congress was asked to undertake this large and wide-ranging proposal on an extremely abbreviated timetable with limited opportunity to conduct hearings, and what, exactly, the TARP program will look like—what kinds of assets it will buy and how much it will pay for them.

Should this legislation become law, I am committed to forcefully exercising the congressional oversight authority that it provides to get answers to these and other questions, and to hold the administration accountable for its actions.

This proposal is far from perfect. And I respect the positions of my colleagues who have expressed principled opposition to this bill. Their voices have been important to this debate.

However, after devoting considerable time and thought to the severity of our current financial crisis and to the consequences of inaction for business, families, and farmers in Colorado and across the Nation, I have concluded that I must support this proposal and work diligently to ensure its effective implementation.

We are in the midst of an extraordinarily serious financial crisis. Despite legitimate concerns over the circumstances that brought us to this juncture, we have an obligation—today and always—to act in the best interest of the people we were elected to represent.

This proposal has serious shortcomings, but I believe it is firmly in our constituents' best interests that we act now to protect Main Street from the failures of Wall Street; to ensure that small businesses, farms, and ranches can continue to access the credit they need to survive and ultimately thrive; and to secure the ability of families to save for retirement, find good jobs, and provide for their children's future.

None of us can be sure exactly where our economy will be in 6 months or a year. But what I do know is that the economic security of all Americans is at risk today. I am angry with how we got here, and I am not fully satisfied with this proposal, but given a fighting chance, the American people have always risen to the challenges before them. This bill will give American families that chance by protecting them from the failures of Wall Street and rescuing Main Street from the perils of a devastating credit crunch.

I am confident that our best days are still ahead. We will soon turn the page on the failed economic policies of the last 8 years, right our economic ship, put our Nation back on a path to prosperity, and restore our economy to its rightful place as the envy of the world.

Mr. DODD. I wish comment on certain parts of the Emergency Economic Stabilization Act of 2008.

Section 132 reauthorizes the Securities and Exchange Commission to suspend Financial Accounting Standard 157 if it ''is necessary or appropriate in the public interest and is consistent with the protection of investors.'' That is a very high standard. I do not expect or encourage the Commission to take action in this regard.

Vital to the health of U.S. capital markets is financial information that is reliable. Accounting rules should produce financial data that faithfully depicts economic reality and is neutral, not favoring either the supplier or user of capital, either the buyer or seller of securities. The formulation of accounting standards is best left to the accounting experts. Congress should not be in the business of setting accounting standards.

Furthermore, it is critically important that we respect the independence of the Financial Accounting Standards Board, so that they can observe a fair and open process and arrive at the most appropriate accounting standards. Congress should not chill or override that independence and does not do so in this legislation.

With respect to mark to market, I understand concerns that have been raised. However, many experts object to the suggestion of suspending it. For example, the Council of Institutional Investors, the Center for Audit Quality, and the CFA Institute have said they ''are united in opposing any suspension of 'mark to market' or 'fair value' accounting.'' They stated: [Suspending fair value accounting during these challenging economic times would deprive investors of critical financial information when it is needed most. Fair value accounting with robust disclosures provides more accurate, timely, and comparable information to investors than amounts that would be reported under other alternative accounting approaches. Investors have a right to know the current value of an investment, even if the investment is falling short of past or future expectations.]

Section 133 directs the Commission to conduct a study on mark-to-market accounting. The study is to be completed within 3 months, which will necessarily limit its scope and depth. Within these limits, I will be particularly interested in the findings on the impact of such standards on the quality of financial information available to investors and on the fairness of the standard setting process.

Section 118, ''Funding,'' states that the purposes for which securities may be issued include actions authorized by this act, including the payment of administrative expenses. This would include such reasonable expenses as are incurred in the preparation of reports, such as the study mandated by section 133.

Section 3 states that the term, ''financial institution,'' ''means any institution, including, but not limited to, any bank, savings association'' or other specific types of institutions. The latitude of the definition is intended to include the parent holding companies of one of the identified types of institutions that are established and regulated under the laws of the jurisdictions set forth in the definition. Thus, for example, if a wholly owned securities subsidiary of a public-traded financial holding company sells assets to the Treasury Department, it would be subject pursuant to section 113 to providing a warrant to the Secretary to receive stock in such holding company.

With respect to section 119, I want to associate myself with the remarks of Senator LEAHY on the savings clause.

Section 101 of the legislation gives broad authority for the Treasury Secretary, in consultation with other agencies, to purchase and to make and fund commitments to purchase troubled assets from eligible financial institutions on terms and conditions that he determines. This legislation does

not limit the Secretary to specific actions, such as direct purchases or reverse auctions but could include other actions, such as a more direct recapitalization of the financial system or other alternatives that the Secretary deems are in the taxpayers' best interest and that of the Nation's economy.

Section 129 requires the Federal Reserve to submit regular written reports to the Senate Banking and House Financial Services Committees whenever it uses its authority under section 13(3) of the Federal Reserve Act. The periodic updates to the reports are meant to keep the committees informed of the specific details of any loans or the aggregate details concerning programs the Federal Reserve establishes that are covered by this requirement.

Section 131 requires the Treasury to reimburse the Exchange Stabilization Fund, ESF, for any losses that result from the temporary guaranty program that they recently established. It is the intent of the Treasury that the temporary guaranty program that they recently established will not last longer than 1 year, and while the final version of the act does not mention this timeframe, it was because the Treasury Department has publicly stated that this temporary program will last no longer than 1 year, which is consistent with the intent of this legislation. Further, the act forbids the Secretary from using the ESF for the establishment of any similar fund in the future. The ESF has never been used for loans or guarantees for domestic purposes, and it is important that the money in the fund continue to be available for the ESF's stated purpose.

Section 136 provides a temporary increase in the coverage limit for nonretirement accounts in insured depository institutions. It is the intention of the legislation that this increase be temporary and this increase is not a statement of any intent for changes in the permanent deposit insurance level.

Mr. President, I ask unanimous consent that a letter from the Treasury Department be printed in the RECORD.

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

(See Exhibit 1.)

Mr. DODD. Mr. President, I first thank my colleagues for their generous comments. This has been an incredible 2 weeks. It began exactly 2 weeks ago tomorrow night when the Chairman of the Federal Reserve and the Secretary of the Treasury, in words that were as chilling as any I have heard in 28 years here, describing the condition of our economy.

We heard the words ''credit crunch.'' I was educated in high school by Jesuits, and the word ''credit,'' the derivative, comes from the Latin word ''to believe.'' What is more important to me at this moment than any financial loss that Wall Street suffers or other institutions or shareholders, as much as I am concerned about it, but the biggest loss we run the risk of is Americans believing in their country, that sense of confidence and optimism that has been at the base of our success for more than two centuries.

I say to my colleagues who are wondering whether at this moment we ought to embrace this plan to move us to the right footing, this is the moment which we must take this opportunity to get back our economy, and simultaneously, more important than anything else we achieve, to restore Americans' confidence, their optimism, and their belief that this country can provide a better day for their children and their grandchildren than the one in which they were raised.

Nothing less than that, in my view, is at stake in the vote we will take in a matter of minutes; maybe the most important vote any one of us will ever cast in this body. It will determine the future and the well being of our country. I beseech my colleagues, not as Democrats or as Republicans, but as Americans, and as Members of this remarkable institution, to cast a vote for the future believability in our economy and our country.

I urge a ''yes'' vote.

EXHIBIT 1

DEPARTMENT OF THE TREASURY,
Washington, DC, October 1, 2008.

Hon. CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN, I am writing regarding the Emergency Economic Stabilization Act of 2008.

It is the intention of the Department of the Treasury that all mortgages or mortgage-related assets purchased in the Troubled Asset Relief Program will be based on or related to properties in the United States.

Sincerely,

KEVIN I. FROMER,
Assistant Secretary for Legislative Affairs.

FEDERAL RAILROAD SAFETY IMPROVEMENT ACT OF 2007

The PRESIDING OFFICER. The Senate will now resume consideration of the House message on H.R. 2095, which the clerk will report.

The bill clerk read as follows:

Message from the House of Representatives to accompany H.R. 2095, entitled an Act to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes.

Pending:

Reid amendment No. 5677 (to the motion to concur in the amendment of the House of Representatives to the amendment of the Senate to the bill), to establish the enactment date.

Reid amendment No. 5678 (to amendment No. 5677), of a perfecting nature.

The PRESIDING OFFICER. There will be 15 minutes for the majority and 15 minutes for the minority.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I wanted to make sure everyone knows we have 30 minutes allocated for Amtrak, and then the majority leader, Senator REID, also intends to go back, before the vote starts, and use his leader time at his discretion.

I rise to talk about the Amtrak reauthorization bill which will be the first vote tonight. I start out by thanking my colleague, Senator SMITH from Oregon, for all of the good work he has done on the rail safety portion of this bill; also Senator LAUTENBERG, the majority member who has worked so hard on the Amtrak portion; and Senators INOUYE and Senator STEVENS, the chairman and ranking member of our committee during most of the negotiations on this big, very important bill.

I think we have come to a very good position on Amtrak and on rail safety, and the legislation before us combines these two important bills that were written with separate subcommittees. I have worked on rail safety since I came to the Senate in 2004 when Union Pacific was going through a rash of accidents. The Department of Transportation initiated a compliance review at the request of myself and all the members of the Texas Congressional delegation.

The rail safety component of this legislation will reduce driver fatigue by ensuring that train employees receive adequate rest between shifts. The recent accident in California has led many to call for the implementation of new safety technologies on trains. Our legislation requires the Department of Transportation to develop a plan for implementation of positive train control systems on trains by the end of 2015.

I urge my colleagues to vote in favor of this very important bipartisan legislation.

FINANCIAL BAILOUT

Mr. President, the later votes we will take tonight are on another major piece of legislation. We have been hearing the debate on it all afternoon, really for the last 2 weeks. I want to start by saying that stabilizing our economy is the most important responsibility our Congress has right now. I did not vote for the Fannie Mae, Freddie Mac bailout. I did not. I did not vote for that because I did not think there was enough taxpayer protection, nor were there limits on executive compensation packages.

When Secretary Paulson came before us last week and said he wanted to have the power to spend up to $700 billion, I would not have supported that package, because, again, there were not enough taxpayer protections, there were not enough limits on executive compensation, and there was not enough oversight.

But in my 15 years in the Senate, I have never seen a more bipartisan effort in Congress to sit down and come to a real conclusion for the good of our country, putting Republican and Democratic labels aside, to say: We know it is our responsibility to save the financial integrity of our country for every person who has a pension

fund, for every person who has a lifetime savings in a bank, for every person who has worked hard all their lives to buy their homes, and to want to be able to own that home and pay off their mortgage.

I am speaking for every person who has gone to the bank for a loan in the last 4 days, because they are being told there is no ability to loan right now. I am talking about a State that goes to the markets for municipal funding and does not get one bid despite a triple A rating. Do we have the option of sitting here and seeing this happen in our country and saying: You know, I do not like this part of that bill or that part of that bill, so I am going to vote no?

I do not say that any person voting no is not doing it because of their own convictions, but I am saying that from my standpoint, the people who have elected me to represent them in the Senate, I have worked in every way I could to get the taxpayer protections, to get the oversight of Congress, to have the board that would make a difference in maybe what could be done by the Treasury, the way they put together these packages, to make sure there is an upside for the taxpayer, which there is in this bill, that the taxpayers will have an ownership stake if there is an upside, and that it will pay down debt. It is not going anywhere else but paying down debt to start getting our fiscal house in order. Then the House put in a provision that I thought was very sound. After 5 years, if the Government is facing a loss in the program, the President will be required to submit a plan to determine how we recoup from the financial companies that have been benefited, whatever the loss might be to the taxpayer.

This legislation also increases the FDIC limits to protect those people who have their life savings in a bank, so they will not worry they might be wiped out when it is announced, when they wake up in the morning, that their bank has gone under.

There is very important tax policy in this bill that was added since the House turned down the bill, that was agreed to by the bipartisan working group, very important tax policies. It will give relief of the AMT to 23 million more low- and middle-income taxpayers in our country. AMT is eating up the ability for families to be able to save for their college education for their children.

It also extends the tax incentives that will spur energy production and innovation, wind energy, production tax credit, research and development tax credits, sales tax deductions for States that do not have an income tax.

It also includes help for our disaster areas, to give tax credits to developers who will help build low-income housing in the 29 Texas counties that still have not even been able to clean up their streets yet from Hurricane Ike.

We have added much to this bill from the original proposal. I agree with something the Senator from California said a few minutes ago: People think this is the same proffer that was made a week ago that had no oversight, no taxpayer protections, no upside for the taxpayer, no limits on executive compensation. That is not what we are talking up tonight. What we are talking up tonight does have improvements made by Congress, doing everything we can, that if this is passed and it is run right, the taxpayers will actually benefit, and we will start paying down the debt of our country.

Senators REID and MCCONNELL, Senators DODD and JUDD GREGG, Speaker PELOSI, Congressman FRANK, Congressman BOEHNER, Congressman BLUNT, have been a bipartisan working group with the President of the United States and the Secretary of the Treasury, to attempt to do all that we laid out to the Secretary that we wanted to see in the legislation that was not there when he first came forward. He has bent over backwards to try to make sure that we have those protections in place. I urge my colleagues to remember they have been elected by the people of their State to make the tough decisions. They have been elected not to go on what would be their preference for one part of the bill that might not have gotten in. None of us would have written this exactly the way it is written. But we all did have the basic standards of taxpayer protection, giving the taxpayers an upside, of limiting executive compensation when somebody has run a financial institution into the ground, increasing the FDIC limits so that people who have their life savings in a bank will be able to know that is safe.

If anything, the Government of the United States of America ought to be able to stabilize its financial markets to show the world that we are the most stable and leading democracy in the world, and that we can get our house in order. I hope every one of us will think carefully about a tough vote, yes, but a vote that is right for the long term of our country.

If the program is done correctly, it provides every possibility for taxpayers to have an upside. It also provides every possibility that there will be the oversight that will make sure everything is done with transparency.

This isn't a $700 billion package. This is a $250 billion package with contingencies and strings, if we have to go beyond that, strings the President would have to agree to, strings Congress would have to agree to. That is a much more measured and responsible approach than what was presented by the Secretary early on—a $700 billion bailout. It is not that anymore. It is a responsible, bipartisan effort to stand up for the economy of the United States and for every banker and every small investor and every saver and every working person who depends on that stability and depends on their elected officials to do the right thing in the toughest of times. That is what we promised when every one of us ran for election. I hope we will deliver it tonight.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we are about to take up a vote that is going to decide whether our country is committed to a 21st-century transportation system. This is a vote that was considered under the cloture process earlier this week. This is a decision that is going to give a real option to travelers from frustrating lines at the airport, high gas prices at the pump, one that is going to make trains safer for rail passengers and rail workers, and a decision that will expand energy-efficient train travel to more of our cities.

Much of the industrialized world has already made such a commitment. France, China, Japan, Spain, Germany, and Korea are all focused on connecting major cities of 500 miles or less by fast and efficient trains. A 210-mile trip from Brussels, Belgium, to Paris, France, takes only 85 minutes—an hour and 25 minutes—compared to our 3 hours from New York to Washington, DC. The question is, Why can't we have something comparable to that in this country? Even now, more people take the trains between Washington and New York on a regular basis than those who fly. It is time to bring reliable, fast train service to other regions of the country as well. The American public wants this option.

Yesterday, the Secretary of Transportation announced that Americans are driving less and taking trains more frequently. In fact, according to Amtrak, the fiscal year that ended yesterday carried over 28 million riders. That is a record for the sixth straight year.

Our bill provides $13 billion over 5 years for Amtrak and various States so they can explore their corridor opportunities. This is over a 5-year period for Amtrak and those States, so we can modernize and expand our network of trains, tracks, and stations.

With all the demand for rail travel, one thing we also have to make sure of is that trains are safe. Unfortunately, we have been reminded recently of the acute need for safety improvements.

Last month, America experienced the worst train collision in 15 years. This took place at Chatsworth, CA, on September 12 of this year. Twenty-five people died and over 130 were injured when two trains collided in Chatsworth. What made this dreadful crash all the more tragic was that it might have been avoided had the necessary investments in technology been made. As we mourn the victims of the Chatsworth crash, our vote today will demonstrate the seriousness of our being here, about making sure this can't happen again.

The State of South Carolina, for instance, not very long ago, in Graniteville, saw the rail catastrophe shown here. In 2005, this collision resulted in the release of chlorine gas

that killed 9 people, and over 5,400 people were evacuated from the surroundings that day.

In Luther, OK, in August, the community witnessed this massive fireball after a train derailed and caused ethanol tank cars to explode. We can't even see the train because it was so engulfed by flames.

One of the major reasons for train crashes is human error. Our bill addresses that problem with vital improvements.

Thanks in part to Senators FEINSTEIN and BOXER, our bill mandates that major railroads use positive train control or PTC systems. This technology is available today to keep two trains from colliding, to stop a train if the train is passing a red light, as we saw in Chatsworth.

Secondly, our legislation limits the daily number of workhours per railroad employee. Laws now allow them to work 100 hours each and every week. It is wrong. Our bill is going to change those laws so that people who operate and maintain our trains get enough rest between shifts and remain alert on the job.

Third, our bill is going to give inspectors the tools they need to better oversee the railroad industry's safety practices. The FRA—the Federal Railroad Administration—could punish infractions with fines of up to $100,000 when railroad companies disobey our safety laws.

As I mentioned on Monday, this bill is long overdue. Since we last passed rail safety legislation in 1994, more than 9,000 people have been killed and more than 100,000 have been injured in train-related incidents. Since we last passed Amtrak legislation in 1997, gas prices have tripled. Congestion has grown substantially on the highways. We have suffered two of the worst years ever for flight delays, and everyone knows it is time to modernize our Nation's underfunded and outdated passenger rail system. In doing so, we will help solve many of today's challenges, such as energy independence, overcrowded highways, runways that are overcrowded, and global warming. To prevent tragedies like the Chatsworth crash from ever happening again, we must complete this bipartisan legislation today and send it to the President for his signature.

The Senate has already passed our bills on Amtrak and railroad safety with overwhelming majorities. On this past Monday, 69 of us voted for cloture for this package, obviously meaning that debate was to be cut off and get on with business. I urge my colleagues to finish the job and support this landmark legislation for the sake of America's travelers.

How much time do we have on our side?

The PRESIDING OFFICER. There is 7½ minutes.

Mr. LAUTENBERG. I wish to thank some of my colleagues for their vital support for this critical legislation. This is truly a bipartisan bill. I wish to take a minute and thank those who worked so hard to put this package together. First and foremost, I thank Senate majority leader HARRY REID for his leadership. I also thank a former colleague, Senator Trent Lott, for his hard work and longstanding commitment to passenger rail service. From the Commerce Committee, I thank chairman DAN INOUYE and ranking member KAY BAILEY HUTCHISON. I thank her for her cooperation. It has been terrific working with Senator HUTCHISON. I thank Senator STEVENS as well, and my subcommittee ranking member, Senator SMITH, and all of our cosponsors, particularly Senators CARPER, FEINSTEIN, CLINTON, MENENDEZ, SPECTER, SCHUMER, and WARNER, for their dedication and commitment to improving travel in America.

To our partners in the House Committee on Transportation and Infrastructure, I thank Committee Chairman OBERSTAR, Ranking Member MICA, Railroads Subcommittee leaders Chairman BROWN and Ranking Member SHUSTER. These people in the House were all exceptional champions, and we thank them.

Everybody I mentioned and many more legislative staff and experts contributed to this bill. We look forward to it becoming law and making a difference for our rail industry and travelers everywhere. I note that it has been several years that this Senator has been working on this. I am so pleased to see that we will have an opportunity to pass it.

I thank again my dear friend and colleague, whom we will all miss. He leaves with our admiration and affection—Senator JOHN WARNER. He and I each served in the war. I don't want to tell which war. It goes back a long way. But we did serve in the war together, not in the same theater but we served. He will be missed.

At this point, I yield the floor to the Senator from California, Mrs. FEINSTEIN.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I wish to begin by thanking Senator LAUTENBERG and Senator HUTCHISON for their work on this bill. It is very a good bill. I am very proud of it. I am proud of them. I hope all Members will support it.

This bill does much to benefit rail. I deeply believe that rail has a future. My own State, California, has a $10 billion bond issue on the ballot this November to begin the funding of a high-speed rail down the center of California. So rail can be very important in the future.

The bill has many good points. I want to concentrate on just one thing and what I just learned from the National Transportation and Safety Board. That one thing is that this bill would give the rail administration the ability to prohibit cell phone use.

I would like the chairman and the ranking member to know what I just learned through an NTSB press conference. The engineer on the Metrolink train, the day of the accident, from about a quarter of 7 to a quarter of 9 in the morning, as he was an engineer on the train, sent and received 45 text messages on his cell phone in a little more than an hour. In the afternoon, when he was on duty from 2 p.m. to about 3:30, he sent and received 12 messages on his cell phone. One of them was 22 seconds before the accident. With this kind of cell phone use while an active engineer on a Metrolink train right around the time of an accident, you can see the kind of problem it is. There is no second set of eyes on this train. So this National Transportation Safety Board press release this afternoon is a revelation.

This cannot be happening on other trains. A great deal of our track in California is single track. It has both freight and passenger rail on it, sometimes in opposite directions. To have an engineer in an hour and 15 minutes sending or being part of 45 text messages on a cell phone is not what an operating engineer should be doing on a train.

I thank the chairman. He has done a great job. My pal Senator HUTCHISON has done a great job. This is a bill that will stand the test of time. It is an important bill for Amtrak, for the rail administration, and for rail safety and positive train controls.

I thank them all for their work and yield the floor.

The PRESIDING OFFICER. The Senator from Texas has 4 minutes remaining.

Mrs. HUTCHISON. Mr. President, is there time left on the majority side?

The PRESIDING OFFICER. A minute and a half on the majority side.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, again, I rise to reiterate the fact that this is a chance to make a huge difference in the way we travel in this country. We know you cannot get there from here if you get on the roads, whether they be major highways or streets. Airplanes are ever more delinquent in their ability to deliver service on time. So this is a chance for everybody to step up and declare we are going to have a refined, up-to-date, modern system that enables us to carry the passenger load that is available for us.

I ask my colleagues to vote for this legislation and hope we will see its passage very shortly.

Mr. President, I yield any time remaining.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to reiterate something the Senator from California mentioned, and that is, the rail safety part of this bill is actually a bill that was negotiated separately from the Amtrak bill. We put them together because time was of the essence. After that terrible crash in California, I think it spurred us to be

able to put these together and go forward. The positive train control that will be required for every rail carrier by the year 2015 is going to also have a major impact on safety and stop the crashes that are preventable that we have seen in the past. So I think there are a number of rail safety issues that are so important here that can make a difference.

At this time, Mr. President, I wish to yield up to 2 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my good friend and colleague from Texas. And I thank my good friend, the senior Senator from New Jersey, for his gracious remarks. I also commend the cooperation of both of these managers, together with Senators WEBB, CARDIN, and MIKULSKI, in bringing together in this bill the lifeline of the Metro system in the Nation's Capital. We are a region, and we speak for the District of Columbia, as spokesmen tonight, and for the States of Maryland and Virginia, all of which are essential partners in this system which supports this institution, the Congress.

RAILROAD SAFETY

Mrs. BOXER. Mr. President, I rise today to address the railroad safety legislation, H. Res. 1492 providing for agreement by the House of Representatives to the Senate amendment to the bill, H.R. 2095, with an amendment. First, I must emphasize the importance of strengthening our safeguards for railroads, to protect the lives and safety of our citizens. We have just been reminded of how critical it is for us to pay attention to this issue by the tragedy in my home State of California on September 12, 2008. On that day, a Metrolink train crashed head on into a Union Pacific freight train in Chatsworth, northwest of downtown Los Angeles, killing 25 people and injuring at least 135 in the most deadly commuter rail accident in modern California history, and one of the worst rail accidents in recent U.S. history. The families of all of those killed or injured in that accident are in our thoughts and our prayers.

I also would like to enter into a colloquy one aspect in this legislation, the provisions entitled the ''Clean Railroads Act of 2008,'' with my good friend, Senator LAUTENBERG, the distinguished chairman of the Commerce, Science, and Transportation Committee's Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, and the lead author of this legislation.

Mr. Chairman, this legislation makes clear that any solid waste rail transfer facility must comply with all applicable Federal and State requirements, both substantive and procedural, including judicial and administrative orders and fines, respecting the prevention and abatement of pollution, the protection and restoration of the environment, and the protection of public health and safety, including laws governing solid waste, to the same extent as required for any similar solid waste management facility, as defined under the Solid Waste Disposal Act, or SWDA, that is not owned or operated by or on behalf of a rail carrier. There is an exception in section 604 of this bill, which creates a new section 10909 of title 49 of the United States Code allowing the Surface Transportation Board to issue a land-use exemption for a solid waste rail transfer facility operated by or on behalf of a rail carrier if the Board finds that a State, local, or municipal requirement affecting the siting of such facility meets certain specific criteria.

For these purposes, the bill defines several terms, including ''commercial and retail waste,'' ''construction and demolition debris,'' ''household waste,'' ''industrial waste,'' ''institutional waste,'' ''municipal solid waste,'' and ''solid waste.'' The bill explicitly excludes hazardous waste regulated under subtitle C of the SWDA, mining or oil and gas waste from being covered under this law and leaves in place the structure under which these substances are currently regulated.

Mr. Chairman, is my understanding correct that, by clarifying that any solid waste rail transfer facility must comply with all applicable Federal and State requirements, both substantive and procedural, in the same manner as any other solid waste management facility as defined under the SWDA, and by expressly excluding such hazardous waste, and mining or oil and gas waste, from this law, that this legislation ensures that the Environmental Protection Agency's and States' authorities dealing with hazardous waste, mining or oil and gas wastes are not impacted by this law or by the jurisdiction of the Surface Transportation Board?

Mr. LAUTENBERG. Mr. President, the distinguished Chairman of the Committee on Environment and Public Works, and my colleague as a senior member of the Committee on Commerce, Science, and Transportation, is correct. This legislation ensures that solid waste rail transfer facilities must fully comply with the substantive and procedural requirements in State and Federal environmental and public health and safety laws, including all permitting requirements, and generally allows the Surface Transportation Board to issue land-use exemptions so that the Board may continue to be the single agency to guide our country's policies concerning the placement of railroad facilities, which enables a unified national rail system and promotes energy-efficient interstate rail transportation. In addition, the distinguished chairman is correct that the legislation does not diminish the authority of the Environmental Protection Agency or the States with respect to hazardous wastes, mining or oil and gas wastes. This legislation also does not affect in any way the application of the statutory definition of solid waste under the SWDA. This legislation also does not intend to affect any preexisting authority to respond to imminent hazards under Sections 7002 and 7003 of the RCRA. Lastly, this bill ensures that solid waste rail transfer facilities, as defined in this legislation, obtain the State permits that any other similar solid waste management facility is required to obtain and comply in full with State law, as described in Sections 603 and 604 of Division A of the bill, and this bill affirms the States' traditional police powers to require rail carriers to comply with State and local environmental, public health, and public safety standards as described in Section 605 of Division A.

Mr. LEVIN. Mr. President, I support H.R. 2095, the Amtrak reauthorization bill, which was passed by the House of Representatives and is expected to pass the Senate today. I believe the economic strength of our Nation and the State of Michigan is dependent on our transportation infrastructure. Reliable passenger rail service is an important component of that infrastructure.

I have been a strong supporter of Amtrak and have voted repeatedly to give Amtrak the funds it needs to continue to operate safely and effectively. I am a cosponsor of the Passenger Rail Investment & Improvement Act which reauthorizes and increases funding for Amtrak, the national passenger rail system. A version of that bill is included in the package we are voting on today.

Also included in this legislation are important railroad safety improvements designed to avoid tragic rail crashes such as the recent horrible collision between a commuter train and a freight train that killed 25 people in California. Federal investigators have said that a collision warning system could have prevented that crash. This legislation would require that new technology to prevent crashes be installed in high-risk tracks. In addition, it would limit the amount of hours train crews can work each month. Both the funding and the safety components of this bill are urgently needed to ensure the viability of our nation's passenger rail transportation system in the years to come.

A healthy and adequately funded Amtrak benefits Michigan and the nation as a whole. Amtrak service in Michigan includes the Pere Marquette which provides daily service between Grand Rapids and Chicago, the Wolverine which provides daily service between Pontiac/Detroit and Chicago, and the Blue Water which provides daily service between Port Huron and Chicago. Amtrak gives travelers and commuters more transportation options, relieves crowding on highways and in airports, and reduces oil consumption and greenhouse gas emissions. This legislation would strengthen Amtrak by authorizing $13 billion for Amtrak over 5 years and require oversight, management, and accounting improvements.

This legislation is long overdue as Congress has not passed Amtrak legislation since 1997. Unfortunately, in 2005, bipartisan attempts by the Senate to improve and modernize Amtrak's operations were blocked by Republican leadership in the House of Representatives. That same year, President Bush actually proposed sending the railroad into bankruptcy, and in other years he has proposed killing off Amtrak service by underfunding the railroad. In the interim, Amtrak has been muddling through with barely enough funds to keep operating and certainly not enough funding to significantly improve service or expand into new towns and cities. This bill would address past neglect and improve our Nation's passenger rail system.

An improved national passenger rail system means people who are accustomed to commuting in their cars will be able to rely on train service, reducing congestion and stress for those who choose to continue to drive and offering an alternative for those who would prefer to take the train. Those who take the train will be able to relax while someone else does the driving. Improved Amtrak service also provides people who do not drive or do not have access to cars with a viable transportation alternative, especially for medium-distance trips. Rather than relying on friends and family to drive them from place to place, these people will be able to depend on Amtrak for their middle-distance transportation needs. This is especially important for elderly individuals who were once accustomed to driving but, because of age or illness, have become unable to drive safely. For example, two grandparents who live in Michigan and who no longer drive will be able to more easily visit their grandchildren in Chicago because of Amtrak's improved service in Michigan. Amtrak's train service is important to the cities and communities of Michigan because it reduces congestion on the roads, reduces pollution and commuting stress, and because it improves middle-distance transportation alternatives for the citizens of Michigan.

Also important for Michigan and other States, this legislation establishes a $1.5 billion grant program for the construction of high-speed rail projects in any of the 11 designated high-speed rail corridors, one of which is the Midwest High-Speed Rail Corridor, also known as the Chicago hub corridor. This grant program would assist Michigan in the development of its portion of the Midwest Regional Rail Initiative which includes making investments in high-speed rail capabilities in the Chicago-Detroit corridor.

I support this bill because it provides a much needed boost to Amtrak and makes and important commitment to preserving and strengthening our national passenger rail system.

Mr. CARPER. Mr. President, this bill represents years of hard work and partnership between Members of Congress from both sides of the aisle and across the country. I am so pleased that we will finally be able to send it to the President for his signature.

Amtrak has enjoyed a huge resurgence in recent years. Infrastructure has been repaired, ontime performance has surpassed the airlines, and people are coming back to the train.

When the final numbers for fiscal year 2008, which ended yesterday, are calculated, ridership is expected to reach over 28.7 million passengers and revenues over $1.7 billion for the year. That represents an increase of almost 3 million riders and $200 million in revenues over the previous year.

Passing this bill today will capitalize on this enthusiasm for passenger rail and will show that Congress hears the demand for more.

Today, Amtrak operates approximately 44 routes over 22,000 miles of track, 97 percent of which is owned by freight rail companies. Those freight tracks are increasingly congested and not built with modern passenger rail in mind. Where the Federal Government does own the tracks, we have failed to maintain them as we should.

Amtrak was created in 1970 after the freight railroads asked the Federal Government to take over passenger rail service because they were losing so much money.

Some in the Nixon administration believed they were temporary caretakers for a railroad that would be dead within a few years. So there was little effort to repair the rails or cars or to create a true modern passenger rail system.

But Amtrak limped along for decades. In spite of the lack of commitment at the Federal level, the American people were unwilling to give up on rail. Amtrak was a lifeline for people in remote rural communities that were not served by airports and for business and other travelers in the Northeast corridor.

Then, starting in the late 1990s, interest in rail began to grow. People got tired of sitting in traffic or waiting at airports for delayed flights. Local governments realized rail stations often increased property values and attracted people to their community.

New leadership at Amtrak put the focus on repairing old cars and rail, leading to smoother, ontime travel.

Still, Washington was slow to catch on. President Bush proposed no funding for Amtrak for years and even suggested putting the railroad into bankruptcy and letting a judge determine what to do with it. He also failed to make bipartisan appointments to the Amtrak Board, leaving it without a quorum for a time.

Congress, however, recognized the importance of investing in age rail infrastructure and joined with Presidents David Gunn and, later, Alex Kummant to increase the Federal investment.

But without an authorization, like the bill we will pass soon, there was no clear, consistent direction. Amtrak had to wait for the yearly spending bills to get funding and a sense of where Congress wanted that investment to go.

Passenger Rail Investment and Improvement Act—this legislation changes that. It authorizes Amtrak through 2013. It also represents a fundamental shift away from the Federal Government providing operating support more toward providing capital investment in rail.

The Passenger Rail Investment and Improvement Act creates a funding model for new rail infrastructure much like the one we have used so successfully for highways and airports.

Right now, State and local governments have to shoulder all the costs if they want to build or expand passenger rail within their boundaries.

When I was Governor of Delaware, we might consider several approaches to relieving congestion along a corridor. We would quickly realize that if we built or expanded a roadway, the Federal Government would pay 80 percent of the cost. If we built a transit line, we could secure around 50 percent of the cost from the Federal Government.

But if we chose to invest in intercity passenger rail—even if it was the most effective, cheapest option—the Federal Government would provide no support at all. I have to imagine that this policy has led more than one State to choose the wrong project.

Under the new model in the legislation before us today, the Federal Government could fund up to 80 percent of the cost of new passenger rail service. With this increased Federal commitment comes a requirement for renewed State commitment.

The Passenger Rail Investment and Improvement Act establishes advisory commissions for the Northeast corridor and State-supported routes with representatives from Amtrak, the States along the route, and the Federal Railroad Commission.

These commissions will provide advice and oversight of the corridor and determine the proper costs and access fees for the routes they oversee.

I understand that some of my colleagues expressed some criticism for Amtrak on Monday. Just like them, I would like to see Amtrak perform better. That is why I am happy that this bill includes so many reforms, which I will get into in a minute. But the criticisms issued on Monday deserve some attention.

It is important to recognize that we have spent more than a generation watching passenger rail infrastructure fall into disrepair and reducing or canceling train service across the Nation.

Some are happy to utilize this neglect, and the inevitable reduction in the quality of train service, against the railroad. That very neglect becomes an excuse for some elected officials to further neglect and eventually abandon passenger rail altogether.

At the same time, I have always found it interesting how many of our constituents are willing to put up with

trains that come infrequently, at inconvenient times, and move slowly. It shows that even a train that sometimes doesn't run as well as it should is needed in an era of extreme traffic congestion and high oil prices.

The junior Senator from Alabama spoke against this bill on Monday, indicating that he did not think Amtrak would ever work in his State. He mentioned that the train from Birmingham to Washington, DC, came but once a day, moved slowly, and cost $440 round trip. The Crescent train does, in fact, come infrequently and move more slowly than it should. And there are parts of this bill that will address both issues—from the Federal-State partnership to invest in new rail corridors to the reevaluation of the route system to the language ensuring that passenger trains can move faster on freight tracks.

But I asked a member of my staff to look into the cost of this train and found two interesting pieces of information. First, if you buy a ticket with a week's notice, a round-trip ticket from Birmingham to DC is not $440 but $286. And with 2 week's notice, it goes down to $228. The second interesting fact that I learned about the train from Birmingham to Washington was today's train is sold out.

My colleague also mentioned that his constituents are spending a larger percentage of their income on gasoline than other Americans. The high cost of gasoline is a burden we are all facing and one that deserves our utmost attention and focus. But walking away from Amtrak and other alternatives to driving will only make the situation worse.

A report called ''Driven to Spend,'' written by the Surface Transportation Policy Project and the Center for Neighborhood Technology in 2006, found that metropolitan areas with fewer transportation options tended to impose higher transportation costs on their residents.

For example, at a time when gas was around $2.50 per gallon, the average family in the Wilmington-Philadelphia area spent $3,381 less per year—or 5 percent less of their income—than a family in Houston.

We should work together to offer all of our constituents more convenient, cheaper transportation options that includes roads, passenger rail, and transit.

As I alluded to earlier, the Passenger Rail Investment and Improvement Act includes several reforms aimed at reducing Amtrak's operating costs and creating a more efficient system.

Amtrak's long-distance trains would be subject to a review process based on new standards for financial performance, ontime performance, and customer satisfaction, laid out by the Federal Railroad Administration. Based on those standards, Amtrak will be required to create and implement performance improvement plans for the 5 long-distance routes with the worst performance.

In future years, the remaining 10 long-distance routes would undergo the same restructuring process.

Additionally, this legislation would look at the cause of poor ontime performance outside of the Northeast corridor. If it is found that the problem is caused by a freight railroad, the Surface Transportation Board is given new authority to address the issue.

The Passenger Rail Investment and Improvement Act also allows the Federal Government to explore competition for providing passenger rail service in a responsible way. One provision in the bill permits freight railroads to bid to operate some passenger trains that run on their tracks.

Another provision allows a private entity to bid to provide service on a corridor, though Congress would have to act again before that bid could be acted on.

Moreover, States wishing to use operators other than Amtrak for State-supported services would be permitted to do so and would have access to Amtrak facilities and equipment for that particular route.

This important bill has been combined with another very important bill, the Rail Safety Improvement Act of 2008. This is the first major reform of the rail safety program since the Federal Railroad Safety Authorization Act expired in 1998.

This bill requires railroads to install positive train control systems by 2015. These systems are designed to prevent train derailments and collisions, like the one that occurred in southern California last month, taking the lives of 25 people.

The package would also limit the amount that certain rail employees, such as locomotive engineers, can work to 276 hours a month. Current law allows railroads to require more than 400 hours of work per month, or approximately 13 hours every single day.

This package—the Amtrak reauthorization and rail safety bill—is truly bipartisan and shows that Congress is catching up to our constituents. Americans have been pleading for more rail service for years, and their need only increased with the recent spike in oil prices.

A recent study by Reconnecting America finds that 30 percent of those living within half a mile of a rail station use it regularly. Unfortunately, only 1 in 20 people lives that close to a rail station.

With the passage of this bill, Congress is showing that we understand the need for convenient, reliable passenger rail service across this country, and we are renewing our commitment to giving Americans affordable alternatives to driving.

With a modern passenger rail system, we can get people out of traffic, prevent a few trips to the gas station and reduce the amount of pollution in our air. Not bad for one bill.

Mr. WARNER. Mr. President, I am pleased to support the Rail Safety—Amtrak package under consideration today.

Of highest importance to me though is a much-needed authorization for the Washington Metropolitan Area Transit Authority, WMATA, the metro system that probably brought a majority of our staffers to work this morning.

I thank the many Members with whom I worked to obtain passage of this authorization legislation, leading with my area colleagues, Senators WEBB, CARDIN, and MIKULSKI. I also thank the Commerce Committee leadership of Senators LAUTENBERG and HUTCHISON and the leadership of the Homeland Security and Government Affairs Committee, Senators LIEBERMAN and COLLINS.

WMATA has been one of the greater metropolitan area's most successful partnerships with the Federal Government.

In 1960, President Eisenhower signed legislation to provide for the development of a regional rail system for the Nation's Capital and to support the Federal Government. Since 1960, Congress has continually reaffirmed the Federal Government's commitment to Metro by passing periodic reauthorizing bills.

Over 50 Federal agencies in the National Capital region are located adjacent to Metro stations. Federal agencies rely on WMATA to get their employees to and from the workplace year-round, in all types of weather.

Based on Metro's 2007 rail ridership survey, approximately 40 percent of respondents identified themselves as Federal workers who ride Metrorail to work.

We are talking about thousands of cars taken off the major roadways each day because of our area's metro system.

The Railway Safety—Amtrak bill includes funding over 10 years for capital and preventative maintenance projects for WMATA. This language was added by voice vote to the Amtrak bill by Congressman TOM DAVIS during the House's Amtrak debate this summer.

This critical investment will help provide for much-needed improvements to this stressed transit system. Projects such as station and facility rehabilitation, tunnel repairs, and addition of new rail cars and buses will help ease congestion during peak hours.

This legislation, which would authorize much-needed Federal funding, contingent on State and local dedicated matches, recognizes how vital Metro is to the region and the Federal Government. Let me repeat: these dollars will be matched by the Commonwealth of Virginia, Washington, DC, and the State of Maryland.

Such legislation is integral to the well being of the area's transportation system, as we struggle to address traffic congestion, skyrocketing gas prices, global climate change, and the local quality of life concerns.

From its inception, the Federal Government has played a significant role in funding the construction and operation of the Metrorail system. I hope this Congress will continue to show that support.

Ms. MIKULSKI. Mr. President, I rise in strong support of the Federal Railroad Safety Improvement Act. This bill is long overdue. It authorizes funding for Amtrak and improves rail safety. It also includes the National Capital Transportation Amendments Act, which authorizes funding for the Washington Metro system—America's Metro.

More funding for America's Metro is important for several reasons. First, Federal employees, visitors to our Nation's Capital, and residents all depend on Metro. Mr. President, I don't know how your staff gets to work, but more than half of mine take Metro. In fact, Federal employees make up over 40 percent of commuters and nearly half of all Metro stations are located at Federal facilities. If you remember, Metro also evacuated everyone during September 11. Metro makes it easier for visitors from across the country to learn about our Nation's history and be a part of history. During Presidential inaugurations, funerals, celebrations, and demonstrations on the National Mall, Metro extends its hours. Metro also helps working families eliminate costly bills at the gas pump. During this period of high gas prices, my constituents are choosing Metro and leaving their cars at home. Because of this, Metro has seen recordbreaking ridership.

Second, the Washington metro area must expand its transportation infrastructure to handle base realignment and closure, BRAC, growth. In Maryland, we are planning for 40,000 new jobs. I know Virginia is planning for BRAC growth too. The Metro funding in this bill will BRAC-ready our region's largest transit system.

Third, it is estimated that Metro needs $11 million for capital improvements over 10 years. The authorized and dedicated funding in this bill will help Metro meet these needs. Metro will be able to grow as the region grows instead of cutting service.

Fourth, Metro is safe for the commuter and environmentally sound. We all know commuting in the region has become increasingly difficult. I have been commuting to Washington from Baltimore for 31 years. I have to budget an hour and a half to 2 hours to get to work. There always seems to be some tie-up on the highway and increasing levels of road rage. Driving a car in the National Capital Region is serious business whether you are on the Capital Beltway, Route 50, or Central Avenue. Yet I see many drivers multitasking at high speeds. Drivers are talking on cell phones, sending text messages, and putting on makeup. This Metro funding will make our lives a little safer and saner and help the environment by reducing air pollution.

Metro means more than just transportation. It means residents and visitors to our Nation's Capital can live, work, worship, and play without ever getting in a car. It means more jobs and access to jobs and improved neighborhoods and economic development.

I commend Senator CARDIN for his hard work and leadership on this Metro bill. I thank Senators WARNER and WEBB for partnering with Senator CARDIN and me to get this done. Senator WARNER and I have been regional allies for many years. I am going to miss working with him. I thank Majority Leader REID and Senator LAUTENBERG for helping us bring the Metro bill to the Senate floor and their hard work on the underlying bill. I urge all my colleagues to get on board and vote for this bill.

Mr. KYL. Mr. President, in what has become a frequent occurrence in this Congress, the majority has unnecessarily combined two bills—one that I support and one that I don't—in order to ensure quick passage of both bills. As a result, I must weigh the two bills together. Of course, I want to improve rail safety. However, I cannot support a rail safety bill when it is combined with a bill that is essentially a $13.1 billion taxpayer subsidy to Amtrak.

The need for rail safety was recently highlighted after the tragic rail accident in California on September 12 that killed 25 people. Clearly, we need to ensure that Americans are safe traveling to work and moving the Nation's freight. This bill does augment rail safety by revamping the Federal Railroad Administration and providing over $1.6 billion for rail safety programs. It also mandates many much needed safety changes, including: installing positive train controls; amending the hours of service requirements so operators are not overworked; requiring a risk reduction program, which includes a technology implementation and fatigue management for all Class I and rail carriers with poor safety records; requiring certain mandatory training; and making changes to grade crossing safety management practices. A similar version of the rail safety legislation passed the Senate by unanimous consent on August 1. I suspect that if the majority were to allow a vote on final passage of the rail safety bill, it would easily pass the Senate.

The majority, however, decided to take a different route. Instead of quickly passing the final version of the rail safety legislation by unanimous consent, it attached the bill to a more controversial piece of legislation—the Amtrak reauthorization bill. This maneuver was obviously done so that the Amtrak reauthorization bill would pass. Unfortunately, the Amtrak reauthorization bill is riddled with bad policy. Since its inception in 1971, Amtrak has required over $30 billion in taxpayer subsidies. According to the Congressional Research Service, Amtrak runs over a billion dollar deficit each year, and requires Federal assistance to cover operating losses and capital investment. Without a yearly Federal grant to cover operating losses, Amtrak would not survive as currently configured. This bill extends Amtrak's dependency on the Federal Government by authorizing $13.1 billion for Amtrak through fiscal year 2013, more than double the amount authorized in the previous Amtrak bill that expired in 2002. Rather than keep Amtrak dependent on taxpayer support, I believe the rail carrier should modify its financial strategy to become self-sufficient and profitable.

This bill also includes five new provisions that expand the Davis-Bacon Act requirements. These provisions would force Amtrak to ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under this bill are paid wages no less than the prevailing wages on similar construction projects. The Davis-Bacon requirement seems harmless enough, but in practice, forcing contractors to pay their laborers a wage standard, which many argue is set on a flawed wage determination, only raises construction costs for that locality. Why would American taxpayers want to set a floor on the cost of construction if it can be done more efficiently and inexpensively? Again, this is just bad policy.

It is with regret that I will be forced to register a ''no'' vote on this bill.

Mr. BOND. Mr. President, I regrettably do not support H.R. 2095. The bill we have before us packages together three bills into one vote with no amendments dealing with Rail Safety, Amtrak, and capital and preventive maintenance grants for the Washington Metropolitan Area Transit Authority, WMATA.

The Rail Safety provisions of the package by themselves would have had my support. I fully support efforts to address hours of service requirements for train operators and positive train control for our freight and passenger railroads. However, I remain concerned about both Amtrak provisions and the WMATA portion of the full package that we are voting on tonight. The majority leader has filled the amendment tree so that no amendments can be offered on this package, and we are faced with an up or down vote on some very key funding areas under the jurisdiction of Transportation Appropriations.

This extra spending will place a strain in excess of what our current budget allows. I understand the need to have passenger rail service as an alternative mode of transportation. However, I feel strongly that Amtrak should undertake the reforms necessary to be worthy of taxpayer dollars by tying funding to certain expectations and benchmarks.

As the Appropriations Subcommittee ranking member for the Transportation and Housing and Urban Development, THUD, I am not given enough of an allocation to meet all of our funding needs. This authorization package provides levels of appropriations that can

not be realized, including both Amtrak and WMATA, and will further strain our subcommittee funding decisions.

Regrettably, the Amtrak provision in this bill offers none of the key reforms in Amtrak's governance or operations that link resource allocation to consumer demand. With no reforms and an authorization level of $13.3 billion over the next 5 years, I find it hard to support these levels when the money will not be there.

With regard to funding for WMATA, the bill includes an authorization level of $1.5 billion over 10 years for capital and maintenance projects. These grants would be over and above the grants for which WMATA is otherwise eligible. The authorized grants would not be available to any other jurisdiction. Although WMATA should be encouraged to make necessary reforms in its governance and financing, such encouragement should not require the creation of an entirely new Federal funding program which excludes other jurisdictions which have long since taken such prudent steps to upgrade and maintain their existing capital.

Mr. INOUYE. Mr. President, I fully support passage of H.R. 2095, a bill that will help move America's railroads into the 21st century. The reauthorizations of the Federal rail safety programs and Amtrak are long overdue and this bill will give direction to Amtrak and the Federal Railroad Administration, FRA, to help them both better accomplish their missions. Given the higher price of oil, continuing climate change concerns, and our challenging economic times, it is more important than ever that we ensure that our Nation's passenger and freight rail systems are adequately prepared to safely accommodate our transportation needs.

Safety is a key element if we are to continue to expand our Nation's use of trains. H.R. 2095 will improve railroad safety and provide the resources we need to develop our rail network into the first-class system our Nation deserves. Key improvements include reforming the hours of service requirements for train and signal workers, requiring risk-based safety programs for large railroad companies, mandating the installation of positive train control systems and other safety technology, and encouraging and funding grade crossing and pedestrian safety and trespasser prevention programs.

This bill will also encourage the further development of passenger rail corridors, provide incentives for Amtrak to operate more efficiently, and strengthen the relationship between Amtrak and the States in which it operates. These improvements will help Amtrak further increase its ridership, which has reached record levels this year and last, and will allow Amtrak to better serve its customers. I believe this bill will further fortify Amtrak as an important, necessary, and viable option in our nation's transportation landscape.

I congratulate Senator LAUTENBERG for crafting his railroad safety and Amtrak bills, working hard to move them through the Senate, and developing this bipartisan compromise with the House. I call on my colleagues in the Senate to pass H.R. 2095 as soon as possible and send it to the President for his signature.

Mrs. BOXER. Mr. President, I want to take a moment to express my gratitude to Chairman INOUYE and Senator LAUTENBERG for their support and efforts in working to pass this important piece of rail safety legislation, the Federal Railroad Safety Improvement Act.

As many of my colleagues know, southern California and the community of Chatsworth suffered the worst train collision in California's modern history last month when a Union Pacific freight train and a Metrolink commuter train collided head on during rush hour.

This tragedy claimed 25 lives, and injured 135 people, many of whom have sustained lifelong injuries.

Last month's deadly Metrolink accident made clear the urgent need to fix our rail system and ensure the safety of passengers.

While Senator FEINSTEIN and I will continue to push for the rapid deployment of positive train control technology, this legislation includes important safety provisions that will immediately help improve rail safety and help prevent accidents.

I am pleased this legislation included grant funding for positive train control systems, anti-fatigue measures for train crews, increased penalties for violators, and grant funding for grade crossings.

In addition to these safety measures, this bill also provides much needed funding for Amtrak and authorizes more than $1.5 billion in grants to States to fund the construction of high-speed rail projects in designated corridors, including a California corridor.

This is an important piece of legislation and I thank my colleagues for their support. I urge the President to take action immediately to sign this bill into law.

The PRESIDING OFFICER. The Senator from New Jersey.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the motion to concur with an amendment is withdrawn.

Under the previous order, the question occurs on agreeing to the motion to concur in the House amendment to the Senate amendment to H.R. 2095.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

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

The result was announced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—74

Akaka	Durbin	Murkowski
Alexander	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Grassley	Nelson (NE)
Bennett	Hagel	Obama
Bingaman	Harkin	Pryor
Boxer	Hatch	Reed
Brown	Hutchison	Reid
Byrd	Inouye	Roberts
Cantwell	Isakson	Rockefeller
Cardin	Johnson	Salazar
Carper	Kerry	Sanders
Casey	Klobuchar	Schumer
Clinton	Kohl	Smith
Cochran	Landrieu	Snowe
Coleman	Lautenberg	Specter
Collins	Leahy	Stabenow
Conrad	Levin	Stevens
Corker	Lieberman	Tester
Cornyn	Lincoln	Warner
Crapo	Lugar	Webb
Dodd	McCaskill	Whitehouse
Dole	McConnell	Wicker
Domenici	Menendez	Wyden
Dorgan	Mikulski	

NAYS—24

Allard	Craig	Martinez
Barrasso	DeMint	McCain
Bond	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Graham	Sununu
Burr	Gregg	Thune
Chambliss	Inhofe	Vitter
Coburn	Kyl	Voinovich

NOT VOTING—2

Biden	Kennedy

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

UNITED STATES-INDIA NUCLEAR COOPERATION APPROVAL AND NONPROLIFERATION ENHANCEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 7081, the United States-India agreement.

AMENDMENT NO. 5683

There is 2 minutes equally divided prior to a vote on the Bingaman-Dorgan amendment No. 5683.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask unanimous consent that the 60-vote threshold on the Dorgan-Bingaman amendment No. 5683 be vitiated, unless the yeas and nays are ordered.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, the amendment I and Senator BINGAMAN have offered is to the India nuclear agreement. We both feel it is a flawed agreement that would result in the production of additional nuclear weapons on this planet, exactly the last thing we need. But I understand—and I think Senator BINGAMAN understands—that this Senate will likely approve this agreement by a wide margin this evening.

Our amendment is relatively simple. It says that if India tests nuclear weapons, this agreement is nullified and we work to try to shut off supplies from the other supplier groups. The last thing we ought to allow is to have India begin testing nuclear weapons without consequence to the agreement that has been negotiated with India. Once again, let me point out that this agreement, I believe, will result in the production of additional nuclear weapons on this planet—the last thing we need.

Our amendment is a very important amendment dealing with the prohibition of nuclear testing, and we hope our colleagues will be supportive.

The PRESIDING OFFICER. Who seeks time?

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, first of all, I wish to thank Senator RICHARD LUGAR and Senator JOSEPH BIDEN. JOE BIDEN is the chairman of the Foreign Relations Committee and he and Senator LUGAR have worked on this for a long time. We have had five congressional hearings on that committee on the subject matter.

I greatly respect my colleagues, Senator DORGAN and Senator BINGAMAN. However, I would point out to my colleagues that on this particular amendment they offer, the Atomic Energy Act, the Arms Support Control Act, the Hyde amendment, and this bill all have provisions in them that would allow us to respond should India decide to detonate a nuclear weapon.

No one anywhere wants to see a further proliferation of nuclear weapons. India and the United States are the two largest democracies in the world. India is in a very tough and fragile neighborhood. It is important we develop and improve that relationship that has been a tense one since 1974.

This agreement began with the work of President Clinton and was concluded by President Bush. We think it is an agreement worth supporting, and we urge our colleagues to do so and respectfully reject this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5683) was rejected.

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided prior to a vote on passage of the bill.

Who yields time? The Senator from Indiana.

Mr. LUGAR. Mr. President, I ask all Senators to participate in a historic moment. This is an opportunity for the United States and India to come together in a way that historically is important for the world.

India is a very important country for us, and this relationship is sealed in a very significant way by this agreement. We have tested it in the Foreign Relations Committee for 3 years, back and forth on the nonproliferation qualities. We had great testimony from our Secretary of State, strong advocacy from our President.

We ask Senators to vote on this historic moment for a partnership that will be enduring, in my judgment, and will make a big difference in the history of the world.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut.

Mr. DODD. Mr. President, I have spoken. This is a very worthwhile bill. I commend Senator LUGAR and Senator BIDEN for the tremendous work they have done on this legislation over an extended period of time.

I ask for the yeas and nays and urge the adoption of the legislation.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on the third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 86, nays 13, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—86

Alexander	Dole	McCain
Allard	Domenici	McCaskill
Barrasso	Durbin	McConnell
Baucus	Ensign	Menendez
Bayh	Enzi	Mikulski
Bennett	Feinstein	Murkowski
Biden	Graham	Murray
Bond	Grassley	Nelson (FL)
Brownback	Gregg	Nelson (NE)
Bunning	Hagel	Obama
Burr	Hatch	Pryor
Cantwell	Hutchison	Reid
Cardin	Inhofe	Roberts
Carper	Inouye	Rockefeller
Casey	Isakson	Salazar
Chambliss	Johnson	Schumer
Clinton	Kerry	Sessions
Coburn	Klobuchar	Shelby
Cochran	Kohl	Smith
Coleman	Kyl	Snowe
Collins	Landrieu	Specter
Corker	Lautenberg	Stabenow
Cornyn	Levin	Stevens
Craig	Lieberman	Sununu
Crapo	Lincoln	Tester
DeMint	Lugar	Thune
Dodd	Martinez	Vitter
Voinovich	Warner	Wicker
	Webb	Wyden

NAYS—13

Akaka	Conrad	Reed
Bingaman	Dorgan	Sanders
Boxer	Feingold	Whitehouse
Brown	Harkin	
Byrd	Leahy	

NOT VOTING—1

Kennedy

The PRESIDING OFFICER. Pursuant to the previous order, the bill having attained 60 votes in the affirmative, the bill is passed.

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

The motion to lay on the table was agreed to.

PAUL WELLSTONE MENTAL HEALTH AND ADDICTION EQUITY ACT OF 2008—Continued

The PRESIDING OFFICER. Under the previous order, the Senate resumes consideration of H.R. 1424. There are 2 minutes of debate equally divided prior to a vote in relation to the Sanders amendment No. 5687.

The Senator from Vermont.

Mr. SANDERS. Mr. President, this bailout, caused by Wall Street's greed and irresponsibility, may cost as much as $700 billion. The simple question is: Who is going to be paying for it?

Today, in America, the top 1 percent earn more income than the bottom 50 percent. The top 1 percent have more wealth than the bottom 90 percent. Since President Bush has been in office, the middle class has seen a significant decline in their standard of living while the top 400 individuals have seen a $670 billion increase in their wealth.

What this amendment does is impose a 10-percent surtax on a household that makes $1 million a year, which raises over $300 billion in 5 years. Under this amendment, the bottom 99.7 percent of Americans will not pay 1 penny for this bailout.

The middle class has had nothing to do with causing this crisis. They should not have to pay for it, and I ask for a ''yes'' vote on this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this agreement was reached after considerable effort and negotiation by a lot of different parties—Senate Democrats and Senate Republicans; House Democrats and House Republicans. It is a good agreement. It is basically an agreement which, hopefully, will cost the taxpayers virtually no money. It protects the taxpayers, it protects mortgagees, it is directed at making sure there are no golden parachutes or undue benefits to the people who run these companies, and it has aggressive regulation.

It is a balanced approach which was reached through a lot of effort, and it is absolutely necessary that we pass it now in order to help Main Street, which is about to be crushed by the

present economic downturn driven by the lack of credit.

Unfortunately, the Senator from Vermont is introducing a brand-new idea into this effort. It is an idea which is extremely controversial. Being from New Hampshire, we are not in favor of any taxes, so from my standpoint, this would be a major mistake and undo an agreement which is very bold and aggressive in its attempt to help Main Street America.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5687) was rejected.

The PRESIDING OFFICER. The majority leader.

TRIBUTE TO DAVID TINSLEY

Mr. REID. Mr. President, it is the waning days of this Congress—the waning hours—and we depend so much on our staffs, our individual, personal staffs and the people who are in the Senate. I am going to direct some attention to David Tinsley, whom all of us know, the gentleman with glasses up here and who is here all the time. But in speaking about him, I am speaking about all these people who work these unbelievable hours. After we leave, they are still here. Before we get here, they are here. They make this place operate. We are the greatest legislative body in the history of the world, but it is not because of individual Senators, in my opinion. It is because of the support staff, such as David Tinsley.

David is going to leave the Senate after 31 years of service. He will retire within a couple months. He is a native of the Commonwealth of Virginia. He earned his undergraduate degree at Virginia Tech and completed his graduate studies at the University of Maryland. He came to the Office of the Secretary of the Senate in 1977, first, as a staff and reference assistant, and 4 years later, because of who he is and the tremendously nice person he is and his talent, generally, he was promoted to the job of assistant executive clerk.

In 1987, David started his floor work as assistant journal clerk. This doesn't mean much to most people, but it is one of the most important jobs we have here. From there, he moved to the other side of the desk as assistant legislative clerk, and in February of 1999, earned the role of legislative clerk, which is where he now sits.

What many of those who watch our proceedings on television or read about them in the newspaper may not see the tremendous amount of dedicated work that happens largely, as I have said, behind the scenes. For 31 years, David has been a critical part of everything we have been able to do in the Senate. David is part of our Senate family and has been for 31 years, and I have witnessed, especially in the last few years, with the job I have had, the good times in his life and the bad times. And unfortunately, he has had some very difficult times personally.

He is a wonderful human being, a caring person. His wife Jane, and the children, Joe, Dan, and Katie, are treasured members of our Senate family because it is an extended family.

So, David Tinsley, on behalf of all the Senators who are here tonight, who have been here during your tenure these 31 years, I send to you a very belated but heartfelt thanks for all you have done for us as Senators.

(Applause.)

The PRESIDING OFFICER. The minority leader.

Mr. MCCONNELL. After that well-deserved applause you have received, Dave, from everyone in the Senate, I think it is appropriate to note that given the fact that Dave is quite visible on C–SPAN, his face recognition is probably a good deal greater in America than many of us. Not that they know your name, Dave, but they do know your face.

I wished to join my good friend, the majority leader, in thanking you for your 31 years of service. We deeply appreciate your fine work, and we wish you well in your retirement. Thank you so much.

(Applause.)

DODD AMENDMENT NO. 5685

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to the vote on the Dodd amendment, No. 5685.

The majority leader.

Mr. REID. Mr. President, as soon as we hear from the 2 minutes and 2 minutes, Senator MCCONNELL is going to speak using leader time, and I will follow that, and then following my remarks, we will vote.

Mr. DODD. Mr. President, I would like to take a minute and highlight a critically important component of the amendment I am offering today. And that is the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008.

The vehicle being used for my amendment, H.R. 1424, is a stand-alone mental health parity bill that the House passed last March before months' long negotiations between the House and Senate on a compromise mental health parity bill.

But the actual mental health parity language in my amendment is identical, word-for-word, to the language the Senate passed last week as part of the tax extenders package. The substance of the language is the language that was agreed upon between the Senate and the House last summer.

The Senate passed the tax extender package including the mental health parity language in my amendment by a vote of 93 to 2.

Last week I spoke at length about the many individuals and organizations who are responsible for championing mental health parity legislation and I won't go through them all again on the floor today.

But I will, once again, thank and congratulate Senators KENNEDY and DOMENICI as well as the late Senator Paul Wellstone for their leadership on mental health parity. In the other body, Representatives PATRICK KENNEDY and JIM RAMSTAD should be extremely proud of their efforts which have helped get us where we are today.

It has taken us more than 10 years, but today we stand at the precipice of hopefully passing one of the most important health care initiatives of the 110th Congress.

In fact, if my amendment passes, it will mark the third time the Senate has passed mental health parity legislation in this Congress alone. The first time it passed unanimously and the second time it passed overwhelmingly, as I previously mentioned, by a vote of 93 to 2

We have come too far and worked too hard not to have mental health parity legislation signed into law this year.

Today, one in five American families are affected by mental illness. Every American knows a friend, a relative, a neighbor, or a coworker whose life has been touched by mental illness in some way.

With this legislation, we are saying that mental illness will no longer take a backseat to physical illness. With this legislation, we are taking an important step toward tearing down the stigma people with mental illness face every day.

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act will end health insurance discrimination between mental health and substance use disorders and medical and surgical conditions. Upon passage of this bill, health insurers will no longer be permitted to charge higher copays or limit the frequency of treatment for people with mental illness than what they would do for a medical or surgical condition.

I join with the more than 250 national organizations representing consumers, family members, advocates, professionals and providers who are urging the Senate and the House to put aside their differences and pass this legislation before the end of the year.

I thank my colleagues and urge them to support my amendment.

The PRESIDING OFFICER. Who seeks recognition? The minority leader.

Mr. MCCONNELL. Mr. President, the C–SPAN viewers of America rarely have seen the Senate in applause such as they saw it a few minutes ago, but also it illustrates how well we have worked together on a bipartisan basis to try to address the significant crisis confronting our country's financial system.

We have seen, over the last 2 weeks, a coming together. Both of the candidates for President of the United States are here tonight. We had unprecedented cooperation between the majority leader and the Republican leader and our designees, Senator GREGG and Senator DODD, who did a superb job bringing both sides together to craft a package we could proudly pass

tonight for the American people on a bipartisan basis.

This is a big moment in the Senate. This is the kind of vote we were sent by our people to cast, and I wish to express my pride and my gratitude to Members, my pride in the institution, and my gratitude for Members who wrestled with this very difficult challenge and who have helped us come together with a package we believe will address the Main Street problems facing America as a result of the credit crunch.

Right in the middle of the heat of a Presidential election, we have been able to put that aside and come together and do something important for our country. I think it is one of the finest moments in the history of the Senate. I congratulate all Members of the Senate for participating in this, and I obviously urge that it be supported.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, similar to all Senators, my office has been flooded in recent days with calls and letters from constituents who are deeply and rightfully concerned with the state of our economy and the security of their savings. Here is one such letter I received from a man in Henderson, NV, the second largest city in the State of Nevada. He wrote:

I am a homeowner and have a wife and two kids. I have been employed in Nevada for 5-plus years as a salesman in the southern Nevada area. This area has been hit like no other, it seems. My salary has dropped nearly 35 percent and does not look good for the next couple of years. My family and I are fighting to stay afloat in this cutthroat market. We have done and redone our budget and seem to have made additional cuts every month just to keep up with my declining income.

Please keep everybody in mind when passing a bailout bill for Wall Street. My home is down more than $100,000 from the time I purchased it in August 2006. I am fighting to stay current. I don't want to see the big corporations take the bailout and move on with the middle class left to fight for themselves. We need a real solution that is in the American citizens' interests and not straight out of the pockets of Wall Street.

Thanks, and my family and I look forward to seeing an end to this economic tragedy here in Las Vegas and the United States.

The rescue package we are on the verge of passing is not for the titans of Wall Street. It is not for those whose greed got us here, who chose this greed over prudence. It is not for the CEOs who failed their employees, then left town with multimillion-dollar golden parachutes. This plan is for the man from Henderson whose letter I read. It is for families in Las Vegas, Reno, Winnemucca, and Sparks, not statistics but real people with problems they did not cause and cannot solve themselves. It is for families across Nevada and across America who are struggling every day to keep their jobs, their homes, and find a way to make one paycheck last until another one.

Some Members in both Chambers of Congress ask how they can explain a vote in favor of this legislation to their constituents. Here is how: not with any sense of glee or satisfaction but with a sense of confidence that when called upon to choose between what is easy and what is right, we rejected the easy and chose the right.

There is not a Member of Congress who wouldn't rather use this money to reduce our record debt, to invest in roads, schools, hospitals, bridges, health care, education, or to provide our troops and veterans with the care they deserve. But given this situation, supporting this legislation is the only way to make the best of a crisis and return our country to a path of economic stability, prosperity, and growth.

If we do not act responsibly tonight, we risk the crisis in which senior citizens across America will lose their retirement savings, small businesses won't make payroll, students won't be able to obtain loans to go to college, and families won't be able to obtain mortgages for their homes or loans for their cars.

In the words of Ralph Waldo Emerson:

Thought is the blossom; language the bud; action the fruit behind it.

My friends, it is time for action.

Last week, President Bush and Secretary Paulson sent to Congress a proposal that the Democrats and Republicans agreed was not the answer. We proceeded to put politics aside and, after long hours and sleepless nights, have come to a solution that the White House, the Treasury Department, and the leaders from both parties on Capitol Hill all believe will resolve this crisis by protecting taxpayers first.

On a bipartisan basis, we added oversight to safeguard any public funds spent. On a bipartisan basis, we stopped CEOs from receiving golden parachutes at our expense, taxpayers' expense. On a bipartisan basis, we made sure this taxpayer money would be an investment, not a giveaway, and that any future returns would go not to the corporations but to the taxpayers. On a bipartisan basis, we ensured that homeowners facing foreclosure would receive much needed help. And on a bipartisan basis, we added a provision to increase Federal Deposit Insurance Corporation insurance for bank deposits from $100,000 to $250,000 to renew the American people's confidence that the money they put in local banks will be protected.

In addition to these critical improvements, Democrats and Republicans on a bipartisan basis decided to include other important components that will lower taxes and create jobs. By fixing the alternative minimum tax, this legislation will save the middle class $60 billion in their taxes. That is what we are going to do tonight.

With new incentives for private sector entrepreneurs who are developing and producing clean, homegrown alternative energy from the Sun, the wind, the Earth—geothermal—we will create hundreds of thousands of new jobs. With tax breaks for small businesses and big businesses, we will encourage new investment in growth and new jobs.

In this bill is something called payment in lieu of taxes. The State of Nevada is 87 percent owned by the Federal Government. You can't fly over 40 percent of the State of Nevada; it is restricted military airspace. States that have Federal land, such as the State of Nevada—no State has it like the State of Nevada—but States that have large Federal landholdings were told long ago that because the tax base was restricted because of these Federal land holdings, the Congress would provide money for these States to make up for the tax losses because of the Federal landholdings. That is what payment in lieu of taxes is all about. It has been in existence for decades, but we have never gotten the amount of money we should. This bill does it. For every State west of the Mississippi, this is big time stuff. This will allow especially rural America and the West to be able to take care of their schools, to do things that are so important.

There are so many good things in this bill. I was speaking earlier to the Senator from Texas. Texas does not have an income tax, but they have a large sales tax. This legislation will allow people in Texas and Nevada and other places who pay sales tax but no income tax to get the same benefit from States that have an income tax.

This is a fine piece of legislation, and we are finally on the verge of passing a bill that Senators KENNEDY and DOMENICI and the late Senator Wellstone worked on for a long time to ensure those who suffer from mental illness have access to health care equal to those who suffer from physical illness. It would be a fitting tribute to Senator PETE DOMENICI if we are able to pass this legislation into law in honor of his 3½ decades of Senate service. That would be important, that we do that.

We, the Senate—each Senator—are facing this evening a critical test of leadership. So I ask all my colleagues, Democrats and Republicans, to send a clear and resounding message to America—to the homeowners, laborers, middle-class families, students, senior citizens who are struggling and really suffering—a clear, resounding message that we hear them and that help is on the way.

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

The PRESIDING OFFICER (Mr. PRYOR). Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

Mr. REID. Mr. President, Senator MCCONNELL, I would appreciate it if Senators would vote from their chairs.

The PRESIDING OFFICER. Senators will vote from their chairs.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—74

Akaka	Domenici	McCaskill
Alexander	Durbin	McConnell
Baucus	Ensign	Menendez
Bayh	Feinstein	Mikulski
Bennett	Graham	Murkowski
Biden	Grassley	Murray
Bingaman	Gregg	Nelson (NE)
Bond	Hagel	Obama
Boxer	Harkin	Pryor
Brown	Hatch	Reed
Burr	Hutchison	Reid
Byrd	Inouye	Rockefeller
Cardin	Isakson	Salazar
Carper	Kerry	Schumer
Casey	Klobuchar	Smith
Chambliss	Kohl	Snowe
Clinton	Kyl	Specter
Coburn	Lautenberg	Stevens
Coleman	Leahy	Sununu
Collins	Levin	Thune
Conrad	Lieberman	Voinovich
Corker	Lincoln	Warner
Cornyn	Lugar	Webb
Craig	Martinez	Whitehouse
Dodd	McCain	

NAYS—25

Allard	Dorgan	Sessions
Barrasso	Enzi	Shelby
Brownback	Feingold	Stabenow
Bunning	Inhofe	Tester
Cantwell	Johnson	Vitter
Cochran	Landrieu	Wicker
Crapo	Nelson (FL)	Wyden
DeMint	Roberts	
Dole	Sanders	

NOT VOTING—1

Kennedy

The amendment (No. 5685) was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the amendment having obtained 60 votes in the affirmative, the amendment is agreed to.

Mr. REID. The next vote is exactly the same as this vote. It is my understanding that there is a request for a rollcall vote. If that is, in fact, the case, we will do that. But people need not sit at their chairs because people, after they vote, can depart the Chamber.

We will be in session tomorrow. There will be minor business transacted. We will be in morning business. We will try to clear some bills if we can. We will see Friday—we will see what the House does. They are coming back in session tomorrow. So we are going to have to be in session until a decision is made when the House can take up the legislation.

Everyone should understand, the week of November 17 we are going to have an organizational meeting. We will be in session several days during that period of time. We will tell everyone all about this. One thing we are going to move to is a land package. We have talked to everybody about this. It is something that Senator BINGAMAN and Senator SALAZAR have talked to many of you about.

But to see what business will be conducted, we will wait and see what, if anything, the House does. If they do not do anything, we cannot do anything. So we will see what they do. So Members should keep that time open.

Senator MCCONNELL said, and I want to parrot what he said, I so appreciate the cooperation we have had from everybody these past several weeks. This has been a very difficult time for our country, a difficult time for those of us who are elected to office. But I am very happy with this vote tonight. I think it shows that when we work together, we can accomplish good things. I think it speaks volumes.

Both of our Presidential candidates are here and voting and both supporting this legislation. So I say to everyone, thank you very much. This is a good vote we send to the House.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. I think the majority leader has made it clear that we will be back for a few days in November. I wish everybody well during this recess. This is a fine accomplishment for the Senate. Let's go on and have the next vote and head on to other business.

The PRESIDING OFFICER. There are now 2 minutes equally divided prior to a vote on passage of the bill, as amended.

Mr. MCCONNELL. We yield back.

The PRESIDING OFFICER. All time is yielded back.

The question is on the engrossment of the amendment and third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—74

Akaka	Clinton	Hagel
Alexander	Coburn	Harkin
Baucus	Coleman	Hatch
Bayh	Collins	Hutchison
Bennett	Conrad	Inouye
Biden	Corker	Isakson
Bingaman	Cornyn	Kerry
Bond	Craig	Klobuchar
Boxer	Dodd	Kohl
Brown	Domenici	Kyl
Burr	Durbin	Lautenberg
Byrd	Ensign	Leahy
Cardin	Feinstein	Levin
Carper	Graham	Lieberman
Casey	Grassley	Lincoln
Chambliss	Gregg	Lugar
Martinez	Obama	Specter
McCain	Pryor	Stevens
McCaskill	Reed	Sununu
McConnell	Reid	Thune
Menendez	Rockefeller	Voinovich
Mikulski	Salazar	Warner
Murkowski	Schumer	Webb
Murray	Smith	Whitehouse
Nelson (NE)	Snowe	

NAYS—25

Allard	Dorgan	Sessions
Barrasso	Enzi	Shelby
Brownback	Feingold	Stabenow
Bunning	Inhofe	Tester
Cantwell	Johnson	Vitter
Cochran	Landrieu	Wicker
Crapo	Nelson (FL)	Wyden
DeMint	Roberts	
Dole	Sanders	

NOT VOTING—1

Kennedy

The PRESIDING OFFICER. Pursuant to the previous order, the bill having attained 60 votes in the affirmative, the bill, as amended, is passed.

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

The motion to lay on the table was agreed to.

Mr. KOHL. Mr. President, I rise to briefly discuss the economic stabilization bill which the Senate passed and is sending to the President.

This economic crisis has been building over the past decade, fueled by risky investments, deregulation, and human nature. It is hard to pinpoint the exact reason for our current financial situation; instead it is a tangled mess involving large investment banks and individual homeowners. Homebuyers over extended themselves, mortgage lenders offered more complicated and exotic loans and the government sponsored enterprises and investment firms purchased bundled mortgages without fully understanding the value of what they were purchasing.

Homeowners are losing their homes, communities are losing tax revenue as foreclosures rise, banks are rapidly losing money, and our credit markets are freezing up. Wall Street and Main Street have been tied together, and the Federal Government is being forced to intervene to help our economy and communities get back on track.

The provisions of this bailout are intended to restore liquidity and confidence in our financial markets, provide relief for troubled homeowners, hold Wall Street executives accountable, and ensure that taxpayer dollars are being protected. The legislation creates the Troubled Asset Relief Program in the Treasury Department, which will allow the government to purchase impaired assets from financial institutions, restructure or modify, then resell for a profit. The Treasury Department is authorized to use $250 billion immediately and upon written request from the President, can use up to $700 billion to maintain TARP.

One significant improvement from the administration's original plan is the creation of an oversight board over the newly created program. The board will make recommendations to the

Treasury Department and also hold the Department to the principals and guidelines laid out in the bill. Additionally, the Federal Government is enabled to acquire stocks in the financial institutions which participate in the program, allowing the government to recoup some of the lost money and benefit from any future profits from the institution.

One particular area of concern I have, and I share with many of my colleagues, is how Wall Street executives acted irresponsibly and allowed greed to control the management of their companies. In most companies, managers and executives are held accountable for its performance; however, on Wall Street, management, was given large bonuses and compensation, as their companies lost money or even failed. Those same executives who put our entire economic stability at risk, who have asked us for help, complained when Congress decided they needed to be held accountable for their actions. I am pleased to say that Congress ignored their objections and included limitations on executive compensation for those firms which sell their troubled assets to the Federal Government. However, I would still like those who have been most involved in this crisis on Wall Street explain to the public what role they played in this mess.

This is not an easy vote for any legislator. There are provisions in the bill which I believe could have been written stronger and some other ideas which should have been included. I believe that we should have included additional financial regulations to restore the public's confidence in Wall Street and make sure this never happens again. I am also disappointed that this bill does not address the root of the crisis and do more to directly help homeowners facing foreclosure. This bill also puts too much power in the hands of one man the Secretary of Treasury. Nevertheless, we cannot let the perfect be the enemy of the good. Given the urgency and magnitude of this matter, I voted in favor of the Emergency Economic Stabilization Act.

The PRESIDING OFFICER. The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, I ask unanimous consent that the title amendment, which is at the desk, be considered and agreed to, and the motion to reconsider be laid upon the table.

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

The amendment (No. 5686) was agreed to, as follows:

(Purpose: To amend the title of the bill)

Amend the title so as to read:

''To provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes''.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business.

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

TRIBUTE TO SENATORS

PETE DOMENICI

Mr. CONRAD. Mr. President, I want to take this opportunity to pay tribute to PETE DOMENICI, one of the finest Senators I have known and one who represents the Senate at its best. Senator DOMENICI is someone whom I respect greatly and whose counsel I have very much appreciated over the years. I will miss him very much when he retires at the end of this session.

Senator DOMENICI and I share many interests, but one above all is our deep and abiding interest in the fiscal affairs of our Nation. In the world of budgeting, Senator DOMENICI is a giant. He is, of course, one of the pioneers on the Budget Committee. He joined the committee in 1975, literally a few months after it was created in July 1974. So he was there at the beginning, helping to shape and guide this new committee.

He rose to become chairman in 1981, and he served in that capacity through 1987 and then again between 1995 and 2001. In 2001, we faced the unique circumstance in a closely divided Senate, as he and I traded off being chairman and ranking member in that year. In total, Senator DOMENICI has served 34 years on the committee, 12 years as chairman and 10 years as ranking member—the most distinguished record of any Member.

His impact on the Federal budget and the budget process has been unprecedented. He authored many of the Senate's budget rules that we use today to protect taxpayers. He also helped author major deficit-reduction plans during the 1980s and 1990s, as well as the Federal Credit Reform Act of 1990 and the Unfunded Mandates Reform Act of 1995.

But Senator DOMENICI will be remembered for more than his service on the Budget Committee. He has been a strong and important voice on the need to diversify our Nation's energy sources. As chairman of the Energy and Natural Resources Committee, he helped enact the Energy Policy Act of 2005. He has been a passionate advocate on the issue of mental health and has been a leader in pushing for mental health parity legislation. Senator DOMENICI was also one of the architects of the Human Genome Project, which I believe people will look back on as one of the greatest accomplishments of all time.

And, of course, Senator DOMENICI has been a tireless advocate on behalf of the citizens of the beautiful State of New Mexico. Born in Albuquerque, he is that State's longest serving Senator. As a young man, PETE DOMENICI had many options. At one time, he pitched for the Albuquerque Dukes, a farm team for the Brooklyn Dodgers, and may have had aspirations of going to the major leagues. But I am sure that the citizens of New Mexico—and, indeed, all of us—are happy that he chose the path of public service.

Let me conclude by saying, and I know that I speak for all of my colleagues, how much we respect, admire, and appreciate his service. For me personally, it has been an absolute honor to serve along with him on the Budget Committee. He has made an extraordinary contribution to the work of the Budget Committee, to the Congress, and to the country. We will miss him greatly.

JOHN WARNER

Mr. President, it is with real sadness that I bid farewell to one of the most distinguished public servants I have known. Over the 22 years I have spent in the Senate, I have respected and admired the work of the senior Senator from Virginia, JOHN WARNER.

As a veteran of two wars and an unfailingly gracious man, he understands the needs of our men and women in uniform and has worked diligently to meet them. During his 6 years as the chairman of the Armed Services committee, he was always helpful in my efforts to improve the quality of life for those serving at military installations in my State of North Dakota. I thank him for that.

In the five decades since Arthur Vandenberg reminded us that partisan politics should stop at the water's edge, it has not always been possible to live up to that ideal. In a day when there are huge disagreements about the best course for our Nation, we cannot always present a unified face to the rest of the world. But perhaps more than anyone else in the Senate today, JOHN WARNER has epitomized that ideal. His partnership with the Senator from Michigan, CARL LEVIN, in their leadership of the Armed Services Committee has been an example to all of us.

JOHN has been a tremendous leader in the Senate on military affairs, but I have also been proud to work with him on a number of bipartisan initiatives. On big issues, Senator WARNER always puts country before party or ideology. Most recently, he has been a valued member of our gang of 20 working on a bipartisan, new era energy bill. I regret that we will not be able to finish it before he leaves the Senate, but we are proud to count him as part of our current group.

After 30 years in the Senate, 2 years as Secretary of the Navy, and honorable wartime service in both the Navy and Marine Corps, our Nation owes a big debt of gratitude to JOHN WARNER. He has my great respect and my thanks.

CHUCK HAGEL

Mr. President, as this Congress comes to a close we bid a fond farewell to our colleague CHUCK HAGEL.

As a Member of this body, CHUCK is completing 12 years of outstanding service to the people of Nebraska and to the country. But I expect that he will find new ways to contribute to the mission we all share: making the United States stronger, safer, and more prosperous.

CHUCK's first legislative service was as a U.S. Senator. I like to think that those of us who were not seasoned legislators when we arrived here draw on a diverse set of experiences as we find our way to become effective lawmakers. CHUCK HAGEL's background was probably more varied than most—decorated war veteran, businessman, broadcaster, and deputy administrator of the Veterans' Administration, just to mention a few of the areas in which he has distinguished himself. His successes in these many disciplines undoubtedly helped him develop the independent voice that we grew accustomed to hearing over his dozen years in our midst.

For several years, we served together on the Budget Committee, a legislative environment in which bipartisanship isn't always easy. CHUCK was always forthright and honest in our sometimes contentious deliberations and was never afraid to go where the facts led him—even if it meant irritating a colleague on his own side of the aisle.

We will miss him as a friend and as a fellow Senator, but I expect the Nation will hear from CHUCK HAGEL again. We wish him the best as he looks for new challenges.

WAYNE ALLARD

Mr. President, I rise today to pay tribute to my colleague Senator Wayne Allard. Senator ALLARD is retiring to honor a commitment he made to the people of the State of Colorado to serve only two terms. I have come to know Senator ALLARD best as a fellow member of the Budget Committee. Even though we often disagreed, I always found him to be a true gentleman.

Born and raised in Colorado, Senator ALLARD has always been true to his roots and has fought to represent the best interests of his State. His entry into public service came in 1982 when he was elected to the Colorado State senate. While serving in the state legislature, he maintained a successful veterinary practice he built with his wife Joan.

Senator ALLARD's public service has spanned more than two decades. After serving in the State legislature, he was elected to the U.S. House of Representatives and subsequently the U.S. Senate. During his time in the Senate, there are accomplishments that stand out. He spearheaded legislation creating the country's 56th national park, the Great Sand Dunes National Park. He also took on the extraordinary task of overseeing the Capitol Visitors Center as chair of the Legislative Branch Appropriations Subcommittee. Finally, he has been a steward of the taxpayer and has led by example, returning unspent funds from his office account to the U.S. Treasury.

I wish Senator ALLARD and his family many happy years ahead and thank him for his years of public service.

WAYNE ALLARD

Mr. ENSIGN. Mr. Presdient, President Ronald Reagan once said,''Let us be sure that those who come after will say of us in our time, that in our time we did everything that could be done. We finished the race; we kept them free; we kept the faith.''

There can be no question that Senator WAYNE ALLARD's time in public office will be remembered by these words both here in this Chamber and in his State of Colorado. WAYNE will end his career in the U.S. Senate because of a self-imposed term limit. He has never once wavered in his belief that legislators are citizens first and lawmakers second.

As one of only two veterinarians in the Senate, I know the void the Senate will feel. Leaving a veterinary practice to fight for what is right in the U.S. Senate isn't exactly the norm. WAYNE and I each made this choice and we have stood shoulder to shoulder in legislating for the humane treatment of animals. The legislation we put forth against animal fighting has become law and has helped law enforcement put away individuals who abuse animals. I am sad to see that our small, very small, veterinary caucus will leave with WAYNE.

WAYNE's commitment to country and freedom is unshakeable, but his dedication to fiscal conservatism has made him a hero for taxpayers across the country, especially in his State of Colorado. Throughout his time here, he has fought to pay down the debt by eliminating programs, staying true to the belief that government should steer clear of a wasteful spending black hole.

His efforts on the Appropriations Committee have been committed to steering our country toward fiscal responsibility, and his voice will be missed.

I hope this Chamber remembers the role WAYNE played in fighting against a bloated Federal Government and giving States the rights they deserve to manage their own affairs. Let's not let his voice for government responsibility fall on deaf ears. The burden of the taxpayer rests on our shoulders, and that is even more so now with WAYNE's departure.

WAYNE has been a voice and a crusader for Colorado, preferring the scenery there to that of Washington. He has worked hard to ensure that his constituents are as familiar with his face as they are with his name. Colorado has greatly benefitted from his leadership, as has this country.

It is with sadness, that I lose my friend here. But I know the impact he has had on this body, his State, and our country. I wish him great success in his future endeavors. I know he will continue to be an advocate for life, liberty, and freedom.

We will continue to fight for the ideals WAYNE came to this body hoping to achieve, that ''Government of the people, by the people, for the people, shall not perish from the Earth.''

JOHN WARNER

Mr. KERRY. Mr. President, it is a privilege to speak today about my good friend and colleague, JOHN WARNER, who it has been an honor to serve with in the Senate for almost 25 years.

At age 17, JOHN enlisted in the Navy to serve our country during World War II. After that, he attended Washington and Lee University on the GI bill and went on to study law at the University of Virginia. In 1950, he interrupted his legal education to deploy to Korea as a marine, eventually attaining the rank of captain before receiving his law degree in 1953. Sixteen years later, JOHN was appointed Under Secretary of the Navy, and in 1972 rose to become Secretary of the Navy. In 1978, the people of Virginia elected him their Senator, and he has represented them and the rest of our country with courage and dedication for over 30 years.

In particular, JOHN has fought relentlessly for our men and women in uniform in his leadership role as chairman and ranking member of the Armed Services Committee. He has always had a special place in his heart for our country's veterans. His background as a sailor, marine, and Navy Secretary gave him the experience and insight needed to address extraordinarily complicated and wide-ranging issues of vital importance to our country's defense. Today he is recognized by all as one of our country's foremost experts on national security matters, and someone whose record of bipartisanship is simply unmatched.

That is a legend's biography, and through it courses the public virtues of service, patriotism, grace and high-mindedness in a way few have seen, but I know many will read about.

On a personal note, one of my fondest memories of JOHN was of a debate between us that occurred on the Senate floor. It was late one night in June 2006, and I had proposed a resolution setting a deadline on our combat presence in Iraq that wasn't a popular position at that time. I was clearly outnumbered, and the debate became heated and personal. In fact, my plan received only 13 votes, and Senator WARNER wasn't one of them.

But even in times of disagreement, JOHN had no trouble rising above partisan bickering in service of a higher purpose. In the best traditions and practices of the Senate, he rose to speak and engaged me in a respectful and substantive dialogue on a controversial issue that calmed the Senate chamber and I hope informed the American public.

I want to close by saying that I, the people of Virginia and this country are grateful for JOHN's distinguished service and will miss him dearly. I wish him and his family my very best and look forward to continuing to receive his wise counsel in the years ahead.

CHUCK HAGEL

Mr. President, for the past 12 years, I have had the privilege of serving in the Senate with my friend CHUCK HAGEL. Upon his retirement from the Senate, I wanted to take a moment to tell him how much he will be dearly missed. CHUCK HAGEL will be missed not just by his colleagues in the Senate, but also by those Americans for whom he is dedicated his career to fight while serving in Washington, DC.

Although we sit on opposite sides of the aisle, I have found myself standing with Senator HAGEL on numerous occasions. Just in the past couple of years, we have fought for increased pay for our troops, establishing a center dedicated to the rehabilitation, treatment, and research of servicemembers blinded in combat, and advocating for additional mental health care resources for servicemembers returning from combat.

Because of Senator HAGEL's dedication to stand up for those who have fought for our country, we have a modernized GI bill. We have a GI bill that more accurately reflects the sacrifices that our men and women in uniform are making. A modernized benefits package that will cover the majority of tuition costs for our returning servicemembers, and I was proud to stand with him in that effort as well.

His service to our country has been truly admirable. Senator HAGEL has had a truly remarkable career representing the State of Nebraska. I thank him for his service to our country. I wish him the best in his future endeavors.

JOHN WARNER

Mr. COCHRAN. Mr. President, my friend JOHN WARNER, the very distinguished gentleman from Virginia, has decided to retire from the Senate after 30 years of exemplary service.

JOHN and I were sworn in as Senators on the same day. While our paths had crossed a few times before becoming Members of this body, we became good friends and neighbors as well as competitors on the tennis courts.

Before JOHN was elected to the Senate, he had achieved national prominence as the Administrator of the American Revolution Bicentennial Administration. He also had served as Secretary of the Navy.

As a Senator, JOHN has served prominently as chairman of the Armed Services Committee where he worked effectively on shipbuilding issues that were important to both of our States.

JOHN WARNER has served with great distinction in the Senate. He has earned the respect of all Senators because of his stewardship and his sense of responsibility for our national security interests, which he has done so much to protect.

The Senate, the State of Virginia, and the Nation will greatly miss having the benefit of JOHN WARNER's steady hand at the helm.

WAYNE ALLARD

Mr. President, it has been a genuine pleasure to serve in this body with the distinguished Senator from Colorado, WAYNE ALLARD. He has made significant contributions through his thoughtful and effective leadership for the betterment of our country.

He has brought to the challenge of public service a seriousness of purpose and sense of responsibility to do this job well, not for personal aggrandizement but for the improvement of our national security and our Nation's economy.

In the process, he has reflected credit on his State of Colorado and his family. His personal qualities of humility and trustworthiness have aided him as he has worked to contribute to the quality of this legislation we have enacted.

WAYNE ALLARD is one of the most respected Members of this body. He is also one of the best like Senators. We are certainly going to miss having the benefit of his leadership.

We wish him well in the years ahead.

TRIBUTE TO MARTIN AND SEIBERT L.C.

Mr. BYRD. Mr. President, I would like to take this opportunity to congratulate one of the most upstanding and intellectually accomplished law firms in the country on its historic 100 years in practice. Yes, this year marks the 100th anniversary of the premier regional law firm of Martin and Seibert L.C., which has offices in Martinsburg and Charleston, WV, Winchester, VA, and Hagerstown, MD. The firm, founded in 1908, offers an extraordinarily high level of professional, competent, and courteous service. Nestled in the eastern panhandle of West Virginia and surrounding environs, it is respected throughout the area. I would like to ask my esteemed colleague, Senator ROCKEFELLER, if he shares my appreciation of the unique history and many accomplishments of this exemplary firm?

Mr. ROCKEFELLER. Let me assure the Senator that I am very well aware of the numerous and considerable contributions that have been made by the law firm of Martin and Seibert L.C. over the past century. The grandfather of one of the firm's current top partners, Clarence E. Martin III, was an American original. The first Clarence E. Martin was what one might call ''the real deal.'' Not only an astonishing legal mind, he was also a pioneer, a leader, and was knighted by two Popes for his service to the church and community, a tradition that has been carried on by subsequent members of the firm. Clarence E. Martin not only founded Martin and Seibert L.C., but was one of only two West Virginians, and the only practicing West Virginia lawyer ever, to serve as president of the American Bar Association, ABA, from 1932 to 1933.

Martin and Seibert L.C. has grown surely and steadily over the past century. Clarence Martin founded the firm along with Cleveland M. Seibert. These two men brought national attention to West Virginia, and the solid foundation they built for Martin & Seibert, L.C. remains evident today. The firm constantly strives to provide both the best possible service for its clients, and responsible leadership for its community.

Mr. BYRD. I know that my esteemed colleague, Senator ROCKEFELLER, joins me in taking this opportunity to congratulate Martin and Seibert L.C. on the 100th anniversary of the establishment of their firm. May God grant them many more years of success and service to the people of West Virginia and surrounding localities.

HONORING OUR ARMED FORCES

PRIVATE JORDAN P. THIBEAULT

Mr. HATCH. Mr. President, I rise to pay tribute to PVT Jordan P. Thibeault of South Jordan, UT, who recently lost his life in Iraq while serving with the 1st Armored Division.

I believe it is my solemn duty to learn about the lives of those Utah servicemembers who have fallen in the defense of our Nation.

Looking back on the 7 years of this conflict, I have always been stuck by theses remarkable men and women. Such is the case with PVT Jordan Thibeault.

He is remembered by the Utah community as a young man who grew up loving to ride bikes, act in plays, and known as a helpful and hard-working young man.

I was struck by the words of his family who released a statement on their son's passing. So I will take this opportunity to share with the Senate the moving words from the Thibeault family:

> Mankind today is faced with terrible calamities. Only a select few are willing to forgo comforts of home, indeed the very promise of a brighter future, to place themselves between the forces of hate and oppression and the human spirit yearning for peace and safety . . . [Jordan Thibeault's] passing should give hope to all that there are still those among us who are willing to give the ultimate sacrifice to keep mankind safe and free.

Mr. President, no truer words have been spoken on the floor of the Senate. Those eloquent words are not only a wonderful tribute but firm evidence of the quality of the family that raised such a fine man.

MAJOR GENERAL RANDALL D. MOSLEY

Mr. BAUCUS. Mr. President, I rise today with my colleague Senator TESTER, to recognize MG Randall D. Mosley, Adjutant General for the great state of Montana. MG Randall D. Mosley has served our Nation and the State of Montana for over 38 years and has recently retired. The Montana Guard was established in 1889. Since then, few adjutant generals have faced as many challenges as Major General Mosley. We Montanans were so lucky to have such a great citizen soldier at the helm of our National Guard. I want to take a few moments to recount the career of this great Montanan.

General Mosley's career is a model of public service and serves an example for all those in the military. He never backed down to any challenging issue, of which he had many. During his tenure, duty called several thousand Montana National Guard members to Iraq and Afghanistan. The deployments put great strains on the soldiers and airmen that answered the call, as well as the families of the soldiers that stayed at home. General Mosley worked tirelessly before, during, and after each deployment to support his troops and their families.

General Mosley understood that troops returning home from overseas need the support of the whole community. General Mosley worked to improve community awareness of the challenges troops face upon returning from combat. As it became clear that the wars in Iraq and Afghanistan were creating new forms of injuries, he led an overhaul of Montana's postdeployment health reassessment program. General Mosley put together a task force with community leaders from around the state. The task force developed better ways to care for his troops as they returned home.

Thanks to General Mosley's leadership, the Montana National Guard has one of the best yellow-ribbon programs in the country. It is a model for the rest of the nation to follow. Improved mental health care is now available to Montana's guardsmen and their families. The Guard offers training workshops to help troops transition back to everyday life. Montanans are truly grateful to General Mosley for his leadership on this critical issue.

I now yield to my colleague from Montana, Senator TESTER.

Mr. TESTER. Thank you, Senator BAUCUS. General Mosley really does embody what the National Guard is all about—the citizen soldier. For 35 years he wore the uniform of his country with great pride and honor. But he also takes tremendous pride in being from the State of Montana.

General Mosley's leadership also has been recognized well beyond Montana's borders. He worked with United States Central Command for over 14 years to develop Montana's partnership with the country of Kyrgyzstan. The partnership has blossomed. Leaders in Kyrgyzstan have learned many of the skills and knowledge they need to secure their country's democratic future. General Mosley also worked to help the Kyrgyzstan military develop a noncommissioned officer cadre. These leaders will help Kyrgyzstan train and lead their soldiers now and in the future. Montana's partnership with Kyrgyzstan helped their leaders improve the cooperation between military and civilian authorities. In large measure because of General Mosley's efforts, Kyrgyzstan's military has developed strong ties with our military and has rapidly advanced to meet the challenges of the 21st century.

General Mosley's career reminds us all of the value of public service. We Montanans are deeply indebted to him. He is an outstanding ambassador for the citizens of Montana and the men and women of the Montana National Guard. He will be deeply missed, but we wish him well in retirement and we thank him for a lifetime of service to our State and our Nation.

DEFICIT IMPACTS

Mr. GRASSLEY. Mr. President, I have additional information to include in the RECORD that helps illustrate a point I made at the end of my speech yesterday regarding the comparative deficit impacts of the MCCAIN and OBAMA tax and spending plans.

I noted that Senator OBAMA proposes to increase the national debt by a staggering $1.31 trillion more than Senator MCCAIN over the next 10 years. This table illustrates that Senator OBAMA's combined annual tax and spending plan increases the deficit more than Senator MCCAIN's on a cumulative basis beginning in 2009 and continuing each year thereafter over 10 years.

Once again, this data raises the question whether Senator OBAMA is serious about reducing our national debt by returning to responsible fiscal policies. Senator MCCAIN will need to expand on this point as well.

I ask unanimous consent that this table be printed in the RECORD.

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

TOTAL DEFICIT IMPACT OF OBAMA AND MCCAIN TAX AND SPENDING PROPOSALS

[In billions of dollars]

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009–18
Obama Deficit Impact											
Revenue	$10	$84	$230	$309	$333	$352	$372	$394	$418	$445	$2,948
Spending	293	293	293	293	293	293	293	293	293	293	2,930
Additional Revenue Loss	71	71	71	71	71	71	71	71	71	71	705
Total	374	448	594	673	696	715	735	758	782	808	6,582
Cumulative		822	1,415	2,088	2,784	3,499	4,234	4,992	5,774	6,582	
McCain Deficit Impact											
Revenue	109	152	326	439	452	403	487	547	601	655	4,170
Spending	92	92	92	92	92	92	92	92	92	92	924
Additional Revenue Loss	15	15	15	15	15	15	15	15	15	15	145
Total	215	259	433	546	558	510	594	654	708	762	5,240
Cumulative		475	908	1,454	2,012	2,522	3,116	3,770	4,478	5,240	

ACCESSION OF ALBANIA AND CROATIA TO THE NATO ALLIANCE

Mr. OBAMA. Mr. President, I welcome last week's vote in the Senate ratifying the protocols on the accession of Albania and Croatia to the NATO Alliance. The membership of these two countries will strengthen the Alliance, contribute to the stability of the Balkans, and reinforce democracy in the region. Less than 15 years after NATO sent peacekeeping troops to the Balkans to halt a bloody war, it is a tribute to these nations' commitment to reforms that we are today one step closer to extending our Alliance and solidifying the peace. Albania and Croatia will strengthen the Alliance by providing more capability to help meet NATO's broader security missions. All NATO member states should be encouraged to ratify the accession agreement for Albania and Croatia so that they can formally join the Alliance at NATO's 60th anniversary summit next April.

IDENTIFICATION OF SERGEANT TIMOTHY J. JACOBSEN

Mrs. BOXER. Mr. President, I rise today to pay tribute to SGT Timothy J. Jacobsen, a soldier from my home State of California who paid the ultimate price in service to our country in Vietnam.

On September 23, 2008—more than 33 years since the end of the Vietnam war—the Department of Defense POW/Missing Personnel Office announced that the remains of SGT Jacobsen had been identified and would be returned to his family.

SGT Jacobsen grew up on a dairy ranch in Ferndale, CA—the fifth of eight children born to Margie and Kermit Jacobsen. When his father started his own cattle ranch, SGT Jacobsen spent much of his free time working alongside him. He also started riding bulls at an early age, and by the time he was 18, he had become Humboldt County's top-rated bull rider.

In 1967 SGT Jacobsen's older brother Skip was drafted by the Army and sent to Vietnam. Not long after Skip returned, SGT Jacobsen was drafted and left his family to serve as a doorgunner in the 101st Airborne Division of the United States Army.

On May 16, 1971, SGT Jacobsen was one of four United States soldiers and an unknown number of Republic of Vietnam marines aboard a helicopter on a combat assault mission near Hue, South Vietnam. As the helicopter touched down at the landing zone, it

came under heavy enemy ground fire. The pilot tried to lift off, but the damaged aircraft struck a tree line and exploded.

The remains of the four U.S. soldiers on board were not recovered at that time, and a year later, SGT Jacobsen was declared killed in action.

In 1994, recovery efforts were renewed when a joint U.S.-Socialist Republic of Vietnam team surveyed the crash site. Unfortunately, excavation of the site in 1995 did not uncover remains of the U.S. soldiers aboard the helicopter. However, in 2006, two re-burial sites associated with the incident were excavated, leading to the recovery of SGT Jacobsen's remains.

SGT Jacobsen was posthumously awarded the Purple Heart, commemorating his courage and extraordinary sacrifice in service to our country.

He will be buried on October 4 in Ferndale, CA. The Army offered SGT Jacobsen full burial honors in Arlington National Cemetery, but his family chose his final resting place close to home. Nothing can fully account for the loss suffered by SGT Jacobsen's family, and all those who loved him. But I hope this finally brings a sense of closure and peace.

As we remember SGT Jacobsen and honor his service to the United States we are also reminded of the nearly 1,800 service members who remain unaccounted for from the Vietnam war.

Men and women like Timothy J. Jacobsen from towns and cities across California, and across America, went off to fight in Vietnam. Many of them never came back. We will never forget the lives they led and the sacrifices they made. And we will never rest in our effort to bring each and every American who gave their life home to a Nation that honors their service, and a community that has never forgotten them.

SECRETARY WAYNE CLOUGH

Mr. LEAHY. Mr. President, on July 1, G. Wayne Clough became the new Secretary of the Smithsonian Institution. Last week, the New York Times wrote a profile on Dr. Clough that highlights his markedly different leadership and style. This style is a welcome one to me.

As a member of the Smithsonian Board of Regents, I look forward to working with Secretary Clough on the many challenges that face the Smithsonian. So all Senators and their staff can see that he is off to a solid beginning, I ask unanimous consent that the article in the New York Times be printed in the RECORD.

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

[From the the New York Times, Sept. 15, 2008]

SMITHSONIAN CHIEF HOPES TO INSTITUTE BIG REFORMS

(By Robin Pogrebin)

It is hard to picture G. Wayne Clough dropping $14,000 of the Smithsonian Institution's money to charter a Learjet, or $724 to put his family up at the Four Seasons for a night. Part of his mandate, after all, is to guard against the abuses that brought the ouster of his high-spending predecessor, Lawrence M. Small.

But Dr. Clough, the new secretary of the Smithsonian—its chief executive—is expected to do far more than set a good example. He is charged with nothing less than transforming a 162-year-old bear of an institution—with 19 museums and galleries, a zoo, 9 research centers, and an operating budget of $1 billion—into an ethical, tightly run organization. ''I go to work every day a little bit nervous,'' he said in an interview last week in New York.

The Smithsonian has been through the wringer over the last two years, with disclosures of improper spending and sharp criticism from Congressional committees about sloppy governance.

So after taking over on July 1, Dr. Clough, 66, a widely respected former president of the Georgia Institute of Technology, spent much of his first two months calling on members of Congress. Winning back the good will of lawmakers will be crucial, since the federal government provides 70 percent of the Smithsonian's operating budget.

Dr. Clough (pronounced cluff) said he had assured legislators that reforms were already under way to guard against future misconduct.

The Smithsonian's museum directors must now have their travel approved by an undersecretary of the institution, Dr. Clough said. Every new executive must undergo a thorough background check, and ethics is a regular topic of discussion among the Smithsonian's management.

Dr. Clough's own travel must now be approved by the Smithsonian's chief financial officer. Dr. Clough has also resigned from his salaried positions on three corporate boards. From 2000 to 2006 his predecessor, Mr. Small, spent 64 business days serving on corporate boards that paid him a total of $5.7 million.

Mr. Small's salary was $916,000 in 2007, but the Smithsonian is paying Dr. Clough $490,000. He pays his own rent on a town house near the fish market in southeast Washington; Mr. Small used a Smithsonian housing allowance for his town house in an affluent neighborhood in northwest Washington. Dr. Clough's home is about a quarter-mile from the Smithsonian museums, so he can walk to work; Mr. Small used a chauffeur.

While he is earning less than he did at Georgia Tech, where his salary package was worth $551,186, Dr. Clough said he hadn't looked back. ''This is something I wanted to do,'' he said.

He said he was excited by the idea of collaborations between art and science at the Smithsonian, by the depth of expertise to be found at its various museums and research centers and by the Smithsonian's potential to be an education resource for the country.

And he seems to be having a good time. He cited some serendipitous encounters, like happening upon a photographer at the National Museum of Natural History who had completed a folio of rare plants with the help of Smithsonian biologists. He observed researchers examining endangered languages at the National Anthropological Archives of the Smithsonian in Suitland, Md. And he watched the wing of a German World War II plane being readied at the Paul E. Garber facility, also in Suitland, for the Smithsonian's Steven F. Udvar-Hazy Center near Dulles International Airport, an extension of the National Air and Space Museum.

''I'm thrilled by these little pleasures,'' he said.

On his visit to New York, Dr. Clough spent four hours on Thursday at the Cooper-Hewitt National Design Museum, another Smithsonian museum, meeting the director, Paul Thompson, and curators; viewing its collections; and talking with the textile artist Sheila Hicks, who happened to be there. ''During all of these discussions, his interest in and knowledge of design was very apparent,'' Mr. Thompson said.

It is clear that Dr. Clough will set a different tone. Mr. Small came from the corporate corridors of Fannie Mae, but Dr. Clough has spent his career on college campuses in the unglamorous field of engineering.

Born in Douglas, Ga., Dr. Clough exudes a low-key Southern charm. He is plain-spoken, unvarnished and sometimes a little corny.

Asked about the tension at the Smithsonian between art and science, he said: ''I love the arts. I love beauty. Every day I try to notice something beautiful. It could be a flower, it could be a painting, it could be a sculpture, it could be a piece of music.''

As for setting the Smithsonian back on course, some changes in governance were adopted before he arrived by the board of regents, the organization's governing body, and by Cristián Samper, who was appointed acting secretary after Mr. Small resigned in March 2007. (Mr. Samper has returned to his post as director of the natural history museum.)

The board now meets four times a year, not three. The Smithsonian's inspector general, who conducts audits and prevents waste, now reports directly to the board chairman, not the secretary.

Dr. Clough said he planned to decentralize the institution, to reduce the number of undersecretaries from four to three and to give them more decision-making authority. ''I don't want to have everything come to me if it doesn't need to,'' he said. ''We have got to be an agile institution.''

''My feeling on organizations is they should be as little top-heavy as possible,'' he added. ''Let's take the money we might be spending on the superstructure and give it to the museums.''

He said he also hoped to improve coordination. The Smithsonian has about a dozen educational centers, for example, he said, ''but no pan-institutional concept'' for education.

While he said he believed the federal government should maintain its financial support, Dr. Clough said he embraced Congress's message that the Smithsonian should raise more of its own money to cover expenses. ''We need to get more self-reliant,'' he said.

That means a major capital campaign of $1 billion over five to seven years, a first for the institution, which will start next year.

Dr. Clough said he would devote considerable effort to cultivating donors. ''If we're going to get facilities gifts, we need to have opportunities for people that they can emotionally attach to,'' he said, like particular exhibitions. ''You've got to work with donor intent.''

At the same time, he said, he recognized the perils of giving contributors too much of a say in how their money is spent, a challenge with which the Smithsonian is already familiar. Last year some regents questioned the appropriateness of a $5 million gift from the American Petroleum Institute for the Ocean Initiative exhibition hall of the natural history museum. The gift was rescinded.

''A donor might want programming input there is always going to be that element of nuance there,'' Dr. Clough said. ''You have to understand the dangers and the possibilities.''

He said he also hoped to compete for federal money beyond the direct annual appropriation. If the Smithsonian set out to develop a school science and technology curriculum, for example, Dr. Clough said, ''we

might go to the Department of Education and get that funded, as opposed to sitting back and hoping that money comes to us.''

Other ideas include appealing to foundations and seeking revenue-generating activity on the Web, making the Smithsonian's extensive photography collection available for commercial purposes, for instance. ''We're not looking to make a profit,'' he said. ''We're just looking to recover our costs.''

During his nearly 14 years as president of Georgia Tech, Dr. Clough oversaw two capital campaigns that raised nearly $1.5 billion in private gifts. Annual research expenditures increased to $425 million from $212 million and enrollment to more than 18,000 from 13,000. Georgia Tech has consistently ranked among the nation's Top 10 public research universities.

At the Smithsonian, Dr. Clough said he planned to spend the next year developing a strategic plan ''to help us get a fix on where we are'' and to set fund-raising priorities. He said he wanted to consult people across the institution, with the added dividend that it ''will help restore some of the morale.''

The Smithsonian needs to be lean, but it must maintain the basic levels of staffing that, for instance, allow the zoo to keep feeding the animals, Dr. Clough said. The institution's employment levels have shrunk in recent years, declining by nearly 600 employees since fiscal year 1993 to the current level of 5,960.

''We have to stabilize it,'' Dr. Clough said. ''We can't be the institution we hope to be if we sit around and let that happen.''

At the same time he understands Congress's concerns and says he is ready to be grilled when the time arrives, perhaps next spring, when appropriations hearings are usually held.

''It's O.K. for us to be asked our relevance and what we're doing for the country,'' he said. ''I think we can make that case.''

This article has been revised to reflect the following correction: An article on Monday about plans for the Smithsonian Institution outlined by G. Wayne Clough, its new chief executive, misstated the goal of the institution's capital campaign. It is to raise more than $1 billion over five to seven years, not $5 million to $7 million.

KIDS ACT

Mr. SCHUMER. Mr. President, I rise today to address a pressing issue that deserves our immediate attention: the improved protection of children on the Internet. That is why, at the beginning of this Congress, I authored and introduced S. 431, the Keeping the Internet Devoid of Sexual Predators, or KIDS, Act.

The increasing popularity of social networking Web sites and their ready availability to children has made these sites potential hotbeds for sexual predators, who can easily camouflage themselves amidst the throng of users on these sites, while furtively pursuing their own despicable designs. In the 21st century, just as we protect children in our physical neighborhoods, we must protect them in our online communities as well. The KIDS Act, S. 431, is a bipartisan bill that does just that.

The KIDS Act requires convicted sex offenders to register their e-mail addresses, instant message names, and all other Internet identifiers with the National Sex Offender Registry. The Department of Justice, DOJ, would then make this information, on a qualified basis, available to social networking sites to compare the catalogued identifiers with those of their users. And it will do so in a way that carefully preserves the privacy of the users of any such Web site.

The Sex Offender Registration and Notification Act, SORNA, passed as part of the Adam Walsh Act, granted the Attorney General the authority to require the registration of certain identifying information, 42 U.S.C. 16914(a). While DOJ recently exercised its authority to collect ''other information required'' to issue final rules concerning the collection and release of Internet identifiers, this legislation permanently mandates that certain Internet identifier information be required in the registration process.

The amended bill continues to exempt Internet identifiers from public disclosure by States or DOJ.

The amended legislation requires the Attorney General to ensure that there are procedures in place to notify sex offenders of changes in requirements.

The legislation clarifies the definition of ''social networking site'' to assure that access to Internet identifiers is targeted to the bill's purpose of protecting children from solicitation by sex offenders on social networking sites. Sites may obtain information from DOJ only if they are focused on social interaction and their users include a significant number of minors. A ''significant number'' of minors, of course, clearly does not mean that the majority of users, or even a substantial minority, must be minors to qualify a Web site to participate, nor does it mean any particular quantity. The intent here is simply to permit the participation of any Web site that draws many minors; otherwise the law's purpose and effectiveness would be undermined.

As amended, the bill further allows social networking sites to employ contractors to assist with the checking process, but intends that these contractors will be subject to the same requirements that protect privacy interests.

The legislation still sets out a system for checking Internet identifiers and includes more robust privacy protections. Web sites may obtain a list of offenders' Internet identifiers from DOJ but only in a protected and secure form. Only after making a match can the Web site view the Internet identifier in unprotected form and request specific additional items of personal information about the registered sex offender. Web sites will require this additional information in order to ensure that people who are not registered offenders are not wrongly blocked from using their Web sites.

Moreover, as a qualification for the use of the checking system, social networking Web sites must provide the Attorney General a description of policies and procedures for protecting all shared information and policies for allowing users the ability to challenge their denial of access. This mechanism seeks to ensure a process to identify and remove false positives from sex offender registries. If a Web site discovers incorrect information, the Web site is required to inform DOJ and the State registry so that they can correct the information.

There is now a new section modifying minimum standards required for electronic monitoring units used in the sexual offender monitoring pilot program established under the Adam Walsh Act. DOJ agrees that this change is needed. This will open up program participation to many more States and companies.

The legislation no longer includes the stand-alone criminal offense for knowing failure to register an Internet identifier. That provision was deemed unnecessary because existing law clearly criminalizes the failure to register information that the Attorney General requires convicted sex offenders to register under SORNA. The KIDS Act, relying on section 114(a)(7) of SORNA, specifically mandates that this required information include Internet identifiers. Thus, under the existing SORNA framework, as enhanced by the KIDS Act, failure to register Internet identifiers as required will be treated as any other registration violation punishable under 18 USC § 2250(a)(3).

This bill represents a vital step toward giving both law enforcement and businesses the tools they need to protect children from online sexual predators and toward making the Internet a safer place for children to communicate with their peers.

The use of the Internet as a communications tool will continue to expand, and it is important that we put safeguards in place, so that our children can continue to benefit from advances in communications technology without putting them in harm's way.

I thank the National Center for Missing and Exploited Children, NCMEC, MySpace, Facebook, Enough is Enough, RAINN, the American Family Association, the National Association of School Resource Officers, and the American Association of Christian Schools for endorsing the KIDS Act. I thank my colleagues for their support of this important bill and urge the President to sign it quickly into law.

TORTURE

Mr. FEINGOLD. Mr. President, since 2001, top officials in the Bush administration have secretly authorized the use of abusive interrogation techniques that in some cases have risen to the level of torture. In doing so, they have shown flagrant disregard for statutes, for treaties ratified by the United States, and for our own Constitution. They have misled the American people, undermined our values, and damaged our efforts to defeat al-Qaida.

There are some who downplay the abusive treatment of detainees that

has been uncovered at Abu Ghraib, Guantanamo Bay and elsewhere as isolated incidents, conducted by a handful of rogue low-level interrogators. But the facts indicate where the true responsibility lies: with an administration that gave the green light to torture and a Justice Department that said anything goes.

Make no mistake, torture is against the law. The United States is a party to the Convention Against Torture, the Geneva Conventions, and the International Covenant on Civil and Political Rights. The United States Code criminalizes any act ''specifically intended to inflict severe physical or mental pain or suffering.'' And in 2005, Congress reiterated in the Detainee Treatment Act that cruel, inhumane or degrading treatment of detainees in U.S. custody is not permitted, no matter where those detainees are held.

Notwithstanding these obligations, top administration officials have continuously sought and found ways to disregard the legal and ethical boundaries on acceptable detainee treatment. On January 25, 2002, Alberto Gonzales, in his capacity as counsel to the President, signed a memo arguing that Taliban and al-Qaida detainees were not protected by the Third Geneva Convention on the Treatment of Prisoners of War. He stated that ''[i]n my judgment, this new paradigm renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions . . .''

On February 2, 2002, the President issued an order determining that al-Qaida and Taliban detainees were entitled to neither prisoner of war protections under the Geneva Conventions nor the protections of Common Article Three. Gonzales also solicited from the Department of Justice Office of Legal Counsel, the now infamous ''Bybee memo,'' issued in August 2002, which in the context of the criminal prohibition on torture defined torture narrowly as the infliction of ''intense pain or suffering of the kind that is equivalent to the pain that would be associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant bodily function will likely result.'' The memo also contained the extreme—and dangerous—legal theory that the President, as commander in chief, could disregard any congressional enactment that interfered with his ability to interrogate enemy combatants. These positions were reiterated in March 2003, when another OLC memo was sent to William J. Haynes, general counsel of the Department of Defense.

And the OLC did not stop at general guidance. In a hearing this year before a House subcommittee, Steven Bradbury, Principal Deputy Assistant Attorney General at OLC, confirmed that his office had advised the CIA that the regulated use of waterboarding did not constitute torture for purposes of the criminal prohibition against torture.

High-level administration officials also have not hesitated to issue policies permitting abusive treatment of detainees. On November 27, 2002, Haynes sent a memo to Secretary of Defense Donald Rumsfeld that asked him to approve 15 interrogation techniques for use at Guantanamo Bay, including hooding, 20-hour interrogations, isolation, sensory deprivation, forced nudity, threatening detainees with dogs, and putting detainees in ''stress positions'' for up to four hours. Rumsfeld not only approved the techniques, he added a hand-written note: ''I stand for 8–10 hours a day. Why is standing limited to 4 hours?''

Rumsfeld later rescinded the authorization of some of these techniques for use at Guantanamo, and reauthorized the use of others. But the consequences of these high-level approvals were far-reaching. A recent report by the Department of Justice Office of the Inspector General revealed that techniques authorized by Rumsfeld were used on detainees at Guantanamo Bay, both during the period they were authorized and after they had been rescinded. And such behavior was not limited to Guantanamo Bay. According to the 2004 ''Review of Department of Defense Detention Operations and Detainee Interrogation Techniques,'' known as the Church Report, the Combined Joint Task Force in Afghanistan also developed, authorized and implemented interrogation procedures similar to those Rumsfeld had approved in 2002. The Church Report and the ''Final Report of the Independent Panel to Review DOD Detention Operations,'' known as the Schlesinger Report, also document how, in August 2003, MG Geoffrey Miller was sent from Guantanamo Bay to Iraq, and brought with him Guantanamo policies allowing the use of harsher interrogation techniques. Shortly thereafter, LTG Ricardo A. Sanchez, the top military official in Iraq, formally adopted techniques heavily influenced by those in use at Guantanamo, such as stress positions, forced sleep adjustment, and the use of dogs, although some of these were later rescinded.

While OLC was issuing memos effectively saying there were no legal restrictions on interrogations and high-level officials were authorizing abusive techniques, there is evidence to suggest that interrogators on the ground were given very little information about exactly what was and was not permitted. During a Judiciary Committee hearing on interrogation policy in June, I asked Department of Justice inspector general Glenn Fine whether he thought that military interrogators had clear guidance on what techniques were permissible, given the administration's shifting policies. He responded that changes in policy ''didn't always get down to the level of the interrogators'' and that, at times, ''they weren't sure or aware of what exactly was authorized.'' Likewise, the Schlesinger Report stated that ''[t]he existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned.'' In light of all this, the administration's insistence that low-level interrogators are solely to blame for incidents of detainee abuse simply is not plausible.

Many individuals who were aware of what was happening raised concerns. Secretary of State Colin Powell wrote a January 2002 memo that weighed the costs and benefits of trying to evade the Geneva Conventions, noting that to do so would ''reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the rule of law for our troops.'' Others raised concerns as well. According to the DOJ inspector general's report on the involvement of the FBI in military interrogations, several FBI agents ''became deeply concerned not only about the efficacy of these techniques but also about their legality.'' In 2002, the FBI Director decided unequivocally that FBI agents would not participate in interrogations that used abusive techniques. In a November 7, 2002, memorandum for the Office of the Army General Counsel, Army COL John Ley stated that he believed that some of the techniques that the Pentagon was considering for use at Guantanamo Bay and that were later approved by Rumsfeld—could violate both the Federal criminal prohibition on torture and the Uniform Code of Military Justice. He expressed concern not only about the legality of the interrogation techniques, but also about eroding public support and losing the moral high ground. And in a hearing before the Senate Armed Services Committee in June, RADM Jane Dalton, who served as legal adviser to the Chairman of the Joint Chiefs of Staff from June of 2000 until June of 2003, testified that all four of the Armed Services were concerned about authorizing new interrogation techniques.

Fortunately, in 2006 after the Detainee Treatment Act became law, the Department of Defense finally agreed it would no longer authorize the use of harsh interrogation techniques by military personnel, and ordered that all personnel follow the interrogation policies laid out in the Army Field Manual. I have strongly supported proposals to require all intelligence agencies—specifically the CIA—to do the same. For far too long, this administration has failed to abide by the law and to protect our values. The use of abusive interrogation techniques is unsupportable on moral, legal or national security grounds. It does not represent who we are as a nation, and it does not make America safer.

The responsibility for the use of immoral, illegal and counter-productive interrogation techniques does not stop with the interrogators who employed them. It extends to those in the highest echelons of the Bush administration that sought to encourage these

techniques, who confused interrogators with constantly shifting policies, and that ignored the many voices who told them that what they were doing was unlawful and that it was not the American way. And it extends to the President himself, who has acknowledged publicly that in 2003 he approved meetings of his most senior national security officials to consider and sign off on so-called enhanced interrogation techniques. The abuses that have occurred under this administration's watch have constituted one of the darkest episodes in this Nation's recent history. They have fed growing anger at and opposition to U.S. policies, and in the process have undermined our efforts to combat al-Qaida and associated extremist groups. The next administration will have to work long and hard to undo the damage that has been done to our country's reputation and national security and to restore the rule of law.

RESOURCE FAMILY RECRUITMENT AND RETENTION ACT

Mr. ROCKEFELLER. Mr. President, I rise today to voice my support for the Resource Family Recruitment and Retention Act of 2008, which was introduced on September 16, 2008, by my good friend Senator BLANCHE LINCOLN of Arkansas. This is an important piece of legislation, and I am proud to be an original cosponsor.

I have long been a member of the Congressional Coalition on Adoption and worked in a bipartisan manner to support adoptive and foster parents and children. In 1997, I strongly advocated for the passage of the Adoption and Safe Families Act which has made a significant difference in the lives of vulnerable children. Since the implementation of the Adoption and Safe Families Act, the number of children adopted out of foster care has more than doubled. In West Virginia alone, more than 3,600 children have been adopted out of the West Virginia foster care system. This is a real victory for these children who deserve the love and comfort of a safe, permanent home.

However, with more than 500,000 children still in foster care, it is clear that more needs to be done. This is why I was so pleased when the Senate passed the Fostering Connections to Success and Increasing Adoptions Act by unanimous consent. This legislation will provide additional support for grandparents and other relatives who provide a safe home for children in foster care. Additionally, this legislation will allow states to continue to assist older foster children, those who are 18, 19, 20, or 21 years old, so that these children aging out of the system do not have to choose between pursuing an education or working to prevent becoming homeless. I believe that this legislation is another step towards the ultimate goal of each child having a safe, permanent home.

Senator LINCOLN's legislation would also help bring us closer to this goal. A study conducted in 2005 by the U.S. Department of Health and Human Services found that one in five foster homes leaves the system each year. One-fifth of the foster parent population provides 60 to 80 percent of all foster care. Foster parents sacrifice in tremendous ways to provide a home for vulnerable children. The Resource Family Recruitment and Retention Act would support their efforts by awarding grants to States to improve the leadership, support, training, recruitment, and retention of foster care, kinship care, and adoptive parents.

It is my hope that organizations and individuals such as Mr. Dennis Sutton of the Children's Home Society of West Virginia, who has worked tirelessly in his effort to secure a home for all of West Virginia's vulnerable children, will have the financial support to find and retain enough foster parents to make this goal a reality. Foster and adoptive parents will greatly benefit from the Resource Family Recruitment and Retention Act, but the big winners will be the children who are placed loving homes. We need to invest and focus on these families.

AFRICOM

Mr. FEINGOLD. Mr. President, today marks the full operational launch of the U.S. Africa Command, known as AFRICOM. I have long supported the idea of a unified regional combatant command for Africa that recognizes the continent's growing strategic importance for U.S. security and that is coordinated with other U.S. agencies. As I have discussed many times on the Senate floor, we can not pretend that weak and failing states, protracted violent conflicts, maritime insecurity, narcotics and weapons trafficking, large-scale corruption, and the misappropriation and exploitation of natural resources are not relevant to our long-term interests. At the same time, there are exciting economic and social developments underway across Africa that provide openings for the United States to help save lives, strengthen governance institutions, and build long-term partnerships. It is not a question of whether the United States needs to work proactively and collaboratively with African nations in these areas but a question of how we should do so to maximize our efficacy while minimizing potential backlash.

Toward that end, the standup of AFRICOM presents both opportunities and risks. Indisputably, our Nation's military strength is one of our greatest assets and may be necessary to deal with some of the emerging national and transnational threats, such as narcotics trafficking, piracy, and terrorism. Military training, equipping, and logistical support are essential to develop strong, disciplined national militaries and also strengthen regional peacekeeping, especially with African Union missions currently operating in Somalia and Sudan. Furthermore, in many postconflict societies, such as Liberia, our military expertise can assist in demobilization, disarmament, and reintegration while also helping to rebuild that country's army.

However, while militaries make important contributions in these areas, they are insufficient to address the underlying causes of violence and instability in Africa. Lasting security requires reconciling political grievances, improving governance, strengthening the rule of law, and promoting economic development: tasks for which our military, or any military for that matter, cannot be the lead. To advance and support those tasks, the United States needs to continue to invest in our diplomatic, economic, humanitarian, and development capacities on the continent. We need a unified interagency approach to these challenges in which AFRICOM is supporting, not eclipsing, the work of our diplomats, our aid workers, and other key partners.

I am concerned that the opposite is happening. Despite initial ambitions to have 25 percent of AFRICOM's headquarters' positions filled by nonmilitary staff, that number has been severely reduced because of resource and staffing limitations in civilian agencies. Furthermore, a report by the Government Accountability Office published this July stated that concerns persist among civilian agencies and nongovernmental organizations that the military is becoming the lead for U.S. policy in Africa. Even as Pentagon officials claim this is not their intention, it is hard to argue with the numbers. While civilian agencies operating abroad continue to face resource constraints, more and more resources are being invested in military relationships and assistance in Africa.

Given this context, it is not surprising that some are casting AFRICOM's emergence as a signal of further militarization of U.S. Africa policy. Such perceptions of militarization are dangerous and risk undermining our ability to engage local populations. As I have said many times, the military has a critical role to play in helping Africans address their security challenges, but we must be careful that it does not outweigh or overshadow other forms of engagement. This is especially true in cases where local security forces are engaging in repressive tactics or committing serious human rights abuses, such as in Chad or Ethiopia. In these cases, we run a very real risk that U.S. military engagement could be seen by local populations as complicit in those abuses and become a target of resulting grievances. Before we jump at short-term opportunities to exert military influence, we need to consider seriously the long-term risks to U.S. stature and interests.

Mr. President, this is not to say that AFRICOM is not capable of such nuanced strategic planning and interagency coordination. I have met with

General Ward and know that he is aware of both the opportunities and risks as AFRICOM stands up. I still believe that a unified regional combatant command can contribute to broader U.S. Government efforts to confront the many security challenges in Africa and can provide additional tools to pursue coherent and strategic objectives across the continent. But to fulfill that potential, AFRICOM must demonstrate in its inaugural months and years that it recognizes the unique political realities throughout Africa, concentrates on its defined mandate, and takes its lead from our diplomats. Simultaneously, we in Congress must act to ensure that our diplomats have the resources they need to take that lead in formulating and implementing comprehensive U.S. strategies in Africa.

NATIONAL ADOPTION MONTH

Ms. LANDRIEU. Mr. President, I rise today in honor of National Adoption Day and National Adoption Month. Senator COLEMAN and I understand that the Senate passed our resolution recognizing National Adoption Day and National Adoption Month. I stand before you today and challenge every Member of Congress to take this opportunity to be the voice for children who do not necessarily have someone to speak for them.

As chair of the Congressional Coalition on Adoption, I strongly believe that ''there is no such thing as an unwanted child, just unfound families.'' The Hague Convention recognizes ''that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.'' Unfortunately, not all children have a family of their own, but through adoption our children have the opportunity to find their ''forever family.''

Nearly half of all Americans have been touched by adoption, and last year more than 4,200 children became members of permanent loving families through adoption celebrations that were held in all 50 States, the District of Columbia, and Puerto Rico. I commend every State for its efforts, but we still have miles to go.

Between 2002 and 2007, approximately 4.8 million children were serviced by the U.S. foster care system, and only 310,000 of them were adopted by ''forever families.'' Children in foster care are some of the most vulnerable members of our society, and we must do everything in our power to make sure they have the necessary tools to live a normal healthy life. As Members of Congress we have taken a stance in helping children move from foster care to permanent, adoptive homes by passing the Fostering Connections to Success and Increasing Adoptions Act of 2008. However, National Adoption Day gives us the chance to experience firsthand the joys that adoption brings to the lives of our children and their families.

President Bush has recognized the importance of adoption to children and our Nation. That is why he declares November to be National Adoption Month. This year National Adoption Day occurs on November 15 as a part of National Adoption Month. National Adoption Day is an event to raise awareness of the 129,000 children in foster care who are waiting for permanent families. Since the first National Adoption Day in 2000, nearly 20,000 children have joined ''forever families'' on this special day. This year we hope to have events in all 50 States, the District of Columbia, and Puerto Rico.

I want you to picture what happens on this fall day, children running, laughing, and playing with their new parent. Think about a girl or boy planning their special outfit and joyously awaiting the family celebration. Imagine the excitement welling up inside of a child as she looks into her new parent's eyes and knows she is finally part of a family. She will never dread the sound of a car coming to take her away again or wonder where she will lay her head or which school she will be moved to.

Now picture the other dramatically different reality. There are approximately 513,000 current foster care children in the United States, and 114,000 of them are waiting for adoption. Since 1987, the number of children in foster care has nearly doubled, and the average time a child remains in foster care has lengthened to nearly 3 years. Each year, approximately 24,000 children in foster care will age out of the system without ever being placed with a permanent family.

According to a survey by the Dave Thomas Foundation for Adoption, many potential adoptive parents have considered foster care adoption, but ''a majority of Americans hold misperceptions about the foster care adoption process and the children who are eligible for adoption.'' For example, ''two-thirds of those considering foster care adoption are unnecessarily concerned that biological parents can return to claim their children and nearly half of all Americans mistakenly believe that foster care adoption is expensive, when in reality adopting from foster care is without substantial cost.''

Most foster children entered into State custody because their parents were either unable or unwilling to care for them. Not only are children separated from parents, but in many cases, siblings are separated when they are placed in foster care. Over half the children in foster care are 10 years of age or older and have more difficulty being adopted. These children are just waiting to flourish with the right parent's guidance.

In Louisiana there are 4,541 children in foster care and 1,162 of them are waiting to be adopted. I would like to share with you how foster care and adoption has affected some of our children in Louisiana.

Ian is 15 years old and first entered foster care at the age of 5 due to physical abuse and lack of supervision by his mother. Ian's mother surrendered her parental rights, and he and his three sisters were placed for adoption. Ian's younger sisters were adopted by their foster parents.

In November 2006, Ian was placed in a specialized foster home after completing a facility program. This family has worked very closely with Ian in learning to trust others, making appropriate choices, on becoming part of a family unit, and being able to ''attach'' to others in preparation of an adoptive family. Ian is working very hard to adjust to a ''traditional family lifestyle'' and is progressing well in this family setting. Ian states he wants an adoptive family that says, ''You are our child and we will not turn you away.''

Ian is very personable and is looking for acceptance in life. He is polite, affectionate, and very adventurous. Ian enjoys playing basketball, riding bikes, reading Harry Potter books, and playing video games. Numerous recruitment efforts for an adoptive home have been made since Ian was placed in the specialized foster home, but an adoptive family has not been found to date. One of the greatest barriers to adoption is a lack of resources of prospective adoptive families willing to adopt older children.

While Ian is still desperately searching for someone to love and care for him, Christopher, through all of his struggles, has found that sense of permanency. Christopher is 12 years old and first entered foster care at the age of 2 months. He was subject to abuse by his biological father that resulted in a skull fracture, subdural hematoma, bruises, bites, and burns. Christopher had many developmental delays and problematic behaviors requiring placement in specialized foster homes. Christopher's removal was requested by several foster placements because of behavioral issues. In June 2006, a foster parent who had provided respite for Christopher was asked to consider the fostering of Christopher as the child had formed a very strong bond to this foster parent and her children during his respite visits. Upon placement in this home, drastic improvements were noted in Christopher's behavior, socialization, academic achievements, and physical health. In all appearances, Christopher was now functioning in the normal range for his age and with minimal evidence of neurological impairment. Christopher's neurologist continued to marvel at Christopher's functioning considering the extensive injuries he had suffered as an infant.

One day while the adoption social worker was visiting with Christopher and his foster mother, Christopher said he wanted to change his name to ''Kantrell.'' The social worker responded ''Kantrell (and Christopher's last name), that does sound nice.'' Christopher replied no, ''Kantrell'' and the last name of his foster mother. The

social worker stated that she immediately noted a glistening in the eye of the foster mother who replied, ''Is that really what you want, Christopher?'' Christopher responded that was very much his desire. The adoption of Christopher was finalized in January 2008 with Christopher changing his name to ''Kantrell.'' Kantrell has continued to thrive in his adoptive home and is a delight to all who know him.

Each year, 79,000 children and youth who exit foster care leave without a permanent home or belonging to a family. I could stand here every day for the next month and talk about each child who needs to be adopted out of foster care. The bottom line is that each of these children, from 1 day old to 22 years old, needs permanency. They all need a loving, nurturing family that will help them to grow, bring out their unique personalities, and transform them into confident and happy adults.

On National Adoption Day, I have faith that we can be the catalyst to securing a permanent loving family for every child. The miracle of adoption cannot be explained, but the loving parents who are holding their children for the first time today are living examples of how dreams can be realized. As an adoptive mother myself, I find that words cannot adequately explain the miracle of adoption. I can only take a moment to offer my most humble thanks, gratitude, and appreciation to all those across the Nation who have given their Saturday to help find waiting children safe and loving homes.

Let us continue to remember that when National Adoption Month and Day end there are still thousands of children who need that sense of permanency. I challenge Congress to make these children their first priority and not another statistic to be studied. Please join us in supporting National Adoption Day and National Adoption Month by participating in events held across the country celebrating this most joyous, hopeful act.

HIGHER EDUCATION LOANS

Ms. LANDRIEU. Mr. President, this past August the President signed into law the Higher Education Opportunity Act which reauthorized programs for postsecondary and higher education. Contained within the reauthorization is the Education Disaster and Emergency Relief Loan Program. The bill established a loan program within the U.S. Department of Education to provide critically needed low-interest guaranteed loans to institutions in the event of catastrophic natural or manmade disasters.

The colleges and universities in Louisiana, particularly those in the New Orleans area, remain in many ways financially crippled by Hurricane Katrina. Three years after Katrina and Rita devastated Louisiana and Mississippi these institutions still have nearly $700 million in unrecovered losses. The estimates for Gustav and Ike are still not finalized, but at this stage the damage is purported to be at least $46 million to State colleges and universities alone.

Before Katrina, the 11 colleges and universities in the New Orleans area educated 70,000 students. Today, that number is only 50,000, but it continues to slowly rebound. This growth comes despite the fact that our institutions of higher education experienced more than $1 billion in physical damages and operational losses due to the 2005 hurricanes and have recovered less than half of those losses. Higher education institutions are the largest employers in New Orleans both before and after Katrina. The higher education industry in New Orleans continues to attract millions of research dollars and supports industries as diverse as biotechnology, aerospace, and medicine. The work of each institution in the city can be seen in every aspect of the region's recovery, from the redesign of the city's troubled public schools to coastal restoration and hurricane protection to the provision of health care across the region. They engage in this important work even as they continue to struggle with mounting revenue losses, buildings that remain in disrepair due to flooding, and the loss of key faculty and staff.

I call today on the Secretary of Education to make the Education Disaster Loan Program a top regulatory priority. It is my understanding that some Department of Education officials have said that they will not promulgate regulations on any newly created programs in the Higher Education Act until funds are appropriated. This simply is not acceptable. This issue has become a major roadblock in the current disaster funding process, and it is my hope that the Secretary and the Department will move expeditiously to establish regulations so that the program may provide crucial assistance to the colleges and universities impacted by Hurricanes Katrina, Rita, Gustav, Ike, and the Midwest floods.

PRIVACY PROTECTIONS—S. 2321

Mr. LEAHY. Mr. President, I am pleased to announce that, today, after several discussions, the Bush administration and lead sponsors of the E-Government Reauthorization Act of 2008, S. 2321, have accepted an amendment I have drafted to ensure that Americans' privacy comes first when the Government purchases and uses their most sensitive personal information. My amendment requires that Federal agencies must conduct privacy impact assessments before employing outside contractors that use and market Americans' sensitive personal data.

The addition of privacy protections to the E-Government Reauthorization Act will help to better protect all Americans from the growing threats of data breaches, identity theft, and other cyber crimes. I am particularly pleased about the compromise reached today because I am a proud supporter of this bill. In 2002, I was an original cosponsor of E-Government Act, and in the intervening years, I have worked to promote and strengthen this law.

The E-Government Reauthorization Act is a good bill that will now be even better because of the privacy protections added by my amendment. Recently, the Government Accountability Office released a report on lessons learned about the Government data breaches at the Veterans' Administration and elsewhere. That report found that Government contractor responsibilities for preventing and responding to data breaches should be clearly defined. My amendment takes a small but important step toward addressing the growing problem of lax data security by Government contractors by making sure that Americans' privacy rights are not compromised when they entrust their sensitive personal information to our Government.

I thank the lead sponsors of this bill for working with me on compromise privacy language for this bill. I also thank the many stakeholders who support this bill and my privacy amendment, including the Center for Democracy and Technology, Symantec, and the Cyber Security Industry Alliance.

I urge all Senators to support and pass this important legislation.

HONORING MARYLAND'S OLYMPIANS

Ms. MIKULSKI. Mr. President, today I rise to honor and congratulate Maryland's Olympic athletes for their performance in the 2008 Beijing Summer Olympic Games. These dedicated, disciplined, and accomplished athletes are a source of great pride to Maryland and the country. Therefore, it is with great enthusiasm that I commend:

Freddy Adu of Montgomery County, 2008 men's soccer team; Carmel Anthony of Baltimore, 2008 men's basketball team; David Banks of Potomac, 2008 men's Olympic rowing team; Maurice Edu of College Park, 2008 men's soccer team; Jun Gao of Montgomery County, 2008 women's table-tennis team; Georgia Gould of Baltimore, 2008 women's cycling team; Kathryn Hoff of Towson, 2008 women's Olympic swimming team; Gao Jun of Gaithersburg, 2008 men's Olympic table tennis team; Bobby Lea of Talbot County, 2008 men's Olympic cycling team; Mechelle Lewis of Prince George's County, 2008 women's track & field team; Jessica Long of Baltimore, 2008 Paralympics swimming team; Khan Bob Malaythong of Rockville, 2008 men's Olympic badminton team; Tatyana McFadden of Howard County, 2008 Paralympic wheelchair racing; Scott Parsons of Montgomery County, 2008 men's canoe and kayak team; Michael Phelps II of Baltimore, 2008 men's Olympic swimming team; Lauren Powley of the University of Maryland, 2008 women's field hockey team; Dina Rizzo of the University of Maryland, 2008 women's field

hockey team; Robbie Rogers of the University of Maryland, 2008 men's soccer team; Gary Russell of Prince George's County, 2008 men's boxing team; Jamie Schroeder of Johns Hopkins University Medical School, 2008 men's rowing team; Phil Scholz of Loyola College, 2008 Paralympic men's swimming team; Chris Seitz of the University of Maryland, 2008 men's soccer team; Keli Smith of the University of Maryland, 2008 women's field hockey team; Scott Steele of Baltimore County, 2008 men's wrestling team; Natalie Woolfolk of Arnold, Maryland, 2008 women's weightlifting team.

It is with special pride that I recognize the historical accomplishments of Baltimore's own Michael Phelps. Michael Phelps has gone where no Olympian has gone before. In this year's Olympic Games he won a record-breaking eight Gold Medals. That is a Gold Medal for every race he swam in.

Before Michael Phelps shattered the record, the most Gold Medals ever won by an individual at a single Olympics was seven. That feat was accomplished by another American swimmer, Mark Spitz. And when Spitz captured his seven Gold Medals in the 1972 Olympic Games, everyone said it couldn't be topped.

Everyone, that is, except for Michael Phelps.

The intrepid Michael Phelps didn't just break world records at this year's Olympic Games; he smashed them. He didn't simply win Gold Medals in every race he swam; he also set seven new Olympic world records along the way.

Like so many proud Marylanders and proud Americans, I watched Michael Phelps win race after race. And leave it to Michael Phelps to leave some of the best racing for last. What a race he swam August 16th. What a race; what a nailbiter. Michael Phelps, on his quest to win his seventh consecutive Gold Medal—this one in the men's 100 meter butterfly—trailing behind, and then he came roaring back from seventh place at the turn to edge Serbia's Milorad Cavic by one one-hundredth of a second. What a race. What an epic race.

I will also never forget Phelps' last race of this year's Olympic Games. It was the race that would determine whether Phelps would become the first Olympic athlete to win eight Gold Medals during a single Olympic Games. It was the race that if won would mark Phelps as the greatest swimmer and, perhaps, the greatest Olympian of all time.

I watched that historic race, as did so many Americans, with a racing heart. It was the men's 4 x 100 medley. When the race was finished—giving Phelps his eighth Gold Medal of the 2008 Beijing Olympic Games—I heard a great eruption.

It was an eruption of pride and joy. It wafted out from apartments and houses that left their windows open on that warm summer night. It came from the streets below, where people spilled on sidewalks hugging and hollering. It came from cars that tooted their horns in solemn pride. It was in the air and all around that night.

Michael Phelps, born and raised in Rodgers Forge, MD, has gone where no Olympic athlete has gone before. His performance at this year's Olympic Games has placed him in the pantheon of the greatest athletes of all time. And he has accomplished all this with great grace and humility.

Throughout his exceptional swimming career, Phelps has always been quick to praise those who have helped him along the way. He shows special reverence to his mother Debbie, who, as a single mom juggling kids and multiple jobs, taught him the values of perseverance and courage in the face of obstacles.

As a young swimmer at the North Baltimore Aquatic Club, Phelps arrived day after day and gave his maximum effort. His work ethic is a testament to his strong, value-driven Baltimore upbringing. And he is living proof that if you can dream it, you can achieve it.

I am so proud to welcome Michael Phelps back to Baltimore. He could have gone on to any city. Instead, he came back to his family and to his community. He came back to the city where he first learned the values of hard work and perseverance.

So welcome home, Michael. And welcome home to all the Olympic athletes who served Maryland—and our country—so proud at this year's Olympic Games.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

The company I work for has just closed the doors to the center I have worked in for eight years and offered us jobs in a center over 50 miles away. Because I am three miles short of qualifying for a moving package, I (and 64 of my co-workers) will be forced to commute over 50 miles each way every day. We live in a rural area so public transportation is not an option. To get a new job would cut my wages more than half, so I must follow my job. I have three small children (ages 2, 4 and 6), so I cannot stay away during the week and go home only on weekends.

I do not know what I will do if the cost of gas continues to rise. I, along with others that I know, could actually lose everything we have worked so hard to achieve. For the first time, I am really afraid of what is happening to my country.

Please do something now.

The rising price of gasoline is hurting nearly every family in America. We are tired of Congress doing nothing but bowing down to the environmentalists.

It is time for Congress to develop a program which allows the exploration of America's energy sources without materially affecting our environment. Congress should put our families first, ahead of the environmentalists!

YALON, *Pocatello*.

In response to your request on the impact of high gas prices, here is my story:

To help reduce the impact of higher fuel prices, I am taking personal responsibility of my own actions. It is actually really easy. I have made a habit of driving much less by riding a bike, walking, combining trips and cutting out unnecessary trips. The net impact has been less money spent at the pump (conservation) and I am in better health because of it.

As I ride around town, not a day goes by that I come across people letting their vehicle run idle in a parking lot while they do their errands. This includes sheriff's vehicles that idle outside the nearby office. This lack of overall awareness regarding high oil prices tells me we are not even close to changing the wasteful consumption habits Americans have adopted over many years. In the meantime, we learned nothing from the 70s. Since then, our politicians have failed to adopt a viable, self reliant energy policy. Instead, we drive bigger vehicles and have become even more reliant on mid-east oil. The money that is being sent overseas is what allows the bad guys to fund the terrorist efforts. One in which we are fighting at the cost of over 4,000 deaths, many more permanent injuries and billions of borrowed taxpayer dollars. At this point, there is absolutely no end in sight for the war that most politicians will still not admit is all about the oil. After five years of false promises, we now have record oil prices and, what I believe is, over an eight trillion dollar deficit.

What this all has meant for me is, I woke up. I now realize how terribly screwed up things are in Washington. We are running out of oil! And the rest of the world wants the same standard of living we have! And the lack of resources and the environment cannot allow things to stay the same way, period!

In summary, your e-mail tells me you are not looking at the big picture. We cannot drill our way out of this. At best, it would only be a band-aid. I fear too many people still believe the same career politicians that are to blame for getting us into the mess we are in. They will say whatever it takes to fool voters that they have the right answers, even though history proves otherwise. What a shame.

Although I know I am fooling myself to think otherwise, I hope you have the guts to include this during your presentation to the Senate. Thanks for your time.

STEVE.

The one theme missing from so much of the concern over the rising price of energy in our country is searching/researching for alternatives! To continue to open up every potential oil source in our own country is so short-sighted since petroleum is a finite resource and does not solve the real problem.

Our leaders like you need to provide leadership to help our nation find through research and development alternative energy resources and stop this nonsense of giving the oil companies access to every square inch of natural landscape to extract oil. If our nation had had the guts to deal with the need to diversify our nation's appetite for petroleum energy back in the 1970s instead of letting the oil and auto lobbies keep us dependent on their services, we would not be in today's mess.

What concerns me is I hear you falling in step with the international oil corporations [and other groups] that feel threatened by the US being weaned off of oil products. [Dynamic leadership that leads us to alternative energy sources is most important.]

CATHERINE, *Pocatello*.

Per your request, I am sending information concerning my concerns about the high fuel prices.

The population [of my town] is less than 1,000 in town with less than 2,500 total in the entire county. The closest large city is Blackfoot with Idaho Falls being the next closest. Idaho Falls is larger, and it contains most of the trade support that we need. For example, pet supplies and food for us. It now means, thanks to the higher fuel prices, we can only travel to Idaho Falls once a month. It takes over $120 to fuel my truck with diesel. With a round trip mileage of close to 150 miles and making only 16 miles-per-gallon, I am using close to ½ a tank of fuel. I am retired and with fixed income. This affects me in a big way. My wife and I have a small vehicle for when driving is necessary within the local area. Still with both vehicles, we are spending close to $200 to $250 during a good month. These higher prices, in our area, means we must cut on other items, such as dinner out.

Arco currently is paying $4.19.9 for the lowest grade of gasoline and $4.89.9 for diesel. The prices north of Mackay are even higher; however, in Idaho Falls, unleaded regular is still under $4 per gallon with diesel just under $4.30. We in Arco cannot afford to travel to Idaho Falls or even Blackfoot for the lower prices due to the mileage roundtrip.

In my opinion, this economy is very deep in recession and very soon will be deep in a depression. The higher costs of energy, food and other necessities are definitely making it very difficult for us on fixed incomes to survive well. I can remember a portion of the depression, and if another occurs, the last one will be a ''cake walk''.

GUY, *Arco*.

Happy to see that you are starting to see the reality of the things that I have been sending e-mails about over the past year! I am glad that you are soliciting opinions from your constituents. Here are my thoughts (again):

1. It is the housing bubble bursting that has precipitated the collapse of the dollar. If you look at something stable like gold or silver, you will see that it takes the same amount of gold to buy a gallon of oil now as it has throughout recent years. The dollar has lost tremendous value due primarily from the Fed lowering interest rates and adding liquidity to save (bail-out) banks and Wall Street.

2. There is no truth in bank balance sheets. They cook the numbers constantly and no one seems to care that they misrepresent earnings in order to sustain stock price and the Dow. This in tern gets dumped onto ''we the people'' since it creates a false sense of stability. Although this also is not sustainable, it does provide these large institutions time to try to manipulate the markets and make (steal) money from unsuspecting investors. This has got to stop immediately. Loosing 401K value by purchasing stock that is going to get pounded when the truth of the sub-prime exposure eventually gets reckoned. Let us stop this now. Let the banks take their lumps and let the people have a chance to invest in properly valued institutions.

3. Recent discovery of programs like ''Friends of Mozillo'' where housing committee leaders get preferred rates from banks.

4. Environmental lobbies insisting that we do not go after much needed oil. So, if the oil companies were to fund a few lobbyists, could they really get their way and prevent us from drilling? Should we allow this to continue? Should we insist that it is essential to save our country and just get the oil? I am told that the reserves in Alaska and Florida alone hold enough oil that we would never need another drop of Saudi oil? What are we waiting for?

5. Looking at the farming incentives for growing corn to make ethanol is not financially sound. Spending more to farm and wasting oil in the process makes no sense. Stop the subsidies to farming corn. It really will not help and will effect (negatively) the inflation we are already experiencing. You say alternate energy. Let us get some tax incentives for R and D here in Idaho. Attract business and grow our economy by encouraging these types of businesses.

6. Initiatives to help grow American manufacturing. Giving away all of our manufacturing jobs due to our short sighted attitudes by American companies succeed will only lead to higher unemployment, lower wages and declining property values. Idaho for one should be doing everything they can to encourage growth. Reducing tax obligations for corporations and providing cash incentives for companies wanting to move here would certainly help. If wages were substantially higher then we could better afford the increases at the pump and elsewhere.

7. Someone ask some tough questions of the Fed and its polices. I mean reducing interest rates has only increased the problem. Actually fixed 30-year rates have increased due to lack of confidence. Restore confidence, get the rates of short term debt back to sure up the dollar. It is sad that the Fed is owned by the banks, allowing them to continue unchallenged by Congress is ridiculous.

R.

I am a sole provider of a family of four. I have been struggling to pay mortgage, insurance, food, electricity, and clothing bills as well as paying the high cost of gasoline for my vehicle to get to work. I feel as though I will need to get an additional job to cover the expenses. I was thinking about getting a loan to help with consolidating some bills; however, that is only a bandage to my problem. The problem is, that this year my employer only granted cost of living increases at a 1.5%. That does not even help since the true cost of living is far greater. I was grateful for the increase; however, it does not help feed my family. I now have to pay more than extra at the pump and now my vehicle needs an oil change and that is more costs added on to my transportation. I need the car for work in order to have money to take care of my family. There has to be a better solution to this problem.

JAN.

The point that must be stressed is that the economy of this nation and, particularly in the West and more particularly in wide open states like Idaho, is based on inexpensive personal modes of transportation. We have no other options to get from one place to another. (Neither horse and buggy nor any form of mass transportation is available.) In my particular situation, my wife and I are both retired and attempting to live on a fixed retirement income. We both have health conditions which require substantial travel to specialists ranging from Idaho Falls on the north to Salt Lake City on the south. (You must realize that Malad's medical facilities, while greatly appreciated, are, relatively speaking. very limited. We have only two general practitioners and for more serious conditions are routinely referred to specialists in the larger populated areas, again, typically ranging anywhere from Idaho Falls to Salt Lake City.)

We have church commitments, requiring regular trips to Salt Lake. Also, we have seven families scattered around southern Idaho and northern Utah. We have had long continued intercommunicative relationships with these families. Now, with gas refills requiring anywhere from $50 to $100 and a still limited budget, obviously, something has to give. Windmills, solar panels and changing light bulbs will not cut it. Quality of life has to fall, and, in the case of required medical attention, can have serious consequences.

Additionally, we have two divorced daughters who have legal requirements for child custody visits. In one case, the intervening distance is over 300 miles; in the other case, over 100. Transporting children over these distances regularly and frequently, obviously, becomes extremely onerous!

Also. I have a son, living in Pocatello, who has numerous clients, and makes a substantial portion of his income, in and around the Salt Lake-Provo area. Needless to say, with $100 gas tanks, it becomes increasingly difficult to keep these contacts economically viable, and has a serious impact on his ability to earn an income.

And, of course, this does not even take into account strictly pleasure trips to the mountains or to a lake for relaxation. Or to one of the nearby cities for entertainment opportunities not available in Malad. We basically become prisoners in our own home! Again, our economy, our way of life, is predicated on the ability to take advantage of assets, attractions and opportunities not available in our immediate locale, but readily available in the surrounding areas. Our ability to make a living and contribute to the economy, as well as enjoy what the economy has to offer us, in economic, social, charitable and pleasure situations, requires affordable transportation. We do not have that ability now and that is solely the result of short†sighted, faulty energy policy.

Finally, I truly resent the suggestion that this nation is too rich and must be brought down to size. Choking off energy will certainly bring us down, but unfortunately, not only will it result in economically disastrous conditions here in this country, but in the entire world also. I am still looking for some responsible leadership out of Washington to rectify this insane energy policy. I certainly hope you can provide it.

J. WESLEY.

This is a great idea! Thanks for the opportunity to share my thoughts on energy with you.

I made some changes in my life three years ago that have allowed me to reduce my gasoline costs substantially. I started my own business and I now work from home thanks to the wonder of the internet. I have been able to maintain my (still somewhat minimal) salary but have eliminated an 80-mile round-trip commute saving me hundreds of dollars a year in fuel costs.

We are also planning on augmenting our propane heating system with solar collectors. This will have a high upfront cost, but we are doing it to reduce our carbon emissions.

Here is my energy wish list for Congress:

Give larger and more consistent economic incentives for private and commercial solar and wind installation. Germany did this with solar and it is a run-away success.

Please support solar thermal for commercial electric production!! Idaho would be a great spot for solar thermal farms. We could be a leader!

Improve the nation's high tension power grid so power can be better distributed from new sources like solar thermal farms.

Give incentives to car-makers to bring the price down on electric plug-in cars. (See solar farms above for the power source.)

Stop the coal-bed methane production in Wyoming and Colorado. It is ruining the environment and endangering the pronghorn, sage grouse, air quality and water supplies. It is sad to watch this happening.

Please do not support nuclear energy. I lived through Chernobyl in Europe in 1986. It was not fun. No one has solved the nuclear waste problem and no one really wants the stuff stored for centuries in their backyard.

More light rail systems in Idaho. I would use it if it was available.

Thanks for listening—and for all your hard work in Congress!

LINDA, *Driggs*.

My daughter drives from Caldwell every day to her job as a paralegal in Boise. She is divorced, and her husband pays $100 per month child support. She has one minor child at home and one child is 18 years old. The 18-year-old drives to Boise to clean houses despite a continuing terrible case of eczema. She married a young Marine in May. He is stationed in Okinawa as a Private First Class. My daughter is on a very limited budget and is having great difficulty continuing to buy food for her children and pay for her gasoline to continue working. I am trying to help, but am widowed and on a limited income. My husband was a World War II hero, whose honors included, among over 50 medals, two Purple Hearts and the Legion of Merit. We are trying to do our best to hang on but it gets harder every day. I paid $50 to fill my gas tank yesterday at a discount station. If the situation continues to decline, I do not know how we will continue to be able to drive to work or the grocery store. As of now, I am only driving when necessary, and am limiting my spending in every way. Thank you for your concern.

SHARON.

TRIBUTE TO LAPRELE AND JUDGE LLOYD GEORGE

Mr. ENSIGN. Mr. President, I rise today to honor a Nevada couple who have spent their lives contributing to the community, committing to their family, and serving as an example to us all.

Lloyd and LaPrele George have shared more than 50 years together. During that half century, Lloyd served as a fighter pilot in the U.S. Air Force, graduated from Brigham Young University, and earned his juris doctorate from the University of California at Berkley. Since 1974 and an appointment to the Federal Bankruptcy Court, he has been known fondly in Nevada as Judge George. He was appointed as a U.S. district court judge in 1984, served 5 years as the chief U.S. district judge, and assumed senior judge status in 1997.

I am reminded of Judge George every time I go to my southern Nevada office, as the newest Federal building in Las Vegas proudly bears his name. Judge George is a fixture in the Nevada legal community, but his reputation extends beyond the walls of his courthouse and beyond the borders of the United States. He has lectured on legal topics nationally and internationally and often serves as an ambassador, showing foreign dignitaries around the courthouse and introducing them to southern Nevada.

While his name may be known by jurists around the world, his own world has always revolved around his wife LaPrele, their 4 children, and 13 grandchildren. In November, Opportunity Village, one of the most respected local organizations in Las Vegas, will honor the George Family with the ''Order of the Village.'' The Georges will be recognized for their tireless advocacy on behalf of people with intellectual disabilities.

Lloyd and LaPrele's oldest son Doug sparked their involvement in the special needs community. At a time when it was expected that children with intellectual disabilities would be sent to institutions, the Georges instead embraced their son and became champions for those with intellectual disabilities and an inspiration for their families. They were involved in the early days of the Clark County Association of Retarded Children, even cosigning the mortgage on the group's first building. Over time, it evolved into Opportunity Village, Nevada's largest private, not-for-profit community rehabilitation program. Serving more than 3,000 people a year, Opportunity Village offers Nevadans, like Doug George, a chance to earn a paycheck and feel a sense of independence.

The Georges have shined the light of their service on southern Nevada for many years. We have been blessed by their heartfelt involvement and loving leadership. Judge George and LaPrele, thank you for your commitment to your family and to our community. There is hope and opportunity for many Nevadans because of you. May God continue to bless you and your family.

ADDITIONAL STATEMENTS

TRIBUTE TO FALLEN WILDLAND FIREFIGHTERS

● Mr. BAUCUS. Mr. President, I have a favorite quote about firefighters: ''All men are created equal, then a few become firemen.''

Firefighters are indeed a rare breed—selfless and brave. It is a tragedy when even one is lost. On September 1, Montana and America lost not one but three firefighters in an airplane crash as they rushed to quell the flames of a fire in California. Gene Wahlstrom, Greg Gonsioroski, and Zachary VanderGriend may be gone from this Earth, but they will never be forgotten. Their sacrifice and unwavering dedication to the lives of others stand as an example for all Americans. These brave men were based in Missoula, MT, and though they hailed from Washington and Utah in addition to the Big Sky State, I am proud to call them all Montanans.

Gene Wahlstrom began his 35-year flying career as a crop duster and rose to the position of chief pilot for Neptune Aviation. Gene was a Vietnam veteran and a natural leader and mentor. Folks who knew Gene say he was a kind, genuine, accomplished, and loyal friend.

Most folks who knew Greg Gonsioroski just called him ''Gonzo.'' He began his career as an airplane mechanic but decided to take to the skies himself. Greg was a native of Baker, MT. A family man first, father to Gabriel, Grady, and Gracelyn, and doting husband to Kim, he will be remembered as a gentle giant and a loving and patient father, husband, and friend.

Zachary VanderGriend was a new employee with Neptune Aviation but not new to flying—he had dreamed of being a pilot since he was 2 years old. Zachary got his pilot's license when he was 17 and spent much of his time in volunteer programs such as the Young Eagles. As noted in his eulogy, Zachary was a devoted Christian who loved to fly ''because it was there he felt closest to God.''

I believe service is one of the most honorable things a person can do. Whether it is service to ones community, State, or country, service is the most noble of all human endeavors.

In Montana and indeed across much of the West, fires are an almost constant threat. It is the price we pay for living in one of the most beautiful places on earth. So every year we place our belongings, our homes and our lives in the hands of firefighters—too often without a second thought.

The loss of Gene, Greg, and Zachary gives us pause. As a Montanan and an American, I feel tremendous sadness in their passing but also tremendous gratitude for the time we were graced with their presence.●

REMEMBERING NATHAN WEXLER

● Mr. BIDEN. Mr. President, the State of Delaware lost one of its most remarkable citizens on September 10, with the passing of Nathan Wexler at the age of 97.

I first met Nate many years ago during one of my early campaigns, when he showed up in my campaign headquarters offering to volunteer. From that day forward, though he had retired from his dry cleaning business and was at an age when most folks are ready to slow down, Nate was one of our most active volunteers.

A talented artist, Nate began a second career as a professional sign painter. Indeed, one of the staples of our campaign's offices was a large sign that he painted many years ago. I have had several campaigns, and several

campaign headquarters, but Nate's sign remains, a reminder of his commitment as well as his friendship.

But for all of Nate's artistic talent, his most enduring characteristic was his love of people, and his ability to inspire loyalty and affection from everyone he came in contact with.

Many of the volunteers on my campaigns have been young people, full of idealism and eager to learn. They have often been young enough to be Nate's grandchildren or even great-grandchildren. But Nate always relished their idealism. He tried to see people and events through their eyes and learn from that point of view, and he gently shared his experience and wisdom. It was remarkable to see the affection and respect he engendered in those idealistic kids.

My family and I were privileged to spend time with Nate in settings away from the political arena, and those occasions were simply a delight. They were times rich with humor and wit, as well as wisdom. Our conversations were filled with insight, not just into the past and present, but looking far into the future at the challenges our Nation and world will face. Nate knew that he would never face those challenges, but that his great grandchildren and great-great-grandchildren would.

Nate Wexler leaves behind a large family and friends of all ages and from all walks of life. He will be missed tremendously, but he lives on in all of us who were fortunate enough to know and to learn from him.●

HONORING CALIFORNIA'S LOST FIREFIGHTERS

● Mrs. BOXER. Mr. President, I ask my colleagues to join me in honoring the lives of Shawn Blazer, Scott Charlson, Edrik Gomez, Matthew Hammer, Dan Packer, Andrew Jackson Palmer, Jim Ramage, Steven Renno, Bryan Rich, Roark Schwanenberg, and David Steele. These brave men lost their lives while working to protect Californians from devastating forest fires.

On August 5, 2008, seven firefighters and two helicopter pilots were tragically killed in a helicopter accident while bravely fighting the Iron Complex Fire in Trinity County. I would like to say a few words about each of these men:

Shawn Blazer of Medford, OR, had been working as a firefighter for 1 year and told his family and friends that he had ''discovered his calling.'' Shawn was dedicated to his family and had been caring for his mother when he died. He had a passion for photography, computer games and playing sports. He is remembered for his dedication and love for his friends and family.

Scott Charlson of Phoenix, OR, was a student at Southern Oregon University and worked as a firefighter during the summer to put himself through college. He had a passion for journalism, especially covering sporting events. His classmates recalled his ethics, excellence in reporting and kind and caring nature.

Edrik Gomez of Ashland, OR, was a student at Southern Oregon University, double majoring in communications and political science and was in his first year as a firefighter. Gomez was known as a leader with great compassion and for his lighthearted spirit, interest in politics and close bond with his family and friends.

Matthew Hammer of Grants Pass, OR, was a recent graduate from Corban College with a degree in business. He married his college sweetheart this summer and had planned on making 2008 his last fire season as a firefighter. He is remembered as an athletic, friendly, fun-loving person who excelled under pressure.

Jim Ramage of Redding, CA, was a helicopter pilot who served in the U.S. Army during the Vietnam war and had a distinguished career with the U.S. Forest Service and CAL Fire. Friends and family remember Jim's passion for aviation and protecting public safety. He is remembered for the bonds he created with his friends and the great love he had for his family.

Steven ''Caleb'' Renno of Cave Junction, OR, was a track and field coach for his alma mater, Illinois Valley High School, where he excelled in both track and cross country. After high school he attended Southern Oregon University and worked as a firefighter during summers. He will be remembered for his talent as a runner and as an avid traveler.

Bryan Rich of Central Point, OR, was a talented framing carpenter who recently began a career in firefighting. He loved spending time outdoors, playing sports and is remembered for his dedication to his family.

Roark Schwanenberg of Lostine, OR, was a U.S. Army trained helicopter pilot, who many of his colleagues consider one of the best helicopter pilots, with whom they have worked. He is remembered for his humor, great skill as a pilot, and love for his family and friends.

David Steele of Bend, OR, was a student at Central Oregon Community College and worked as a firefighter during the summer to pay for his education. He planned on becoming a career firefighter after graduating from both Fire Fighting and Emergency Medical Technician school. Friends and family remember his strong work ethic, love of his family and big heart.

We also mourn the loss of two other brave firefighters from the State of Washington who lost their lives battling California wildfires this summer:

Dan Packer of Sumner, WA, was the Chief of the East Piece Fire Department and past president of the Washington State Fire Chiefs. He had a passion for public safety and was known for his ability to relate to anyone. Chief Packer is remembered for his strong leadership abilities and dedication to his family. Chief Packer lost his life while battling the Panther Fire in Siskiyou County on July 26, 2008.

Andrew Jackson Palmer of Port Townsend, WA, was a 2008 graduate of Port Townsend High School where he was a standout athlete on the football team. Andy enjoyed playing a variety of sports and spending time with his friends and family. Andy's loved ones recall his kind heart, honesty and integrity. Andy tragically died while fighting the Iron Complex Fire in Trinity County on July 25, 2008.

These brave firefighters and pilots, like all those who fight fires across California, put their lives on the line to protect our communities. My heart goes out to their families and loved ones and my thoughts and prayers are with them. We are forever indebted to them for their courage, service and sacrifice.●

TRIBUTE TO JO PRICE CRAVEN

● Mr. BUNNING. Mr. President, I would like to recognize Ms. Jo Price Craven, principal of Piner Elementary School in Morning City, KY. Ms. Jo Price Craven was recently honored by the National Association of Elementary School Principals as one of the recipients of the 2008 National Distinguished Principals Award.

The National Distinguished Principals Program was established in 1984 as an annual event to honor exemplary elementary school principals who set the pace, character, and quality of the education children receive during their early school years. One principal is chosen from each of the 50 States and the District of Columbia, and this year Ms. Jo Price Craven has been selected as a National Distinguished Principal from the Commonwealth of Kentucky.

Throughout her time at Piner Elementary School, Principal Jo Price Craven has displayed herself to be an example of excellence in primary education. Her educational philosophy fosters a school environment that is considerate and challenging to allow teachers at Piner Elementary to mobilize and enhance student performance.

Kentuckians are extremely proud of Ms. Jo Price Craven. I am honored to pay tribute to her, and I encourage my colleagues to join me in wishing Principal Craven continued success as she continues her exceptional work in education.●

RECOGNIZING MS. KELSEY LANDT

● Mr. BUNNING. Mr. President, today I recognize Ms. Kelsey Landt of Paducah, KY, who is a premed senior at the University of Kentucky at 13 years old. Before her teenage years Kelsey participated in spinal cord injury research at the University of Kentucky, and while at the National Institute of Neurological Disorders and Stroke, she utilized transcranial magnetic stimulation to understand reward processing. At the age of 10, she presented her work at the 2005 Community College Conference for Student Research in Madisonville, KY, and this year, she

participated in a summer internship program at the National Institutes of Health in Maryland. At an age when many children look to hangout at a local mall, Kelsey has already built a resume that mirrors those students who were born more than a decade before her.

In addition to her academic activities, Kelsey is involved in community life. She is presently the youngest account holder at the Community Foundation of West Kentucky where she raises money for medical and research based charitable organizations. She is a regular at the local Salvation Army and makes time to volunteer at a local children's hospital in Lexington, KY.

After earning a bachelor's degree in biology at the University of Kentucky next spring, Kelsey will begin her postbaccalaureate position at the National Institutes of Health and then hopes to attend medical school. Like most Kentuckians, I look forward to seeing all that she will accomplish as she works toward her goal of becoming a medical scientist.●

CONGRATULATING WALKER INTERMEDIATE SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this opportunity to congratulate Walker Intermediate School on being named a President's Challenge State Champion by the President's Council on Physical Fitness, PCPFS, for 2007–2008. Their accomplishment is an example for all schools across the Commonwealth and our Nation.

Each year the PCPFS State Champion award is presented in all 50 states to 3 schools with the highest number of students scoring at or above the 85th percentile on the President's Challenge Physical Fitness Test. The test measures four components of physical fitness: a 1-mile run-walk for heart and lung endurance; curl ups for abdominal strength and endurance; a ''sit and reach'' stretch for muscular flexibility; pullups for upper body strength and endurance; and a shuttle run for agility. The inclusion of Walker Intermediate School in this group is a credit to the dedication of its students, staff, and administration.

Walker Intermediate School is a role model to other institutions through its dedication to helping students gain physical fitness skills and to understanding the health benefits of regular physical activity. In a time in which many young people are faced with weight related problems, Walker Intermediate has proven to be a leader by encouraging students and adults to engage in physical activity.

Walker Intermediate School is an inspiration to the citizens of Kentucky and to student and community leaders everywhere. I look forward to seeing all they will accomplish in the future.●

CONGRATULATING WEST KNOX ELEMENTARY SCHOOL

● Mr. BUNNING. Mr. President, I would like to take this opportunity to congratulate West Knox Elementary School on being named a President's Challenge State Champion by the President's Council on Physical Fitness, PCPFS, for 2007–2008. Their accomplishment is an example for all schools across the Commonwealth and our Nation.

Each year the PCPFS State Champion award is presented in all 50 States to 3 schools with the highest number of students scoring at or above the 85th percentile on the President's Challenge Physical Fitness Test. The test measures four components of physical fitness: a 1-mile run-walk for heart and lung endurance; curl ups for abdominal strength and endurance; a ''sit and reach'' stretch for muscular flexibility; pullups for upper body strength and endurance; and a shuttle run for agility. The inclusion of West Knox Elementary School in this group is a credit to the dedication of its students, staff, and administration.

West Knox Elementary School is a role model to other institutions through its dedication to helping students gain physical fitness skills and to understanding the health benefits of regular physical activity. In a time in which many young people are faced with weight related problems, West Knox Elementary has proven to be a leader by encouraging students and adults to engage in physical activity.

West Knox Elementary School is an inspiration to the citizens of Kentucky and to student and community leaders everywhere. I look forward to seeing all they will accomplish in the future.●

BOISE AIR TRAFFIC CONTROL TOWER

● Mr. CRAPO. Mr. President, as an Idahoan, I have many reasons to be proud of the accomplishments of fellow Idahoans, and today, I have yet another: in early September, the Federal Aviation Administration notified the Boise Air Traffic Control Tower—BOI ATCT—that it had been selected as National Facility of the Year for fiscal year 2007. In a category that included 112 other facilities nationwide, the BOI ATCT scored higher than the others on safety metrics, employee focus, innovation and customer service. I congratulate Gordon Stewart, BOI ATCT manager and his staff for their teamwork, positive, winning attitudes and overall excellence. As Gordon noted recently, he and his team are ''ever cognizant of the public trust bestowed upon our profession, and with that knowledge we constantly strive to move the bar of excellence higher. . . . The greatest tool at our disposal is communication.'' This award comes on the heels of a regional award that the BOI ATCT team won for fiscal year 2006.

I wish BOI ATCT continued success in its service and its highly effective partnerships with the Boise Airport, Idaho Air and Army National Guard, National Interagency Fire Center, passenger and cargo airlines and corporate and general aviation. It is good to know that an airport that I frequently use abides by such high standards of safety and service.●

ATLANTIC COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Atlantic Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Atlantic Community School District received two Harkin fire safety grants totaling $180,960 which it used for improvements to the fire safety systems at the elementary and middle schools and to address deficiencies on the fire safety report. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute Superintendent Wendy Prigge, former Superintendent Mark Schweer, the entire staff, administration, and governance in the Atlantic Community School District. In particular, I would like to recognize the leadership of the board of education—President Phil Hascall, Vice President Jody Lorence, Kristy Pellett, Dennis Davis, Jon Martens, and former members Jan Myers, Steve Jacobs, and Glen Smith. In addition, district staff Barb Nelson, now deceased, Denise Bridges, Jan Kerns, and Jerry Jensen should also be recognized for their work on the grant application and implementation.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Atlantic Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

CAL COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the CAL Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The CAL Community School District received a 1999 Harkin grant totaling $205,000 which it used to help build an addition to the elementary school and a 2004 Harkin grant totaling $162,250 to provide space for pre-kindergarten programs, before and after school programs, vocational agriculture programs and science. The district also received fire safety grants totaling $99,978 to improve emergency lighting, install fire alarms and make other safety improvements throughout the district. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the CAL Community School District. In particular, I would like to recognize the leadership of the board of education—Mark Johansen, Beth Eddy, Shawn Elphic, Steve Muhlenbruch and Therron Miller and former board members Roy Plagge, Darwin Hill, Jacki Anderson, Craig Johnson and Lee Schaefer. I would also like to recognize superintendent Steven Lane and former superintendents Dr. James Jess, Charles Stalker and Lyle Schwartz and the CAL Education Foundation.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the CAL Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

CENTRAL CITY COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and schoolboard members in the Central City Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Central City Community School District received a 2004 Harkin grant totaling $500,000 which it used to help build a new high school building and expand curricular offerings and afterschool programs, improve available technology, and improve accessibility for students with disabilities. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received a fire safety grant in 2002, totaling $30,000, which was used to install a new fire alarm system and to make ventilation improvements in the multipurpose and high school buildings.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Central City Community School District. In particular, I would like to recognize the leadership of the board of education—David Goodlove, Neil Mattias, Crystal Murphy, Leanna Palmer and Eric Rauch and former board members Kirk Hayes, Teresa Uhlenkamp and Sue Pillard. I would also like to recognize superintendent John Dotson, former superintendent Bill Mertens, high school principal David Glynn and business manager Karla Hogan.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Central City Community School District. There is no question that a quality public education for every child is a

top priority in that community. I salute them and wish them a very successful new school year.●

CLARION-GOLDFIELD COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Clarion-Goldfield Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Clarion-Goldfield Community School District received a 1999 Harkin grant totaling $192,946 which it used to help build an addition to the middle school. The district also received three fire safety grants totaling $75,000 for fire alarms, exit signs, fire rated doors and other safety improvements throughout the district. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Clarion-Goldfield Community School District. In particular, I would like to recognize the leadership of the board of education—president Clint Middleton, vice president Missy Schultz, Dr. Timothy Nagel, Dana Langfitt, and Beth Jackson and former board members Bruce Frink, Sally Woodley, Terry Lerdal and Denny McGrath. I would also like to recognize superintendent Dr. Robert Olson, board secretary Fern Spellmeyer, head custodian Duane Wempen, high school principal Dennis March, middle school principal Steve Haberman and former elementary school principal John Suhumskie.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Clarion-Goldfield Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

CORWITH-WESLEY COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Corwith-Wesley Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. The Federal grant has made it possible for the district to provide quality and safe schools for their students.

The Corwith-Wesley Community School District received several Harkin fire safety grants totaling $125,000 which it used to make extensive fire safety upgrades and repairs at the high school and other Corwith and Wesley school facilities. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Corwith-Wesley Community School District. In particular, I would like to recognize the leadership of the board of education—president Keith Hauswirth, Jonathan Chambers, Pete Wilhite, Tracy Studer, and Susan Burrs, and former members, president Doug DeGroote, Craig Larson, Judy Grandgenett, Dan Beenken, Gayle Trenary, and Leslie Ludwig. I would also like to recognize superintendent Willie Stone, former superintendents Don West, Dale Johnson, and Jim McDermott, and high school secretary Allyson Thompson.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Corwith-Wesley Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

COUNCIL BLUFFS COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Council Bluffs Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building

new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Council Bluffs Community School District received Harkin grants totaling $2,914,250 which it used to help modernize and make safety improvements throughout the district. The district received a 1999 construction grant for $750,000 to help replace windows and update HVAC systems at Longfellow, Lewis and Clark and Pusey Elementary Schools, a 2002 grant for $1 million to help upgrade plumbing at Thomas Jefferson High School and Edison, Roosevelt and Washington Schools and a 2003 grant for $500,000 to help upgrade the HVAC and electrical systems, at Washington School and to help build a preschool restroom at Rue Elementary School. The district also received three fire safety grants totaling $675,000 to install sprinkler systems, fire alarm systems and make other safety improvements at several schools in the district. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Council Bluffs Community School District. In particular, I would like to recognize the leadership of the board of education—President Marvin Arnpriester, Vice President Mark McGee, David Coziahr, J.J. Harvey, Janine Headen, Glen Mitchell, and Gina Malloy Primmer, and former board members Billi Harrill, Melanie Bates, Bobbette Behrens, Louie Carta, Francis Clark, Pam Collins, Randy Ewing, Marilyn Heider, Rick Killion, Kenneth Petersen, Mark Peterson, Cathy Ryba, Rita Sealock, David Strom, and Tim Wichman. I would also like to recognize Superintendent Martha Bruckner, former Superintendent Richard Christie, Longfellow principal, Peg Shea, Executive Director for Finance and Support Services, Greg Rodgers, and Administrator Neal Evans.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Council Bluffs Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

EDDYVILLE-BLAKESBURG COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Eddyville-Blakesburg Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Eddyville-Blakesburg Community School District received a 2000 Harkin grant totaling $133,750 which it used to help build a new commons area at the elementary school. The district also received two fire safety grants totaling $47,013 for electrical work, to install a fire alarm system and make other repairs at the elementary school. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Eddyville-Blakesburg Community School District. In particular, I would like to recognize the leadership of the board of education—Kevin Lane, Jeff Claypool, Dave Friedman, Dan Hulbert, Deb Bahr, Ed Glenn and Gay Murphy and former board members Orbie Brittain, Maurice Gardner, Greg Roberts, Lawrence Smith, Richard Lettington and Cindy Donohue. I would also like to recognize superintendent Dr. Dean Cook and former superintendent Dr. Allen Meyer.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Eddyville-Blakesburg Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

GREENE COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Greene Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Greene Community School District received a 2001 Harkin grant totaling $266,699 which it used to help build an addition to the high school. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school

facility that every child in America deserves. The district also received three fire safety grants totaling $75,000 to install new hoods in the kitchens at the elementary and high schools, to install fire alarms and door closures and make other repairs.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Greene Community School District. In particular, I would like to recognize the leadership of the board of education—Gary Hatcher, Laura Schafer, Troy Feldman, Barbara Brinkman and John Moellers and former board members Sara Trepp, Stanley Cousins, Robb Holtz, Jeff Lindell and Warren Van Dyke. I would also like to recognize superintendent Steve Ward and John Backer for his leadership of the citizens' committee which supported the bond referendum for the project.

As we mark the 10th anniversary of the Harkin School Grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Greene Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

KEOKUK COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Keokuk Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Keokuk Community School District received a 1999 Harkin grant totaling $750,000 which it used to help renovate Hawthorne Elementary School and build a library addition for the Middle School. And in 2002, the district began construction of an alternative school with a $481,250 Harkin grant, as well as funds from a bond referendum and proceeds from a local option sales tax. This facility opened in 2005 and provides an unique learning environment for 75–100 students each day. In addition, nearly $455,000 in Harkin Fire Safety Grants have been awarded to the Keokuk Community School District between 1999 and 2004 for the new alarm systems, new windows, and fire doors to assure the safety of students, teachers and staff. These schools are modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Keokuk Community School District. In particular, I would like to recognize the leadership of the board of education.

As we mark the tenth anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Keokuk Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

MARTENSDALE-ST. MARYS COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Martensdale-St. Marys Community School District and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Martensdale-St. Marys Community School District received a 2003 Harkin grant totaling $500,000 which it used to help build a classroom addition and perform renovations in the existing school. The district also received a $25,000 fire safety grant to upgrade lighting and wiring in the area of the stage. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Martensdale-St. Marys Community School District. In particular, I would like to recognize the leadership of the board of education—Velvet Van Hoose, Scott Anderson, Cathy Seymour, Nicole Bunch, and John Della Vedova, and former board members Merle Allen, Larry Henson, Pat Connor, Dean Gavin, and Holly Estell. I would also like to recognize superintendent Jean Peterson, former superintendent Peggy Huisman, business manager Jane Cassady, and maintenance director Jim Lynch.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that

many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Martensdale-St. Marys Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

NEW LONDON COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the New London Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. The Federal grant has made it possible for the district to provide quality and safe schools for their students.

The New London Community School District received several Harkin fire safety grants totaling $100,000 which it used to make extensive upgrades to school facilities. The grants enabled the district to upgrade electrical wiring, install emergency lighting and make other safety repairs. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the New London Community School District. In particular, I would like to recognize the leadership of the board of education—president Laurie Hempen, vice president Bob McPheron, Dennis Carter, Kelly Kadel, and Joel Prottsman, and former members, Virginia Ekstrand, Sid Schmitt, Rhonda Mixon, David Gates, and Gary Schweitzer. I would also like to recognize superintendent Chuck Reighard, former superintendent Robert Cardoni, and former board secretary Nancy Blow.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the New London Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

OSKALOOSA COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Oskaloosa Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Oskaloosa Community School District received a 2000 Harkin grant totaling $500,000 which it used to help build an addition to and remodel classrooms in the high school building. The addition doubled the amount of classroom space available to students and greatly improved their learning environment. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received a 1999 fire safety grant, totaling $62,000, which was used to purchase smoke detectors and emergency lighting in several buildings.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Oskaloosa Community School District. In particular, I would like to recognize the leadership of the board of education—president David Meinert, vice-president Don Patterson, Laurie Palmer, John Grahek, Anne Whitis, Lin Yoder, and Jon Denniston, and former members Patrick Sodak, Bruce Smith, David Dickinson, and Brian Keefer. I would also like to recognize Superintendent Dr. Carolyn McGaughey, retired principal Mike Christensen, and board secretary Chad Vink.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Oskaloosa Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

POCAHONTAS AREA COMMUNITY EDUCATION

• Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Pocahontas Area Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts everything from updating fire safety systems to building new schools or renovating existing facilities. The Federal grant has made it possible for the district to provide quality and safe schools for their students.

The Pocahontas Area Community School District received several Harkin fire safety grants totaling $100,000 which it used to make hardware, electrical, and safety upgrades in several of their facilities. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Pocahontas Area Community School District. In particular, I would like to recognize the leadership of the board of education, Raymond Seehusen, John Behrendsen, Daniel Duitscher, Greg Fritz, Richard Garner, Darwin Eaton, and Jeff Kerns, and former members Jann Ricklefs, Timothy Cook, Thomas Nedved, Jody Lyon, Roger Witt, William Thomas, Stephen Baade, and Diane Harrison. I would also like to recognize superintendent Joseph Kramer, former superintendents Michael Wright and Dennis Pierce, and board secretary Diane Pattee.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Pocahontas Area Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.•

RED OAK COMMUNITY EDUCATION

• Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Red Oak Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Red Oak Community School District received a 1998 Harkin grant totaling $250,000 which it used to help build Inman Primary School. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves. The district also received three fire safety grants totaling $197,822 to install fire doors, update emergency lighting and make other repairs at schools throughout the district.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Red Oak Community School District. In particular, I would like to recognize the leadership of the board of education president—Charla Schmid, vice president Lee Fellers, Amy Liddell, Rod DeVries, and Elizabeth Dilley, and former board members Roger Carlson, Bryant Amos, and Gale Haufle. I would also like to recognize superintendent Terry Schmidt, former superintendents Dick Drey and Kurt Kaiser, Inman principal Buck Laughlin, and former board secretary the late Sue Wagaman.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Red Oak Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.•

SOUTH TAMA COMMUNITY EDUCATION

• Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and schoolboard members in the South Tama Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The South Tama Community School District received a 2004 Harkin grant totaling $500,000 which it used to help build a new elementary school. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the South Tama Community School District. In particular, I would like to recognize the leadership of the board of education—president Michelle Yuska, vice president Ron Hala, Jackie Dvorak, Mark McFate and Anne Michael and former board members G. Joe Lyon, Margaret Kubik, Alan Upah and Donald Wacha. I would also like to recognize superintendent Kerri Nelson, former superintendent Larry Molacek, business manager Joanna Hofer, former business manager John Legg and director of buildings and grounds Tim Downs.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the South Tama Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

WATERLOO COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Waterloo Community School District and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Waterloo Community School District received 15 Harkin grants totaling $5,434,952 which it used to help modernize and make safety improvements throughout the district. The Waterloo Community School District received seven construction grants totaling $3,786,616 which have helped the district build Walter Cunningham School of Excellence, Irving Elementary School, Lincoln Elementary School, and Poyner Elementary School. The grants have also helped with a classroom addition and renovations at Lowell Elementary School and with renovation projects at East High School, West High School and Kingsley Elementary School. These schools are the modern, state-of-the-art facilities that befit the educational ambitions and excellence of this school district. Indeed, they are the kind of schools that every child in America deserves.

The district also received eight fire safety grants totaling $1,648,336 to install fire alarm systems and make other repairs at East High School, Central Middle School, Hoover Middle School, Logan Middle School, Bunger Middle School, McKinstry Elementary School, and Kingsley Elementary School. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Waterloo Community School District. In particular, I would like to recognize the leadership of the board of education—President Bernice Richard, Vice President Barb Opheim, Pam Miller, Lyle Schmitt, Michael Kindschi, Judy Fossell and Mike Young, and former board members Doug Faas, Don Hanson, Craig Holdiman, Lance Dunn, Bob Heaton, Robert Krause, Robert Smith, and Dave Juon. I would also like to recognize superintendent Dr. Gary Norris, former superintendents Dr. Dewitt Jones and Dr. Arlis Swartzendruber, director of buildings and grounds Marty Metcalf, former director of buildings and grounds Jack Fitzgerald, board secretary Sharon Miller, along with a number of building principals including Mary Meier, Bob Tyson, Martin Van Roekel, Dr. Gail Moon, Elizabeth Crowley, Vicky Smith, Dr. Mary Jo Wagner, Kari Gunderson, Bob Wright, Dr. Loleta Montgomery, Brian Ortman, Phillip Anderson, Jennifer Hartman, Marla Padget, and Pam Zeigler.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultramodern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Waterloo Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

TRIBUTE TO VICE ADMIRAL CONRAD C. LAUTENBACHER, JR.

● Mr. INOUYE. Mr. President, although many Americans may never have heard of National Oceanic and Atmospheric Administration, or NOAA, the agency plays a significant role in the daily lives of Americans, whether it is providing daily weather forecasts, supporting marine commerce, or monitoring our climate.

For nearly 7 years, NOAA has been guided by the leadership of VADM Conrad C. Lautenbacher. When he retires on October 31, Admiral Lautenbacher will leave a lasting legacy at NOAA that has helped strengthen our knowledge and understanding of our oceans and atmosphere.

Life on Earth relies on the ocean. Our oceans regulate our planet's climate, support global commerce, and provide food. The livelihoods of millions of Americans rely on our oceans. Yet, we know little about what lies beneath the surface of our oceans. Ninety-five percent of our oceans are unexplored. Working with the Senate Commerce Committee, Admiral Lautenbacher commissioned America's first ship for ocean exploration, the *Okeanos Explorer*. The ship's missions will include reconnaissance to search unknown areas and map the deep seafloor. Through telepresence, the

ship and its discoveries will be connected to live audiences so they can see what lies beneath the waters and help inspire a new generation of ''aquanauts.''

Under Admiral Lautenbacher's leadership, the National Weather Service has improved its severe weather warnings. Seconds make a difference during flash floods, tornados, tsunami, and severe thunderstorms. With improved scientific knowledge, NOAA is providing storm-based warnings that give the public more geographically specific information about severe weather. These storm-specific warnings allow first responders and those in harm's way to take the necessary actions to protect lives and property.

An important part of NOAA's mission is to understand and predict changes in the Earth's environment. Admiral Lautenbacher has led U.S. efforts working with more than 60 countries and the European Commission to develop the Global Earth Observation System of Systems, GEOSS. Earth observations are critical to our understanding of complex climate and ocean systems. With improved data about the interconnectedness of Earth systems, we will be better equipped to help emergency managers make evacuation decisions, to aid State and local decisionmakers in protecting coastal communities and improving infrastructure development, and to more accurately predict weather and climate changes that affect our economy.

Admiral Lautenbacher also worked closely with Senator STEVENS and me to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act. This act marks a natural evolution in fisheries management because it recognizes not only the need to carefully manage fish populations, but the ocean ecosystems our fisheries occupy.

Given the size of the U.S. Exclusive Economic Zone in the Pacific and the reliance of Hawaii and the Pacific Islands on the oceans, NOAA's programs are of critical importance to the Pacific. More than lending technical assistance, Admiral Lautenbacher matched word to deed by growing NOAA's capacity in the Pacific region—from establishing a new National Marine Fisheries Service regional office and lab, to breaking ground on a NOAA Pacific Regional Facility, to developing the data and environmental monitoring infrastructure needed to support science-based management.

Admiral Lautenbacher has my gratitude and deserves our Nation's gratitude for his dedication to public service. I wish him well as he moves into the next chapter of his life.●

TRIBUTE TO BOB DEMERSSEMAN

● Mr. JOHNSON. Mr. President, I rise today to recognize and congratulate Bob DeMersseman of Rapid City, SD, for over 22 years of service with the Rapid City Economic Development Partnership.

Mr. DeMersseman is retiring this December after an impressive career of service with the Economic Development Partnership. For 19 of the 22 years, Bob served as president of the organization. During his tenure, Bob and his staff and the city's economic development groups have created and expanded two industrial parks, set up the low-interest Rapid Fund loan fund, developed the Western Research Alliance to promote a growing technology community and created the Black Hills Business Development Center, an incubator to help researchers, inventors and entrepreneurs turn their ideas into commercial ventures.

Bob has been instrumental in forging vital and important relationships and partnerships with area Chambers of Commerce, economic development organizations, universities and community officials. There was a time when local communities didn't foster such working relationships and with the guidance and advice of leaders like Bob, this improved tremendously. Today, when one Black Hills community attracts or expands a business, other communities realize that they also benefit.

While developing partnerships and relationships between communities and their leaders, Bob has also realized that economic development and attracting businesses and industries to the local area has become increasingly competitive. Bob along with other Rapid City and Black Hills leaders have done a commendable job in creating and developing more tools for the tool box to promote Rapid City and the Black Hills to national and international prospects. He has helped to acquire and expand land tracts for business and industrial parks, worked hard to promote and market Rapid City and the Black Hills communities and provided valuable guidance on issues impacting the future promotion and growth of Rapid City and the Black Hills region. He has worked hard to expand Rapid City's economic base.

Here is what a few of Bob's peers say about his impact on economic development in the Rapid City area. ''In my opinion, Bob has been at the front end of developing a very diversified economic development program for Rapid City, and he will be remembered for putting a lot of great things in place,'' said Mark Merchen, chairman of Black Hills Vision, a group working to create a regional technology corridor.

''Bob has been such a key part of our team effort to create economic development in Rapid City,'' said Pat Burchill, chairman of the Rapid City Economic Development Foundation, the partnership's real estate arm. ''Our success has a lot to do with Bob's efforts.''

I commend Bob for his passionate dedication and tireless work to expand and enhance Rapid City's economic potential as well as helping to develop and promote that same potential in the Black Hills region. I wish him all the best in his retirement and know that he will bring a high level of enthusiasm, energy, dedication and commitment to his retirement endeavors.●

REMEMBERING MICHAEL PROCTOR SMITH

● Ms. LANDRIEU. Mr. President, today I wish to celebrate the life of Michael Proctor Smith, who passed away at his home in New Orleans on Friday, September 26, 2008. He was 71. Michael, a native of New Orleans, was an award-winning professional freelance photographer who chronicled the music, culture, and folklife of New Orleans and the State of Louisiana for over 40 years.

Michael was well known for documenting New Orleans social club parades and jazz funerals, neighborhood traditions, Mardi Gras Indians, spiritual church ceremonies, and many of the city and State's renowned jazz, blues, rhythm and blues, and gospel musicians. He was a fixture at every New Orleans Jazz & Heritage Festival since it began in 1970 until his retirement in 2005. His works are internationally recognized and are permanent collections at a number of museums including the Bibliothque National in Paris, the Metropolitan Museum of Art, the Smithsonian Institution, the Historic New Orleans Collection, the New Orleans Museum of Art, the Ogden Museum of Southern Art, and the Louisiana State Museum.

In the last few years, Michael had been honored with numerous awards celebrating his work. He received a Lifetime Achievement Award from the Louisiana Endowment for the Humanities in 2002 and was named Music Photographer of the Year by Offbeat magazine. In 2004 he received a Mayor's Arts Award from the Arts Council of New Orleans and a Clarence John Laughlin Lifetime Achievement Award from the New Orleans/Gulf South chapter of the American Society of Media Photographers. In 2005, he received the Delgado Society award from the New Orleans Museum of Art, the first photographer to be so honored. The recipient of two Photographer's Fellowships from the National Endowment for the Arts, Michael's prints have toured worldwide through the U.S. Information Agency.

Michael's photographs grace the covers of many CDs and record albums, illustrate numerous books and magazine articles published in America and Europe, and are a staple of documentary films on the rich cultural history of New Orleans and Louisiana.

He was also an original owner and founder of Tipitina's, an iconic music club located at the corner of Napoleon Avenue and Tchoupitoulas Street in uptown New Orleans.

Michael is survived by his partner Karen Louise Snyder; his brother Joseph Byrd Hatchitt Smith; two daughters, Jan Lamberton Smith and Leslie Blackshear Smith; and three grandchildren, Chance King Doyle, Leslie

Elizabeth Doyle, and Francis Brandon Arant.●

TRIBUTE TO LOUISIANA WWII VETERANS

● Ms. LANDRIEU. Mr. President, I am proud to honor a group of 88 World War II veterans from every region of Louisiana who are traveling to Washington, DC, this weekend to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable service members.

Louisiana HonorAir, a group based in Lafayette, LA, is sponsoring this Saturday's trip to the Nation's Capital. The organization is honoring each surviving World War II Louisiana veteran by giving them an opportunity to see the memorials dedicated to their service. On this trip, the veterans will visit the World War II, Korea, Vietnam and Iwo Jima memorials. They will also travel to Arlington National Cemetery to lay a wreath on the Tomb of the Unknowns.

This is the first of four flights Louisiana HonorAir will make to Washington, DC, this fall.

World War II was one of America's greatest triumphs, but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American service members were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today more than 33,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. The oldest in this HonorAir group was born in 1913. Two of these veterans began their service in the Louisiana National Guard as early as 1936, and were activated for Federal service in 1941.

This group served in every branch of the military, including 29 in the U.S. Army, 14 in the U.S. Army Air Corps, 23 in the U.S. Navy, 8 in the U.S. Marine Corps, 2 in the U.S. Merchant Marines, one in the U.S. Coast Guard and one in the Women's Reserve of the U.S. Naval Reserve. Our heroes served across the globe, participating in major invasions such as the Battle of the Bulge, the Battle of Huertgen Forest, and the battles of Tunisia, Naples-Foggia, Rome, Anzio, Po Valley and North Apennines. They served in Europe, North Africa and the Pacific Theater. One was wounded in Germany, and another was captured as a prisoner of war.

Many of these veterans earned Purple Hearts, including one with three Battle Stars. One of our veterans went on to serve in both Korea and Vietnam, retiring in 1967.

I ask the Senate to join me in honoring these 88 veterans, all Louisiana heroes, who we welcome to Washington this weekend and Louisiana HonorAir for making these trips a reality.●

TRIBUTE TO ROBERT ROTH

● Ms. LANDRIEU. Mr. President, I wish to take a few moments to acknowledge the life and work of a very ordinary, yet extraordinary, American named Bob Roth of Bristow, VA. Bob died of cancer earlier this year, at the young age of 44, leaving behind a wife of 19 years and five young children. His was one of far too many vibrant young lives cut short by this terrible disease. As was his way in life, Bob fought cancer to the very end attacking the disease as ferociously as it attacked him.

Recent developments in the FBI anthrax case had brought the case back into the media in the last month. I want to pause and recognize that the recent breaks in the case were built upon the hard work of Special Agent Roth and his team. Many of us remember what it was like on Capitol Hill in October of 2001 when an anthrax-laced letter appeared in Senator Daschle's office and another in Senator LEAHY's office. Spores were found at the U.S. Supreme Court, and postal workers who handled the letters died from inhalation. No one felt entirely safe from one of the most deadly germs known to man.

The FBI was immediately on the case, and a September 2003 Washington Post article explained their approach in the following manner:

> To run the anthrax case day to day, Assistant FBI director Van Harp turned to veteran FBI agent Bob Roth whose meticulous style mirrored his own. Roth sometimes referred to himself as a cops-and-robbers kind of guy, best suited to pursuing the mobsters, embezzlers and kidnappers who had always been the FBI's bread and butter. But this case posed an entirely new set of challenges, and Roth was willing to try almost anything to solve it . . . the FBI's frustrations with the case were palpable. At one meeting at the Washington field office, agents talked candidly about the toll the long hours were exacting on their families. Roth vented, too, groaning to no one in particular, ''Get me out of this.''

But he never asked to get out. Long after the media lost interest, Agent Roth worked tirelessly. As the FBI slogged through one of the most complicated, high-profile cases it ever faced, Agent Bob Roth served his country as a pioneer in the efforts to fight domestic terrorism and weapons of mass destruction. He literally risked his life investigating scenes and evidence from the anthrax case. He was later honored by being promoted to Assistant Section Chief of the Bureau's newly created Weapons of Mass Destruction Directorate. It was a role he had little time to address because he spent the last year of his life fighting against his own personal WMD: multiple myeloma, an aggressive bone cancer.

Bob was an exemplary father, devoted husband, committed Christian, community leader, and Government servant. He served 16 years for the FBI and was highly commended and decorated for his exceptional life and unfailing integrity, for his leadership and excellence in his profession for his inspiring example as a devoted husband and loving father to five beautiful children for his character and long service to our country, and for his pioneering efforts in fighting against weapons of mass destruction.

I ask that the CONGRESSIONAL RECORD reflect the impressive contributions made by Special Agent Robert Roth to his country.●

TRIBUTE TO MARY KEATING

● Ms. LANDRIEU. Mr. President, today I celebrate the life of Mary Keating, who, until she passed away last October, was a proud resident of the city and great State of New York for nearly 78 years. Mary first came to America at the young age of 17, far from her home and her family in Derry, Kilshanny, County Clare, Ireland. Not long after she arrived, she met and married Martin Keating, who also hailed from County Clare. She and Martin shared many passions, most notably their love for their family, their friends, and their deep, abiding faith in God. While neither of them were musicians, they relished the Irish country sets of their native Clare and carried them with them to this country, eventually to meet and dance them on the Rockaway Beach boardwalks, which as far as they were concerned was simply the last parish in Clare. As one of her youngest grandchildren, Ronan, observed, if you visited their home you would find a layer of dust on the top of the knob on their radio because it had not been moved from its resting spot on the Irish music station in decades.

Music was not the only way that Mary celebrated her Irish heritage. It also could be found in her love to entertain friends and family. It was well known in their neighborhood and beyond that there was always an extra spot at the dinner table in the Keating home. As Mary would say, ''what is one extra potato in the pot?'' One could never visit her home without enjoying at least a cup of tea and an assortment of food. Three generations of Keatings grew up savoring her specialties such Irish soda bread, turnips, and leg of lamb. Much to their chagrin, her daughters and granddaughters have never been able to make a soda bread half as delicious as Mary's, simply because the ''recipe'' was all done by taste and memory. As her granddaughter Kristin noted, the only one of Mary's dishes her grandchildren will not miss is her ''lumpy'' mashed potatoes, especially since Martin was a firm believer in the notion that children should finish everything they are served.

Mary will be remembered by all who knew her as a strong and caring woman

who lived a life guided by her faith and values. Long before recycling became the politically correct thing to do, Mary Keating saved and reused every bread bag, rubber band, piece of tinfoil, and jar she ever brought into the house. Old jelly jars were magically transformed into milk glasses and bread bags were used to store everything from school lunch to sea shells from Rockaway Beach.

Even though Mary has left this world, her legacy will continue through the lives and work of her 8 children, 20 grandchildren, and 24 great-grandchildren. I know this because her granddaughter, Kathleen Keating Strottman, served as my staff for over 7 years and I saw many of these traits in her. In honor of Mary's Irish heritage, I would like to close my remarks with the refrain of an Irish ballad, ''The Lovely Rose of Clare'':

Oh my lovely rose of Clare, you're the sweetest girl I know, You're the queen of all the roses, the pretty flowers that grow, You are the sunshine of my life, so beautiful and fair, And I will always love you, my lovely rose of Clare.●

HONORING HUSSON COLLEGE

● Ms. SNOWE. Mr. President, today I honor one of the jewels of Maine higher education, Husson College, in Bangor, ME, which will officially make its much-anticipated transition to Husson University on October 11, 2008.

I know I join with countless Husson students and alumni from practically every town in Maine, as well as from around the country and the world, in expressing my deep-seated pride in what Husson College has accomplished since its founding in 1898 by Chesley Husson, and for what it will achieve in the years ahead as Husson University. Although the name has changed, the longstanding hallmarks of Husson which have served its students so exceptionally well for 110 years will not only remain the same, but will also be strengthened more than ever. A broader-based institution than it was just 20 years ago, Husson—at this watershed moment of becoming a university—secures an even greater presence on the educational landscape, offering multiple degrees through various schools and bolstering its overall capacity to bring to its students a wide range of dynamic and diverse programs, especially at the graduate level.

From the dawn of the 20th century to the beginning of the 21st, Husson has, at its core, strived to prepare its graduates for success in life and in professional careers, by cultivating a learning discipline, regimen, and environment tailored to each student that ultimately facilitates individual growth and progress. Ushering Husson College—now Husson University—into the 21st century is, fittingly, its 21st president, Dr. Bill Beardsley, who, since 1987, has been continually drawing from Husson's rich past, while simultaneously focusing on what lies just over the horizon.

With Bill's unsurpassed vision, Husson is still—and will forever be—an institution focused on teaching rather than research—a place for imparting and acquiring knowledge that both fosters student development and equips its graduates with the educational tools to be valued civic and business leaders. Furthermore, because of Bill's unparalleled reputation and ingenuity as an innovator, Husson has also been at the forefront of developing a cutting-edge curriculum that takes into account marketplace changes, demographic shifts, and economic trends. So, it is little wonder that under Bill's vibrant and effective leadership, Husson has more than tripled its matriculation of freshman students, more than doubled its number of traditional undergraduates—when considering those attending the New England School of Communications—and has undergone a stunning expansion on its campus to accommodate new schools and programs, not to mention more alumni.

Nothing speaks more to Husson's tradition of commitment to the student—and the primacy of a hands-on education that is accessible and affordable—than a student-to-teacher ratio that is an exceptional 19 to 1, 70 faculty members dedicated only to teaching in the classroom, and tuition costs that are purposely kept from skyrocketing, and where nearly 90 percent of Husson students qualify to receive Federal, State, community, or campus-based financial aid.

Additionally, as Husson espouses a teaching emphasis emblematic of a college, it offers curriculum possibilities that integrate liberal arts and sciences, professional and technical studies, and learning outside the classroom that are indicative of its status as a university. Many schools may offer degrees in business, but at Husson, that area of study can be specialized to include not only financial management, but also hospitality management, small/family business management, and sports management—compelling and rigorous pathways of learning that can be significantly attractive to highly-motivated, professionally-centered students.

As Chair and now ranking member of the Senate Committee on Small Business and Entrepreurship, I can tell you firsthand that this approach to business education that creates greater personalization yields benefits in an increasingly competitive marketplace for employers and prospective employees alike. And those rewards extend beyond the boundaries of business classes.

For example, how many schools nationwide have a chemistry major that contains a prepharmacy track or paralegal studies or boatbuilding technology program or graduate programs in nursing, physical therapy, occupational therapy, and a graduate course of study in pharmacy being developed? And how many institutions would have responded to a medical shortage in underserved, rural areas that could not afford a doctor with the vision of producing nurse practitioners? But that is precisely what Husson did in 1981 when it partnered with Eastern Maine Medical Center to establish the Husson College/Eastern Maine Medical Center Baccalaureate School of Nursing.

Husson is continually assessing and examining ways to be of greater value both to its students and the communities Husson serves. Husson's desire to address real-world challenges by innovatively calibrating fields of discipline is in part what makes Husson stand out—and frankly unique—in the pantheon of small universities.

And just as Husson looks to meet its students more than halfway in developing their academic, individualized pursuits, Husson also endeavors to make receiving a Husson education more achievable for more Maine students with its education centers in South Portland, Presque Isle, and just recently, The Boat School in Eastport, ME, as well as Unobskey College, located in Calais, ME.

And as much as Husson provides to its students, its graduates return the favor with an allegiance and a desire to give back to their alma mater that is awe inspiring. There is a story that Bill Beardsley recounted recently in a Bangor Metro article about a young man, the first of his family to attend college and a Husson student, who is able to attend Husson because of a gift from his grandfather. But the young man came to Bill because that money was running out and to explain his situation. Dr. Beardsley knew he was a good student and a credit to the Husson community.

Between the two of them, they were determined to find a solution. Bill offered, among other items, a small loan. Together, they made it work, which is truly the Husson way, treating every student personally and as an individual, whether it is considering one's major to arriving at a payment plan in order to spur their trajectories as students and as human beings.

It is been a long time since Husson's days of preparing students for careers in commerce, teaching and telegraphy, or since it purchased a dairy farm that it converted beautifully into its present idyllic campus. And bridging the span of those years are Paul Husson, Chesley Husson's grandson, who still works at the university, and Husson graduate and legend, Clara Swan, former Husson coach, athletic director, professor, and Dean for whom the Swan Center is named.

They understand better than anyone that, while Husson may transition from a college to a university, and even though new disciplines may emerge, the Husson experience and outlook on education endures, from—to paraphrase part of the Husson mission statement—its dedication to excellence in teaching, its adherence to forging a personalized collegiate experience with

its students, its development of individual self-worth, and a curriculum which promotes clear thinking and communication skills.

The college that time and again was the defining force behind so many students and graduates in the last century will now be the university that will propel new generations into this age and beyond, and it will do so with the same bedrock foundation that places the individual education of each student first and the forward-looking focus that enables Husson students and graduates to set and reach any goal. Husson University understands, conveys, and puts into action what the English poet, Robert Browning, once so eloquently expressed in words ''a man's reach should exceed his grasp or what's a Heaven for?''●

FISHMAN REALTY GROUP

● Ms. SNOWE. Mr. President, today I recognize Fishman Realty Group of Portland, a 12 person real estate firm providing vital assistance to naval personnel transitioning from Brunswick Naval Air Station in my home State of Maine as a result of the 2005 Base Realignment and Closure round. In this effort, Fishman Realty Group manages the Army Corps of Engineers' Homeowners' Assistance Program, a crucial initiative that enables departing Navy personnel to sell their homes to the Federal government. In turn, service members and their families are able to purchase homes elsewhere without missing a step in not only their service, but also their livelihood. Given the housing crisis our country is currently facing, fostering a smooth transition for our service members is an absolute necessity.

With the Brunswick Naval air Station slated for closure in 2011, the prospect that our current precarious housing market would hinder naval families from selling their homes is certainly unsettling. For instance, service members reassigned to another base could potentially face large losses on their homes—impeding the ability of these men and women to purchase homes elsewhere and continue their duties.

That is why Fishman Realty Group has proven to be a beacon in combating markets depressed by crumbling housing prices. Through the Homeowners' Assistance Program, Fishman Realty Group is responsible for maintaining and listing the properties that the government has acquired from the departing personnel, preventing financial loss for their families, and protecting an already depressed market from further economic turmoil. As the sailors of Brunswick Naval Air Station depart, they need not fear that their homes will become financial burdens.

The effort of Fishman Realty Group is a shining example of how small businesses can make a tangible and tremendous difference during an economic downturn. Founded by Alan Fishman in 1987, Fishman Realty Group offers full service real estate brokering and property management throughout the greater Portland area. Additionally, the firm couples these offerings with local appraisers, lenders, and engineers; and facilitates transactions within and around the Portland community. In these challenging times for the housing market, it is a testament to Fishman Realty Group's business integrity that it reaches out to help military families, demonstrating that their business ethic is fundamentally grounded in putting others first.

In 21 years of service to Portland communities, Fishman Realty Group has transformed landscapes and expanded opportunities for hundreds of businesses and families. I wish Fishman Realty Group and its employees continued success, and I thank them for their commitment to the community of Brunswick Naval Air Station.●

UNITED RADIO BROADCASTERS

● Mr. VITTER. Mr. President, today I wish to briefly discuss some of the amazing efforts broadcasters have made and are currently undertaking not due to government mandates or regulation, but rather as stewards of the public airwaves and as proud members of their local communities.

We all know how my home State and our gulf neighbors were ravaged by the 2005 hurricane season. What many do not realize however is that our local broadcasters performed heroically during this traumatic time. Despite personal losses and risks to their own safety, broadcasters worked feverishly to keep their signals on the air before, during, and after these devastating storms. Their efforts in the wake of Hurricane Katrina literally proved to be a life line to many victims who were stranded by the storm.

Even when towers did go down during Katrina, the citizens of Louisiana witnessed a rare phenomenon in today's world. Radio broadcasters, who were competitors just the day before, banded together combining resources and personnel to establish the United Radio Broadcasters of New Orleans. By putting aside self interests, the United Radio Broadcasters were able to keep the citizens of Louisiana up to date with vital and even life saving information.

Today, we continue to see similar efforts benefiting communities across the country. For example, in a recent edition of Radio Guide, there is an inspiring article about steps one broadcaster is taking to improve its connection to the local community in times of need. Clear Channel has unveiled a series of emergency response teams that can be deployed to areas hit by natural disasters. Specifically, these teams operate as radio stations on wheels. Armed with mobile towers, generators, satellite/Internet connectivity, and other radio infrastructure needs, they have the ability to keep a station on the air even if the station's permanent studio or tower is knocked out of commission. Some of these emergency assets were successfully deployed in Baton Rouge during Hurricane Gustav last month. While it is my hope that these capabilities rarely, if ever, have to be used, it is comforting to know they are at the ready.

This endeavor and similar investments being made by broadcasters across the country represent a strong commitment to serving local communities. While many here in Washington want to increase the level of regulation placed upon local broadcasters, I would point out that the examples I spoke of today were not dictated from some federal agency. Rather, these efforts were voluntarily undertaken by the men and women who are committed to serving the needs of their local listeners.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS ON SEPTEMBER 29, 2008

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 2008, the Secretary of the Senate, on September 29, 2008, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker pro tempore (Mr. HOYER) had signed the following enrolled bills:

S. 2162. An act to improve the treatment and services provided by the Department of Veterans Affairs to veterans with post-traumatic stress disorder and substance use disorders, and for other purposes.

S. 2840. An act to establish a liaison with the Federal Bureau of Investigation in United States Citizenship and Immigration Services to expedite naturalization applications filed by members of the Armed Forces and to establish a deadline for processing such applications.

S. 2982. An act to amend the Runaway and Homeless Youth Act to authorize appropriations, and for other purposes.

S. 3597. An act to provide that funds allocated for community food projects for fiscal year 2008 shall remain available until September 30, 2009.

H.R. 1157. An act to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers

regarding environmental factors that may be related to the etiology of breast cancer.

H.R. 1777. An act to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws.

H.R. 5057. An act to reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes.

H.R. 5571. An act to extend for 5 years the program relating to waiver of the foreign country residence requirement with respect to international medical graduates, and for other purposes.

H.R. 6460. An act to amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern, and for other purposes

H.R. 6946. An act to make a technical correction in the NET 911 Improvement Act of 2008.

The enrolled bills were subsequently signed during the session of the Senate by the President pro tempore (Mr. BYRD).

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 2:26 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the Speaker pro tempore (Mr. HOYER) has signed the following enrolled bill:

S. 3023. An act to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.

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

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–8154. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting the report of (3) officers authorized to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–8155. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Organic Program; Amendment to the National List of Allowed and Prohibited Substances (Livestock)'' (RIN0581–AC81) received on September 30, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8156. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Apricots Grown in Designated Counties in Washington; Increased Assessment Rate'' ((Docket No. AMS–FV–08–0052)(FV08–922–1 FR)) received on September 30, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8157. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Reinstatement of the Continuing Assessment Rate'' ((Docket No. AMS–FV–08–0048)(FV08–948–2 FR)) received on September 30, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8158. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Washington; Relaxation of Handling and Import Regulations'' ((Docket No. AMS–FV–08–0036)(FV08–946–1 IFR)) received on September 30, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8159. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Encryption Simplification'' (RIN0694–AE18) received on September 30, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–8160. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''De Minimis U.S. Content in Foreign Made Items'' (RIN0694–AC17) received on September 30, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–8161. A communication from the Associate Managing Director—Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 90.20(e)(6) of the Commission's Rules'' ((FCC 08–186)(WT Docket No. 06–142)) received on September 30, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8162. A communication from the Associate Managing Director—Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Beeville, Christine, George West, and Tilden, Texas'' ((DA 08–70)(MB Docket No. 07–78)) received on September 30, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8163. A communication from the Associate Managing Director—Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations: Castle Rock, Colorado'' ((DA 08–2031)(MB Docket No. 08–106)) received on September 30, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8164. A communication from the Associate Managing Director—Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Commission's Rules Regarding Maritime Automatic Identification Systems'' ((FCC 08–208)(WT Docket No. 04–344)) received on September 30, 2008; to the Committee on Commerce, Science, and Transportation.

EC–8165. A communication from Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Wyoming Abandoned Mine Land Reclamation Plan'' ((SATS No. WY–036–FOR)(Docket ID OSM–2008–0008)) received on September 30, 2008; to the Committee on Energy and Natural Resources.

EC–8166. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''RCRA Hazardous Waste Identification of Methamphetamine Production Process By-products''; to the Committee on Environment and Public Works.

EC–8167. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Adjustment of Civil Penalties for Inflation'' (RIN3150–AI45) received on September 26, 2008; to the Committee on Environment and Public Works.

EC–8168. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Ohio; Removal of Vehicle Inspection and Maintenance Programs for Cincinnati and Dayton'' ((EPA–R05–OAR–2007–1100)(FRL–8723–9)) received on September 30, 2008; to the Committee on Environment and Public Works.

EC–8169. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Revised Format for Materials Being Incorporated by Reference for Maine'' ((ME–064–7013a)(FRL–8719–7)) received on September 30, 2008; to the Committee on Environment and Public Works.

EC–8170. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of Revised Municipal Waste Combustor State Plan for Designated Facilities and Pollutants: Indiana'' ((EPA–R05–OAR–2007–0952)(FRL–8722–8)) received on September 30, 2008; to the Committee on Environment and Public Works.

EC–8171. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program Requirements'' ((RIN2060–AO80)(FRL–8723–3)) received on September 30, 2008; to the Committee on Environment and Public Works.

EC–8172. A communication from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Aspergillus flavus NRRL 21882; Exemption from the Requirement of a Tolerance'' ((EPA–HQ–OPP–2008–0381)(FRL–8383–9)) received on September 30, 2008; to the Committee on Environment and Public Works.

EC–8173. A communication from the Chief of Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Haitian Hemispheric Opportunity Through Partnership Encouragement Acts of 2006 and 2008'' (RIN1505–AB82) received on September 26, 2008; to the Committee on Finance.

EC–8174. A communication from the Chief of Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''No-Rule Areas under Section 409A'' (Rev. Proc. 2008–61) received on September 30, 2008; to the Committee on Finance.

EC–8175. A communication from the Regulation Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant

to law, the report of a rule entitled ''Medicare Program; Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates: Final Fiscal Year 2009 Wage Indices and Payment Rates Including Implementation of Section 124 of the Medicare Improvement for Patients and Providers Act for 2008'' (RIN0938–AP15) received on September 30, 2008; to the Committee on Finance.

EC–8176. A communication from the Regulation Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program; Self-Directed Personal Assistance Services Program State Plan Option (Cash and Counseling)'' (RIN0938–AO52) received on September 30, 2008; to the Committee on Finance.

EC–8177. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''2008 National Pool'' (Rev. Proc. 2008–57) received on October 1, 2008; to the Committee on Finance.

EC–8178. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Travel Per Diem Revenue Procedure'' (Rev. Proc. 2008–59) received on October 1, 2008; to the Committee on Finance.

EC–8179. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed agreement for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Germany; to the Committee on Foreign Relations.

EC–8180. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification regarding the proposed blanket transfer of major defense equipment having an original acquisition value of more than $14,000,000 to Norway, Greece, Portugal, Spain, the Republic of Korea, Chile, Canada, New Zealand, Germany, Australia, and Japan; to the Committee on Foreign Relations.

EC–8181. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment to Turkey; to the Committee on Foreign Relations.

EC–8182. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more to Mexico; to the Committee on Foreign Relations.

EC–8183. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense services and defense articles in the amount of $50,000,000 or more to Saudi Arabia; to the Committee on Foreign Relations.

EC–8184. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification regarding the proposed transfer of major defense equipment with an original acquisition value of more than $14,000,000 to Germany; to the Committee on Foreign Relations.

EC–8185. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment with the United Kingdom; to the Committee on Foreign Relations.

EC–8186. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense services and defense articles in the amount of $50,000,000 or more to France; to the Committee on Foreign Relations.

EC–8187. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles that are firearms controlled under Category I of the United States Munitions List sold commercially under contract in the amount of $1,000,000 or more to Iraq; to the Committee on Foreign Relations.

EC–8188. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement to include the export of technical data, defense services, and defense articles in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–8189. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more to South Korea; to the Committee on Foreign Relations.

EC–8190. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more to Algeria and France; to the Committee on Foreign Relations.

EC–8191. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $100,000,000 or more to the Netherlands, United Kingdom, Luxembourg, Belgium, Sweden, Germany, France, and Spain; to the Committee on Foreign Relations.

EC–8192. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed agreement for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–8193. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $100,000,000 or more to the United Kingdom and Spain; to the Committee on Foreign Relations.

EC–8194. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement to include the export of technical data, defense services, and defense articles in the amount of $100,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–8195. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled ''Report of U.S. Citizen Expropriation Claims and Certain Other Commercial and Investment Disputes''; to the Committee on Foreign Relations.

EC–8196. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the International Traffic in Arms Regulations: Registration Fee Change'' (RIN1400-AC50) received on September 26, 2008; to the Committee on Foreign Relations.

EC–8197. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of an application for a license for the export of defense articles or defense services to be sold under a contract in the amount of $50,000,000 or more to Singapore; to the Committee on Foreign Relations.

EC–8198. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense services and defense articles in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–8199. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the International Arms Traffic in Arms Regulations: Eritrea'' (22 CFR Part 126) received on September 30, 2008; to the Committee on Foreign Relations.

EC–8200. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of major defense articles to include technical data, defense services, and defense articles in the amount of $14,000,000 or more to the United Arab Emirates; to the Committee on Foreign Relations.

EC–8201. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more to Singapore; to the Committee on Foreign Relations.

EC–8202. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act,

the certification of a proposed manufacturing license agreement to include the export of technical data, defense services, and defense articles in the amount of $100,000,000 or more to Greece; to the Committee on Foreign Relations.

EC–8203. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed retransfer of defense articles or defense services in the amount of $50,000,000 or more to Saudi Arabia; to the Committee on Foreign Relations.

EC–8204. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed agreement for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations .

EC–8205. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles regarding major defense equipment in the amount of $14,000,000 or more to Qatar; to the Committee on Foreign Relations.

EC–8206. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–8207. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended'' (22 CFR Part 41) received on September 30, 2008; to the Committee on Foreign Relations.

EC–8208. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–8209. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Japan; to the Committee on Foreign Relations.

EC–8210. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification regarding the proposed transfer of major defense equipment with an original acquisition value of more than $14,000,000 to Turkey; to the Committee on Foreign Relations.

EC–8211. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more to Mexico; to the Committee on Foreign Relations .

EC–8212. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more to Sweden; to the Committee on Foreign Relations.

EC–8213. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more to South Korea, United Kingdom, and France; to the Committee on Foreign Relations.

EC–8214. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the International Traffic in Arms Regulations: Registration Fee Change'' (RIN1400-AC50) received on September 30, 2008; to the Committee on Foreign Relations.

EC–8215. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Administrator, Office of Federal Procurement Policy, received on September 30, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–8216. A communication from the Director of the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Mine Rescue Team Equipment'' (RIN1219-AB56) received September 30, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–8217. A communication from the Director of the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Fire Extinguishers in Underground Coal Mines'' (RIN1219-AB40) received October 1, 2008; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with amendments:

H.R. 1187. To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, and for other purposes (Rept. No. 110–516).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 2148. A bill to provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service (Rept. No. 110–517).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 2838. A bill to amend chapter 1 of title 9 of United States Code with respect to arbitration (Rept. No. 110–518).

By Mr. DORGAN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1779. A bill to establish a program for tribal colleges and universities within the Department of Health and Human Services and to amend the Native American Programs Act of 1974 to authorize the provision of grants and cooperative agreements to tribal colleges and universities, and for other purposes (Rept. No. 110–519).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 404. A bill to require the establishment of customer service standards for Federal agencies.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 547. A bill to establish a Deputy Secretary of Homeland Security for Management, and for other purposes.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 967. A bill to amend chapter 41 of title 5, United States Code, to provide for the establishment and authorization of funding for certain training programs for supervisors of Federal employees.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

S. 1000. A bill to enhance the Federal Telework Program.

S. 1924. A bill 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.

S. 2583. A bill 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. 3384. A bill to amend section 11317 of title 40, United States Code, to require greater accountability for cost overruns on Federal IT investment projects.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 3474. A bill to amend title 44, United States Code, to enhance information security of the Federal Government, and for other purposes.

S. 3662. An original bill to establish the Controlled Unclassified Information Office, to require policies and procedures for the designation, marking, safeguarding, and dissemination of controlled unclassified information, and for other purposes.

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. SCHUMER:

S. 3659. A bill to amend the Internal Revenue Code of 1986 to provide for the disclosure of schedule M-3 to the Securities and Exchange Commission, to provide for the public disclosure of certain information on such schedule, to provide penalties for failure to file such schedule or inaccurately reporting information on such schedule, and for other purposes; to the Committee on Finance.

By Ms. KLOBUCHAR (for herself and Mr. NELSON of Florida):

S. 3660. A bill to amend the Consumer Product Safety Act to require residential carbon monoxide detectors to meet the applicable ANSI/UL standard by treating that

standard as a consumer product safety rule, to encourage States to require the installation of such detectors in homes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. VOINOVICH (for himself, Mr. DOMENICI, Ms. MURKOWSKI, Mrs. DOLE, and Mr. ALEXANDER):

S. 3661. A bill to amend the Atomic Energy Act of 1954 to establish a United States Nuclear Fuel Management Corporation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN:

S. 3662. An original bill to establish the Controlled Unclassified Information Office, to require policies and procedures for the designation , marking, safeguarding, and dissemination of controlled unclassified information, and for other purposes; from the Committee on Homeland Security and Governmental Affairs; placed on the calendar.

By Mr. ROCKEFELLER:

S. 3663. A bill to require the Federal Communications Commission to provide for a short-term extension of the analog television broadcasting authority so that essential public safety announcements and digital television transition information may be provided for a short time during the transition to digital television broadcasting; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 3664. A bill to provide for the extension of a certain hydroelectric project located in the State of West Virginia; to the Committee on Energy and Natural Resources.

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

S. 3665. A bill to amend chapter 63 of title 5, United States Code, to modify the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges; to the Committee on Homeland Security and Governmental Affairs.

By Ms. KLOBUCHAR (for herself and Mr. HATCH):

S. 3666. A bill to require certain metal recyclers to keep records of their transactions in order to deter individuals and enterprises engaged in theft and interstate fencing of stolen copper, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself and Mr. VITTER):

S. 3667. A bill to clarify the application of section 14501(d) of title 49, United States Code, to prevent the imposition of unreasonable transportation terminal fees; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN:

S. 3668. A bill to create a grant program for collaboration programs that ensure coordination among criminal justice agencies, adult protective services agencies, victim assistance programs, and other agencies or organizations providing services to individuals with disabilities in the investigation and response to abuse of or crimes committed against such individuals; to the Committee on the Judiciary.

By Mr. VOINOVICH:

S. 3669. A bill to reduce gas prices by promoting domestic energy production, alternative energy, and conservation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BUNNING:

S. 3670. A bill to regulate certain State and local taxation of electronic commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. FEINSTEIN:

S. 3671. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to develop and impose aggregate position limits on certain large over-the-counter transactions and classes of large over-the-counter transactions; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 3672. A bill to amend title 23, United States Code, to improve economic opportunity and development in rural States through highway investment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 3673. A bill to amend title 23, United States Code, to improve highway transportation in the Untied States, including rural and metropolitan areas; to the Committee on Environment and Public Works.

By Mrs. CLINTON:

S. 3674. A bill to amend the Public Health Service Act to establish a Wellness Trust; to the Committee on Health, Education, Labor, and Pensions .

By Mr. KERRY:

S. 3675. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain excessive employee remuneration, and for other purposes; to the Committee on Finance.

By Mr. SANDERS:

S. 3676. A bill to support the recruitment and retention of volunteer firefighters and emergency medical services personnel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 3677. A bill to establish a Special Joint Task Force on Financial Crimes; to the Committee on the Judiciary.

By Mrs. BOXER:

S. 3678. A bill to promote freedom, human rights, and the rule of law in Vietnam; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Ms. LANDRIEU:

S. Res. 701. A resolution honoring the life of Michael P. Smith; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

S. Con. Res. 105. A concurrent resolution directing the Clerk of the House of Representatives to correct the enrollment of H.R. 6063; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER:

S. 3663. A bill to require the Federal Communications Commission to provide for a short-term extension of the analog television broadcasting authority so that essential public safety announcements and digital television transition information may be provided for a short time during the transition to digital television broadcasting; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Short-term Analog Flash and Emergency Readiness Act. This simple piece of legislation will help make sure those consumers who fail to make the transition to Digital Television, DTV, by February 17, 2009 are not left without access to emergency information. This bill will also allow those consumers to understand what steps they need to take in order to restore their television signals.

I voted against the Deficit Reduction Act of 2005, which directs that on February 18, 2009, over-the-air full-power television broadcasts, which are currently provided by television stations in both analog and digital formats, will become digital only. I voted against this bill in both the Commerce Committee and during its consideration by the full Senate because it failed to address the core policy questions of the implementation of the transition to DTV. Specifically, it did not adequately address the minimization of consumer disruption and the establishment a national interoperable communications network with the analog spectrum that broadcasters were vacating. I was one of only three ''No'' votes in Committee.

When the Commerce Committee passed its portion of the Deficit Reduction Act of 2005, the then-Republican majority on the Committee did not want to spend significant resources on the DTV transition to minimize consumer disruption. Nor, did they want to spend any resources on building a national interoperable public safety communications network. The only thing that mattered to Republicans in 2005 was generating sufficient money to meet our budget reconciliation instructions. Because the Committee failed to set forth coherent policy objectives in 2005, consumers and our Nation's first responders will bear the brunt of that failure.

I believe that many have forgotten why we moved forward with the DTV transition. It was to free up much needed spectrum to create a national interoperable public safety communications network. I know the people of West Virginia strongly support their first responders and would have gladly accepted that transition to make sure that in times of crisis our local police, fire, and emergency response teams could communicate. Instead, the DTV transition has been sold as nothing more than having a better television picture. That is unfortunate because we are making this transition to address a critical public safety need—one identified by the 9/11 Commission.

Unfortunately, the Federal Communications Commission still has not devised a plan to establish this national public safety communications network. The spectrum has been auctioned and the big wireless companies have secured their futures. But our nation's first responders, which should have been this Administration's first priority, are not much closer to achieving interoperable communications.

As my good friend FCC Commissioner Michael Copps has stated, ''the question of public safety is . . . the first obligation of the public servant.'' In a

more perfect world, our nation's first responders would already have access to an interoperable and fully-funded broadband network that makes use of dedicated public safety spectrum. We are still a long way from developing this network for public safety, and that is something of which we all should be ashamed. If we fail to establish this network quickly and in a manner that works for the public safety community, I am afraid we may have lost the opportunity forever.

This Administration has failed consumers as well. In 2005, Congress left almost all of the implementation of the transition to the private sector—broadcasters, cable and satellite companies, and consumer electronics retailers. Although well-heeled industries state that they have devoted hundreds of millions of dollars to making Americans aware of the DTV transition, I am not sure that it is going to minimize the disruption.

The recent DTV transition test market of Wilmington, North Carolina demonstrated that, even with extraordinary levels of outreach, some did not know about the DTV transition. I would note that Wilmington received far more attention than any market in West Virginia is likely to receive, or any other part of the country for that matter.

Even if a consumer was aware of the DTV transition, several thousand people called into the FCC for assistance—they could not set up their box, they could not receive certain digital signals, or their antennae needed adjustment, to name just a few of the problems. Consumers, especially the elderly and those with limited English proficiency, are going to need help in managing the transition.

Among its many shortcomings, the DTV Act did not require the Federal agencies charged with administering the transition to develop a program to assist consumers with attaching the converter boxes to their sets. By contrast, in the United Kingdom, there is an assistance program, known as ''Help Scheme,'' that will assist a many as 7 million households with selecting, installing, and using DTV equipment.

Unfortunately, in the remaining time before the transition, we are not going to be able to replicate the United Kingdom's consumer assistance plan. But, we may be able to take small steps that can help consumers.

My legislation is one such step. It simply allows the FCC to permit analog television signals to be broadcast for thirty days after the transition so that, at a minimum, one station in a market can send a signal explaining what has happened to a consumer's television signal and how to restore that signal. Far more importantly, it will allow the broadcast of emergency information so that people are aware of impending storms, floods, or other emergencies.

This was done in the Wilmington television market and people found it to be beneficial. A hurricane almost hit Wilmington around the time of its DTV transition. Because it was a test market, the government would have had the luxury of postponing the transition if a hurricane struck the region. On February 18, 2009, Americans left in the dark will not have that luxury. They would not know if a Nor'easter is on its way, or catastrophic flooding is occurring, or if a terrorist has once again truck our Nation.

We cannot let that happen. We must pass this legislation before we adjourn for the year.

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

S. 3665. A bill to amend chapter 63 of title 5, United States Code, to modify the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I rise to introduce a bill to enhance the annual leave for Administrative Law Judges, Contract Board of Appeals Judges, and Immigration Law Judges in the Federal Government. I want to thank Senator PRYOR for his support of this bill.

Prior to 2004 Federal employees with less than three years of Federal service accrued annual leave at a rate of 4 hours per biweekly pay period. Employees with 3 to 15 years of service accrued leave at a rate of 6 hours per pay period, and those with over 15 years of service accrued leave at a rate of 8 hours.

As part of the Federal Workforce Flexibility Act of 2004, Congress changed the leave accrual rate for new mid-career employees, allowing agency heads to deem a period of qualified non-federal career experience for an individual an equal period of service performed by Federal employee. In addition, the act stated that all senior executives and other senior level employees shall accrue annual leave at the maximum rate of 8 hours for each biweekly pay period.

In the past, ALJs, CBAJs, IJs and members of the Senior Executive Service have been treated similarly. However, the Office of Personnel Management is now taking the position that these judges should not receive the same leave benefits as members of the SES since they are not under a pay for performance system. In addition to my general concerns over pay for performance, I believe it is inappropriate for ALJs, CBAJs, and IJs to be in such a system as it could threaten their independence. In fact, ALJs and CBAJs are not allowed to receive bonus awards for this very reason.

Given the shortage of ALJs to adjudicate social security benefits and the need to recruit more immigrations judges, I believe that Congress should act to provide these judges with enhanced leave benefits.

I am pleased that this bill has the support of the Association of Administrative Law Judges, the International Federation of Professional and Technical Engineers, the National Association of Immigration Judges, and the Senior Executives Association.

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. 3665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCRUAL RATE OF ANNUAL LEAVE FOR ADMINISTRATIVE LAW JUDGES, CONTRACT APPEALS BOARD MEMBERS, AND IMMIGRATION JUDGES.

(a) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by striking subsection (f) and inserting the following:

''(f) Notwithstanding any other provision of this section, the rate of accrual of annual leave under subsection (a) shall be 1 day for each full biweekly pay period in the case of any employee who—

''(1) holds a position which is subject to—

''(A) section 5372, 5372a, 5376, or 5383; or

''(B) a pay system equivalent to a pay system to which any provision under paragraph (1) applies, as determined by the Office of Personnel Management; or

''(2) is an immigration judge as defined under section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the first day of the first applicable pay period beginning on or after 30 days after the date of enactment of this Act.

By Ms. KLOBUCHAR (for herself and Mr. HATCH):

S. 3666. A bill to require certain metal recyclers to keep records of their transactions in order to deter individuals and enterprises engaged in theft and interstate fencing of stolen copper, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HATCH. Mr. President, I rise today to introduce with my friend from Minnesota, Senator AMY KLOBUCHAR, the Copper Theft Prevention Act of 2008. I am pleased to be working with Senator KLOBUCHAR on this initiative to curb copper theft, which is on the rise in our country and around the world.

We are living in tough economic times where the value of precious metals is at an all time high. Due to worldwide economic growth, particularly in fast-growing China, copper is worth between $3 to $4 a pound. Copper is used in the manufacturing of consumer goods, and the construction, electric utility, and telecommunications industries. Because of the metal's high ductility, malleability, and electrical conductivity, copper has become the benchmark for all types of wiring.

Stolen copper can easily be turned into cash and a very small percentage of people who steal copper are actually caught. It's no wonder why thieves are stealing copper in every form—costing Americans hundreds of thousands of dollars in theft, damage, and threats to safety.

To steal a large amount of copper quickly and safely, thieves target spools on the back of trucks and storage yards. This was evidenced several months ago in Ogden, Utah, when a thief stole a 1,700-pound load of copper from a metal yard apparently using the metal company's Caterpillar excavator to load it into his truck. I am aware of another occurrence in Utah County where a man was arrested for repeatedly stealing copper wiring nearly every week from a construction company. The thief would load his truck with the wire, then sell it anywhere between $800 and $1,200. The actual value of the wire is more than $18,000.

Some of the most dangerous places to steal copper wire are from substations and from utility poles. According to an April 2007 report published by the U.S. Department of Energy entitled, ''An Assessment of Copper Wire Thefts from Electric Utilities,'' thefts at substations and utility poles are

related to the large number of methamphetamine users who are stealing copper wire. Medical studies have shown that this drug reduces the ability of the brain to assess risk before taking action; hence users of this drug are not concerned about the risks involved in stealing wire from high voltage substations, utility wires, and transformers. The people who risk their life to steal copper wire from a substation typically only receive a few hundred dollars from the sale of the stolen wire, sufficient for the next drug fix. Thefts from storage sites and trucks are most likely done by professional criminal and not the drug abusers. Storage sites and trucks are also more difficult to break into than an unguarded substation or utility pole.

We must cut off the incentives that fuel such blatant criminal activity, and I believe the proposed legislation goes a long way in accomplishing this goal. Under the proposed bill, scrap metal dealers would be: required to keep records of copper transactions, including the name and address of the seller, the date of the transaction, the quantity and description of the copper being purchased, an identifying number from a driver's license or other government-issued identification and, where possible, the make, model and tag number of the vehicle used to deliver the copper to the scrap dealer.

Required to maintain these records for a minimum of 1 year from the date of the transaction and make them available to law enforcement agencies for use in tracking down and prosecuting copper theft crimes.

Required to perform transactions of more than $250 by check, rather than cash.

Subject to civil penalties of up to $10,000 for failing to document a transaction or engaging in cash transactions of more than $250.

Let me be clear—the bill does not preempt States from enacting their own laws. Indeed, the proposed legislation provides a baseline from which all States must operate.

On this point, Utah law currently requires anyone selling certain metals to provide identification before the sale is final. Some in Utah would like to tighten the law to include additional regulation and legislators would not be precluded from doing so. Indeed, States can enact more robust legislation as necessary.

I am committed to moving this legislation forward and hope that my colleagues will join our effort to refine and enact this important bill as it moves through the legislative process.

By Mr. BIDEN:

S. 3668. A bill to create a grant program for collaboration programs that ensure coordination among criminal justice agencies, adult protective services agencies, victim assistance programs, and other agencies or organizations providing services to individuals with disabilities in the investigation and response to abuse of or crimes committed against such individuals; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce the Crime Victims with Disabilities Act of 2008.

Adults with disabilities experience violence or abuse at least twice as often as people without disabilities, and adults with developmental disabilities are at risk of being physically or sexually assaulted at rates four to ten times greater than other adults. In fact, an estimated 5 million crimes are committed annually against persons with developmental disabilities and an estimated 70 percent of these crimes are not reported.

Adding insult to injury, individuals with disabilities suffer additional ''victimization'' within the justice system, due to lack of physical, programmatic, and communications accommodations needed for equal access.

The Crime Victims with Disabilities Act takes a commonsense approach to fixing this problem by providing funds to increase the investigation, prosecution, and prevention of crimes against persons with disabilities and by facilitating collaboration among criminal justice agencies and other agencies and organizations that provide services to people with disabilities to improve services to those who are victimized.

Collaboration among criminal justice agencies and agencies and organizations that provide services to individuals with disabilities is necessary to ensure that crimes are reported and investigated properly, prosecutors are properly trained, appropriate accommodations are provided to disabled victims, and communication between criminal justice agencies and organizations that provide services to individuals with disabilities is effective.

The bill funds a modest grant program that would allow States, units of local government, and Indian Tribes to develop programs to facilitate collaboration among criminal justice agencies and agencies and organizations that provide services to individuals with disabilities for these purposes. The bill authorizes $50,000 for each planning grant and $300,000 for each implementation grant for a total authorization for the grant program of $10 million for the first year.

The bill also authorizes $4 million over 4 years to fund research to assist the Attorney General in collecting valid, reliable national data relating to crimes against individuals with developmental and related disabilities for the National Crime Victims Survey conducted by the Bureau of Justice Statistics of the Department of Justice as required by the Crime Victims with Disabilities Awareness Act. Currently, the Bureau of Justice Statistics does not specifically collect this data, leaving many crimes against persons with disabilities unreported in the survey and making it difficult to address this problem adequately.

The Association of University Centers on Disabilities, the National Center for Victims of Crime, the National Council on Independent Living, the National Disability Rights Network, the National Child Abuse Coalition, Easter Seals, the Arc of the United States, and United Cerebral Palsy have endorsed the bill. I hope my colleagues will join me in supporting this bill which will protect some of the most vulnerable members of our society—individuals with disabilities who are victims of crime.

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. 3668

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 ''Crime Victims with Disabilities Act of 2008''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Adults with disabilities experience violence or abuse at least twice as often as people without disabilities, and adults with developmental disabilities are at risk of being physically or sexually assaulted at rates four to ten times greater than other adults.

(2) Individuals with disabilities suffer from additional ''victimization'' within the justice system, due to lack of physical, programmatic, and communications accommodations needed for equal access.

(3) Women with disabilities are more likely to be victimized, to experience more severe and prolonged violence, and to suffer more serious and chronic effects from that violence, than women without such disabilities.

(4) Sixty-eight to 83 percent of women with developmental disabilities will be sexually assaulted in their lifetime.

(5) An estimated 5,000,000 crimes are committed against individuals with developmental disabilities annually.

(6) Over 70 percent of crimes committed against individuals with developmental disabilities are not reported.

(7) Studies in the United States, Canada, Australia, and Great Britain consistently show that victims with developmental disabilities suffer repeated victimization because so few of the crimes against them are reported.

(8) The National Crime Victims Survey conducted annually by the Bureau of Justice

Statistics of the Department of Justice, does not specifically collect data relating to crimes against individuals with developmental disabilities, nor do they use disability as a demographic variable as they use other important demographic variables, such as gender, age, and racial and ethnic membership.

SEC. 3. PURPOSE.

(a) IN GENERAL.—The purpose of this Act is to increase the awareness, investigation, prosecution, and prevention of crimes against individuals with a disability, including developmental disabilities, and improve services to those who are victimized, by facilitating collaboration among the criminal justice system and a range of agencies and other organizations that provide services to individuals with disabilities.

(b) NEED FOR COLLABORATION.—Collaboration among the criminal justice system and agencies and other organizations that provide services to individuals with disabilities is needed to—

(1) protect individuals with disabilities by ensuring that crimes are reported, and that reported crimes are actively investigated by both law enforcement agencies and agencies and other organizations that provide services to individuals with disabilities;

(2) provide prosecutors and victim assistance organizations with adequate training to ensure that crimes against individuals with disabilities are appropriately and effectively addressed in court;

(3) identify and ensure that appropriate reasonable accommodations are provided to individuals with disabilities in a safe and conducive environment, allowing crimes to be reported accurately to law enforcement agencies; and

(4) promote communication among criminal justice agencies, and agencies and other organizations that provide services to individuals with disabilities, including Victim Assistance Organizations, to ensure that the needs of crime victims with disabilities are met.

SEC. 4. DEPARTMENT OF JUSTICE CRIME VICTIMS WITH DISABILITIES COLLABORATION PROGRAM.

The Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART JJ—GRANTS TO RESPOND TO CRIMES AGAINST INDIVIDUALS WITH DISABILITIES

"SEC. 3001. CRIME VICTIMS WITH DISABILITIES COLLABORATION PROGRAM GRANTS.

''(a) DEFINITIONS.—In this section:

''(1) APPLICANT.—The term 'applicant' means a State, unit of local government, Indian tribe, or tribal organization that applies for a grant under this section.

''(2) COLLABORATION PROGRAM.—The term 'collaboration program' means a program to ensure coordination between or among a criminal justice agency, an adult protective services agency, a victim assistance organization, and an agency or other organization that provides services to individuals with disabilities, including but not limited to individuals with developmental disabilities, to address crimes committed against individuals with disabilities and to provide services to individuals with disabilities who are victims of crimes.

''(3) CRIMINAL JUSTICE AGENCY.—The term 'criminal justice agency' means an agency of a State, unit of local government, Indian tribe, or tribal organization that is responsible for detection, investigation, arrest, enforcement, adjudication, or incarceration relating to the violation of the criminal laws of that State, unit of local government, Indian tribe, or tribal organization, or an agency contracted to provide such services.

''(4) ADULT PROTECTIVE SERVICES AGENCY.—The term 'adult protective services agency' means an agency that provides adult protective services to adults with disabilities, such as the protection and advocacy systems established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043), including—

''(A) receiving reports of abuse, neglect, or exploitation;

''(B) investigating the reports described in subparagraph (A);

''(C) case planning, monitoring, evaluation, and other casework and services; and

''(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services for adults with disabilities.

''(5) DAY PROGRAM.—The term 'day program' means a government or privately funded program that provides care, supervision, social opportunities, or jobs to individuals with disabilities.

''(6) IMPLEMENTATION GRANT.—The term 'implementation grant' means a grant under subsection (e).

''(7) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means individuals—

''(A) 18 years of age or older; and

''(B) who have a developmental, cognitive, physical, or other disability that results in substantial functional limitations in 1 or more of the following areas of major life activity:

''(i) Self-care.

''(ii) Receptive and expressive language.

''(iii) Learning.

''(iv) Mobility.

''(v) Self-direction.

''(vi) Capacity for independent living.

''(vii) Economic self-sufficiency.

''(viii) Cognitive functioning.

''(ix) Emotional adjustment.

''(8) PLANNING GRANT.—The term 'planning grant' means a grant under subsection (f).

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

''(10) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State.

''(b) AUTHORIZATION.—In consultation with the Secretary, the Attorney General may make grants to applicants to prepare a comprehensive plan for or to implement a collaboration program that provides for—

''(1) the investigation and remediation of instances of abuse of or crimes committed against individuals with disabilities; or

''(2) the provision of services to individuals with disabilities who are the victims of a crime or abuse.

''(c) USE OF FUNDS.—A grant under this section shall be used for a collaborative program that—

''(1) receives reports of abuse of individuals with disabilities or crimes committed against such individuals;

''(2) investigates and evaluates reports of abuse of or crimes committed against individuals with disabilities;

''(3) visits the homes or other locations of abuse, and, if applicable, the day programs of individuals with disabilities who have been victims of abuse or a crime for purposes of, among other things, assessing the scene of the abuse and evaluating the condition and needs of the victim;

''(4) identifies the individuals responsible for the abuse of or crimes committed against individuals with disabilities;

''(5) remedies issues identified during an investigation described in paragraph (2);

''(6) prosecutes the perpetrator, where appropriate, of any crime identified during an investigation described in paragraph (2);

''(7) provides services to and enforces statutory rights of individuals with disabilities who are the victims of a crime; and

''(8) develops curricula and provides interdisciplinary training for prosecutors, criminal justice agencies, protective service agencies, victims assistance agencies, educators, community based providers and health, mental health, and allied health professionals in the area of disabilities, including developmental disabilities.

''(d) APPLICATIONS.—

''(1) IN GENERAL.—To receive a planning grant or an implementation grant, an applicant shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General, in consultation with the Secretary, may reasonably require, in addition to the information required by subsection (e)(1) or (f)(1), respectively.

''(2) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—

''(A) IN GENERAL.—The Attorney General, in consultation with the Secretary, shall develop a procedure allowing an applicant to submit a single application requesting both a planning grant and an implementation grant.

''(B) CONDITIONAL GRANT.—The award of an implementation grant to an applicant submitting an application under subparagraph (A) shall be conditioned on successful completion of the activities funded under the planning grant, if applicable.

''(e) PLANNING GRANTS.—

''(1) APPLICATIONS.—An application for a planning grant shall include, at a minimum—

''(A) a budget;

''(B) a budget justification;

''(C) a description of the outcome measures that will be used to measure the effectiveness of the program;

''(D) a schedule for completing the activities proposed in the application;

''(E) a description of the personnel necessary to complete activities proposed in the application; and

''(F) provide assurances that program activities and locations are and will be in compliance with section 504 of the Rehabilitation Act of 1973 throughout the grant period.

''(2) PERIOD OF GRANT.—A planning grant shall be made for a period of 1 year, beginning on the first day of the month in which the planning grant is made.

''(3) AMOUNT.—The amount of planning grant shall not exceed $50,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

''(4) LIMIT ON NUMBER.—The Attorney General, in consultation with the Secretary, shall not make more than 1 such planning grant to any State, unit of local government, Indian tribe, or tribal organization.

''(f) IMPLEMENTATION GRANTS.—

''(1) IMPLEMENTATION GRANT APPLICATIONS.—An application for an implementation grant shall include the following:

''(A) COLLABORATION.—An application for an implementation grant shall—

''(i) identify not fewer than 1 criminal justice enforcement agency or adult protective services organization and not fewer than 1 agency, crime victim assistance program, or other organization that provides services to individuals with disabilities, such as the protection and advocacy systems established under section 143 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15043), that will participate in the collaborative program; and

''(ii) describe the responsibilities of each participating agency or organization, including how each agency or organization will use grant funds to facilitate improved responses to reports of abuse and crimes committed against individuals with disabilities.

''(B) GUIDELINES.—An application for an implementation grant shall describe the guidelines that will be developed for personnel of a criminal justice agency, adult protective services organization, crime victim assistance program, and agencies or other organizations responsible for services provided to individuals with disabilities to carry out the goals of the collaborative program.

''(C) FINANCIAL.—An application for an implementation grant shall—

''(i) explain why the applicant is unable to fund the collaboration program adequately without Federal funds;

''(ii) specify how the Federal funds provided will be used to supplement, and not supplant, the funding that would otherwise be available from the State, unit of local government, Indian tribe, or tribal organization; and

''(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of the grant under this section.

''(D) OUTCOMES.—An application for an implementation grant shall—

''(i) identify the methodology and outcome measures, as required by the Attorney General, in consultation with the Secretary, for evaluating the effectiveness of the collaboration program, which may include—

''(I) the number and type of agencies participating in the collaboration;

''(II) any trends in the number and type of cases referred for multidisciplinary case review;

''(III) any trends in the timeliness of law enforcement review of reported cases of violence against individuals with a disability; and

''(IV) the number of persons receiving training by type of agency;

''(ii) describe the mechanisms of any existing system to capture data necessary to evaluate the effectiveness of the collaboration program, consistent with the methodology and outcome measures described in clause (i) and including, where possible, data regarding—

''(I) the number of cases referred by the adult protective services agency, or other relevant agency, to law enforcement for review;

''(II) the number of charges filed and percentage of cases with charges filed as a result of such referrals;

''(III) the period of time between reports of violence against individuals with disabilities and law enforcement review; and

''(IV) the number of cases resulting in criminal prosecution, and the result of each such prosecution; and

''(iii) include an agreement from any participating or affected agency or organization to provide the data described in clause (ii).

''(E) FORM OF DATA.—The Attorney General, in consultation with the Secretary, shall promulgate and supply a common electronic reporting form or other standardized mechanism for reporting of data required under this section.

''(F) COLLABORATION SET ASIDE.—Not less than 5 percent and not more than 10 percent of the funds provided under an implementation grant shall be set aside to procure technical assistance from any recognized State model program or from a recognized national organization, as determined by the Attorney General (in consultation with the Secretary), including the National District Attorneys Association and the National Adult Protective Services Association.

''(G) OTHER PROGRAMS.—An applicant for an implementation grant shall describe the relationship of the collaboration program to any other program of a criminal justice agency or other agencies or organizations providing services to individuals with disabilities of the State, unit of local government, Indian tribe, or tribal organization applying for an implementation grant.

''(2) PERIOD OF GRANT.—

''(A) IN GENERAL.—An implementation grant shall be made for a period of 2 years, beginning on the first day of the month in which the implementation grant is made.

''(B) RENEWAL.—An implementation grant may be renewed for 1 additional period of 2 years, if the applicant submits to the Attorney General and the Secretary a detailed explanation of why additional funds are necessary.

''(3) AMOUNT.—An implementation grant shall not exceed $300,000.

''(g) EVALUATION OF PROGRAM EFFICACY.—

''(1) ESTABLISHMENT.—The Attorney General, in consultation with the Secretary, shall establish a national center to evaluate the overall effectiveness of the collaboration programs funded under this section.

''(2) RESPONSIBILITIES.—The national center established under paragraph (1) shall—

''(A) analyze information and data supplied by grantees under this section; and

''(B) submit an annual report to the Attorney General and the Secretary that evaluates the number and rate of change of reporting, investigation, and prosecution of charges of a crime or abuse against individuals with disabilities.

''(3) AUTHORIZATION.—The Attorney General may use not more than $500,000 of amounts made available under subsection (h) to carry out this subsection.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

''(1) $10,000,000 for fiscal year 2009; and

''(2) such sums as are necessary for each of fiscal years 2010 through 2015.''.

SEC. 5. RESEARCH GRANT AND REPORT.

(a) IN GENERAL.—The purpose of this section is to provide for research to assist the Attorney General in collecting valid, reliable national data relating to crimes against individuals with developmental and related disabilities for the National Crime Victims Survey conducted by the Bureau of Justice Statistics of the Department of Justice as required by the Crime Victims with Disabilities Awareness Act.

(b) NATIONAL INTERDISCIPLINARY ADVISORY COUNCIL.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall establish a national interdisciplinary advisory council (referred to in this section as the ''advisory council''), that includes individuals with disabilities, which shall provide input into the methodologies used to collect valid, reliable national data on crime victims with developmental and related disabilities, participate in reviewing the data collected through the research grant program, and assist in writing the final report.

(2) RECOMMENDED METHODOLOGY.—Not later than 6 months after the establishment of the advisory council, the advisory council shall provide to the Secretary of Health and Human Services its recommended methodology for collecting incidence data on violence against people with developmental and related disabilities.

(c) RESEARCH GRANT PROGRAM.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall—

(1) review the methodology developed by the advisory council related to collecting incidence data on violence against people with developmental and related disabilities; and

(2) based on such review, shall award grants in accordance with this section to eligible recipients, to collect valid, reliable national data on crime victims with developmental and related disabilities that can be validly compared to data from the National Crime Victims Survey.

(d) REPORT.—Not later than 12 months after the Secretary of Health and Human Services awards the research grants under subsection (c), the advisory council shall review the data eligible recipients of the grants collected and write a report to be presented to the Secretary of Health and Human Services, the Attorney General, and the Bureau of Justice Statistics.

(e) DEFINITIONS.—

(1) ELIGIBLE RECIPIENT.—The term ''eligible recipient'' means—

(A) a State agency;

(B) a private, nonprofit organization;

(C) a University Center for Excellence in Developmental Disabilities; or

(D) any public entity that has a demonstrated ability to—

(i) collaborate with criminal justice, child welfare, and other agencies and organizations that provide services to individuals with disabilities, including victim assistance and violence prevention organizations, to ensure that incidence data can be aggregated to accurately show the incidence of abuse of individuals with disabilities nationally; and

(ii) conduct research and collect data to measure the extent of the problem of crimes against individuals with developmental and related disabilities, including—

(I) understanding the nature and extent of crimes against individuals with developmental and related disabilities, including domestic violence and all types of abuse;

(II) describing the manner in which the justice system responds to crimes against individuals with developmental and related disabilities; and

(III) identifying programs, policies, or laws that hold promises for making the justice system more responsive to crimes against individuals with developmental and related disabilities.

(2) DEVELOPMENTAL DISABILITIES.—The term ''developmental disabilities'' has the meaning given that term in section 102(8) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002(8)).

(3) RELATED DISABILITIES.—The term ''related disabilities'' means autism spectrum disorders, cerebral palsy, spina bifida, epilepsy, traumatic brain injury, or other lifelong disabilities that are acquired prior to the age of 21.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2009 through 2012.

By Mr. VOINOVICH:

S. 3669. A bill to reduce gas prices by promoting domestic energy production, alternative energy, and conservation, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation, the Harmonizing America's Energy, Economy, Environment, and National Security Act, that I believe can lead our Nation out of the current energy crisis.

Much of the Nation's attention has understandably been focused on the financial turmoil taking place on Wall Street. Since the very beginning, I have been hard at work in addressing the financial crisis and I will be supporting the economic stabilization bill when the Senate votes tonight.

But I will vote with a heavy heart, for I have spent my entire career focusing on eliminating debt at the local, State and Federal level. While deciding to vote for a package of this magnitude feels like being punched in the gut, the thought of what would happen to average Americans if we did nothing is much more painful. I am, however, very pleased to see that any profit we may make off this deal will be used to pay down the national debt.

This is affecting not only Wall Street but Main Street and my street. Ohioans depend on credit to buy a home, drive to work and send their children to school. If this doesn't pass, the possible ramifications are staggering. Imagine if you can, businesses laying off staff or closing completely because they can't make payroll; retirement funds that have already taken a dramatic hit being reduced to nothing; parents unable to get a loan to pay for child's college tuition; families unable to get credit for a car or a house; cities unable to float bonds to build hospitals or schools; and home prices continuing to plummet.

We must act Mr. President. We must set aside our differences and our ideologies and do what is right. But our work cannot stop here. We must make a full-court press to stabilize the housing market and secure our energy supplies. While we have been debating and acting on the financial crisis, our energy crisis has not only continued, but in many ways grown worse. It remains an issue that needs to be addressed sooner rather than later, and if our economy is to quickly recover, a comprehensive energy policy will need to be part of the equation.

I have heard loud and clear from thousands of Ohioans how this energy crisis is directly affecting them and their loved ones. They are expecting that we work together in bipartisan fashion to craft legislation that will address our Nation's long-term energy requirements.

Take for example, the severe fuel supply disruption created by our shortsighted offshore drilling policy and hurricanes Ike and Gustav. Both hurricanes followed paths that paved straight through the heart of our Nation's offshore oil production and home to the bulk of our refining capacity. Due to the frequency of gulf hurricanes, many oil experts have pointed to this as a reason we need to open additional areas of the Outer Continental Shelf outside of the Gulf of Mexico. With 25 percent of our oil production currently taking place within the Gulf of Mexico, gulf hurricanes frequently lead to wild price spikes in the gasoline market as oil rigs and refineries are taken off line to avoid damage and loss of life.

According to the Energy Information Agency, Ike and Gustav lead to a 25 percent drop in our domestic oil production compared to this time last year, from 5.1 billion barrels a day to 3.8 billion barrels per day. The loss in refining capacity cut our gasoline inventories to levels we have not seen since 1967, resulting in widespread fuel shortages that left many in the Southeast driving from gas station to gas station, desperate to find fuel for their cars. Much of the reason why these supply disruptions have not spread across the country is that we have reached out and imported large quantities of gasoline from overseas. Some of which has undoubtedly come from countries like Venezuela, that do not have our best interests at heart.

This situation is cause for concern in its own right, but is also underscored by the current financial crisis and the fact that this is no longer a question about the price of oil. Energy security is a matter of national security.

We have clearly ignored our financial situation for far too long. The national debt stands at $9.6 trillion, almost double the $5.4 trillion debt that existed when the senator came to the Senate in 1999. By the end of 2009, the national debt is expected to have grown to $10.5 trillion. The Congressional Budget Office said the Federal Government will finish the fiscal year with a near-record deficit of $407 billion. These numbers do not include borrowing from the Social Security Trust Fund which would put the overall number close to $600 billion and $700 billion by next year.

We cannot overlook our ballooning national debt. Today, 51 percent of the privately-owned national debt is held by foreign creditors—mostly foreign central banks. Foreign creditors provided more than 70 percent of the funds that the U.S. has borrowed since 2001, according to the Department of Treasury. And who are these creditors?

According to the Treasury Department, the three largest foreign holders of U.S. debt are China, Japan, and OPEC Nations.

This is insane and it has to stop. We cannot afford to allow the countries that control our oil and our debt to control our future.

Americans are hurting from our addiction to oil, I'm not sure they fully realize the extent our national security, and indeed our very way of life, is threatened by our reliance on foreign oil.

Every year we send billions of dollars overseas for oil to pad the coffers of many Nations that wish our demise. In fact, in 2007, we spent more than $327 billion to import oil, and 60 percent of that, or nearly $200 billion, went to the oil-exporting OPEC nations. In 2008, the amount we will spend to import oil is expected to double to more than $600 billion, $360 billion of which will come from OPEC. Let's take a moment to put those import figures into context. When compared to our FY2008 budget for our Nation's defense, which was more than $693 billion, the $600 billion we will spend to import oil in 2008 is nearly equal to our entire defense budget.

There is no question that our dependence on foreign oil has serious national security implications. In addition to funding our enemies—as I just explained—we cannot ignore the fact that much of our oil comes from and travels through the most volatile regions of the world.

A couple of years ago, I attended a series of war games hosted by the National Defense University. I saw firsthand how our country's economy could be brought to its knees if somebody cut off our oil.

In 2006, Hillard Huntington, Executive Director of Stanford University's Energy Modeling Forum testified before the Senate Foreign Relations Committee, and based on his modeling, ''the odds of a foreign oil disruption happening over the next 10 years are slightly higher [than] 80 percent.'' He went on to testify that if global production were reduced by merely 2.1 percent due to some event, that it would have a more serious effect on oil prices and the economy than hurricanes Katrina and Rita.

Let us take a moment to think of our Nation like a business. Our feedstock is oil, and our of competitors control the cost of our oil. We have debt, but our competitors also control our debt. What's to keep our competitors from raising prices, calling in our debt and running us out of business?

I hope this scenario scares you as much as it scares me.

But also keep in mind, that as Congress sat here and twiddle its thumbs over simply expanding domestic drilling within our own borders, Russia and China were actively and aggressively laying claim to energy resources around the globe.

Russia, the world's second biggest oil exporter, has its sights on a large section of the Arctic seafloor that is believed to contain billion of barrels of fuel equivalent. The country has also made moves to control a larger portion of the world's natural gas reserves. Russia, which has significant reserves of natural gas, is considering the creation of a natural gas cartel similar to OPEC. Venezuela and Iran have expressed interest.

Russia has proven it has no qualms with using energy as a weapon. In 1990, Russia tried to suppress independence movements in the Baltics by cutting energy supplies. In all, Russia has used energy as a tool to further their foreign policy goals on no less than six countries. Energy is believed to be one of the driving reasons for Russia's military action in the independent nation of Georgia.

China as well is moving ahead in securing its energy future. In Africa, China is handing out loans and funding

expansive infrastructure projects in an effort to lay claim to lucrative oil reserves. With the help of Chinese investment, Angola recently passed Nigeria to become the largest petroleum producer on the continent.

I am going to be brutally honest with you folks, the future of our country is in jeopardy. We cannot continue to transfer our wealth overseas to this degree without expecting serious consequences. Rather than addressing these national security concerns we have been living the life of Riley, and allowed the environmental movement to run wild.

Congress let them get away with. We let them get away with it Mr. President. Why? Because oil was cheap and so Congress felt no urgency to act. Well, oil is not cheap anymore. While detrimental to our economy and competitiveness, the high price of oil finally spurred some of my colleagues into action and I am proud that Congress has taken some steps to address the energy crisis.

The recently passed fiscal year 2009 Continuing Resolution removed the moratoria on oil exploration in the Outer Continental Shelf and moratorium on regulations for the development of oil shale. Reserves in the Outer Continental Shelf are believed to equal 8.5 billion barrels of oil, and undiscovered resources could equal ten times that. There are currently 800 billion barrels of technically recoverable reserves locked up in our Nation's oil shale. This is three times larger than the total proven oil reserves of Saudi Arabia.

The Senate has also passed a tax extenders package that includes many incentives to develop advanced alternative energies that will lead our country to a future free of oil. Included in the package were popular tax credits for the wind and solar industry that have helped foster strong emerging industries in my home State of Ohio.

Congress needs to continue to act. I believe the Harmonizing America's Energy, Economy, Environment, and National Security Act is the vehicle for a bipartisan effort to develop a meaningful comprehensive energy plan.

Addressing this crisis requires nothing less than a Second Declaration of Independence—to move us away from foreign sources of energy in the near term and away from oil in the long term.

As you know, oil is not easily found nor substituted, and it will remain an integral component to our economy in the short-term. But we must make investments today that will help us achieve our goal tomorrow. To do this I believe we must find more, use less, and conserve what we have.

In order to find more and stabilize our Nation's energy supply, my legislation would encourage the development of oil resources within the Outer Continental Shelf and with regards to our oil shale reserves. It would also open ANWR to responsible development, where it is believed that there is over 10 billion barrels of oil.

While these resources will not physically come online for a number of years, moves to expand development will send a clear signal to the market that we are serious about meeting our future energy demands and begin to drive down the cost of oil because investors will know that gas won't be worth as much in the future and will therefore sell it off today—lowering the cost immediately.

And while we must increase our production of fossil fuels to relieve costs and reestablish our independence in the short term, in the long term we must reduce our demand for oil.

With that goal in mind, it is essential that we explore alternative means to meet our Nation's energy needs.

It is long past time for our government to provide the spark to rekindle our Nation's creativity and innovation. Following Russia's launch of Sputnik, President Kennedy challenged our country to be the first in the world to land a man on the moon. We must now undertake a similar Apollo-like project to establish clean, reliable and domestically abundant energy alternatives and in turn usher in a new era of American freedom and independence.

My legislation would help to fund such a project by setting aside a portion of the federal revenues raised through lease revenues in the Outer Continental Shelf and ANWR to be used for the development of advanced alternative energies, like wind, solar, fuel cells, advanced batteries, and advanced biofuels. It would also set aside funds to be explicitly to boost funding for the Low-Income Home Energy Assistance Program and to pay down our national debt.

The bill will also repeal Section 526, a provision that places our domestic coal-to-liquid industry in jeopardy. We have the largest coal reserves in the world, and at current rates of consumption, U.S. coal deposits will last for more than 240 years.

Coal can provide significant new supplies of affordable synthetic fuels for transportation. A lot of Americans don't understand that many country's get their oil from coal. In fact, South Africa gets nearly 70 percent of their oil from coal. But we are beginning to make advances here. In fact, Baard Energy is planning a CTL and biomass facility in SE Ohio that will produce 53,000 BPD of jet and diesel fuel, and other liquid production from coal and biomass feedstocks.

Last but not least, as we look to increase our supply and spark new innovation, we must also be more responsible with the energy we currently use. My legislation would fund the development of new conservation technologies and practices and would help to disseminate these across the country.

Americans today demand action and they demand we come together in a bipartisan fashion to solve our energy crisis. For 10 years I have been a member of the Environmental and Public Works Committee and for 10 years I have tried to coax Congress into harmonizing our energy, economy and the environment. Congress has refused and now the chickens have come home to roost.

I believe that the best message we can send to OPEC, those investing in the oil market, and indeed the entire world, is that we get it. We must demonstrate that we are going to find more by going after every drop of oil that we can responsibly drill and that we are going to use less by undertaking a new Apollo project to make the U.S. the most oil independent nation in the world.

I envision an America ten years from now where we have enough oil to take care of our needs. I imagine an America that is the least reliant country in the world on oil, an America where our economy is not threatened by our reliance on foreign energy sources. It will be an America that has created hundreds of thousands of jobs through the responsible development of our Nation's resources and the through the creation of new industries in the field of alternative energy.

Wouldn't it be great for our children and grandchildren to one day celebrate the time America put aside its differences and came together to reaffirm its independence a second time and rekindled the American spirit of self reliance, innovation and creativity to usher in new era of prosperity?

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. 3669

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 ''Harmonizing America's Energy, Economy, Environment, and National Security 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—DOMESTIC ENERGY PRODUCTION

Subtitle A—Outer Continental Shelf

Sec. 101. Termination of prohibitions on expenditures for, and withdrawals from, offshore and onshore leasing and other limitations on energy production.
Sec. 102. Coordination with Secretary of Defense on leasing.
Sec. 103. Sharing of revenues.

Subtitle B—Leasing Program for Land Within Coastal Plain

Sec. 111. Definitions.
Sec. 112. Leasing program for land within the Coastal Plain.
Sec. 113. Lease sales.
Sec. 114. Grant of leases by the Secretary.
Sec. 115. Lease terms and conditions.
Sec. 116. Coastal plain environmental protection.
Sec. 117. Rights-of-way and easements across coastal plain.

Sec. 118. Conveyance.
Sec. 119. Local government impact aid and community service assistance.
Sec. 120. Allocation of revenues.
Subtitle C—Oil Shale
Sec. 131. Removal of prohibition on final regulations for commercial leasing program for oil shale resources on public land.
TITLE II—ALTERNATIVE ENERGY AND CONSERVATION
Subtitle A—Conservation Reserve and Renewable Energy Reserve Accounts
Sec. 201. Conservation Reserve and Renewable Energy Reserve Accounts.
Subtitle B—Department of Defense Facilitation of Secure Domestic Fuel Development
Sec. 211. Procurement and acquisition of alternative fuels.

TITLE I—DOMESTIC ENERGY PRODUCTION

Subtitle A—Outer Continental Shelf

SEC. 101. TERMINATION OF PROHIBITIONS ON EXPENDITURES FOR, AND WITHDRAWALS FROM, OFFSHORE AND ONSHORE LEASING AND OTHER LIMITATIONS ON ENERGY PRODUCTION.

(a) PROHIBITIONS ON EXPENDITURES.—Notwithstanding any other provision of law, all provisions of Federal law that prohibit the expenditure of appropriated funds to conduct natural gas, oil, oil shale, and other energy production leasing, preleasing, and related activities on Federal land shall have no force or effect with respect to the activities.

(b) REVOCATION WITHDRAWALS.—Notwithstanding any other provision of law, all withdrawals of Federal submerged land of the outer Continental Shelf from leasing (including withdrawals by the President under section 12(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(a)), are revoked and are no longer in force or effect with respect to the leasing of areas for exploration for, and development and production of, natural gas and oil.

(c) GULF OF MEXICO OIL AND GAS.—Section 104 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is repealed.

(d) CONFORMING AMENDMENTS.—

(1) Sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

(2) Section 103(a) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended by striking ''Except as provided in section 104, the'' and inserting ''The''.

SEC. 102. COORDINATION WITH SECRETARY OF DEFENSE ON LEASING.

The Outer Continental Shelf Lands Act is amended by inserting after section 9 (43 U.S.C. 1338) the following:

''SEC. 10. COORDINATION WITH SECRETARY OF DEFENSE ON LEASING.

''(a) IN GENERAL.—The Secretary shall consult with the Secretary of Defense regarding military operations needs for the outer Continental Shelf.

''(b) CONFLICTS.—

''(1) IN GENERAL.—The Secretary shall work with the Secretary of Defense to resolve any conflict that may arise between operations described in subsection (a) and leasing under this Act.

''(2) UNRESOLVED ISSUES.—If the Secretary and the Secretary of Defense are unable to resolve any conflict described in paragraph (1), any unresolved issue shall be referred by the Secretaries to the President in a timely fashion for immediate resolution.''.

SEC. 103. SHARING OF REVENUES.

(a) IN GENERAL.—Section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) is amended—

(1) in paragraph (2), by striking ''(2) Notwithstanding'' and inserting the following:

''(2) DISPOSITION OF REVENUES.—Except as provided in paragraph (6) and notwithstanding'';

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following:

''(6) BONUS BIDS AND ROYALTIES UNDER QUALIFIED LEASES.—

''(A) DEFINITIONS.—In this paragraph:

''(i) ADJACENT STATE.—The term 'adjacent State' means, with respect to any program, plan, lease sale, leased tract, or other activity proposed, conducted, or approved pursuant to this Act, any State the laws of which are declared, pursuant to section 4(a)(2), to be the law of the United States for the portion of the outer Continental Shelf on which the program, plan, lease sale, leased tract, or activity applies or is, or is proposed to be, conducted.

''(ii) ADJACENT ZONE.—The term 'adjacent zone' means, with respect to any program, plan, lease sale, leased tract, or other activity proposed, conducted, or approved pursuant to this Act, the portion of the outer Continental Shelf for which the laws of an adjacent State are declared, pursuant to section 4(a)(2), to be the law of the United States.

''(iii) PRODUCING STATE.—The term 'producing State' means an adjacent State having an adjacent zone containing leased tracts from which are derived bonus bids and royalties under a lease under this Act.

''(iv) QUALIFIED LEASE.—The term 'qualified lease' means a natural gas or oil lease made available under this Act granted after the date of enactment of the Harmonizing America's Energy, Economy, Environment, and National Security Act of 2008, for an area that is available for leasing as a result of enactment of section 101 of that Act.

''(v) STATE.—The term 'State' includes—

''(I) the Commonwealth of Puerto Rico; and

''(II) any other territory or possession of the United States.

''(B) NEW LEASES.—Of amounts received by the United States as bonus bids, royalties, rentals, and other sums collected under any qualified lease on submerged land made available for leasing under this Act by the enactment of section 101 of the Harmonizing America's Energy, Economy, Environment, and National Security Act of 2008 that are located within the seaward boundaries of a State established under section 4(a)(2)(A)—

''(i) 27 percent shall be paid to producing States with respect to that submerged land;

''(ii) 25 percent shall be deposited in the Conservation Reserve Account established by section 201(a)(1) of the Harmonizing America's Energy, Economy, Environment, and National Security Act of 2008;

''(iii) 25 percent shall be deposited in the Renewable Energy Reserve Account established by section 201(a)(2) of that Act;

''(iv) 20 percent shall be deposited in the general fund of the Treasury of the United States for debt reduction; and

''(v) subject to the availability of appropriations, 3 percent may be available to the Secretary of Health and Human Services for carrying out the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

''(C) LEASED TRACT THAT LIES PARTIALLY WITHIN THE SEAWARD BOUNDARIES OF A STATE.—In the case of a leased tract that lies partially within the seaward boundaries of a State, the amount of bonus bids and royalties from the tract that is subject to subparagraph (B) with respect to the State shall be a percentage of the total amounts of bonus bids and royalties from the tract that is equivalent to the total percentage of the surface acreage of the tract that lies within the seaward boundaries.

''(D) APPLICATION.—This paragraph applies to bonus bids and royalties received by the United States under qualified leases after September 30, 2008.''.

(b) ESTABLISHMENT OF STATE SEAWARD BOUNDARIES.—Section 4(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)) is amended—

(1) by striking ''(2)(A) To'' and inserting the following:

''(2) LAWS OF ADJACENT STATES; INTERNATIONAL BOUNDARY DISPUTES.—

''(A) LAWS OF ADJACENT STATES.—

''(i) IN GENERAL.—To''; and

(2) in subparagraph (A)—

(A) in the first sentence, by striking '', and the President'' and all that follows through the end of the sentence and inserting a period;

(B) by inserting after clause (i) (as designated by paragraph (1)) the following:

''(ii) EXTENDED LINES.—

''(I) IN GENERAL.—Subject to subclauses (II) and (III), the extended lines described in clause (i) shall be considered to be indicated on the maps for each outer Continental Shelf region entitled—

''(aa) 'Alaska OCS Region State Adjacent Zone and OCS Planning Areas';

''(bb) 'Pacific OCS Region State Adjacent Zones and OCS Planning Areas';

''(cc) 'Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas'; and

''(dd) 'Atlantic OCS Region State Adjacent Zones and OCS Planning Areas'.

''(II) MAPS.—For the purpose of subclause (I), all of the maps described in subclause (I) are dated September 2005 and on file in the Office of the Director, Minerals Management Service.

''(III) GULF OF MEXICO.—Subclause (I) shall not apply with respect to the treatment under section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) of qualified outer Continental Shelf revenues deposited and disbursed under section 105(a)(2) of that Act.''; and

(C) by striking ''All of such applicable laws'' and inserting the following:

''(iii) ADMINISTRATION; ENFORCEMENT.—The applicable laws described in subparagraph (A)''.

Subtitle B—Leasing Program for Land Within Coastal Plain

SEC. 111. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through

the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

SEC. 112. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

SEC. 113. LEASE SALES.

(a) IN GENERAL.—Land may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than September 30, 2012, conduct a second lease sale under this subtitle; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 114. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 113 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. 115. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 16½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible

and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 112(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this subtitle negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 116. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 112, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 117. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

SEC. 118. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 119. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 120(1), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 120(1).

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose land lies along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

SEC. 120. ALLOCATION OF REVENUES.

Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.) or any other provision of law, of the adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this subtitle:

(1) 27 percent shall be disbursed to the State of Alaska.

(2) 25 percent shall be deposited in the Conservation Reserve Account established by section 201(a)(1).

(3) 25 percent shall be deposited in the Renewable Energy Reserve Account established by section 201(a)(2).

(4) 20 percent shall be deposited in the general fund of the Treasury of the United States for debt reduction.

(5) 3 percent shall be available to the Secretary of Health and Human Services for carrying out the low-income home energy assistance program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

Subtitle C—Oil Shale

SEC. 131. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

TITLE II—ALTERNATIVE ENERGY AND CONSERVATION

Subtitle A—Conservation Reserve and Renewable Energy Reserve Accounts

SEC. 201. CONSERVATION RESERVE AND RENEWABLE ENERGY RESERVE ACCOUNTS.

(a) IN GENERAL.—For budgetary purposes, there are established in the Treasury of the United States as separate accounts—

(1) the Conservation Reserve Account, to offset the cost of legislation enacted on or after the date of enactment of this Act for conservation programs (including weatherization) and conservation tax credits and deductions for energy efficiency in the residential, commercial, industrial, and public sectors (including conservation districts); and

(2) the Renewable Energy Reserve Account, to offset the cost of legislation enacted on or after the date of enactment of this Act—

(A) to accelerate the use of cleaner domestic energy resources and alternative fuels;

(B) to promote the use of energy-efficient products and practices; and

(C) to increase research, development, and deployment of clean renewable energy and efficiency technologies and job training programs for those purposes.

(b) PROCEDURE FOR ADJUSTMENTS.—

(1) BUDGET COMMITTEE CHAIRMAN.—After the reporting of a bill or joint resolution, or the offering of an amendment or the submission of a conference report for a bill or joint resolution, that provides funding for the purposes described in paragraph (1) or (2) of subsection (a) in excess of the amount of the deposits under this Act or an amendment made by this Act for those purposes for fiscal year 2009, the chairman of the Committee on the Budget of the applicable House of Congress shall make the adjustments described in paragraph (2) for the amount of new budget authority and outlays in that measure and the outlays resulting from the budget authority.

(2) MATTERS TO BE ADJUSTED.—The adjustments referred to in paragraph (1) shall be made to—

(A) the discretionary spending limits, if any, specified in the appropriate concurrent resolution on the budget;

(B) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 302(a) of the Congressional Budget Act of 1974 (2 U.S.C. 633(a)); and

(C) the budget aggregates contained in the appropriate concurrent resolution on the budget as required by section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)).

(3) AMOUNTS OF ADJUSTMENTS.—The adjustments referred to in paragraphs (1) and (2) shall not exceed the receipts estimated by the Congressional Budget Office that are attributable to this Act and the amendments made by this Act for the fiscal year in which the adjustments are made.

(c) CONSULTATION.—Legislation shall not be treated as legislation referred to in subsection (a) unless any expenditure under the legislation for a purpose referred to in that subsection may be made only after consultation with (as appropriate)—

(1) the Administrator of the Environmental Protection Agency;

(2) the Administrator of the National Oceanic and Atmospheric Administration;

(3) the Secretary of the Army, acting through the Corps of Engineers; and

(4) the Secretary of State.

(d) MAINTENANCE OF EFFORT BY STATES.—The Secretary of the Interior, the Secretary of Health and Human Services, the Secretary of Energy, and any other Federal official with authority to implement legislation referred to in subsection (a) shall ensure that financial assistance provided to a State under the legislation for any purpose with amounts made available under this section or in any legislation with respect to which subsection (a) applies supplements, and does not replace, the amounts expended by the State for that purpose before the date of enactment of this Act.

Subtitle B—Department of Defense Facilitation of Secure Domestic Fuel Development

SEC. 211. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

By Mr. BUNNING:

S. 3670. A bill to regulate certain State and local taxation of electronic commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. BUNNING. 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. 3670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINIMUM JURISDICTIONAL STANDARD FOR STATE AND LOCAL TAXES ON ELECTRONIC COMMERCE.

(a) IN GENERAL.—No taxing authority of a State shall have power to require the collection and remittance of a State tax by any person resulting from the electronic commerce of such person unless such person has a physical presence in the State during the taxable period with respect to which the tax is imposed.

(b) REQUIREMENTS FOR PHYSICAL PRESENCE.—

(1) IN GENERAL.—For purposes of subsection (a), a person has a physical presence in a State only if such person's electronic commerce in the State includes any of the following during such person's taxable year:

(A) Being an individual physically in the State, or assigning one or more employees to be in the State.

(B) Using the services of an agent (excluding an employee) to establish or maintain the electronic commerce in the State, if such agent does not perform the same services in the State for any other person during such taxable year.

(C) The leasing or owning of tangible personal property or of real property in the State.

(2) DE MINIMIS PHYSICAL PRESENCE.—For purposes of this section, the term ''physical presence'' shall not include—

(A) entering into an agreement to share revenue generated by an electronic commerce presence owned or maintained by a person who is physically present in a State;

(B) presence in a State for less than 15 days in a taxable year (or a greater number of days if provided by State law); and

(C) presence in a State to conduct limited or transient business activity.

(c) TAXABLE PERIODS NOT CONSISTING OF A YEAR.—If the taxable period for which the tax is imposed is not a year, then any requirements expressed in days for establishing physical presence under this Act shall be adjusted pro rata accordingly.

(d) MINIMUM JURISDICTIONAL STANDARD.—This section provides for minimum jurisdictional standards and shall not be construed to modify, affect, or supersede the authority of a State or any other provision of Federal law allowing persons to conduct greater activities without the imposition of tax jurisdiction.

(e) EXCEPTIONS.—

(1) DOMESTIC BUSINESS ENTITIES AND INDIVIDUALS DOMICILED IN, OR RESIDENTS OF, THE STATE.—Subsection (a) shall not apply with respect to—

(A) a person (other than an individual) that is incorporated or formed under the laws of the State (or domiciled in the State) in which the tax is imposed; or

(B) an individual who is domiciled in, or a resident of, the State in which the tax is imposed.

(2) PRESERVATION OF AUTHORITY.—This section shall not be construed to modify, affect, or supersede the authority of a State to bring an enforcement action against a person or entity that may be engaged in an illegal activity, a sham transaction, or any perceived or actual abuse in its electronic commerce if such enforcement action does not modify, affect, or supersede the operation of any provision of this section or of any other Federal law.

(f) RULE OF CONSTRUCTION.—This section shall not be construed to modify, affect, or supersede the operation of title I of the Act entitled ''An Act relating to the power of the States to impose net income taxes on income derived from interstate commerce, and authorizing studies by congressional committees of matters pertaining thereto'', approved September 14, 1959 (15 U.S.C. 381 et seq.).

(g) DEFINITIONS, ETC.—For purposes of this section:

(1) ELECTRONIC COMMERCE.—The term ''electronic commerce'' has the meaning given that term in section 1105(3) of the Internet Tax Freedom Act (47 U.S.C. 151 note).

(2) PERSON.—The term ''person'' has the meaning given such term by section 1 of title 1 of the United States Code.

(3) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any territory or possession of the United States, or any political subdivision of any of the foregoing.

(4) TANGIBLE PERSONAL PROPERTY.—For purposes of subsection (b)(1)(C), the leasing or owning of tangible personal property does not include the leasing or licensing of computer software.

(h) EFFECTIVE DATE.—This section shall apply with respect to taxable periods beginning on or after January 1, 2009.

By Mrs. FEINSTEIN:

S. 3671. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to develop and impose aggregate position limits on certain large over-the-counter transactions and classes of large over-the-counter transactions; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Over-the-Counter Swaps Speculation Limit Act, a bill to establish workable speculative position limits that apply to both bilateral over-the-counter swaps transactions and on-exchange transactions.

The Over-the-Counter Swaps Speculation Limit Act would close the ''over-the-counter swaps loophole'' once and for all by requiring the Commodity Futures Trading Commission—or CFTC—to apply the position limit system to bilateral swaps, not just the on-exchange transactions that are limited today.

Let me explain what the bill would do:

CFTC would enforce ''aggregate'' position limits so that a trader's positions on and off exchange would be combined. Swaps would no longer be exempt from position limits.

CFTC would be allowed to grant hedge exemptions for bone fide hedging. This exemption would be limited to trading that hedges against price risk exposure related to physical transactions in that energy commodity.

Neither institutional investors hedging against inflation, nor swaps dealers hedging their secret dealings would qualify for a hedge exemption.

The bill would give CFTC the power to issue civil fines to enforce position limits when unwinding a speculative position would be disruptive to the marketplace.

This legislation is the missing piece to otherwise comprehensive anti-speculation legislation debated in the Senate in July and adopted by the House of Representatives in September.

Both of the House and Senate bills included vital provisions to protect our markets, including provisions to close the London Loophole by imposing speculation position limits on trading conducted on Foreign Boards of Trade.

It would grant CFTC the authority to collect data and monitor trading in Over-the-Counter Swaps markets, shining the bright light of oversight onto a previously un-watched market.

It would improve the data collection systems at CFTC to distinguish between swaps dealers, institutional investors, and genuine speculators;

It would assure no true speculator is exempted from speculative position limits; and increase CFTC's staffing levels.

Reacting to congressional pressure, the CFTC took many of the steps through administrative action that our bills in Congress would have required.

CFTC largely closed the London Loophole and began monitoring London trading of American crude oil.

CFTC began collecting detailed data on OTC swaps trading, especially by swaps dealers and institutional index traders, and it began monitoring these markets.

CFTC reclassified a major swaps dealer as a speculator and proposed a rulemaking to revise its system for granting speculative limit exemptions.

This is true progress, but the swaps loophole—exempting voice brokered bilateral swaps from the speculative position limit system—remains in place. Traders are able to hold positions far above speculative position limits simply by executing their trades through a voice broker.

Until this summer, the Federal Government knew very little about OTC swaps, which have been exempt from CFTC oversight since 1993. But thanks to CFTC's increased oversight this summer, published in its September 2008 ''Staff Report on Commodity Swap Dealers and Index Traders,'' we know that traders do in fact use these swaps markets to hold positions above the speculative position limits on regulated exchanges.

The CFTC report found that on a single day in June there were:

''18 noncommercial traders (speculators) in 13 markets who appeared to have an aggregate position . . . that would have been above the speculative limit or an exchange accountability level if all the positions were on-exchange.''

CFTC discovered that a few traders held positions that would have ''significantly exceeded'' an aggregate position limit.

What is the purpose of speculative position limits if traders know they can buy the equivalent product in unlimited quantities from a voice broker?

The Over-the-Counter Swaps Speculation Limit Act puts an end to this flawed system by instructing CFTC to establish a system of aggregate position limits. As the staff report demonstrated, CFTC knows how to calculate such limits.

I believe this legislation avoids the pitfalls of previous efforts in the 110th Congress to limit speculative positions in swaps.

It is simple, granting CFTC the broad mandate to impose aggregate position limits across positions held on registered entities, foreign boards of trade, and OTC markets that impact the price discovery function of a regulated market. It grants the regulator proper discretion to determine which contracts are functionally equivalent and what the limits should be.

It applies speculative position limits only to swaps that impact the price discovery function on regulated markets. By focusing CFTC efforts only on the major, standardized swaps contracts, the bill maintains legal certainty for unique financing agreements and other private bilateral transactions.

The bill also prevents speculators from migrating to less regulated contracts. CFTC will only be allowed to exempt contracts from position limits after it determines that the contract is not functioning as a haven from regulation. CFTC must impose speculative position limits on any contract that: is highly standardized; settles on the price of a contracted traded in a regulated marketplace; has its prices widely published and referenced; or traded in significant volumes.

Finally, the legislation addresses CFTC staff concerns that enforcing position limits on bilateral swaps contracts would be too cumbersome. In recent briefings, CFTC staff argued that the primary reason CFTC was not calling for speculative position limits on swaps is that position limits on swaps would force parties to void existing contracts, which harms the counterparty as much as the trader who is over their limit.

Regulators should not force a trader to break a contract if such action would punish the counterparties as well as the speculator. To address this, this legislation gives CFTC the power to enforce position limits with fines instead of forcing a trader to unwind a position.

Over the past 6 months, OTC swaps markets have been exposed, and it has become increasingly apparent that speculative position limits are both appropriate and feasible in order to protect regulated markets from manipulation and excessive speculation.

The regulated and unregulated energy markets are fully integrated. With traders moving back and forth freely, it is no longer reasonable to believe that bad behavior in swaps can be isolated.

A manipulated swaps market would likely impact the price discovery function of a futures market, and in turn affect consumer prices.

If we want fair play in the energy markets, we cannot continue to instruct the CFTC to swallow its whistle when it sees violations at the Swaps' end of the court.

We need to allow CFTC to call foul when it sees excessive speculation, whether on an exchange or in a voice brokered swaps market.

The Over-the-Counter Swaps Speculation Limit Act would give the CFTC back its whistle. It would allow the Commission to use the speculative position limit system in existence since the 1930s—to reel in excessive speculation in American energy markets.

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. 3671

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 ''Over-the-Counter Swaps Speculation Limit Act''.

SEC. 2. AGGREGATE POSITION LIMITS.

Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:

''(j) AGGREGATE POSITION LIMITS.—

''(1) DEFINITION OF BONA FIDE HEDGING TRANSACTION.—In this subsection:

''(A) IN GENERAL.—The term 'bona fide hedging transaction' means a transaction that—

''(i) is a substitute for a transaction to be made or a position to be taken at a later time in a physical marketing channel;

''(ii) is economically appropriate for the reduction of risks in the conduct and management of a commercial enterprise; and

''(iii) arises from a potential change in the value of—

''(I) assets that a person owns, produces, manufactures, possesses, or merchandises (or anticipates owning, producing, manufacturing, possessing, or merchandising);

''(II) liabilities that a person incurs or anticipates incurring; or

''(III) services that a person provides or purchases (or anticipates providing or purchasing).

''(B) EXCLUSION.—The term 'bona fide hedging transaction' does not include a transaction entered into on a designated contract market for the purpose of offsetting a financial risk arising from an over-the-counter commodity derivative.

''(2) AGGREGATE POSITION LIMITS.—

''(A) DEVELOPMENT; IMPOSITION.—Notwithstanding any other provision of this Act, in accordance with subparagraph (B), to reduce the potential threat of market manipulation, excessive speculation, or congestion in any contract listed for trading on a registered entity or a contract that the Commission has determined to provide a price discovery role, the Commission shall impose aggregate position limits on positions held on registered entities, foreign boards of trade, and each large over-the-counter transaction or class of large over-the-counter transactions that the Commission determines to be appropriate to assist the Commission in protecting the price discovery function of contracts under the jurisdiction of the Commission.

''(B) REQUIREMENTS FOR DEVELOPMENT AND IMPOSITION OF AGGREGATE POSITION LIMITS.—

''(i) EVALUATION SYSTEM.—In developing aggregate position limits under subparagraph (A), the Commission shall establish a system for evaluating the degree to which—

''(I) each large over-the-counter transaction and class of large over-the-counter transactions are equivalent to positions in contracts on registered entities; and

''(II) contracts on registered entities are equivalent to contracts on other registered entities.

''(ii) MAXIMUM LEVEL OF AGGREGATE POSITION LIMITS.—In developing aggregate position limits under subparagraph (A), the Commission shall set the aggregate position limits at the minimum level practicable to ensure sufficient market liquidity for the conduct of bona fide hedging transactions.

''(C) CONSIDERATION OF FACTORS FOR DETERMINATION.—

''(i) IN GENERAL.—In making a determination under subparagraph (A) with respect to the imposition of aggregate position limits on appropriate large over-the-counter transactions and classes of large over-the-counter transactions, the Commission may determine not to impose aggregate position limits

on any large over-the-counter transaction or class of large over-the-counter transactions if the Commission determines that the large over-the-counter transaction or class of large over-the-counter transactions does not meet any of the factors described in clause (ii).

''(ii) FACTORS.—The factors described in clause (i) include—

''(I) whether a standardized agreement is used to execute the large over-the-counter transaction or class of large over-the-counter transactions;

''(II) whether the large over-the-counter transaction or class of large over-the-counter transactions settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity;

''(III) whether the price of the large over-the-counter transaction or class of large over-the-counter transactions is reported to a third party, published, or otherwise disseminated;

''(IV) whether the price of the large over-the-counter transaction or class of large over-the-counter transactions is referenced in any other transaction;

''(V) whether there is a significant volume of the large over-the-counter transaction or class of large over-the-counter transactions; and

''(VI) any other factor that the Commission determines to be appropriate.

''(D) EXEMPTION FOR BONA FIDE HEDGING TRANSACTIONS.—The Commission may exempt any large over-the-counter transaction or class of large over-the-counter transactions from any aggregate position limit developed and imposed by the Commission under subparagraph (A) if the Commission determines that the large over-the-counter transaction or class of large over-the-counter transactions is a bona fide hedging transaction.

''(E) NET SUM OF POSITIONS.—The aggregate position limits developed and imposed by the Commission under subparagraph (A) shall apply to the net sum of the like positions held by a person on or in—

''(i) registered entities;

''(ii) foreign boards of trade; and

''(iii) over-the-counter commodity derivatives.

''(F) ENFORCEMENT.—

''(i) IN GENERAL.—Subject to clause (ii), in enforcing each aggregate position limit developed and imposed by the Commission under subparagraph (A), the Commission may order a person to reduce any position of the person.

''(ii) MAINTENANCE OF POSITION; CIVIL PENALTY.—

''(I) MAINTENANCE OF POSITION.—If the Commission determines that the reduction of a position of a person under clause (i) would be disruptive to the price discovery function, the Commission may allow the person to maintain the position.

''(II) CIVIL PENALTY.—The Commission shall impose on the person described in subclause (I) a civil penalty in an amount not greater than—

''(aa) $1,000,000 for each violation committed by the person; or

''(bb) with respect to each violation committed by the person, the market value of the position in excess of the appropriate aggregate position limit.

''(iii) EFFECT OF VIOLATION.—A violation of an aggregate position limit developed and imposed by the Commission under subparagraph (A) shall be determined to be a violation of this Act.''.

By Mrs. CLINTON:

S. 3674. A bill to amend the Public Health Service Act to establish a Wellness Trust; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, reforming the healthcare system is a top priority for me. I have been on the frontlines in the fight for healthcare for every single American for as long as I have been in public service. And every passing day, and year, the task becomes both more urgent and more difficult—success more expensive and failure more costly.

The United States spent about $2.1 trillion on healthcare in 2006, twice what we spent 10 years ago, and half of what we're projected to spend 10 years from now. Preventable and chronic diseases are this century's epidemic. The number of people with chronic conditions is rapidly increasing and it is estimated that if we do not intervene now, by 2025 nearly half of the population will suffer from at least one chronic disease.

The wellness gap also affects health care costs. About 78 percent of all health spending in the United States is attributable to chronic illness, much of which is preventable. Chronic diseases cost the United States an additional $1 trillion each year in lost productivity, and are a major contributing factor to the overall poor health that is placing the Nation's economic security and competitiveness in jeopardy.

Unlike some health care challenges, proven preventive services and programs exist. If effective risk reduction were implemented and sustained, by 2015 the death rate due to cancer could drop by 29 percent. Improved blood sugar control for people with diabetes could reduce the risk for eye disease, kidney disease, and nerve disease by 40 percent. Similarly, blood pressure control could reduce the risk for heart disease and stroke by 33 to 50 percent. Yet, only half of recommended clinical preventive services are provided to adults. About 20 percent of children do not receive all recommended immunizations, with higher rates in certain areas. Nearly 70 percent of people with high blood pressure do not now control it. And racial disparities in the use of prevention exist.

The country faces low use of preventive services because of the low value placed on prevention, a delivery system bent toward fixing rather than preventing problems, and financial disincentives for prevention. Insurers have little incentive to invest in preventive services today that will benefit other insurers tomorrow. This is especially true for those preventive services that reduce chronic diseases that develop over a period of several years or decades. The costs of prevention are incurred immediately but most of its benefits are realized later, often by Medicare. The United States spends only an estimated 1 to 3 percent of national health expenditures on preventive healthcare services and health promotion.

In addition, the workforce to deliver prevention is also insufficient. The supply of providers who are trained to emphasize prevention is shrinking. Between 1997 and 2005, the number of medical school graduates entering family practice residencies dropped by 50 percent. There is an acute shortage of community health workers. Between 25 and 50 percent of the existing Federal, State and local public health workforce is eligible for retirement in the next 5 years. Today, more than 75 percent of the existing public health workforce has no formal public health or prevention training. There is no national, uniform credentialing system for public health or prevention workers that would ensure that these workers are trained in the basics of preventive care.

A system that promoted full use of high-priority prevention could save lives and reduce costs. For example, complete, routine childhood vaccination could save up to $40 billion in direct and societal costs over time. Promoting screenings and behavioral modifications in the workplace can lower absenteeism and, in most cases, health costs to firms. Preventive health care services could reduce government spending on health care. If all seniors recommended to received a flu vaccine did, health costs could be reduced by nearly $1 billion per year. Over 25 years, Medicare could save an estimated $890 billion from effective control of hypertension, and $1 trillion from returning to levels of obesity observed in the 1980s.

So today, I am pleased to introduce The 21st Century Wellness Trust Act. This legislation is a critical part of the broader effort we will undertake next Congress to cover every single American and bring reforms to our delivery system that make it more efficient and improve health outcomes.

The 21st Century Wellness Trust Act would create a Wellness Trust at the Centers for Disease Control and Prevention at the Department of Health and Human Services to refocus the efforts of our healthcare system on prevention and wellness. Through the Trust Fund Board, the Wellness Trust will become the primary payer for priority prevention services, as well as ensure an adequate and appropriately trained and credentialed prevention health workforce. The Trust will also serve as a central source of prevention information and ensure the inclusion of prevention and wellness in the development of a nationwide, interoperable health IT infrastructure.

We cannot afford to wait any longer and I am proud to introduce The 21st Century Wellness Trust Act which will be an important part of the solution. We must undertake reforms that move us from a system of sickness to a system of wellness. From a system that is tilted towards institutional and emergency care to one that not only covers everyone, but is designed to promote prevention of disease and wellness.

By Mr. KERRY:

S. 3675. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain excessive employee remuneration, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Compensation Fairness Act of 2008 to tighten the rules for the amount of compensation that is deductible as an ordinary and necessary business expense. The recent financial crisis has brought the issue of executive compensation to the forefront.

We have all read about the outrageous salaries that many of the chief executive officers of troubled companies have earned over the past few years. Some have increased their pay by increasing the risks their companies take. According to Equilar, a compensation research firm, the CEOs of the 10 largest financial services firms in a survey of 200 companies with revenues of at least $6.5 billion were awarded a combined total of $320 million last year, even though the firms reported mortgage-related losses that totaled $55 billion and that wiped out more than $200 billion in shareholder value. That is unacceptable.

It is not just the financial industry where executive pay has become excessive. For 2006, the CEOs of large U.S. companies averaged $10.8 million in total compensation, more than 364 times the pay of the average U.S. worker. We can learn from what led us to the current situation and one way to make CEOs more accountable is to limit the taxpayer subsidy for executive compensation.

I am pleased that the bailout legislation places limits on the executive compensation of the firms that participate in the Treasury program. I commend Chairmen DODD and BAUCUS for their efforts for to place limits on executive compensation part of the solution. However, I believe that executive compensation for all public companies should be reexamined.

Under current law, the allowable deduction for the compensation of the top five highly paid individuals, including the CEO and the chief financial officer, CFO, is limited to $1 million per year. This limitation does not include commissions and performance-based pay. I am concerned that these exceptions have weakened the effectiveness of the limitation and encourage performance-based pay arrangements which could cause executives to manipulate earnings.

The Compensation Fairness Act of 2008 would make several changes to the limitation on deduction for compensation. It would repeal the exceptions for commission and performance-based pay. Under current law, an employee that is covered by the limitation has to be an employee the last day of the year. The legislation would change this to make a covered employee one who is employed at any time during the year. This legislation would retain the $1 million limitation and index it for inflation.

The Compensation Fairness Act of 2008 would not limit the amount of salary an executive can receive, but it would just limit the tax subsidy. Taxpayers should not have to bear the cost of excessive compensation. Warren Buffett, one of the most successful businessmen of all time, has annual salary of $100,000.

Limiting the deduction of executive compensation is just one part of addressing compensation. Earlier this Congress, the Senate passed legislation which would limit the amount of compensation that can be deferred to $1 million. Senator OBAMA has introduced legislation that I cosponsored and the House has passed which would require annual shareholder approval of a public company's executive compensation plan.

Once we address the current crisis, we need to have a serious debate on executive compensation and the deductibility of compensation should be part of the conversation. I urge my colleagues to consider changing the current tax treatment of compensation.

By Ms. SNOWE (for herself and Mrs. FEINSTEIN):

S. 3677. A bill to establish a Special Joint Task Force on Financial Crimes; to the Committee on the Judiciary.

Ms. SNOWE. Mr. President, I rise in support of legislation that I am introducing today to make sure that those responsible for the financial meltdown of recent days are brought to justice. Joining me on the bill is my distinguished colleague, Senator FEINSTEIN.

While I congratulate the congressional leadership, especially Chairmen DODD and FRANK, and Senators REID, MCCONNELL, and GREGG, in crafting the Emergency Economic Stabilization Act of 2008, one issue continues to deeply disturb me and many of my constituents. Specifically, I refer to accountability and the importance of bringing criminals to justice.

In my view, today's economic turmoil did not happen by pure chance, and I am troubled that certain greedy individuals may have crossed the line into criminal activity.

Clearly, no one should reap rewards from this colossal failure, and those responsible on Wall Street should follow the Enron criminals straight to jail. The pursuit and prosecution of those liable for this meltdown must receive the highest possible level of attention, and this legislation dedicates a Special Task Force on Financial Crimes within the Justice Department whose sole mission is to ferret out those directly involved in engineering this catastrophe.

The congressional pursuit of answers—through hearings that Senator DODD has indicated he will hold—should occur in tandem with the legal investigation and prosecution of those responsible for this debacle. Both must receive the same rigorous attention applied to this rescue package—and not be subsumed by the routine of the day-to-day legislative and criminal investigation process moving forward.

By Mrs. BOXER:

S. 3678. A bill to promote freedom, human rights, and the rule of law in Vietnam; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, I rise today to introduce an important piece of legislation—the Vietnam Human Rights Act.

Over the last several sessions of Congress, legislation addressing the human rights situation in Vietnam has been repeatedly introduced but has never been enacted into law.

Like many of my Senate colleagues, I had hoped that strengthening our relationship with Vietnam on the trade and economic front and supporting Vietnam's integration into the international community would dramatically improve Vietnam's human rights record.

But that has not turned out to be the case.

The United States has removed Vietnam from its list of Countries of Particular Concern, granted Vietnam permanent normalized trade relations, and supported Vietnam's bid to join the World Trade Organization, yet Vietnam continues to arrest its citizens for their peaceful advocacy of political views.

It also continues to strictly restrict religious freedom, to harass and detain labor activists, and to refuse its citizens the basic rights of freedom of association, assembly, and expression.

Just last year, Vietnam carried out one of its harshest crackdowns in 20 years against peaceful protestors calling for political change.

The crackdown, which continued through mid-2007, led to the arrest of hundreds of individuals, including Father Nguyen Van Ly, who was sentenced to 8 years in prison.

This crackdown happened shortly before the visit of Vietnamese President Nguyen Minh Triet to the United States last June.

At the end of 2007, the United States Commission on International Religious Freedom summed up Vietnam's recent behavior this way:

> Vietnam's overall human rights record remains very poor and deteriorated in the last year . . . Dozens of legal and political reform advocates, free speech activists, labor unionists, and independent religious leaders and religious freedom advocates have been arrested, placed under home detention or surveillance, threatened, intimidated, and harassed.

Now we are witnessing yet another crackdown—this time on Catholic Church members in Hanoi who have been holding prayer vigils to demand the return of properties confiscated after the Communist government took power in the 1950s.

The Vietnamese government has responded to these protests through intimidation, violence, and arrest.

Just last week, Ben Stocking, the Bureau Chief for the Associated Press in Hanoi, was beaten by Vietnamese security forces for photographing one such vigil. It is time for such behavior to stop.

The Boxer bill seeks to improve human rights in Vietnam by shifting the focus of U.S. non-humanitarian foreign aid to a comprehensive approach that does more to address human rights.

The bill specifically requires that any spending increase for U.S. non-humanitarian development, economic, trade, and security assistance to Vietnam be matched by additional funding for programs focusing on human rights, the rule of law, and democracy promotion.

To date, the majority of non-humanitarian U.S. assistance programs to Vietnam have focused on business, trade, and security, and have not effectively addressed human rights abuses.

In addition, the bill outlines objectives for U.S. diplomacy with Vietnam on human rights related issues and encourages Vietnam to release its religious and political prisoners.

The Boxer bill also prohibits Vietnam from having access to the U.S. Generalized System of Preferences, GSP, program until Vietnam improves its labor standards. The GSP program allows developing countries to import certain items into the U.S. duty-free.

While the 110th Congress will shortly come to an end, I wanted to introduce this legislation as a signal to the Vietnamese government that its record on human rights and recent behavior has not gone unnoticed. I intend to reintroduce this legislation very early in the 111th Congress.

Let me be clear. I support a strong bilateral relationship between Vietnam and the United States. But the Vietnamese government must dramatically improve its human rights record in order for our relationship to grow.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 701—HONORING THE LIFE OF MICHAEL P. SMITH

Ms. LANDRIEU submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 701

Whereas Michael P. Smith was an award-winning photographer nationally recognized for his work over 4 decades documenting the music, culture, and folklife of New Orleans and the State of Louisiana;

Whereas Michael P. Smith greatly influenced the understanding of New Orleans and Louisiana of people around the world;

Whereas Michael P. Smith's work captured and made accessible the environment, social structures, and neighborhoods that both create and sustain the musical traditions of New Orleans;

Whereas Michael P. Smith was born in Metairie, Louisiana, the son of a member of the Rex organization and the Boston Club, was a star athlete, and graduated from Metairie Park Country Day School and Tulane University;

Whereas Michael P. Smith was the only person to photograph at every New Orleans Jazz & Heritage Festival since the festival began in 1970 until his retirement in 2004, when he was honored with a major grandstand exhibition and photo kiosks placed around the fairgrounds at the festival;

Whereas Michael P. Smith received 2 Photographer's Fellowships from the National Endowment for the Arts early in his career and his prints have toured worldwide through the United States Information Agency (USIA);

Whereas Michael P. Smith's work has been presented at the National Museum of American History, the International Center for Photography in New York, and the LeRoy Neiman Gallery at Columbia University, as well as numerous other museums, galleries, and jazz festivals in America and Europe;

Whereas Michael P. Smith's work is part of the permanent collections of the National Museum of American History in Washington, DC, the Metropolitan Museum of Art in New York, the Bibliothèque Nationale in Paris, the Louisiana State Museum, the Ogden Museum of Southern Art, and the New Orleans Museum of Art;

Whereas Michael P. Smith's work is represented in 5 photography books including ''Spirit World: Pattern in the Expressive Folk Culture of African American New Orleans'', ''A Joyful Noise: A Celebration of New Orleans Music'', ''New Orleans Jazz Fest: A Pictorial History'', ''Jazz Fest Memories'', and ''Mardi Gras Indians'', which is a visual and sociological history of the unique masking and musical traditions still alive in the older Black neighborhoods of New Orleans;

Whereas Michael P. Smith's photographs grace the covers of many compact discs and record albums, illustrate numerous books and magazine articles published in America and Europe, and are in continual demand for documentary films produced at home and abroad;

Whereas Michael P. Smith won numerous awards for his work, including the 2002 Lifetime Achievement Award from the Louisiana Endowment for the Humanities, the (New Orleans) Mayor's Arts Award, the Clarence John Laughlin Lifetime Achievement Award from the New Orleans chapter of the American Society of Magazine Photographers, and the Artist Recognition Award from the New Orleans Museum of Arts's Delgado Society;

Whereas Michael P. Smith was an original owner and a founder of Tipitina's, the iconic club that has featured, and continues to feature, the best and brightest of New Orleans music; and

Whereas Michael P. Smith is survived by a companion, Karen Louise Snyder, 2 daughters, Jan Lamberton Smith of Quail Springs, California, and Leslie Blackshear Smith of New Orleans, a brother, Joseph Byrd Hatchitt Smith of Port Angeles, Washington, and 2 grandchildren: Now, therefore, be it

Resolved, That the Senate—

(1) honors the life of Michael P. Smith;

(2) recognizes Michael P. Smith for his invaluable contributions as a cultural archivist of New Orleans and Louisiana history and culture;

(3) recommits itself to ensuring that artists such as Michael P. Smith receive recognition for their creative and cultural endeavors; and

(4) extends condolences to his family on the death of this talented and beloved man.

SENATE CONCURRENT RESOLUTION 105—DIRECTING THE CLERK OF THE HOUSE OF REPRESENTATIVES TO CORRECT THE ENROLLMENT OF H.R. 6063

Mr. NELSON of Florida submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 105

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill H.R. 6063, an Act to authorize the programs of the National Aeronautics and Space Administration, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

In section 601(b)(2)(A)(iii) of the bill, strike ''Orbiter''.

In section 611(d)(1) of the bill, strike ''first President'' and insert ''President''.

In section 611(e)(3) of the bill, strike ''correctly'' and insert ''currently''.

In section 611(e)(7) of the bill, strike ''extention'' and insert ''extension''.

In section 612 of the bill, strike ''operations'' and insert ''operational''.

In section 1119 of the bill, strike ''The Report'' and insert ''The report''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5683. Mr. BINGAMAN (for Mr. DORGAN (for himself, Mr. BINGAMAN, Mr. AKAKA, Mr. HARKIN, Mr. FEINGOLD, Mrs. BOXER, Mr. BYRD, Mr. SANDERS, and Mrs. FEINSTEIN)) proposed an amendment to the bill H.R. 7081, to approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, and for other purposes.

SA 5684. Mr. DODD (for Mr. PRYOR) proposed an amendment to the bill S. 602, to develop the next generation of parental control technology.

SA 5685. Mr. DODD proposed an amendment to the bill H.R. 1424, of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes.

SA 5686. Mr. DODD proposed an amendment to the bill H.R. 1424, supra.

SA 5687. Mr. SANDERS proposed an amendment to amendment SA 5685 proposed by Mr. DODD to the bill H.R. 1424, supra.

SA 5688. Mr. DURBIN proposed an amendment to the bill S. 1703, to prevent and reduce trafficking in persons.

SA 5689. Mr. DURBIN (for Ms. COLLINS) proposed an amendment to the bill S. 3013, to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes.

SA 5690. Mr. DURBIN (for Mr. CORNYN (for himself and Mrs. FEINSTEIN)) proposed an amendment to the bill S. 3073, to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and for other purposes.

SA 5691. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1424, of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with

respect to health insurance and employment, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5683. Mr. BINGAMAN (for Mr. DORGAN (for himself, Mr. BINGAMAN, Mr. AKAKA, Mr. HARKIN, Mr. FEINGOLD, Mrs. BOXER, Mr. BYRD, Mr. SANDERS, and Mrs. FEINSTEIN)) proposed an amendment to the bill H.R. 7081, to approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, and for other purposes; as follows:

At the end of title I, add the following:

SEC. 106. PROHIBITION OF NUCLEAR TRADE IN EVENT OF NUCLEAR WEAPON DETONATION BY INDIA.

Notwithstanding any other provision of law, the United States may not export, transfer, or retransfer any nuclear technology, material, equipment, or facility under the Agreement if the Government of India detonates a nuclear explosive device after the date of the enactment of this Act.

SEC. 107. CERTIFICATION, REPORTING, AND CONTROL REQUIREMENTS IN EVENT OF NUCLEAR WEAPON DETONATION BY INDIA.

In the event the Government of India detonates a nuclear weapon after the date of the enactment of this Act, the President shall—

(1) certify to Congress that no United States technology, material, equipment, or facility supplied to India under the Agreement assisted with such detonation;

(2) not later than 60 days after such detonation, submit to Congress a report describing United States nuclear related export controls that could be utilized with respect to countries that continue nuclear trade with India to minimize any potential contribution by United States exports to the nuclear weapons program of the Government of India; and

(3) fully utilize such export controls unless, not later than 120 days after such detonation, Congress adopts, and there is enacted, a joint resolution disapproving of the full utilization of such export controls.

SA 5684. Mr. DODD (for Mr. PRYOR) proposed an amendment to the bill S. 602, to develop the next generation of parental control technology; as follows:

On page 6, beginning in line 4, strike ''**TECHNOLOGIES.**'' and insert ''**TECHNOLOGIES AND EXISTING PARENTAL EMPOWERMENT TOOLS.**''.

On page 6, line 12, strike ''and''.

On page 6, line 16, strike ''offering.'' and insert ''offering; and''.

On page 6, between lines 16 and 17, insert the following:

''(3) the existence, availability, and use of parental empowerment tools and initiatives already in the market.''.

SA 5685. Mr. DODD proposed an amendment to the bill H.R. 1424, of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

DIVISION A—EMERGENCY ECONOMIC STABILIZATION

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Emergency Economic Stabilization Act of 2008''.

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

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

Sec. 101. Purchases of troubled assets.
Sec. 102. Insurance of troubled assets.
Sec. 103. Considerations.
Sec. 104. Financial Stability Oversight Board.
Sec. 105. Reports.
Sec. 106. Rights; management; sale of troubled assets; revenues and sale proceeds.
Sec. 107. Contracting procedures.
Sec. 108. Conflicts of interest.
Sec. 109. Foreclosure mitigation efforts.
Sec. 110. Assistance to homeowners.
Sec. 111. Executive compensation and corporate governance.
Sec. 112. Coordination with foreign authorities and central banks.
Sec. 113. Minimization of long-term costs and maximization of benefits for taxpayers.
Sec. 114. Market transparency.
Sec. 115. Graduated authorization to purchase.
Sec. 116. Oversight and audits.
Sec. 117. Study and report on margin authority.
Sec. 118. Funding.
Sec. 119. Judicial review and related matters.
Sec. 120. Termination of authority.
Sec. 121. Special Inspector General for the Troubled Asset Relief Program.
Sec. 122. Increase in statutory limit on the public debt.
Sec. 123. Credit reform.
Sec. 124. HOPE for Homeowners amendments.
Sec. 125. Congressional Oversight Panel.
Sec. 126. FDIC authority.
Sec. 127. Cooperation with the FBI.
Sec. 128. Acceleration of effective date.
Sec. 129. Disclosures on exercise of loan authority.
Sec. 130. Technical corrections.
Sec. 131. Exchange Stabilization Fund reimbursement.
Sec. 132. Authority to suspend mark-to-market accounting.
Sec. 133. Study on mark-to-market accounting.
Sec. 134. Recoupment.
Sec. 135. Preservation of authority.
Sec. 136. Temporary increase in deposit and share insurance coverage.

TITLE II—BUDGET-RELATED PROVISIONS

Sec. 201. Information for congressional support agencies.
Sec. 202. Reports by the Office of Management and Budget and the Congressional Budget Office.
Sec. 203. Analysis in President's Budget.
Sec. 204. Emergency treatment.

TITLE III—TAX PROVISIONS

Sec. 301. Gain or loss from sale or exchange of certain preferred stock.
Sec. 302. Special rules for tax treatment of executive compensation of employers participating in the troubled assets relief program.
Sec. 303. Extension of exclusion of income from discharge of qualified principal residence indebtedness.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to immediately provide authority and facilities that the Secretary of the Treasury can use to restore liquidity and stability to the financial system of the United States; and

(2) to ensure that such authority and such facilities are used in a manner that—

(A) protects home values, college funds, retirement accounts, and life savings;

(B) preserves homeownership and promotes jobs and economic growth;

(C) maximizes overall returns to the taxpayers of the United States; and

(D) provides public accountability for the exercise of such authority.

SEC. 3. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(B) the Committee on Financial Services, the Committee on Ways and Means, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

(2) BOARD.—The term ''Board'' means the Board of Governors of the Federal Reserve System.

(3) CONGRESSIONAL SUPPORT AGENCIES.—The term ''congressional support agencies'' means the Congressional Budget Office and the Joint Committee on Taxation.

(4) CORPORATION.—The term ''Corporation'' means the Federal Deposit Insurance Corporation.

(5) FINANCIAL INSTITUTION.—The term ''financial institution'' means any institution, including, but not limited to, any bank, savings association, credit union, security broker or dealer, or insurance company, established and regulated under the laws of the United States or any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands, and having significant operations in the United States, but excluding any central bank of, or institution owned by, a foreign government.

(6) FUND.—The term ''Fund'' means the Troubled Assets Insurance Financing Fund established under section 102.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(8) TARP.—The term ''TARP'' means the Troubled Asset Relief Program established under section 101.

(9) TROUBLED ASSETS.—The term ''troubled assets'' means—

(A) residential or commercial mortgages and any securities, obligations, or other instruments that are based on or related to such mortgages, that in each case was originated or issued on or before March 14, 2008, the purchase of which the Secretary determines promotes financial market stability; and

(B) any other financial instrument that the Secretary, after consultation with the Chairman of the Board of Governors of the Federal Reserve System, determines the purchase of which is necessary to promote financial market stability, but only upon transmittal of such determination, in writing, to the appropriate committees of Congress.

TITLE I—TROUBLED ASSETS RELIEF PROGRAM

SEC. 101. PURCHASES OF TROUBLED ASSETS.

(a) OFFICES; AUTHORITY.—

(1) AUTHORITY.—The Secretary is authorized to establish the Troubled Asset Relief Program (or ''TARP'') to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution, on such terms and conditions as are determined by the Secretary, and in accordance with this Act and the policies and procedures developed and published by the Secretary.

(2) COMMENCEMENT OF PROGRAM.—Establishment of the policies and procedures and other similar administrative requirements imposed on the Secretary by this Act are not intended to delay the commencement of the TARP.

(3) ESTABLISHMENT OF TREASURY OFFICE.—

(A) IN GENERAL.—The Secretary shall implement any program under paragraph (1) through an Office of Financial Stability, established for such purpose within the Office of Domestic Finance of the Department of the Treasury, which office shall be headed by an Assistant Secretary of the Treasury, appointed by the President, by and with the advice and consent of the Senate, except that an interim Assistant Secretary may be appointed by the Secretary.

(B) CLERICAL AMENDMENTS.—

(i) TITLE 5.—Section 5315 of title 5, United States Code, is amended in the item relating to Assistant Secretaries of the Treasury, by striking ''(9)'' and inserting ''(10)''.

(ii) TITLE 31.—Section 301(e) of title 31, United States Code, is amended by striking ''9'' and inserting ''10''.

(b) CONSULTATION.—In exercising the authority under this section, the Secretary shall consult with the Board, the Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the National Credit Union Administration Board, and the Secretary of Housing and Urban Development.

(c) NECESSARY ACTIONS.—The Secretary is authorized to take such actions as the Secretary deems necessary to carry out the authorities in this Act, including, without limitation, the following:

(1) The Secretary shall have direct hiring authority with respect to the appointment of employees to administer this Act.

(2) Entering into contracts, including contracts for services authorized by section 3109 of title 5, United States Code.

(3) Designating financial institutions as financial agents of the Federal Government, and such institutions shall perform all such reasonable duties related to this Act as financial agents of the Federal Government as may be required.

(4) In order to provide the Secretary with the flexibility to manage troubled assets in a manner designed to minimize cost to the taxpayers, establishing vehicles that are authorized, subject to supervision by the Secretary, to purchase, hold, and sell troubled assets and issue obligations.

(5) Issuing such regulations and other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this Act.

(d) PROGRAM GUIDELINES.—Before the earlier of the end of the 2-business-day period beginning on the date of the first purchase of troubled assets pursuant to the authority under this section or the end of the 45-day period beginning on the date of enactment of this Act, the Secretary shall publish program guidelines, including the following:

(1) Mechanisms for purchasing troubled assets.

(2) Methods for pricing and valuing troubled assets.

(3) Procedures for selecting asset managers.

(4) Criteria for identifying troubled assets for purchase.

(e) PREVENTING UNJUST ENRICHMENT.—In making purchases under the authority of this Act, the Secretary shall take such steps as may be necessary to prevent unjust enrichment of financial institutions participating in a program established under this section, including by preventing the sale of a troubled asset to the Secretary at a higher price than what the seller paid to purchase the asset. This subsection does not apply to troubled assets acquired in a merger or acquisition, or a purchase of assets from a financial institution in conservatorship or receivership, or that has initiated bankruptcy proceedings under title 11, United States Code.

SEC. 102. INSURANCE OF TROUBLED ASSETS.

(a) AUTHORITY.—

(1) IN GENERAL.—If the Secretary establishes the program authorized under section 101, then the Secretary shall establish a program to guarantee troubled assets originated or issued prior to March 14, 2008, including mortgage-backed securities.

(2) GUARANTEES.—In establishing any program under this subsection, the Secretary may develop guarantees of troubled assets and the associated premiums for such guarantees. Such guarantees and premiums may be determined by category or class of the troubled assets to be guaranteed.

(3) EXTENT OF GUARANTEE.—Upon request of a financial institution, the Secretary may guarantee the timely payment of principal of, and interest on, troubled assets in amounts not to exceed 100 percent of such payments. Such guarantee may be on such terms and conditions as are determined by the Secretary, provided that such terms and conditions are consistent with the purposes of this Act.

(b) REPORTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall report to the appropriate committees of Congress on the program established under subsection (a).

(c) PREMIUMS.—

(1) IN GENERAL.—The Secretary shall collect premiums from any financial institution participating in the program established under subsection (a). Such premiums shall be in an amount that the Secretary determines necessary to meet the purposes of this Act and to provide sufficient reserves pursuant to paragraph (3).

(2) AUTHORITY TO BASE PREMIUMS ON PRODUCT RISK.—In establishing any premium under paragraph (1), the Secretary may provide for variations in such rates according to the credit risk associated with the particular troubled asset that is being guaranteed. The Secretary shall publish the methodology for setting the premium for a class of troubled assets together with an explanation of the appropriateness of the class of assets for participation in the program established under this section. The methodology shall ensure that the premium is consistent with paragraph (3).

(3) MINIMUM LEVEL.—The premiums referred to in paragraph (1) shall be set by the Secretary at a level necessary to create reserves sufficient to meet anticipated claims, based on an actuarial analysis, and to ensure that taxpayers are fully protected.

(4) ADJUSTMENT TO PURCHASE AUTHORITY.—The purchase authority limit in section 115 shall be reduced by an amount equal to the difference between the total of the outstanding guaranteed obligations and the balance in the Troubled Assets Insurance Financing Fund.

(d) TROUBLED ASSETS INSURANCE FINANCING FUND.—

(1) DEPOSITS.—The Secretary shall deposit fees collected under this section into the Fund established under paragraph (2).

(2) ESTABLISHMENT.—There is established a Troubled Assets Insurance Financing Fund that shall consist of the amounts collected pursuant to paragraph (1), and any balance in such fund shall be invested by the Secretary in United States Treasury securities, or kept in cash on hand or on deposit, as necessary.

(3) PAYMENTS FROM FUND.—The Secretary shall make payments from amounts deposited in the Fund to fulfill obligations of the guarantees provided to financial institutions under subsection (a).

SEC. 103. CONSIDERATIONS.

In exercising the authorities granted in this Act, the Secretary shall take into consideration—

(1) protecting the interests of taxpayers by maximizing overall returns and minimizing the impact on the national debt;

(2) providing stability and preventing disruption to financial markets in order to limit the impact on the economy and protect American jobs, savings, and retirement security;

(3) the need to help families keep their homes and to stabilize communities;

(4) in determining whether to engage in a direct purchase from an individual financial institution, the long-term viability of the financial institution in determining whether the purchase represents the most efficient use of funds under this Act;

(5) ensuring that all financial institutions are eligible to participate in the program, without discrimination based on size, geography, form of organization, or the size, type, and number of assets eligible for purchase under this Act;

(6) providing financial assistance to financial institutions, including those serving low- and moderate-income populations and other underserved communities, and that have assets less than $1,000,000,000, that were well or adequately capitalized as of June 30, 2008, and that as a result of the devaluation of the preferred government-sponsored enterprises stock will drop one or more capital levels, in a manner sufficient to restore the financial institutions to at least an adequately capitalized level;

(7) the need to ensure stability for United States public instrumentalities, such as counties and cities, that may have suffered significant increased costs or losses in the current market turmoil;

(8) protecting the retirement security of Americans by purchasing troubled assets held by or on behalf of an eligible retirement plan described in clause (iii), (iv), (v), or (vi) of section 402(c)(8)(B) of the Internal Revenue Code of 1986, except that such authority shall not extend to any compensation arrangements subject to section 409A of such Code; and

(9) the utility of purchasing other real estate owned and instruments backed by mortgages on multifamily properties.

SEC. 104. FINANCIAL STABILITY OVERSIGHT BOARD.

(a) ESTABLISHMENT.—There is established the Financial Stability Oversight Board, which shall be responsible for—

(1) reviewing the exercise of authority under a program developed in accordance with this Act, including—

(A) policies implemented by the Secretary and the Office of Financial Stability created under sections 101 and 102, including the appointment of financial agents, the designation of asset classes to be purchased, and plans for the structure of vehicles used to purchase troubled assets; and

(B) the effect of such actions in assisting American families in preserving home ownership, stabilizing financial markets, and protecting taxpayers;

(2) making recommendations, as appropriate, to the Secretary regarding use of the authority under this Act; and

(3) reporting any suspected fraud, misrepresentation, or malfeasance to the Special Inspector General for the Troubled Assets Relief Program or the Attorney General of the United States, consistent with section 535(b) of title 28, United States Code.

(b) MEMBERSHIP.—The Financial Stability Oversight Board shall be comprised of—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Secretary;

(3) the Director of the Federal Housing Finance Agency;

(4) the Chairman of the Securities Exchange Commission; and

(5) the Secretary of Housing and Urban Development.

(c) CHAIRPERSON.—The chairperson of the Financial Stability Oversight Board shall be elected by the members of the Board from among the members other than the Secretary.

(d) MEETINGS.—The Financial Stability Oversight Board shall meet 2 weeks after the first exercise of the purchase authority of the Secretary under this Act, and monthly thereafter.

(e) ADDITIONAL AUTHORITIES.—In addition to the responsibilities described in subsection (a), the Financial Stability Oversight Board shall have the authority to ensure that the policies implemented by the Secretary are—

(1) in accordance with the purposes of this Act;

(2) in the economic interests of the United States; and

(3) consistent with protecting taxpayers, in accordance with section 113(a).

(f) CREDIT REVIEW COMMITTEE.—The Financial Stability Oversight Board may appoint a credit review committee for the purpose of evaluating the exercise of the purchase authority provided under this Act and the assets acquired through the exercise of such authority, as the Financial Stability Oversight Board determines appropriate.

(g) REPORTS.—The Financial Stability Oversight Board shall report to the appropriate committees of Congress and the Congressional Oversight Panel established under section 125, not less frequently than quarterly, on the matters described under subsection (a)(1).

(h) TERMINATION.—The Financial Stability Oversight Board, and its authority under this section, shall terminate on the expiration of the 15-day period beginning upon the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 102.

SEC. 105. REPORTS.

(a) IN GENERAL.—Before the expiration of the 60-day period beginning on the date of the first exercise of the authority granted in section 101(a), or of the first exercise of the authority granted in section 102, whichever occurs first, and every 30-day period thereafter, the Secretary shall report to the appropriate committees of Congress, with respect to each such period—

(1) an overview of actions taken by the Secretary, including the considerations required by section 103 and the efforts under section 109;

(2) the actual obligation and expenditure of the funds provided for administrative expenses by section 118 during such period and the expected expenditure of such funds in the subsequent period; and

(3) a detailed financial statement with respect to the exercise of authority under this Act, including—

(A) all agreements made or renewed;

(B) all insurance contracts entered into pursuant to section 102;

(C) all transactions occurring during such period, including the types of parties involved;

(D) the nature of the assets purchased;

(E) all projected costs and liabilities;

(F) operating expenses, including compensation for financial agents;

(G) the valuation or pricing method used for each transaction; and

(H) a description of the vehicles established to exercise such authority.

(b) TRANCHE REPORTS TO CONGRESS.—

(1) REPORTS.—The Secretary shall provide to the appropriate committees of Congress, at the times specified in paragraph (2), a written report, including—

(A) a description of all of the transactions made during the reporting period;

(B) a description of the pricing mechanism for the transactions;

(C) a justification of the price paid for and other financial terms associated with the transactions;

(D) a description of the impact of the exercise of such authority on the financial system, supported, to the extent possible, by specific data;

(E) a description of challenges that remain in the financial system, including any benchmarks yet to be achieved; and

(F) an estimate of additional actions under the authority provided under this Act that may be necessary to address such challenges.

(2) TIMING.—The report required by this subsection shall be submitted not later than 7 days after the date on which commitments to purchase troubled assets under the authorities provided in this Act first reach an aggregate of $50,000,000,000 and not later than 7 days after each $50,000,000,000 interval of such commitments is reached thereafter.

(c) REGULATORY MODERNIZATION REPORT.—The Secretary shall review the current state of the financial markets and the regulatory system and submit a written report to the appropriate committees of Congress not later than April 30, 2009, analyzing the current state of the regulatory system and its effectiveness at overseeing the participants in the financial markets, including the over-the-counter swaps market and government-sponsored enterprises, and providing recommendations for improvement, including—

(1) recommendations regarding—

(A) whether any participants in the financial markets that are currently outside the regulatory system should become subject to the regulatory system; and

(B) enhancement of the clearing and settlement of over-the-counter swaps; and

(2) the rationale underlying such recommendations.

(d) SHARING OF INFORMATION.—Any report required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

(e) SUNSET.—The reporting requirements under this section shall terminate on the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 102.

SEC. 106. RIGHTS; MANAGEMENT; SALE OF TROUBLED ASSETS; REVENUES AND SALE PROCEEDS.

(a) EXERCISE OF RIGHTS.—The Secretary may, at any time, exercise any rights received in connection with troubled assets purchased under this Act.

(b) MANAGEMENT OF TROUBLED ASSETS.—The Secretary shall have authority to manage troubled assets purchased under this Act, including revenues and portfolio risks therefrom.

(c) SALE OF TROUBLED ASSETS.—The Secretary may, at any time, upon terms and conditions and at a price determined by the Secretary, sell, or enter into securities loans, repurchase transactions, or other financial transactions in regard to, any troubled asset purchased under this Act.

(d) TRANSFER TO TREASURY.—Revenues of, and proceeds from the sale of troubled assets purchased under this Act, or from the sale, exercise, or surrender of warrants or senior debt instruments acquired under section 113 shall be paid into the general fund of the Treasury for reduction of the public debt.

(e) APPLICATION OF SUNSET TO TROUBLED ASSETS.—The authority of the Secretary to hold any troubled asset purchased under this Act before the termination date in section 120, or to purchase or fund the purchase of a troubled asset under a commitment entered into before the termination date in section 120, is not subject to the provisions of section 120.

SEC. 107. CONTRACTING PROCEDURES.

(a) STREAMLINED PROCESS.—For purposes of this Act, the Secretary may waive specific provisions of the Federal Acquisition Regulation upon a determination that urgent and compelling circumstances make compliance with such provisions contrary to the public interest. Any such determination, and the justification for such determination, shall be submitted to the Committees on Oversight and Government Reform and Financial Services of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Banking, Housing, and Urban Affairs of the Senate within 7 days.

(b) ADDITIONAL CONTRACTING REQUIREMENTS.—In any solicitation or contract where the Secretary has, pursuant to subsection (a), waived any provision of the Federal Acquisition Regulation pertaining to minority contracting, the Secretary shall develop and implement standards and procedures to ensure, to the maximum extent practicable, the inclusion and utilization of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(r)(4)), in that solicitation or contract, including contracts to asset managers, servicers, property managers, and other service providers or expert consultants.

(c) ELIGIBILITY OF FDIC.—Notwithstanding subsections (a) and (b), the Corporation—

(1) shall be eligible for, and shall be considered in, the selection of asset managers for residential mortgage loans and residential mortgage-backed securities; and

(2) shall be reimbursed by the Secretary for any services provided.

SEC. 108. CONFLICTS OF INTEREST.

(a) STANDARDS REQUIRED.—The Secretary shall issue regulations or guidelines necessary to address and manage or to prohibit conflicts of interest that may arise in connection with the administration and execution of the authorities provided under this Act, including—

(1) conflicts arising in the selection or hiring of contractors or advisors, including asset managers;

(2) the purchase of troubled assets;

(3) the management of the troubled assets held;

(4) post-employment restrictions on employees; and

(5) any other potential conflict of interest, as the Secretary deems necessary or appropriate in the public interest.

(b) TIMING.—Regulations or guidelines required by this section shall be issued as soon as practicable after the date of enactment of this Act.

SEC. 109. FORECLOSURE MITIGATION EFFORTS.

(a) RESIDENTIAL MORTGAGE LOAN SERVICING STANDARDS.—To the extent that the Secretary acquires mortgages, mortgage backed securities, and other assets secured by residential real estate, including multifamily housing, the Secretary shall implement a plan that seeks to maximize assistance for homeowners and use the authority of the Secretary to encourage the servicers of the underlying mortgages, considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures. In addition, the Secretary may use loan guarantees and credit enhancements to facilitate loan modifications to prevent avoidable foreclosures.

(b) COORDINATION.—The Secretary shall coordinate with the Corporation, the Board (with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, as provided in section 110(a)(1)(C)), the Federal Housing Finance Agency, the Secretary of Housing and Urban Development, and other Federal Government entities that hold troubled assets to attempt to identify opportunities for the acquisition of classes of troubled assets that will improve the ability of the Secretary to improve the loan modification and restructuring process and, where permissible, to permit bona fide tenants who are current on their rent to remain in their homes under the terms of the lease. In the case of a mortgage on a residential rental property, the plan required under this section shall include protecting Federal, State, and local rental subsidies and protections, and ensuring any modification takes into account the need for operating funds to maintain decent and safe conditions at the property.

(c) CONSENT TO REASONABLE LOAN MODIFICATION REQUESTS.—Upon any request arising under existing investment contracts, the Secretary shall consent, where appropriate, and considering net present value to the taxpayer, to reasonable requests for loss mitigation measures, including term extensions, rate reductions, principal write downs, increases in the proportion of loans within a trust or other structure allowed to be modified, or removal of other limitation on modifications.

SEC. 110. ASSISTANCE TO HOMEOWNERS.

(a) DEFINITIONS.—As used in this section—

(1) the term ''Federal property manager'' means—

(A) the Federal Housing Finance Agency, in its capacity as conservator of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation;

(B) the Corporation, with respect to residential mortgage loans and mortgage-backed securities held by any bridge depository institution pursuant to section 11(n) of the Federal Deposit Insurance Act; and

(C) the Board, with respect to any mortgage or mortgage-backed securities or pool of securities held, owned, or controlled by or on behalf of a Federal reserve bank, other than mortgages or securities held, owned, or controlled in connection with open market operations under section 14 of the Federal Reserve Act (12 U.S.C. 353), or as collateral for an advance or discount that is not in default;

(2) the term ''consumer'' has the same meaning as in section 103 of the Truth in Lending Act (15 U.S.C. 1602);

(3) the term ''insured depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); and

(4) the term ''servicer'' has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

(b) HOMEOWNER ASSISTANCE BY AGENCIES.—

(1) IN GENERAL.—To the extent that the Federal property manager holds, owns, or controls mortgages, mortgage backed securities, and other assets secured by residential real estate, including multifamily housing, the Federal property manager shall implement a plan that seeks to maximize assistance for homeowners and use its authority to encourage the servicers of the underlying mortgages, and considering net present value to the taxpayer, to take advantage of the HOPE for Homeowners Program under section 257 of the National Housing Act or other available programs to minimize foreclosures.

(2) MODIFICATIONS.—In the case of a residential mortgage loan, modifications made under paragraph (1) may include—

(A) reduction in interest rates;

(B) reduction of loan principal; and

(C) other similar modifications.

(3) TENANT PROTECTIONS.—In the case of mortgages on residential rental properties, modifications made under paragraph (1) shall ensure—

(A) the continuation of any existing Federal, State, and local rental subsidies and protections; and

(B) that modifications take into account the need for operating funds to maintain decent and safe conditions at the property.

(4) TIMING.—Each Federal property manager shall develop and begin implementation of the plan required by this subsection not later than 60 days after the date of enactment of this Act.

(5) REPORTS TO CONGRESS.—Each Federal property manager shall, 60 days after the date of enactment of this Act and every 30 days thereafter, report to Congress specific information on the number and types of loan modifications made and the number of actual foreclosures occurring during the reporting period in accordance with this section.

(6) CONSULTATION.—In developing the plan required by this subsection, the Federal property managers shall consult with one another and, to the extent possible, utilize consistent approaches to implement the requirements of this subsection.

(c) ACTIONS WITH RESPECT TO SERVICERS.—In any case in which a Federal property manager is not the owner of a residential mortgage loan, but holds an interest in obligations or pools of obligations secured by residential mortgage loans, the Federal property manager shall—

(1) encourage implementation by the loan servicers of loan modifications developed under subsection (b); and

(2) assist in facilitating any such modifications, to the extent possible.

(d) LIMITATION.—The requirements of this section shall not supersede any other duty or requirement imposed on the Federal property managers under otherwise applicable law.

SEC. 111. EXECUTIVE COMPENSATION AND CORPORATE GOVERNANCE.

(a) APPLICABILITY.—Any financial institution that sells troubled assets to the Secretary under this Act shall be subject to the executive compensation requirements of subsections (b) and (c) and the provisions under the Internal Revenue Code of 1986, as provided under the amendment by section 302, as applicable.

(b) DIRECT PURCHASES.—

(1) IN GENERAL.—Where the Secretary determines that the purposes of this Act are best met through direct purchases of troubled assets from an individual financial institution where no bidding process or market prices are available, and the Secretary receives a meaningful equity or debt position in the financial institution as a result of the transaction, the Secretary shall require that the financial institution meet appropriate standards for executive compensation and corporate governance. The standards required under this subsection shall be effective for the duration of the period that the Secretary holds an equity or debt position in the financial institution.

(2) CRITERIA.—The standards required under this subsection shall include—

(A) limits on compensation that exclude incentives for senior executive officers of a financial institution to take unnecessary and excessive risks that threaten the value of the financial institution during the period that the Secretary holds an equity or debt position in the financial institution;

(B) a provision for the recovery by the financial institution of any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains, or other criteria that are later proven to be materially inaccurate; and

(C) a prohibition on the financial institution making any golden parachute payment to its senior executive officer during the period that the Secretary holds an equity or debt position in the financial institution.

(3) DEFINITION.—For purposes of this section, the term ''senior executive officer'' means an individual who is one of the top 5 highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and non-public company counterparts.

(c) AUCTION PURCHASES.—Where the Secretary determines that the purposes of this Act are best met through auction purchases of troubled assets, and only where such purchases per financial institution in the aggregate exceed $300,000,000 (including direct purchases), the Secretary shall prohibit, for such financial institution, any new employment contract with a senior executive officer that provides a golden parachute in the event of an involuntary termination, bankruptcy filing, insolvency, or receivership. The Secretary shall issue guidance to carry out this paragraph not later than 2 months after the date of enactment of this Act, and such guidance shall be effective upon issuance.

(d) SUNSET.—The provisions of subsection (c) shall apply only to arrangements entered into during the period during which the authorities under section 101(a) are in effect, as determined under section 120.

SEC. 112. COORDINATION WITH FOREIGN AUTHORITIES AND CENTRAL BANKS.

The Secretary shall coordinate, as appropriate, with foreign financial authorities and central banks to work toward the establishment of similar programs by such authorities and central banks. To the extent that such foreign financial authorities or banks hold troubled assets as a result of extending financing to financial institutions that have failed or defaulted on such financing, such troubled assets qualify for purchase under section 101.

SEC. 113. MINIMIZATION OF LONG-TERM COSTS AND MAXIMIZATION OF BENEFITS FOR TAXPAYERS.

(a) LONG-TERM COSTS AND BENEFITS.—

(1) MINIMIZING NEGATIVE IMPACT.—The Secretary shall use the authority under this Act

in a manner that will minimize any potential long-term negative impact on the taxpayer, taking into account the direct outlays, potential long-term returns on assets purchased, and the overall economic benefits of the program, including economic benefits due to improvements in economic activity and the availability of credit, the impact on the savings and pensions of individuals, and reductions in losses to the Federal Government.

(2) AUTHORITY.—In carrying out paragraph (1), the Secretary shall—

(A) hold the assets to maturity or for resale for and until such time as the Secretary determines that the market is optimal for selling such assets, in order to maximize the value for taxpayers; and

(B) sell such assets at a price that the Secretary determines, based on available financial analysis, will maximize return on investment for the Federal Government.

(3) PRIVATE SECTOR PARTICIPATION.—The Secretary shall encourage the private sector to participate in purchases of troubled assets, and to invest in financial institutions, consistent with the provisions of this section.

(b) USE OF MARKET MECHANISMS.—In making purchases under this Act, the Secretary shall—

(1) make such purchases at the lowest price that the Secretary determines to be consistent with the purposes of this Act; and

(2) maximize the efficiency of the use of taxpayer resources by using market mechanisms, including auctions or reverse auctions, where appropriate.

(c) DIRECT PURCHASES.—If the Secretary determines that use of a market mechanism under subsection (b) is not feasible or appropriate, and the purposes of the Act are best met through direct purchases from an individual financial institution, the Secretary shall pursue additional measures to ensure that prices paid for assets are reasonable and reflect the underlying value of the asset.

(d) CONDITIONS ON PURCHASE AUTHORITY FOR WARRANTS AND DEBT INSTRUMENTS.—

(1) IN GENERAL.—The Secretary may not purchase, or make any commitment to purchase, any troubled asset under the authority of this Act, unless the Secretary receives from the financial institution from which such assets are to be purchased—

(A) in the case of a financial institution, the securities of which are traded on a national securities exchange, a warrant giving the right to the Secretary to receive nonvoting common stock or preferred stock in such financial institution, or voting stock with respect to which, the Secretary agrees not to exercise voting power, as the Secretary determines appropriate; or

(B) in the case of any financial institution other than one described in subparagraph (A), a warrant for common or preferred stock, or a senior debt instrument from such financial institution, as described in paragraph (2)(C).

(2) TERMS AND CONDITIONS.—The terms and conditions of any warrant or senior debt instrument required under paragraph (1) shall meet the following requirements:

(A) PURPOSES.—Such terms and conditions shall, at a minimum, be designed—

(i) to provide for reasonable participation by the Secretary, for the benefit of taxpayers, in equity appreciation in the case of a warrant or other equity security, or a reasonable interest rate premium, in the case of a debt instrument; and

(ii) to provide additional protection for the taxpayer against losses from sale of assets by the Secretary under this Act and the administrative expenses of the TARP.

(B) AUTHORITY TO SELL, EXERCISE, OR SURRENDER.—The Secretary may sell, exercise, or surrender a warrant or any senior debt instrument received under this subsection, based on the conditions established under subparagraph (A).

(C) CONVERSION.—The warrant shall provide that if, after the warrant is received by the Secretary under this subsection, the financial institution that issued the warrant is no longer listed or traded on a national securities exchange or securities association, as described in paragraph (1)(A), such warrants shall convert to senior debt, or contain appropriate protections for the Secretary to ensure that the Treasury is appropriately compensated for the value of the warrant, in an amount determined by the Secretary.

(D) PROTECTIONS.—Any warrant representing securities to be received by the Secretary under this subsection shall contain anti-dilution provisions of the type employed in capital market transactions, as determined by the Secretary. Such provisions shall protect the value of the securities from market transactions such as stock splits, stock distributions, dividends, and other distributions, mergers, and other forms of reorganization or recapitalization.

(E) EXERCISE PRICE.—The exercise price for any warrant issued pursuant to this subsection shall be set by the Secretary, in the interest of the taxpayers.

(F) SUFFICIENCY.—The financial institution shall guarantee to the Secretary that it has authorized shares of nonvoting stock available to fulfill its obligations under this subsection. Should the financial institution not have sufficient authorized shares, including preferred shares that may carry dividend rights equal to a multiple number of common shares, the Secretary may, to the extent necessary, accept a senior debt note in an amount, and on such terms as will compensate the Secretary with equivalent value, in the event that a sufficient shareholder vote to authorize the necessary additional shares cannot be obtained.

(3) EXCEPTIONS.—

(A) DE MINIMIS.—The Secretary shall establish de minimis exceptions to the requirements of this subsection, based on the size of the cumulative transactions of troubled assets purchased from any one financial institution for the duration of the program, at not more than $100,000,000.

(B) OTHER EXCEPTIONS.—The Secretary shall establish an exception to the requirements of this subsection and appropriate alternative requirements for any participating financial institution that is legally prohibited from issuing securities and debt instruments, so as not to allow circumvention of the requirements of this section.

SEC. 114. MARKET TRANSPARENCY.

(a) PRICING.—To facilitate market transparency, the Secretary shall make available to the public, in electronic form, a description, amounts, and pricing of assets acquired under this Act, within 2 business days of purchase, trade, or other disposition.

(b) DISCLOSURE.—For each type of financial institutions that sells troubled assets to the Secretary under this Act, the Secretary shall determine whether the public disclosure required for such financial institutions with respect to off-balance sheet transactions, derivatives instruments, contingent liabilities, and similar sources of potential exposure is adequate to provide to the public sufficient information as to the true financial position of the institutions. If such disclosure is not adequate for that purpose, the Secretary shall make recommendations for additional disclosure requirements to the relevant regulators.

SEC. 115. GRADUATED AUTHORIZATION TO PURCHASE.

(a) AUTHORITY.—The authority of the Secretary to purchase troubled assets under this Act shall be limited as follows:

(1) Effective upon the date of enactment of this Act, such authority shall be limited to $250,000,000,000 outstanding at any one time.

(2) If at any time, the President submits to the Congress a written certification that the Secretary needs to exercise the authority under this paragraph, effective upon such submission, such authority shall be limited to $350,000,000,000 outstanding at any one time.

(3) If, at any time after the certification in paragraph (2) has been made, the President transmits to the Congress a written report detailing the plan of the Secretary to exercise the authority under this paragraph, unless there is enacted, within 15 calendar days of such transmission, a joint resolution described in subsection (c), effective upon the expiration of such 15-day period, such authority shall be limited to $700,000,000,000 outstanding at any one time.

(b) AGGREGATION OF PURCHASE PRICES.—The amount of troubled assets purchased by the Secretary outstanding at any one time shall be determined for purposes of the dollar amount limitations under subsection (a) by aggregating the purchase prices of all troubled assets held.

(c) JOINT RESOLUTION OF DISAPPROVAL.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary may not exercise any authority to make purchases under this Act with regard to any amount in excess of $350,000,000,000 previously obligated, as described in this section if, within 15 calendar days after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3), there is enacted into law a joint resolution disapproving the plan of the Secretary with respect to such additional amount.

(2) CONTENTS OF JOINT RESOLUTION.—For the purpose of this section, the term ''joint resolution'' means only a joint resolution—

(A) that is introduced not later than 3 calendar days after the date on which the report of the plan of the Secretary referred to in subsection (a)(3) is received by Congress;

(B) which does not have a preamble;

(C) the title of which is as follows: ''Joint resolution relating to the disapproval of obligations under the Emergency Economic Stabilization Act of 2008''; and

(D) the matter after the resolving clause of which is as follows: ''That Congress disapproves the obligation of any amount exceeding the amounts obligated as described in paragraphs (1) and (2) of section 115(a) of the Emergency Economic Stabilization Act of 2008.''.

(d) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(1) RECONVENING.—Upon receipt of a report under subsection (a)(3), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this section, the House shall convene not later than the second calendar day after receipt of such report;

(2) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House not later than 5 calendar days after the date of receipt of the report described in subsection (a)(3). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

(3) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or

has been discharged from its consideration, it shall be in order, not later than the sixth day after Congress receives the report described in subsection (a)(3), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(4) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

(e) FAST TRACK CONSIDERATION IN SENATE.—

(1) RECONVENING.—Upon receipt of a report under subsection (a)(3), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message.

(2) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

(3) FLOOR CONSIDERATION.—

(A) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3) and ending on the 6th day after the date on which Congress receives a report of the plan of the Secretary described in subsection (a)(3) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

(B) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(C) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(f) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

(1) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on passage shall be on the joint resolution of the other House.

(2) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If one House fails to introduce or consider a joint resolution under this section, the joint resolution of the other House shall be entitled to expedited floor procedures under this section.

(3) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(4) CONSIDERATION AFTER PASSAGE.—

(A) IN GENERAL.—If Congress passes a joint resolution, the period beginning on the date the President is presented with the joint resolution and ending on the date the President takes action with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in subsection (a)(3).

(B) VETOES.—If the President vetoes the joint resolution—

(i) the period beginning on the date the President vetoes the joint resolution and ending on the date the Congress receives the veto message with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in subsection (a)(3), and

(ii) debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

(5) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection and subsections (c), (d), and (e) are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 116. OVERSIGHT AND AUDITS.

(a) COMPTROLLER GENERAL OVERSIGHT.—

(1) SCOPE OF OVERSIGHT.—The Comptroller General of the United States shall, upon establishment of the troubled assets relief program under this Act (in this section referred to as the ''TARP''), commence ongoing oversight of the activities and performance of the TARP and of any agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this Act. The subjects of such oversight shall include the following:

(A) The performance of the TARP in meeting the purposes of this Act, particularly those involving—

(i) foreclosure mitigation;

(ii) cost reduction;

(iii) whether it has provided stability or prevented disruption to the financial markets or the banking system; and

(iv) whether it has protected taxpayers.

(B) The financial condition and internal controls of the TARP, its representatives and agents.

(C) Characteristics of transactions and commitments entered into, including transaction type, frequency, size, prices paid, and all other relevant terms and conditions, and the timing, duration and terms of any future commitments to purchase assets.

(D) Characteristics and disposition of acquired assets, including type, acquisition price, current market value, sale prices and terms, and use of proceeds from sales.

(E) Efficiency of the operations of the TARP in the use of appropriated funds.

(F) Compliance with all applicable laws and regulations by the TARP, its agents and representatives.

(G) The efforts of the TARP to prevent, identify, and minimize conflicts of interest involving any agent or representative performing activities on behalf of or under the authority of the TARP.

(H) The efficacy of contracting procedures pursuant to section 107(b), including, as applicable, the efforts of the TARP in evaluating proposals for inclusion and contracting to the maximum extent possible of minorities (as such term is defined in 1204(c) of the Financial Institutions Reform, Recovery, and Enhancement Act of 1989 (12 U.S.C. 1811 note), women, and minority- and women-owned businesses, including ascertaining and reporting the total amount of fees paid and other value delivered by the TARP to all of its agents and representatives, and such amounts paid or delivered to such firms that are minority- and women-owned businesses (as such terms are defined in section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a)).

(2) CONDUCT AND ADMINISTRATION OF OVERSIGHT.—

(A) GAO PRESENCE.—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 120.

(B) ACCESS TO RECORDS.—To the extent otherwise consistent with law, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, or any vehicles established by the Secretary under this Act, and to the officers, directors, employees, independent public accountants, financial advisors, and other agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP) or any such vehicle at such reasonable time as the Comptroller General may request. The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General deems appropriate.

(C) REIMBURSEMENT OF COSTS.—The Treasury shall reimburse the Government Accountability Office for the full cost of any such oversight activities as billed therefor by the Comptroller General of the United

States. Such reimbursements shall be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when the payment is received and remain available until expended.

(3) REPORTING.—The Comptroller General shall submit reports of findings under this section, regularly and no less frequently than once every 60 days, to the appropriate committees of Congress, and the Special Inspector General for the Troubled Asset Relief Program established under this Act on the activities and performance of the TARP. The Comptroller may also submit special reports under this subsection as warranted by the findings of its oversight activities.

(b) COMPTROLLER GENERAL AUDITS.—

(1) ANNUAL AUDIT.—The TARP shall annually prepare and issue to the appropriate committees of Congress and the public audited financial statements prepared in accordance with generally accepted accounting principles, and the Comptroller General shall annually audit such statements in accordance with generally accepted auditing standards. The Treasury shall reimburse the Government Accountability Office for the full cost of any such audit as billed therefor by the Comptroller General. Such reimbursements shall be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when the payment is received and remain available until expended. The financial statements prepared under this paragraph shall be on the fiscal year basis prescribed under section 1102 of title 31, United States Code.

(2) AUTHORITY.—The Comptroller General may audit the programs, activities, receipts, expenditures, and financial transactions of the TARP and any agents and representatives of the TARP (as related to the agent or representative's activities on behalf of or under the authority of the TARP), including vehicles established by the Secretary under this Act.

(3) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The TARP shall—

(A) take action to address deficiencies identified by the Comptroller General or other auditor engaged by the TARP; or

(B) certify to appropriate committees of Congress that no action is necessary or appropriate.

(c) INTERNAL CONTROL.—

(1) ESTABLISHMENT.—The TARP shall establish and maintain an effective system of internal control, consistent with the standards prescribed under section 3512(c) of title 31, United States Code, that provides reasonable assurance of—

(A) the effectiveness and efficiency of operations, including the use of the resources of the TARP;

(B) the reliability of financial reporting, including financial statements and other reports for internal and external use; and

(C) compliance with applicable laws and regulations.

(2) REPORTING.—In conjunction with each annual financial statement issued under this section, the TARP shall—

(A) state the responsibility of management for establishing and maintaining adequate internal control over financial reporting; and

(B) state its assessment, as of the end of the most recent year covered by such financial statement of the TARP, of the effectiveness of the internal control over financial reporting.

(d) SHARING OF INFORMATION.—Any report or audit required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

(e) TERMINATION.—Any oversight, reporting, or audit requirement under this section shall terminate on the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 102.

SEC. 117. STUDY AND REPORT ON MARGIN AUTHORITY.

(a) STUDY.—The Comptroller General shall undertake a study to determine the extent to which leverage and sudden deleveraging of financial institutions was a factor behind the current financial crisis.

(b) CONTENT.—The study required by this section shall include—

(1) an analysis of the roles and responsibilities of the Board, the Securities and Exchange Commission, the Secretary, and other Federal banking agencies with respect to monitoring leverage and acting to curtail excessive leveraging;

(2) an analysis of the authority of the Board to regulate leverage, including by setting margin requirements, and what process the Board used to decide whether or not to use its authority;

(3) an analysis of any usage of the margin authority by the Board; and

(4) recommendations for the Board and appropriate committees of Congress with respect to the existing authority of the Board.

(c) REPORT.—Not later than June 1, 2009, the Comptroller General shall complete and submit a report on the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(d) SHARING OF INFORMATION.—Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

SEC. 118. FUNDING.

For the purpose of the authorities granted in this Act, and for the costs of administering those authorities, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include actions authorized by this Act, including the payment of administrative expenses. Any funds expended or obligated by the Secretary for actions authorized by this Act, including the payment of administrative expenses, shall be deemed appropriated at the time of such expenditure or obligation.

SEC. 119. JUDICIAL REVIEW AND RELATED MATTERS.

(a) JUDICIAL REVIEW.—

(1) STANDARD.—Actions by the Secretary pursuant to the authority of this Act shall be subject to chapter 7 of title 5, United States Code, including that such final actions shall be held unlawful and set aside if found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

(2) LIMITATIONS ON EQUITABLE RELIEF.—

(A) INJUNCTION.—No injunction or other form of equitable relief shall be issued against the Secretary for actions pursuant to section 101, 102, 106, and 109, other than to remedy a violation of the Constitution.

(B) TEMPORARY RESTRAINING ORDER.—Any request for a temporary restraining order against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court within 3 days of the date of the request.

(C) PRELIMINARY INJUNCTION.—Any request for a preliminary injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis consistent with the provisions of rule 65(b)(3) of the Federal Rules of Civil Procedure, or any successor thereto.

(D) PERMANENT INJUNCTION.—Any request for a permanent injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis. Whenever possible, the court shall consolidate trial on the merits with any hearing on a request for a preliminary injunction, consistent with the provisions of rule 65(a)(2) of the Federal Rules of Civil Procedure, or any successor thereto.

(3) LIMITATION ON ACTIONS BY PARTICIPATING COMPANIES.—No action or claims may be brought against the Secretary by any person that divests its assets with respect to its participation in a program under this Act, except as provided in paragraph (1), other than as expressly provided in a written contract with the Secretary.

(4) STAYS.—Any injunction or other form of equitable relief issued against the Secretary for actions pursuant to section 101, 102, 106, and 109, shall be automatically stayed. The stay shall be lifted unless the Secretary seeks a stay from a higher court within 3 calendar days after the date on which the relief is issued.

(b) RELATED MATTERS.—

(1) TREATMENT OF HOMEOWNERS' RIGHTS.—The terms of any residential mortgage loan that is part of any purchase by the Secretary under this Act shall remain subject to all claims and defenses that would otherwise apply, notwithstanding the exercise of authority by the Secretary under this Act.

(2) SAVINGS CLAUSE.—Any exercise of the authority of the Secretary pursuant to this Act shall not impair the claims or defenses that would otherwise apply with respect to persons other than the Secretary. Except as established in any contract, a servicer of pooled residential mortgages owes any duty to determine whether the net present value of the payments on the loan, as modified, is likely to be greater than the anticipated net recovery that would result from foreclosure to all investors and holders of beneficial interests in such investment, but not to any individual or groups of investors or beneficial interest holders, and shall be deemed to act in the best interests of all such investors or holders of beneficial interests if the servicer agrees to or implements a modification or workout plan when the servicer takes reasonable loss mitigation actions, including partial payments.

SEC. 120. TERMINATION OF AUTHORITY.

(a) TERMINATION.—The authorities provided under sections 101(a), excluding section 101(a)(3), and 102 shall terminate on December 31, 2009.

(b) EXTENSION UPON CERTIFICATION.—The Secretary, upon submission of a written certification to Congress, may extend the authority provided under this Act to expire not later than 2 years from the date of enactment of this Act. Such certification shall include a justification of why the extension is necessary to assist American families and stabilize financial markets, as well as the expected cost to the taxpayers for such an extension.

SEC. 121. SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.

(a) OFFICE OF INSPECTOR GENERAL.—There is hereby established the Office of the Special Inspector General for the Troubled Asset Relief Program.

(b) APPOINTMENT OF INSPECTOR GENERAL; REMOVAL.—(1) The head of the Office of the Special Inspector General for the Troubled Asset Relief Program is the Special Inspector General for the Troubled Asset Relief Program (in this section referred to as the

''Special Inspector General''), who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The appointment of the Special Inspector General shall be made on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(3) The nomination of an individual as Special Inspector General shall be made as soon as practicable after the establishment of any program under sections 101 and 102.

(4) The Special Inspector General shall be removable from office in accordance with the provisions of section 3(b) of the Inspector General Act of 1978 (5 U.S.C. App.).

(5) For purposes of section 7324 of title 5, United States Code, the Special Inspector General shall not be considered an employee who determines policies to be pursued by the United States in the nationwide administration of Federal law.

(6) The annual rate of basic pay of the Special Inspector General shall be the annual rate of basic pay for an Inspector General under section 3(e) of the Inspector General Act of 1978 (5 U.S.C. App.).

(c) DUTIES.—(1) It shall be the duty of the Special Inspector General to conduct, supervise, and coordinate audits and investigations of the purchase, management, and sale of assets by the Secretary of the Treasury under any program established by the Secretary under section 101, and the management by the Secretary of any program established under section 102, including by collecting and summarizing the following information:

(A) A description of the categories of troubled assets purchased or otherwise procured by the Secretary.

(B) A listing of the troubled assets purchased in each such category described under subparagraph (A).

(C) An explanation of the reasons the Secretary deemed it necessary to purchase each such troubled asset.

(D) A listing of each financial institution that such troubled assets were purchased from.

(E) A listing of and detailed biographical information on each person or entity hired to manage such troubled assets.

(F) A current estimate of the total amount of troubled assets purchased pursuant to any program established under section 101, the amount of troubled assets on the books of the Treasury, the amount of troubled assets sold, and the profit and loss incurred on each sale or disposition of each such troubled asset.

(G) A listing of the insurance contracts issued under section 102.

(2) The Special Inspector General shall establish, maintain, and oversee such systems, procedures, and controls as the Special Inspector General considers appropriate to discharge the duty under paragraph (1).

(3) In addition to the duties specified in paragraphs (1) and (2), the Inspector General shall also have the duties and responsibilities of inspectors general under the Inspector General Act of 1978.

(d) POWERS AND AUTHORITIES.—(1) In carrying out the duties specified in subsection (c), the Special Inspector General shall have the authorities provided in section 6 of the Inspector General Act of 1978.

(2) The Special Inspector General shall carry out the duties specified in subsection (c)(1) in accordance with section 4(b)(1) of the Inspector General Act of 1978.

(e) PERSONNEL, FACILITIES, AND OTHER RESOURCES.—(1) The Special Inspector General may select, appoint, and employ such officers and employees as may be necessary for carrying out the duties of the Special Inspector General, subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) The Special Inspector General may obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–15 of the General Schedule by section 5332 of such title.

(3) The Special Inspector General may enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and make such payments as may be necessary to carry out the duties of the Inspector General.

(4)(A) Upon request of the Special Inspector General for information or assistance from any department, agency, or other entity of the Federal Government, the head of such entity shall, insofar as is practicable and not in contravention of any existing law, furnish such information or assistance to the Special Inspector General, or an authorized designee.

(B) Whenever information or assistance requested by the Special Inspector General is, in the judgment of the Special Inspector General, unreasonably refused or not provided, the Special Inspector General shall report the circumstances to the appropriate committees of Congress without delay.

(f) REPORTS.—(1) Not later than 60 days after the confirmation of the Special Inspector General, and every calendar quarter thereafter, the Special Inspector General shall submit to the appropriate committees of Congress a report summarizing the activities of the Special Inspector General during the 120-day period ending on the date of such report. Each report shall include, for the period covered by such report, a detailed statement of all purchases, obligations, expenditures, and revenues associated with any program established by the Secretary of the Treasury under sections 101 and 102, as well as the information collected under subsection (c)(1).

(2) Nothing in this subsection shall be construed to authorize the public disclosure of information that is—

(A) specifically prohibited from disclosure by any other provision of law;

(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

(C) a part of an ongoing criminal investigation.

(3) Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

(g) FUNDING.—(1) Of the amounts made available to the Secretary of the Treasury under section 118, $50,000,000 shall be available to the Special Inspector General to carry out this section.

(2) The amount available under paragraph (1) shall remain available until expended.

(h) TERMINATION.—The Office of the Special Inspector General shall terminate on the later of—

(1) the date that the last troubled asset acquired by the Secretary under section 101 has been sold or transferred out of the ownership or control of the Federal Government; or

(2) the date of expiration of the last insurance contract issued under section 102.

SEC. 122. INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting ''$11,315,000,000,000''.

SEC. 123. CREDIT REFORM.

(a) IN GENERAL.—Subject to subsection (b), the costs of purchases of troubled assets made under section 101(a) and guarantees of troubled assets under section 102, and any cash flows associated with the activities authorized in section 102 and subsections (a), (b), and (c) of section 106 shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et. seq.).

(b) COSTS.—For the purposes of section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))—

(1) the cost of troubled assets and guarantees of troubled assets shall be calculated by adjusting the discount rate in section 502(5)(E) (2 U.S.C. 661a(5)(E)) for market risks; and

(2) the cost of a modification of a troubled asset or guarantee of a troubled asset shall be the difference between the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset and the current estimate consistent with paragraph (1) under the terms of the troubled asset or guarantee of the troubled asset, as modified.

SEC. 124. HOPE FOR HOMEOWNERS AMENDMENTS.

Section 257 of the National Housing Act (12 U.S.C. 1715z-23) is amended—

(1) in subsection (e)—

(A) in paragraph (1)(B), by inserting before ''a ratio'' the following: '', or thereafter is likely to have, due to the terms of the mortgage being reset,'';

(B) in paragraph (2)(B), by inserting before the period at the end ''(or such higher percentage as the Board determines, in the discretion of the Board)'';

(C) in paragraph (4)(A)—

(i) in the first sentence, by inserting after ''insured loan'' the following: ''and any payments made under this paragraph,''; and

(ii) by adding at the end the following: ''Such actions may include making payments, which shall be accepted as payment in full of all indebtedness under the eligible mortgage, to any holder of an existing subordinate mortgage, in lieu of any future appreciation payments authorized under subparagraph (B).''; and

(2) in subsection (w), by inserting after ''administrative costs'' the following: ''and payments pursuant to subsection (e)(4)(A)''.

SEC. 125. CONGRESSIONAL OVERSIGHT PANEL.

(a) ESTABLISHMENT.—There is hereby established the Congressional Oversight Panel (hereafter in this section referred to as the ''Oversight Panel'') as an establishment in the legislative branch.

(b) DUTIES.—The Oversight Panel shall review the current state of the financial markets and the regulatory system and submit the following reports to Congress:

(1) REGULAR REPORTS.—

(A) IN GENERAL.—Regular reports of the Oversight Panel shall include the following:

(i) The use by the Secretary of authority under this Act, including with respect to the use of contracting authority and administration of the program.

(ii) The impact of purchases made under the Act on the financial markets and financial institutions.

(iii) The extent to which the information made available on transactions under the program has contributed to market transparency.

(iv) The effectiveness of foreclosure mitigation efforts, and the effectiveness of the program from the standpoint of minimizing long-term costs to the taxpayers and maximizing the benefits for taxpayers.

(B) TIMING.—The reports required under this paragraph shall be submitted not later than 30 days after the first exercise by the

Secretary of the authority under section 101(a) or 102, and every 30 days thereafter.

(2) SPECIAL REPORT ON REGULATORY REFORM.—The Oversight Panel shall submit a special report on regulatory reform not later than January 20, 2009, analyzing the current state of the regulatory system and its effectiveness at overseeing the participants in the financial system and protecting consumers, and providing recommendations for improvement, including recommendations regarding whether any participants in the financial markets that are currently outside the regulatory system should become subject to the regulatory system, the rationale underlying such recommendation, and whether there are any gaps in existing consumer protections.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Oversight Panel shall consist of 5 members, as follows:

(A) 1 member appointed by the Speaker of the House of Representatives.

(B) 1 member appointed by the minority leader of the House of Representatives.

(C) 1 member appointed by the majority leader of the Senate.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the Speaker of the House of Representatives and the majority leader of the Senate, after consultation with the minority leader of the Senate and the minority leader of the House of Representatives.

(2) PAY.—Each member of the Oversight Panel shall each be paid at a rate equal to the daily equivalent of the annual rate of basic pay for level I of the Executive Schedule for each day (including travel time) during which such member is engaged in the actual performance of duties vested in the Commission.

(3) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Oversight Panel who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Oversight Panel.

(4) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(5) QUORUM.—Four members of the Oversight Panel shall constitute a quorum but a lesser number may hold hearings.

(6) VACANCIES.—A vacancy on the Oversight Panel shall be filled in the manner in which the original appointment was made.

(7) MEETINGS.—The Oversight Panel shall meet at the call of the Chairperson or a majority of its members.

(d) STAFF.—

(1) IN GENERAL.—The Oversight Panel may appoint and fix the pay of any personnel as the Commission considers appropriate.

(2) EXPERTS AND CONSULTANTS.—The Oversight Panel may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(3) STAFF OF AGENCIES.—Upon request of the Oversight Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Oversight Panel to assist it in carrying out its duties under this Act.

(e) POWERS.—

(1) HEARINGS AND SESSIONS.—The Oversight Panel may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Panel considers appropriate and may administer oaths or affirmations to witnesses appearing before it.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Oversight Panel may, if authorized by the Oversight Panel, take any action which the Oversight Panel is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Oversight Panel may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Oversight Panel, the head of that department or agency shall furnish that information to the Oversight Panel.

(4) REPORTS.—The Oversight Panel shall receive and consider all reports required to be submitted to the Oversight Panel under this Act.

(f) TERMINATION.—The Oversight Panel shall terminate 6 months after the termination date specified in section 120.

(g) FUNDING FOR EXPENSES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Oversight Panel such sums as may be necessary for any fiscal year, half of which shall be derived from the applicable account of the House of Representatives, and half of which shall be derived from the contingent fund of the Senate.

(2) REIMBURSEMENT OF AMOUNTS.—An amount equal to the expenses of the Oversight Panel shall be promptly transferred by the Secretary, from time to time upon the presentment of a statement of such expenses by the Chairperson of the Oversight Panel, from funds made available to the Secretary under this Act to the applicable fund of the House of Representatives and the contingent fund of the Senate, as appropriate, as reimbursement for amounts expended from such account and fund under paragraph (1).

SEC. 126. FDIC AUTHORITY.

(a) IN GENERAL.—Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by adding at the end the following new paragraph:

''(4) FALSE ADVERTISING, MISUSE OF FDIC NAMES, AND MISREPRESENTATION TO INDICATE INSURED STATUS.—

''(A) PROHIBITION ON FALSE ADVERTISING AND MISUSE OF FDIC NAMES.—No person may represent or imply that any deposit liability, obligation, certificate, or share is insured or guaranteed by the Corporation, if such deposit liability, obligation, certificate, or share is not insured or guaranteed by the Corporation—

''(i) by using the terms 'Federal Deposit', 'Federal Deposit Insurance', 'Federal Deposit Insurance Corporation', any combination of such terms, or the abbreviation 'FDIC' as part of the business name or firm name of any person, including any corporation, partnership, business trust, association, or other business entity; or

''(ii) by using such terms or any other terms, sign, or symbol as part of an advertisement, solicitation, or other document.

''(B) PROHIBITION ON MISREPRESENTATIONS OF INSURED STATUS.—No person may knowingly misrepresent—

''(i) that any deposit liability, obligation, certificate, or share is insured, under this Act, if such deposit liability, obligation, certificate, or share is not so insured; or

''(ii) the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured under this Act, if such deposit liability, obligation, certificate, or share is not so insured, to the extent or in the manner represented.

''(C) AUTHORITY OF THE APPROPRIATE FEDERAL BANKING AGENCY.—The appropriate Federal banking agency shall have enforcement authority in the case of a violation of this paragraph by any person for which the agency is the appropriate Federal banking agency, or any institution-affiliated party thereof.

''(D) CORPORATION AUTHORITY IF THE APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—

''(i) RECOMMENDATION.—The Corporation may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 8 for purposes of enforcement of this paragraph with respect to any person for which the agency is the appropriate Federal banking agency or any institution-affiliated party thereof.

''(ii) AGENCY RESPONSE.—If the appropriate Federal banking agency does not, within 30 days of the date of receipt of a recommendation under clause (i), take the enforcement action with respect to this paragraph recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the situation presented, the Corporation may take the recommended enforcement action against such person or institution-affiliated party.

''(E) ADDITIONAL AUTHORITY.—In addition to its authority under subparagraphs (C) and (D), for purposes of this paragraph, the Corporation shall have, in the same manner and to the same extent as with respect to a State nonmember insured bank—

''(i) jurisdiction over—

''(I) any person other than a person for which another agency is the appropriate Federal banking agency or any institution-affiliated party thereof; and

''(II) any person that aids or abets a violation of this paragraph by a person described in subclause (I); and

''(ii) for purposes of enforcing the requirements of this paragraph, the authority of the Corporation under—

''(I) section 10(c) to conduct investigations; and

''(II) subsections (b), (c), (d) and (i) of section 8 to conduct enforcement actions.

''(F) OTHER ACTIONS PRESERVED.—No provision of this paragraph shall be construed as barring any action otherwise available, under the laws of the United States or any State, to any Federal or State agency or individual.''.

(b) ENFORCEMENT ORDERS.—Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end the following new paragraph:

''(4) FALSE ADVERTISING OR MISUSE OF NAMES TO INDICATE INSURED STATUS.—

''(A) TEMPORARY ORDER.—

''(i) IN GENERAL.—If a notice of charges served under subsection (b)(1) specifies on the basis of particular facts that any person engaged or is engaging in conduct described in section 18(a)(4), the Corporation or other appropriate Federal banking agency may issue a temporary order requiring—

''(I) the immediate cessation of any activity or practice described, which gave rise to the notice of charges; and

''(II) affirmative action to prevent any further, or to remedy any existing, violation.

''(ii) EFFECT OF ORDER.—Any temporary order issued under this subparagraph shall take effect upon service.

''(B) EFFECTIVE PERIOD OF TEMPORARY ORDER.—A temporary order issued under subparagraph (A) shall remain effective and enforceable, pending the completion of an administrative proceeding pursuant to subsection (b)(1) in connection with the notice of charges—

''(i) until such time as the Corporation or other appropriate Federal banking agency dismisses the charges specified in such notice; or

''(ii) if a cease-and-desist order is issued against such person, until the effective date of such order.

''(C) CIVIL MONEY PENALTIES.—Any violation of section 18(a)(4) shall be subject to

civil money penalties, as set forth in subsection (i), except that for any person other than an insured depository institution or an institution-affiliated party that is found to have violated this paragraph, the Corporation or other appropriate Federal banking agency shall not be required to demonstrate any loss to an insured depository institution.''.

(c) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by adding at the end the following new paragraph:

''(11) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—No provision contained in any existing or future standstill, confidentiality, or other agreement that, directly or indirectly—

''(A) affects, restricts, or limits the ability of any person to offer to acquire or acquire,

''(B) prohibits any person from offering to acquire or acquiring, or

''(C) prohibits any person from using any previously disclosed information in connection with any such offer to acquire or acquisition of,

all or part of any insured depository institution, including any liabilities, assets, or interest therein, in connection with any transaction in which the Corporation exercises its authority under section 11 or 13, shall be enforceable against or impose any liability on such person, as such enforcement or liability shall be contrary to public policy.''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) in subsection (a)(3)—

(A) by striking ''this subsection'' the first place that term appears and inserting ''paragraph (1)''; and

(B) by striking ''this subsection'' the second place that term appears and inserting ''paragraph (2)''; and

(2) in the heading for subsection (a), by striking ''INSURANCE LOGO.—'' and inserting ''REPRESENTATIONS OF DEPOSIT INSURANCE.—''.

SEC. 127. COOPERATION WITH THE FBI.

Any Federal financial regulatory agency shall cooperate with the Federal Bureau of Investigation and other law enforcement agencies investigating fraud, misrepresentation, and malfeasance with respect to development, advertising, and sale of financial products.

SEC. 128. ACCELERATION OF EFFECTIVE DATE.

Section 203 of the Financial Services Regulatory Relief Act of 2006 (12 U.S.C. 461 note) is amended by striking ''October 1, 2011'' and inserting ''October 1, 2008''.

SEC. 129. DISCLOSURES ON EXERCISE OF LOAN AUTHORITY.

(a) IN GENERAL.—Not later than 7 days after the date on which the Board exercises its authority under the third paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343; relating to discounts for individuals, partnerships, and corporations) the Board shall provide 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 which includes—

(1) the justification for exercising the authority; and

(2) the specific terms of the actions of the Board, including the size and duration of the lending, available information concerning the value of any collateral held with respect to such a loan, the recipient of warrants or any other potential equity in exchange for the loan, and any expected cost to the taxpayers for such exercise.

(b) PERIODIC UPDATES.—The Board shall provide updates to the Committees specified in subsection (a) not less frequently than once every 60 days while the subject loan is outstanding, including—

(1) the status of the loan;

(2) the value of the collateral held by the Federal reserve bank which initiated the loan; and

(3) the projected cost to the taxpayers of the loan.

(c) CONFIDENTIALITY.—The information submitted to the Congress under this section shall be kept confidential, upon the written request of the Chairman of the Board, in which case it shall be made available only to the Chairpersons and Ranking Members of the Committees described in subsection (a).

(d) APPLICABILITY.—The provisions of this section shall be in force for all uses of the authority provided under section 13 of the Federal Reserve Act occurring during the period beginning on March 1, 2008 and ending on the after the date of enactment of this Act, and reports described in subsection (a) shall be required beginning not later than 30 days after that date of enactment, with respect to any such exercise of authority.

(e) SHARING OF INFORMATION.—Any reports required under this section shall also be submitted to the Congressional Oversight Panel established under section 125.

SEC. 130. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)), as amended by section 2502 of the Mortgage Disclosure Improvement Act of 2008 (Public Law 110-289), is amended—

(1) in subparagraph (A), by striking ''In the case'' and inserting ''Except as provided in subparagraph (G), in the case''; and

(2) by amending subparagraph (G) to read as follows:

''(G)(i) In the case of an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code—

''(I) the requirements of subparagraphs (A) through (E) shall not apply; and

''(II) a good faith estimate of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before such credit is extended, or shall be delivered or placed in the mail not later than 3 business days after the date on which the creditor receives the written application of the consumer for such credit, whichever is earlier.

''(ii) If a disclosure statement furnished within 3 business days of the written application (as provided under clause (i)(II)) contains an annual percentage rate which is subsequently rendered inaccurate, within the meaning of section 107(c), the creditor shall furnish another disclosure statement at the time of settlement or consummation of the transaction.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 2502 of the Mortgage Disclosure Improvement Act of 2008 (Public Law 110-289).

SEC. 131. EXCHANGE STABILIZATION FUND REIMBURSEMENT.

(a) REIMBURSEMENT.—The Secretary shall reimburse the Exchange Stabilization Fund established under section 5302 of title 31, United States Code, for any funds that are used for the Treasury Money Market Funds Guaranty Program for the United States money market mutual fund industry, from funds under this Act.

(b) LIMITS ON USE OF EXCHANGE STABILIZATION FUND.—The Secretary is prohibited from using the Exchange Stabilization Fund for the establishment of any future guaranty programs for the United States money market mutual fund industry.

SEC. 132. AUTHORITY TO SUSPEND MARK-TO-MARKET ACCOUNTING.

(a) AUTHORITY.—The Securities and Exchange Commission shall have the authority under the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) to suspend, by rule, regulation, or order, the application of Statement Number 157 of the Financial Accounting Standards Board for any issuer (as such term is defined in section 3(a)(8) of such Act) or with respect to any class or category of transaction if the Commission determines that is necessary or appropriate in the public interest and is consistent with the protection of investors.

(b) SAVINGS PROVISION.—Nothing in subsection (a) shall be construed to restrict or limit any authority of the Securities and Exchange Commission under securities laws as in effect on the date of enactment of this Act.

SEC. 133. STUDY ON MARK-TO-MARKET ACCOUNTING.

(a) STUDY.—The Securities and Exchange Commission, in consultation with the Board and the Secretary, shall conduct a study on mark-to-market accounting standards as provided in Statement Number 157 of the Financial Accounting Standards Board, as such standards are applicable to financial institutions, including depository institutions. Such a study shall consider at a minimum—

(1) the effects of such accounting standards on a financial institution's balance sheet;

(2) the impacts of such accounting on bank failures in 2008;

(3) the impact of such standards on the quality of financial information available to investors;

(4) the process used by the Financial Accounting Standards Board in developing accounting standards;

(5) the advisability and feasibility of modifications to such standards; and

(6) alternative accounting standards to those provided in such Statement Number 157.

(b) REPORT.—The Securities and Exchange Commission shall submit to Congress a report of such study before the end of the 90-day period beginning on the date of the enactment of this Act containing the findings and determinations of the Commission, including such administrative and legislative recommendations as the Commission determines appropriate.

SEC. 134. RECOUPMENT.

Upon the expiration of the 5-year period beginning upon the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Director of the Congressional Budget Office, shall submit a report to the Congress on the net amount within the Troubled Asset Relief Program under this Act. In any case where there is a shortfall, the President shall submit a legislative proposal that recoups from the financial industry an amount equal to the shortfall in order to ensure that the Troubled Asset Relief Program does not add to the deficit or national debt.

SEC. 135. PRESERVATION OF AUTHORITY.

With the exception of section 131, nothing in this Act may be construed to limit the authority of the Secretary or the Board under any other provision of law.

SEC. 136. TEMPORARY INCREASE IN DEPOSIT AND SHARE INSURANCE COVERAGE.

(a) FEDERAL DEPOSIT INSURANCE ACT; TEMPORARY INCREASE IN DEPOSIT INSURANCE.—

(1) INCREASED AMOUNT.—Effective only during the period beginning on the date of enactment of this Act and ending on December 31, 2009, section 11(a)(1)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)) shall apply with ''$250,000'' substituted for ''$100,000''.

(2) TEMPORARY INCREASE NOT TO BE CONSIDERED FOR SETTING ASSESSMENTS.—The temporary increase in the standard maximum

deposit insurance amount made under paragraph (1) shall not be taken into account by the Board of Directors of the Corporation for purposes of setting assessments under section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)).

(3) BORROWING LIMITS TEMPORARILY LIFTED.—During the period beginning on the date of enactment of this Act and ending on December 31, 2009, the Board of Directors of the Corporation may request from the Secretary, and the Secretary shall approve, a loan or loans in an amount or amounts necessary to carry out this subsection, without regard to the limitations on such borrowing under section 14(a) and 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a), 1825(c)).

(b) FEDERAL CREDIT UNION ACT; TEMPORARY INCREASE IN SHARE INSURANCE.—

(1) INCREASED AMOUNT.—Effective only during the period beginning on the date of enactment of this Act and ending on December 31, 2009, section 207(k)(5) of the Federal Credit Union Act (12 U.S.C. 1787(k)(5)) shall apply with ''$250,000'' substituted for ''$100,000''.

(2) TEMPORARY INCREASE NOT TO BE CONSIDERED FOR SETTING INSURANCE PREMIUM CHARGES AND INSURANCE DEPOSIT ADJUSTMENTS.—The temporary increase in the standard maximum share insurance amount made under paragraph (1) shall not be taken into account by the National Credit Union Administration Board for purposes of setting insurance premium charges and share insurance deposit adjustments under section 202(c)(2) of the Federal Credit Union Act (12 U.S.C. 1782(c)(2)).

(3) BORROWING LIMITS TEMPORARILY LIFTED.—During the period beginning on the date of enactment of this Act and ending on December 31, 2009, the National Credit Union Administration Board may request from the Secretary, and the Secretary shall approve, a loan or loans in an amount or amounts necessary to carry out this subsection, without regard to the limitations on such borrowing under section 203(d)(1) of the Federal Credit Union Act (12 U.S.C. 1783(d)(1)).

(c) NOT FOR USE IN INFLATION ADJUSTMENTS.—The temporary increase in the standard maximum deposit insurance amount made under this section shall not be used to make any inflation adjustment under section 11(a)(1)(F) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(F)) for purposes of that Act or the Federal Credit Union Act.

TITLE II—BUDGET-RELATED PROVISIONS

SEC. 201. INFORMATION FOR CONGRESSIONAL SUPPORT AGENCIES.

Upon request, and to the extent otherwise consistent with law, all information used by the Secretary in connection with activities authorized under this Act (including the records to which the Comptroller General is entitled under this Act) shall be made available to congressional support agencies (in accordance with their obligations to support the Congress as set out in their authorizing statutes) for the purposes of assisting the committees of Congress with conducting oversight, monitoring, and analysis of the activities authorized under this Act.

SEC. 202. REPORTS BY THE OFFICE OF MANAGEMENT AND BUDGET AND THE CONGRESSIONAL BUDGET OFFICE.

(a) REPORTS BY THE OFFICE OF MANAGEMENT AND BUDGET.—Within 60 days of the first exercise of the authority granted in section 101(a), but in no case later than December 31, 2008, and semiannually thereafter, the Office of Management and Budget shall report to the President and the Congress—

(1) the estimate, notwithstanding section 502(5)(F) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(F)), as of the first business day that is at least 30 days prior to the issuance of the report, of the cost of the troubled assets, and guarantees of the troubled assets, determined in accordance with section 123;

(2) the information used to derive the estimate, including assets purchased or guaranteed, prices paid, revenues received, the impact on the deficit and debt, and a description of any outstanding commitments to purchase troubled assets; and

(3) a detailed analysis of how the estimate has changed from the previous report.

Beginning with the second report under subsection (a), the Office of Management and Budget shall explain the differences between the Congressional Budget Office estimates delivered in accordance with subsection (b) and prior Office of Management and Budget estimates.

(b) REPORTS BY THE CONGRESSIONAL BUDGET OFFICE.—Within 45 days of receipt by the Congress of each report from the Office of Management and Budget under subsection (a), the Congressional Budget Office shall report to the Congress the Congressional Budget Office's assessment of the report submitted by the Office of Management and Budget, including—

(1) the cost of the troubled assets and guarantees of the troubled assets,

(2) the information and valuation methods used to calculate such cost, and

(3) the impact on the deficit and the debt.

(c) FINANCIAL EXPERTISE.—In carrying out the duties in this subsection or performing analyses of activities under this Act, the Director of the Congressional Budget Office may employ personnel and procure the services of experts and consultants.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to produce reports required by this section.

SEC. 203. ANALYSIS IN PRESIDENT'S BUDGET.

(a) IN GENERAL.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

''(35) as supplementary materials, a separate analysis of the budgetary effects for all prior fiscal years, the current fiscal year, the fiscal year for which the budget is submitted, and ensuing fiscal years of the actions the Secretary of the Treasury has taken or plans to take using any authority provided in the Emergency Economic Stabilization Act of 2008, including—

''(A) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 using methodology required by the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) and section 123 of the Emergency Economic Stabilization Act of 2008;

''(B) an estimate of the deficit, the debt held by the public, and the gross Federal debt using methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008;

''(C) an estimate of the current value of all assets purchased, sold, and guaranteed under the authority provided in the Emergency Economic Stabilization Act of 2008 calculated on a cash basis;

''(D) a revised estimate of the deficit, the debt held by the public, and the gross Federal debt, substituting the cash-based estimates in subparagraph (C) for the estimates calculated under subparagraph (A) pursuant to the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008; and

''(E) the portion of the deficit which can be attributed to any action taken by the Secretary using authority provided by the Emergency Economic Stabilization Act of 2008 and the extent to which the change in the deficit since the most recent estimate is due to a reestimate using the methodology required by the Federal Credit Reform Act of 1990 and section 123 of the Emergency Economic Stabilization Act of 2008.''

(b) CONSULTATION.—In implementing this section, the Director of Office of Management and Budget shall consult periodically, but at least annually, with the Committee on the Budget of the House of Representatives, the Committee on the Budget of the Senate, and the Director of the Congressional Budget Office.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2010 budget submission of the President.

SEC. 204. EMERGENCY TREATMENT.

All provisions of this Act are designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008 and rescissions of any amounts provided in this Act shall not be counted for purposes of budget enforcement.

TITLE III—TAX PROVISIONS

SEC. 301. GAIN OR LOSS FROM SALE OR EXCHANGE OF CERTAIN PREFERRED STOCK.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gain or loss from the sale or exchange of any applicable preferred stock by any applicable financial institution shall be treated as ordinary income or loss.

(b) APPLICABLE PREFERRED STOCK.—For purposes of this section, the term ''applicable preferred stock'' means any stock—

(1) which is preferred stock in—

(A) the Federal National Mortgage Association, established pursuant to the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.), or

(B) the Federal Home Loan Mortgage Corporation, established pursuant to the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), and

(2) which—

(A) was held by the applicable financial institution on September 6, 2008, or

(B) was sold or exchanged by the applicable financial institution on or after January 1, 2008, and before September 7, 2008.

(c) APPLICABLE FINANCIAL INSTITUTION.—For purposes of this section:

(1) IN GENERAL.—Except as provided in paragraph (2), the term ''applicable financial institution'' means—

(A) a financial institution referred to in section 582(c)(2) of the Internal Revenue Code of 1986, or

(B) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1))).

(2) SPECIAL RULES FOR CERTAIN SALES.—In the case of—

(A) a sale or exchange described in subsection (b)(2)(B), an entity shall be treated as an applicable financial institution only if it was an entity described in subparagraph (A) or (B) of paragraph (1) at the time of the sale or exchange, and

(B) a sale or exchange after September 6, 2008, of preferred stock described in subsection (b)(2)(A), an entity shall be treated as an applicable financial institution only if it was an entity described in subparagraph (A) or (B) of paragraph (1) at all times during the period beginning on September 6, 2008, and ending on the date of the sale or exchange of the preferred stock.

(d) SPECIAL RULE FOR CERTAIN PROPERTY NOT HELD ON SEPTEMBER 6, 2008.—The Secretary of the Treasury or the Secretary's

delegate may extend the application of this section to all or a portion of the gain or loss from a sale or exchange in any case where—

(1) an applicable financial institution sells or exchanges applicable preferred stock after September 6, 2008, which the applicable financial institution did not hold on such date, but the basis of which in the hands of the applicable financial institution at the time of the sale or exchange is the same as the basis in the hands of the person which held such stock on such date, or

(2) the applicable financial institution is a partner in a partnership which—

(A) held such stock on September 6, 2008, and later sold or exchanged such stock, or

(B) sold or exchanged such stock during the period described in subsection (b)(2)(B).

(e) REGULATORY AUTHORITY.—The Secretary of the Treasury or the Secretary's delegate may prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—This section shall apply to sales or exchanges occurring after December 31, 2007, in taxable years ending after such date.

SEC. 302. SPECIAL RULES FOR TAX TREATMENT OF EXECUTIVE COMPENSATION OF EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM.

(a) DENIAL OF DEDUCTION.—Subsection (m) of section 162 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR APPLICATION TO EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM.—

''(A) IN GENERAL.—In the case of an applicable employer, no deduction shall be allowed under this chapter—

''(i) in the case of executive remuneration for any applicable taxable year which is attributable to services performed by a covered executive during such applicable taxable year, to the extent that the amount of such remuneration exceeds $500,000, or

''(ii) in the case of deferred deduction executive remuneration for any taxable year for services performed during any applicable taxable year by a covered executive, to the extent that the amount of such remuneration exceeds $500,000 reduced (but not below zero) by the sum of—

''(I) the executive remuneration for such applicable taxable year, plus

''(II) the portion of the deferred deduction executive remuneration for such services which was taken into account under this clause in a preceding taxable year.

''(B) APPLICABLE EMPLOYER.—For purposes of this paragraph—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'applicable employer' means any employer from whom 1 or more troubled assets are acquired under a program established by the Secretary under section 101(a) of the Emergency Economic Stabilization Act of 2008 if the aggregate amount of the assets so acquired for all taxable years exceeds $300,000,000.

''(ii) DISREGARD OF CERTAIN ASSETS SOLD THROUGH DIRECT PURCHASE.—If the only sales of troubled assets by an employer under the program described in clause (i) are through 1 or more direct purchases (within the meaning of section 113(c) of the Emergency Economic Stabilization Act of 2008), such assets shall not be taken into account under clause (i) in determining whether the employer is an applicable employer for purposes of this paragraph.

''(iii) AGGREGATION RULES.—Two or more persons who are treated as a single employer under subsection (b) or (c) of section 414 shall be treated as a single employer, except that in applying section 1563(a) for purposes of either such subsection, paragraphs (2) and (3) thereof shall be disregarded.

''(C) APPLICABLE TAXABLE YEAR.—For purposes of this paragraph, the term 'applicable taxable year' means, with respect to any employer—

''(i) the first taxable year of the employer—

''(I) which includes any portion of the period during which the authorities under section 101(a) of the Emergency Economic Stabilization Act of 2008 are in effect (determined under section 120 thereof), and

''(II) in which the aggregate amount of troubled assets acquired from the employer during the taxable year pursuant to such authorities (other than assets to which subparagraph (B)(ii) applies), when added to the aggregate amount so acquired for all preceding taxable years, exceeds $300,000,000, and

''(ii) any subsequent taxable year which includes any portion of such period.

''(D) COVERED EXECUTIVE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'covered executive' means, with respect to any applicable taxable year, any employee—

''(I) who, at any time during the portion of the taxable year during which the authorities under section 101(a) of the Emergency Economic Stabilization Act of 2008 are in effect (determined under section 120 thereof), is the chief executive officer of the applicable employer or the chief financial officer of the applicable employer, or an individual acting in either such capacity, or

''(II) who is described in clause (ii).

''(ii) HIGHEST COMPENSATED EMPLOYEES.—An employee is described in this clause if the employee is 1 of the 3 highest compensated officers of the applicable employer for the taxable year (other than an individual described in clause (i)(I)), determined—

''(I) on the basis of the shareholder disclosure rules for compensation under the Securities Exchange Act of 1934 (without regard to whether those rules apply to the employer), and

''(II) by only taking into account employees employed during the portion of the taxable year described in clause (i)(I).

''(iii) EMPLOYEE REMAINS COVERED EXECUTIVE.—If an employee is a covered executive with respect to an applicable employer for any applicable taxable year, such employee shall be treated as a covered executive with respect to such employer for all subsequent applicable taxable years and for all subsequent taxable years in which deferred deduction executive remuneration with respect to services performed in all such applicable taxable years would (but for this paragraph) be deductible.

''(E) EXECUTIVE REMUNERATION.—For purposes of this paragraph, the term 'executive remuneration' means the applicable employee remuneration of the covered executive, as determined under paragraph (4) without regard to subparagraphs (B), (C), and (D) thereof. Such term shall not include any deferred deduction executive remuneration with respect to services performed in a prior applicable taxable year.

''(F) DEFERRED DEDUCTION EXECUTIVE REMUNERATION.—For purposes of this paragraph, the term 'deferred deduction executive remuneration' means remuneration which would be executive remuneration for services performed in an applicable taxable year but for the fact that the deduction under this chapter (determined without regard to this paragraph) for such remuneration is allowable in a subsequent taxable year.

''(G) COORDINATION.—Rules similar to the rules of subparagraphs (F) and (G) of paragraph (4) shall apply for purposes of this paragraph.

''(H) REGULATORY AUTHORITY.—The Secretary may prescribe such guidance, rules, or regulations as are necessary to carry out the purposes of this paragraph and the Emergency Economic Stabilization Act of 2008, including the extent to which this paragraph applies in the case of any acquisition, merger, or reorganization of an applicable employer.''.

(b) GOLDEN PARACHUTE RULE.—Section 280G of the Internal Revenue Code of 1986 is amended—

(1) by redesignating subsection (e) as subsection (f), and

(2) by inserting after subsection (d) the following new subsection:

''(e) SPECIAL RULE FOR APPLICATION TO EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM.—

''(1) IN GENERAL.—In the case of the severance from employment of a covered executive of an applicable employer during the period during which the authorities under section 101(a) of the Emergency Economic Stabilization Act of 2008 are in effect (determined under section 120 of such Act), this section shall be applied to payments to such executive with the following modifications:

''(A) Any reference to a disqualified individual (other than in subsection (c)) shall be treated as a reference to a covered executive.

''(B) Any reference to a change described in subsection (b)(2)(A)(i) shall be treated as a reference to an applicable severance from employment of a covered executive, and any reference to a payment contingent on such a change shall be treated as a reference to any payment made during an applicable taxable year of the employer on account of such applicable severance from employment.

''(C) Any reference to a corporation shall be treated as a reference to an applicable employer.

''(D) The provisions of subsections (b)(2)(C), (b)(4), (b)(5), and (d)(5) shall not apply.

''(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection:

''(A) DEFINITIONS.—Any term used in this subsection which is also used in section 162(m)(5) shall have the meaning given such term by such section.

''(B) APPLICABLE SEVERANCE FROM EMPLOYMENT.—The term 'applicable severance from employment' means any severance from employment of a covered executive—

''(i) by reason of an involuntary termination of the executive by the employer, or

''(ii) in connection with any bankruptcy, liquidation, or receivership of the employer.

''(C) COORDINATION AND OTHER RULES.—

''(i) IN GENERAL.—If a payment which is treated as a parachute payment by reason of this subsection is also a parachute payment determined without regard to this subsection, this subsection shall not apply to such payment.

''(ii) REGULATORY AUTHORITY.—The Secretary may prescribe such guidance, rules, or regulations as are necessary—

''(I) to carry out the purposes of this subsection and the Emergency Economic Stabilization Act of 2008, including the extent to which this subsection applies in the case of any acquisition, merger, or reorganization of an applicable employer,

''(II) to apply this section and section 4999 in cases where one or more payments with respect to any individual are treated as parachute payments by reason of this subsection, and other payments with respect to such individual are treated as parachute payments under this section without regard to this subsection, and

''(III) to prevent the avoidance of the application of this section through the

mischaracterization of a severance from employment as other than an applicable severance from employment.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending on or after the date of the enactment of this Act.

(2) GOLDEN PARACHUTE RULE.—The amendments made by subsection (b) shall apply to payments with respect to severances occurring during the period during which the authorities under section 101(a) of this Act are in effect (determined under section 120 of this Act).

SEC. 303. EXTENSION OF EXCLUSION OF INCOME FROM DISCHARGE OF QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.

(a) EXTENSION.—Subparagraph (E) of section 108(a)(1) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2010'' and inserting ''January 1, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to discharges of indebtedness occurring on or after January 1, 2010.

DIVISION B—ENERGY IMPROVEMENT AND EXTENSION ACT OF 2008

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This division may be cited as the ''Energy Improvement and Extension Act of 2008''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

Sec. 1. Short title, etc.

TITLE I—ENERGY PRODUCTION INCENTIVES

Subtitle A—Renewable Energy Incentives

Sec. 101. Renewable energy credit.
Sec. 102. Production credit for electricity produced from marine renewables.
Sec. 103. Energy credit.
Sec. 104. Energy credit for small wind property.
Sec. 105. Energy credit for geothermal heat pump systems.
Sec. 106. Credit for residential energy efficient property.
Sec. 107. New clean renewable energy bonds.
Sec. 108. Credit for steel industry fuel.
Sec. 109. Special rule to implement FERC and State electric restructuring policy.

Subtitle B—Carbon Mitigation and Coal Provisions

Sec. 111. Expansion and modification of advanced coal project investment credit.
Sec. 112. Expansion and modification of coal gasification investment credit.
Sec. 113. Temporary increase in coal excise tax; funding of Black Lung Disability Trust Fund.
Sec. 114. Special rules for refund of the coal excise tax to certain coal producers and exporters.
Sec. 115. Tax credit for carbon dioxide sequestration.
Sec. 116. Certain income and gains relating to industrial source carbon dioxide treated as qualifying income for publicly traded partnerships.
Sec. 117. Carbon audit of the tax code.

TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

Sec. 201. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.
Sec. 202. Credits for biodiesel and renewable diesel.
Sec. 203. Clarification that credits for fuel are designed to provide an incentive for United States production.
Sec. 204. Extension and modification of alternative fuel credit.
Sec. 205. Credit for new qualified plug-in electric drive motor vehicles.
Sec. 206. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
Sec. 207. Alternative fuel vehicle refueling property credit.
Sec. 208. Certain income and gains relating to alcohol fuels and mixtures, biodiesel fuels and mixtures, and alternative fuels and mixtures treated as qualifying income for publicly traded partnerships.
Sec. 209. Extension and modification of election to expense certain refineries.
Sec. 210. Extension of suspension of taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 211. Transportation fringe benefit to bicycle commuters.

TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

Sec. 301. Qualified energy conservation bonds.
Sec. 302. Credit for nonbusiness energy property.
Sec. 303. Energy efficient commercial buildings deduction.
Sec. 304. New energy efficient home credit.
Sec. 305. Modifications of energy efficient appliance credit for appliances produced after 2007.
Sec. 306. Accelerated recovery period for depreciation of smart meters and smart grid systems.
Sec. 307. Qualified green building and sustainable design projects.
Sec. 308. Special depreciation allowance for certain reuse and recycling property.

TITLE IV—REVENUE PROVISIONS

Sec. 401. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.
Sec. 402. Elimination of the different treatment of foreign oil and gas extraction income and foreign oil related income for purposes of the foreign tax credit.
Sec. 403. Broker reporting of customer's basis in securities transactions.
Sec. 404. 0.2 percent FUTA surtax.
Sec. 405. Increase and extension of Oil Spill Liability Trust Fund tax.

TITLE I—ENERGY PRODUCTION INCENTIVES

Subtitle A—Renewable Energy Incentives

SEC. 101. RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) 1-YEAR EXTENSION FOR WIND AND REFINED COAL FACILITIES.—Paragraphs (1) and (8) of section 45(d) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(2) 2-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, 2011'':

(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 REFINED COAL AS A QUALIFIED ENERGY RESOURCE.—

(1) ELIMINATION OF INCREASED MARKET VALUE TEST.—Section 45(c)(7)(A)(i) (defining refined coal), as amended by section 108, is amended—

(A) by striking subclause (IV),

(B) by adding ''and'' at the end of subclause (II), and

(C) by striking '', and'' at the end of subclause (III) and inserting a period.

(2) INCREASE IN REQUIRED EMISSION REDUCTION.—Section 45(c)(7)(B) (defining qualified emission reduction) is amended by inserting ''at least 40 percent of the emissions of'' after ''nitrogen oxide and''.

(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) 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.''.

(f) 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) REFINED COAL.—The amendments made by subsection (b) shall apply to coal produced and sold from facilities placed in service after December 31, 2008.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (c) shall apply to electricity produced and sold after the date of the enactment of this Act.

(4) 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. 102. 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 101, 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. 103. 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, 2017''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subparagraph (B) of section 38(c)(4), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clause (vi) as clause (vi) and (vii), respectively, and by inserting after clause (iv) 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,''.

(2) TECHNICAL AMENDMENT.—Clause (vi) of section 38(c)(4)(B), as redesignated by paragraph (1), is amended by striking ''section 47 to the extent attributable to'' and inserting ''section 46 to the extent that such credit is attributable to the rehabilitation credit under section 47, but only with respect to''.

(c) ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) 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.—Subsection (c) of section 48 is amended—

(A) by striking ''QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY'' in the heading and inserting ''DEFINITIONS'', and

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

''(3) COMBINED HEAT AND POWER SYSTEM PROPERTY.—

''(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(i) 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),

''(ii) 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),

''(iii) the energy efficiency percentage of which exceeds 60 percent, and

''(iv) which is placed in service before January 1, 2017.

''(B) LIMITATION.—

''(i) 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.

''(ii) APPLICABLE CAPACITY.—For purposes of clause (i), 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.

''(iii) 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.

''(C) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this paragraph, 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.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(ii) shall be determined on a Btu basis.

''(iii) 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.

''(D) 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—

''(i) subparagraph (A)(iii) shall not apply, but

''(ii) 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 subparagraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(3) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by striking ''paragraphs (1)(B) and (2)(B)'' and inserting ''paragraphs (1)(B), (2)(B), and (3)(B)''.

(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. 104. ENERGY CREDIT FOR SMALL WIND PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A), as amended by section 103, is amended by striking ''or'' at the end of clause (iv), by adding ''or'' at the end of clause (v), and by inserting after clause (v) the following new clause:

''(vi) qualified small wind energy property,''.

(b) 30 PERCENT CREDIT.—Section 48(a)(2)(A)(i) is amended by striking ''and'' at the end of subclause (II) and by inserting after subclause (III) the following new subclause:

''(IV) qualified small wind energy property, and''.

(c) QUALIFIED SMALL WIND ENERGY PROPERTY.—Section 48(c), as amended by section 103, is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY.—

''(A) IN GENERAL.—The term 'qualified small wind energy property' means property which uses a qualifying small wind turbine to generate electricity.

''(B) LIMITATION.—In the case of qualified small wind energy property placed in service during the taxable year, the credit otherwise determined under subsection (a)(1) for such year with respect to all such property of the taxpayer shall not exceed $4,000.

''(C) QUALIFYING SMALL WIND TURBINE.—The term 'qualifying small wind turbine' means a wind turbine which has a nameplate capacity of not more than 100 kilowatts.

''(D) TERMINATION.—The term 'qualified small wind energy property' shall not include any property for any period after December 31, 2016.''.

(d) CONFORMING AMENDMENT.—Section 48(a)(1), as amended by section 103, is amended by striking ''paragraphs (1)(B), (2)(B), and (3)(B)'' and inserting ''paragraphs (1)(B), (2)(B), (3)(B), and (4)(B)''.

(e) EFFECTIVE DATE.—The amendments made by this section 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. 105. ENERGY CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3), as amended by this Act, is amended by striking ''or'' at the end of clause (v), by inserting ''or'' at the end of clause (vi), and by adding at the end the following new clause:

''(vii) equipment which uses the ground or ground water as a thermal energy source to heat a structure or as a thermal energy sink to cool a structure, but only with respect to periods ending before January 1, 2017,''.

(b) EFFECTIVE DATE.—The amendments made by this section 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. 106. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION.—Section 25D(g) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2016''.

(b) REMOVAL OF LIMITATION FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1), as amended by subsections (c) and (d), is amended—

(A) by striking subparagraph (A), and

(B) by redesignating subparagraphs (B) through (E) as subparagraphs (A) through and (D), respectively.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A), as amended by subsections (c) and (d), is amended—

(A) by striking clause (i), and

(B) by redesignating clauses (ii) through (v) as clauses (i) and (iv), respectively.

(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.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) SOLAR ELECTRIC PROPERTY LIMITATION.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2008.

(3) 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. 107. 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 $800,000,000 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) EXTENSION FOR CLEAN RENEWABLE ENERGY BONDS.—Subsection (m) of section 54 is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 108. CREDIT FOR STEEL INDUSTRY FUEL.

(a) TREATMENT AS REFINED COAL.—

(1) IN GENERAL.—Subparagraph (A) of section 45(c)(7) of the Internal Revenue Code of 1986 (relating to refined coal), as amended by this Act, is amended to read as follows:

''(A) IN GENERAL.—The term 'refined coal' means a fuel—

''(i) which—

''(I) is a liquid, gaseous, or solid fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock,

''(II) is sold by the taxpayer with the reasonable expectation that it will be used for purpose of producing steam,

''(III) is certified by the taxpayer as resulting (when used in the production of steam) in a qualified emission reduction, and

''(IV) is produced in such a manner as to result in an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal, or

''(ii) which is steel industry fuel.''.

(2) STEEL INDUSTRY FUEL DEFINED.—Paragraph (7) of section 45(c) of such Code is amended by adding at the end the following new subparagraph:

''(C) STEEL INDUSTRY FUEL.—

''(i) IN GENERAL.—The term 'steel industry fuel' means a fuel which—

''(I) is produced through a process of liquifying coal waste sludge and distributing it on coal, and

''(II) is used as a feedstock for the manufacture of coke.

''(ii) COAL WASTE SLUDGE.—The term 'coal waste sludge' means the tar decanter sludge and related byproducts of the coking process, including such materials that have been stored in ground, in tanks and in lagoons, that have been treated as hazardous wastes under applicable Federal environmental rules absent liquefaction and processing with coal into a feedstock for the manufacture of coke.''.

(b) CREDIT AMOUNT.—

(1) IN GENERAL.—Paragraph (8) of section 45(e) of the Internal Revenue Code of 1986 (relating to refined coal production facilities) is amended by adding at the end the following new subparagraph

''(D) SPECIAL RULE FOR STEEL INDUSTRY FUEL.—

''(i) IN GENERAL.—In the case of a taxpayer who produces steel industry fuel—

''(I) this paragraph shall be applied separately with respect to steel industry fuel and other refined coal, and

''(II) in applying this paragraph to steel industry fuel, the modifications in clause (ii) shall apply.

''(ii) MODIFICATIONS.—

''(I) CREDIT AMOUNT.—Subparagraph (A) shall be applied by substituting '$2 per barrel-of-oil equivalent' for '$4.375 per ton'.

''(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the later of the date such facility was originally placed in service, the date the modifications described in clause (iii) were placed in service, or October 1, 2008, and ending on the later of December 31, 2009, or the date which is 1 year after the date such facility or the modifications described in clause (iii) were placed in service.

''(III) NO PHASEOUT.—Subparagraph (B) shall not apply.

''(iii) MODIFICATIONS.—The modifications described in this clause are modifications to an existing facility which allow such facility to produce steel industry fuel.

''(iv) BARREL-OF-OIL EQUIVALENT.—For purposes of this subparagraph, a barrel-of-oil

equivalent is the amount of steel industry fuel that has a Btu content of 5,800,000 Btus.''.

(2) INFLATION ADJUSTMENT.—Paragraph (2) of section 45(b) of such Code is amended by inserting ''the $3 amount in subsection (e)(8)(D)(ii)(I),'' after ''subsection (e)(8)(A),''.

(c) TERMINATION.—Paragraph (8) of section 45(d) of the Internal Revenue Code of 1986 (relating to refined coal production facility), as amended by this Act, is amended to read as follows:

''(8) REFINED COAL PRODUCTION FACILITY.—In the case of a facility that produces refined coal, the term 'refined coal production facility' means—

''(A) with respect to a facility producing steel industry fuel, any facility (or any modification to a facility) which is placed in service before January 1, 2010, and

''(B) with respect to any other facility producing refined coal, any facility placed in service after the date of the enactment of the American Jobs Creation Act of 2004 and before January 1, 2010.''.

(d) COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

(1) IN GENERAL.—Subparagraph (B) of section 45(e)(9) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''The term'' and inserting the following:

''(i) IN GENERAL.—The term'', and

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

''(ii) EXCEPTION FOR STEEL INDUSTRY COAL.—In the case of a facility producing steel industry fuel, clause (i) shall not apply to so much of the refined coal produced at such facility as is steel industry fuel.''.

(2) NO DOUBLE BENEFIT.—Section 45K(g)(2) of such Code is amended by adding at the end the following new subparagraph:

''(E) COORDINATION WITH SECTION 45.—No credit shall be allowed with respect to any qualified fuel which is steel industry fuel (as defined in section 45(c)(7)) if a credit is allowed to the taxpayer for such fuel under section 45.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced and sold after September 30, 2008.

SEC. 109. 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.

Subtitle B—Carbon Mitigation and Coal Provisions

SEC. 111. 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. 112. 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) ELIGIBLE PROJECTS INCLUDE TRANSPORTATION GRADE LIQUID FUELS.—Section 48B(c)(7) (defining eligible entity) is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) transportation grade liquid fuels.''.

(f) 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. 113. TEMPORARY INCREASE IN COAL EXCISE TAX; FUNDING OF BLACK LUNG DISABILITY TRUST FUND.

(a) EXTENSION OF TEMPORARY INCREASE.—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''.

(b) RESTRUCTURING OF TRUST FUND DEBT.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) MARKET VALUE OF THE OUTSTANDING REPAYABLE ADVANCES, PLUS ACCRUED INTEREST.—The term ''market value of the outstanding repayable advances, plus accrued interest'' means the present value (determined by the Secretary of the Treasury as of the refinancing date and using the Treasury rate as the discount rate) of the stream of principal and interest payments derived assuming that each repayable advance that is outstanding on the refinancing date is due on the 30th anniversary of the end of the fiscal year in which the advance was made to the Trust Fund, and that all such principal and interest payments are made on September 30 of the applicable fiscal year.

(B) REFINANCING DATE.—The term ''refinancing date'' means the date occurring 2 days after the enactment of this Act.

(C) REPAYABLE ADVANCE.—The term ''repayable advance'' means an amount that has been appropriated to the Trust Fund in order to make benefit payments and other expenditures that are authorized under section 9501 of the Internal Revenue Code of 1986 and are required to be repaid when the Secretary of the Treasury determines that monies are available in the Trust Fund for such purpose.

(D) TREASURY RATE.—The term ''Treasury rate'' means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(E) TREASURY 1-YEAR RATE.—The term ''Treasury 1-year rate'' means a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity of approximately 1 year, to have been in effect as of the close of business 1 business day prior to the date on which the Trust Fund issues obligations to the Secretary of the Treasury under paragraph (2)(B).

(2) REFINANCING OF OUTSTANDING PRINCIPAL OF REPAYABLE ADVANCES AND UNPAID INTEREST ON SUCH ADVANCES.—

(A) TRANSFER TO GENERAL FUND.—On the refinancing date, the Trust Fund shall repay the market value of the outstanding repayable advances, plus accrued interest, by transferring into the general fund of the Treasury the following sums:

(i) The proceeds from obligations that the Trust Fund shall issue to the Secretary of the Treasury in such amounts as the Secretaries of Labor and the Treasury shall determine and bearing interest at the Treasury rate, and that shall be in such forms and denominations and be subject to such other terms and conditions, including maturity, as the Secretary of the Treasury shall prescribe.

(ii) All, or that portion, of the appropriation made to the Trust Fund pursuant to paragraph (3) that is needed to cover the difference defined in that paragraph.

(B) REPAYMENT OF OBLIGATIONS.—In the event that the Trust Fund is unable to repay the obligations that it has issued to the Secretary of the Treasury under subparagraph (A)(i) and this subparagraph, or is unable to make benefit payments and other authorized expenditures, the Trust Fund shall issue obligations to the Secretary of the Treasury in such amounts as may be necessary to make such repayments, payments, and expenditures, with a maturity of 1 year, and bearing interest at the Treasury 1-year rate. These obligations shall be in such forms and denominations and be subject to such other terms and conditions as the Secretary of the Treasury shall prescribe.

(C) AUTHORITY TO ISSUE OBLIGATIONS.—The Trust Fund is authorized to issue obligations to the Secretary of the Treasury under subparagraphs (A)(i) and (B). The Secretary of the Treasury is authorized to purchase such obligations of the Trust Fund. For the purposes of making such purchases, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such Trust Fund obligations under this subparagraph.

(3) ONE-TIME APPROPRIATION.—There is hereby appropriated to the Trust Fund an amount sufficient to pay to the general fund of the Treasury the difference between—

(A) the market value of the outstanding repayable advances, plus accrued interest; and

(B) the proceeds from the obligations issued by the Trust Fund to the Secretary of the Treasury under paragraph (2)(A)(i).

(4) PREPAYMENT OF TRUST FUND OBLIGATIONS.—The Trust Fund is authorized to repay any obligation issued to the Secretary of the Treasury under subparagraphs (A)(i) and (B) of paragraph (2) prior to its maturity date by paying a prepayment price that would, if the obligation being prepaid (including all unpaid interest accrued thereon through the date of prepayment) were purchased by a third party and held to the maturity date of such obligation, produce a yield to the third-party purchaser for the period from the date of purchase to the maturity date of such obligation substantially equal to the Treasury yield on outstanding marketable obligations of the United States having a comparable maturity to this period.

SEC. 114. 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. 115. TAX CREDIT FOR CARBON DIOXIDE SEQUESTRATION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits) is amended by adding at the end the following new section:

''SEC. 45Q. CREDIT FOR CARBON DIOXIDE SEQUESTRATION.

''(a) GENERAL RULE.—For purposes of section 38, the carbon dioxide sequestration credit for any taxable year is an amount equal to the sum of—

''(1) $20 per metric ton of qualified carbon dioxide which is—

''(A) captured by the taxpayer at a qualified facility, and

''(B) disposed of by the taxpayer in secure geological storage, and

''(2) $10 per metric ton of qualified carbon dioxide which is—

''(A) captured by the taxpayer at a qualified facility, and

''(B) used by the taxpayer as a tertiary injectant in a qualified enhanced oil or natural gas recovery project.

''(b) QUALIFIED CARBON DIOXIDE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified carbon dioxide' means carbon dioxide captured from an industrial source which—

''(A) would otherwise be released into the atmosphere as industrial emission of greenhouse gas, and

''(B) is measured at the source of capture and verified at the point of disposal or injection.

''(2) RECYCLED CARBON DIOXIDE.—The term 'qualified carbon dioxide' includes the initial deposit of captured carbon dioxide used as a tertiary injectant. Such term does not include carbon dioxide that is re-captured, recycled, and re-injected as part of the enhanced oil and natural gas recovery process.

''(c) QUALIFIED FACILITY.—For purposes of this section, the term 'qualified facility' means any industrial facility—

''(1) which is owned by the taxpayer,

''(2) at which carbon capture equipment is placed in service, and

''(3) which captures not less than 500,000 metric tons of carbon dioxide during the taxable year.

''(d) SPECIAL RULES AND OTHER DEFINITIONS.—For purposes of this section—

''(1) ONLY CARBON DIOXIDE CAPTURED AND DISPOSED OF OR USED WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—The credit under this section shall apply only with respect to qualified carbon dioxide the capture and disposal or use of which is within—

''(A) the United States (within the meaning of section 638(1)), or

''(B) a possession of the United States (within the meaning of section 638(2)).

''(2) SECURE GEOLOGICAL STORAGE.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide under subsection (a)(1)(B) such that the carbon dioxide does not escape into the atmosphere. Such term shall include storage at deep saline formations and unminable coal seems under such conditions as the Secretary may determine under such regulations.

''(3) TERTIARY INJECTANT.—The term 'tertiary injectant' has the same meaning as when used within section 193(b)(1).

''(4) QUALIFIED ENHANCED OIL OR NATURAL GAS RECOVERY PROJECT.—The term 'qualified enhanced oil or natural gas recovery project' has the meaning given the term 'qualified enhanced oil recovery project' by section 43(c)(2), by substituting 'crude oil or natural gas' for 'crude oil' in subparagraph (A)(i) thereof.

''(5) CREDIT ATTRIBUTABLE TO TAXPAYER.—Any credit under this section shall be attributable to the person that captures and physically or contractually ensures the disposal of or the use as a tertiary injectant of the qualified carbon dioxide, except to the extent provided in regulations prescribed by the Secretary.

''(6) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any qualified carbon dioxide which ceases to be captured, disposed of, or used as a tertiary injectant in a manner consistent with the requirements of this section.

''(7) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2009, there shall be substituted for each dollar amount contained in subsection (a) an amount equal to the product of—

''(A) such dollar amount, multiplied by

''(B) the inflation adjustment factor for such calendar year determined under section 43(b)(3)(B) for such calendar year, determined by substituting '2008' for '1990'.

''(e) APPLICATION OF SECTION.—The credit under this section shall apply with respect to qualified carbon dioxide before the end of the calendar year in which the Secretary, in consultation with the Administrator of the Environmental Protection Agency, certifies that 75,000,000 metric tons of qualified carbon dioxide have been captured and disposed of or used as a tertiary injectant.''.

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', plus'', and by adding at the end of following new paragraph:

''(34) the carbon dioxide sequestration credit determined under section 45Q(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following new section:

''Sec. 45Q. Credit for carbon dioxide sequestration.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to carbon dioxide captured after the date of the enactment of this Act.

SEC. 116. CERTAIN INCOME AND GAINS RELATING TO INDUSTRIAL SOURCE CARBON DIOXIDE TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1) (defining qualifying income) is amended by inserting ''or industrial source carbon dioxide'' after ''timber)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, in taxable years ending after such date.

SEC. 117. 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 2009 and 2010.

TITLE II—TRANSPORTATION AND DOMESTIC FUEL SECURITY PROVISIONS

SEC. 201. 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. 202. 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 inserting '', or other equivalent standard approved by the Secretary'' after ''D396''.

(d) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—

(1) IN GENERAL.—Paragraph (3) of section 40A(f) is amended by adding at the end the following new sentences: ''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.—Subsection (f) of section 40A (relating to renewable diesel) is amended by adding at the end the following new paragraph:

''(4) CERTAIN AVIATION FUEL.—

''(A) IN GENERAL.—Except as provided in the last 3 sentences of paragraph (3), the term 'renewable diesel' shall include 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.

''(B) APPLICATION OF MIXTURE CREDITS.—In the case of fuel which is treated as renewable diesel solely by reason of subparagraph (A), subsection (b)(1) and section 6426(c) shall be applied with respect to such fuel by treating kerosene as though it were diesel fuel.''.

(f) MODIFICATION RELATING TO DEFINITION OF AGRI-BIODIESEL.—Paragraph (2) of section 40A(d) (relating to agri-biodiesel) is amended by striking ''and mustard seeds'' and inserting ''mustard seeds, and camelina''.

(g) 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 amendment made by subsection (d) shall apply to fuel produced, and sold or used, after the date of the enactment of this Act.

SEC. 203. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) ALCOHOL FUELS CREDIT.—Subsection (d) of section 40 is amended by adding at the end the following new paragraph:

''(7) 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. 204. EXTENSION AND MODIFICATION OF ALTERNATIVE FUEL CREDIT.

(a) EXTENSION.—

(1) ALTERNATIVE FUEL CREDIT.—Paragraph (4) of section 6426(d) (relating to alternative fuel credit) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2009''.

(2) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) (relating to alternative fuel mixture credit) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2009''.

(3) PAYMENTS.—Subparagraph (C) of section 6427(e)(5) (relating to termination) is amended by striking ''September 30, 2009'' and inserting ''December 31, 2009''.

(b) MODIFICATIONS.—

(1) ALTERNATIVE FUEL TO INCLUDE COMPRESSED OR LIQUIFIED BIOMASS GAS.—Paragraph (2) of section 6426(d) (relating to alternative fuel credit) is amended by striking ''and'' at the end of subparagraph (E), by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

''(F) compressed or liquefied gas derived from biomass (as defined in section 45K(c)(3)), and''.

(2) CREDIT ALLOWED FOR AVIATION USE OF FUEL.—Paragraph (1) of section 6426(d) is amended by inserting ''sold by the taxpayer for use as a fuel in aviation,'' after ''motorboat,''.

(c) CARBON CAPTURE REQUIREMENT FOR CERTAIN FUELS.—

(1) IN GENERAL.—Subsection (d) of section 6426, as amended by subsection (a), is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) CARBON CAPTURE REQUIREMENT.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the fuel is certified, under such procedures as required by the Secretary, as having been derived from coal produced at a gasification facility which separates and sequesters not less than the applicable percentage of such facility's total carbon dioxide emissions.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

''(i) 50 percent in the case of fuel produced after September 30, 2009, and on or before December 30, 2009, and

''(ii) 75 percent in the case of fuel produced after December 30, 2009.''.

(2) CONFORMING AMENDMENT.—Subparagraph (E) of section 6426(d)(2) is amended by inserting ''which meets the requirements of paragraph (4) and which is'' after ''any liquid fuel''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after the date of the enactment of this Act.

SEC. 205. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE CREDIT.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) 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.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable amount with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is sum of—

''(A) $2,500, plus

''(B) $417 for each kilowatt hour of traction battery capacity in excess of 4 kilowatt hours.

''(b) LIMITATIONS.—

''(1) LIMITATION BASED ON WEIGHT.—The amount of the credit allowed under subsection (a) by reason of subsection (a)(2) shall not exceed—

''(A) $7,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds,

''(B) $10,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 10,000 pounds but not more than 14,000 pounds,

''(C) $12,500, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $15,000, in the case of any new qualified plug-in electric drive motor vehicle with a gross vehicle weight rating of more than 26,000 pounds.

''(2) LIMITATION ON NUMBER OF PASSENGER VEHICLES AND LIGHT TRUCKS ELIGIBLE FOR CREDIT.—

''(A) 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.

''(B) 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 total number of such new qualified plug-in electric drive motor vehicles sold for use in the United States after December 31, 2008, is at least 250,000.

''(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

''(i) 50 percent for the first 2 calendar quarters of the phaseout period,

''(ii) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(iii) 0 percent for each calendar quarter thereafter.

''(D) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(c) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section, the term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle—

''(1) which draws propulsion using a traction battery with at least 4 kilowatt hours of capacity,

''(2) which uses an offboard source of energy to recharge such battery,

''(3) which, in the case of a passenger vehicle or light truck which has a gross vehicle weight rating of not more than 8,500 pounds, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(A) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, 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

''(B) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

''(4) the original use of which commences with the taxpayer,

''(5) which is acquired for use or lease by the taxpayer and not for resale, and

''(6) which is made by a manufacturer.

''(d) 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.

''(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(2) 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.).

''(3) TRACTION BATTERY CAPACITY.—Traction battery capacity shall be measured in kilowatt hours from a 100 percent state of charge to a zero percent state of charge.

''(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed.

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for a new qualified plug-in electric drive motor vehicle shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (b)(2)).

''(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable 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.

''(8) 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 (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects not to have this section apply to such vehicle.

''(10) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(f) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(g) TERMINATION.—This section shall not apply to property purchased after December 31, 2014.''.

(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 (d) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ''plus'', and by adding at the end the following new paragraph:

''(35) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(d)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 106, 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 106, is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1), as amended by section 106, 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(e)(4).''.

(3) Section 6501(m) is amended by inserting ''30D(e)(9),'' 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) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(f) 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. 206. 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. 207. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) INCLUSION OF ELECTRICITY AS A CLEAN-BURNING FUEL.—Section 30C(c)(2) is amended by adding at the end the following new subparagraph:

''(C) Electricity.''.

(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. 208. CERTAIN INCOME AND GAINS RELATING TO ALCOHOL FUELS AND MIXTURES, BIODIESEL FUELS AND MIXTURES, AND ALTERNATIVE FUELS AND MIXTURES TREATED AS QUALIFYING INCOME FOR PUBLICLY TRADED PARTNERSHIPS.

(a) IN GENERAL.—Subparagraph (E) of section 7704(d)(1), as amended by this Act, is amended by striking ''or industrial source carbon dioxide'' and inserting '', industrial source carbon dioxide, or the transportation or storage of any fuel described in subsection (b), (c), (d), or (e) of section 6426, or any alcohol fuel defined in section 6426(b)(4)(A) or any biodiesel fuel as defined in section 40A(d)(1)'' after ''timber)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, in taxable years ending after such date.

SEC. 209. EXTENSION AND MODIFICATION OF ELECTION TO EXPENSE CERTAIN REFINERIES.

(a) EXTENSION.—Paragraph (1) of section 179C(c) (relating to qualified refinery property) is amended—

(1) by striking ''January 1, 2012'' in subparagraph (B) and inserting ''January 1, 2014'', and

(2) by striking ''January 1, 2008'' each place it appears in subparagraph (F) and inserting ''January 1, 2010''.

(b) INCLUSION OF FUEL DERIVED FROM SHALE AND TAR SANDS.—

(1) IN GENERAL.—Subsection (d) of section 179C is amended by inserting '', or directly from shale or tar sands'' after ''(as defined in section 45K(c))''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 179C(e) is amended by inserting ''shale, tar sands, or'' before ''qualified fuels''.

(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. 210. EXTENSION OF SUSPENSION OF TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

Subparagraph (H) of section 613A(c)(6) (relating to oil and gas produced from marginal properties) is amended by striking ''for any taxable year'' and all that follows and inserting ''for any taxable year—

''(i) beginning after December 31, 1997, and before January 1, 2008, or

''(ii) beginning after December 31, 2008, and before January 1, 2010.''.

SEC. 211. 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.

TITLE III—ENERGY CONSERVATION AND EFFICIENCY PROVISIONS

SEC. 301. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 107, 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 $800,000,000.

''(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 this Act, 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 this Act, 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, as amended by this Act, 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. 302. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) is amended by striking ''placed in service after December 31, 2007'' and inserting ''placed in service—

''(1) after December 31, 2007, and before January 1, 2009, or

''(2) after 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) 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) MODIFICATION OF WATER HEATER REQUIREMENTS.—Section 25C(d)(3)(E) is amended by inserting ''or a thermal efficiency of at least 90 percent'' after ''0.80''.

(d) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsections (b) and (c), 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.''.

(e) 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''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2008.

(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (e) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 303. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 304. NEW ENERGY EFFICIENT HOME CREDIT.

Subsection (g) of section 45L (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. 305. 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 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) 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. 306. 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—

''(i) is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services, and

''(ii) does not have a class life (determined without regard to subsection (e)) of less than 10 years.

''(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 which—

''(i) is 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, and

''(ii) does not have a class life (determined without regard to subsection (e)) of less than 10 years.

''(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. 307. 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,''.

SEC. 308. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.

(a) IN GENERAL.—Section 168 is amended by adding at the end the following new subsection:

''(m) SPECIAL ALLOWANCE FOR CERTAIN REUSE AND RECYCLING PROPERTY.—

''(1) IN GENERAL.—In the case of any qualified reuse and recycling property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified reuse and recycling property, and

''(B) the adjusted basis of the qualified reuse and recycling property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED REUSE AND RECYCLING PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified reuse and recycling property' means any reuse and recycling property—

''(i) to which this section applies,

''(ii) which has a useful life of at least 5 years,

''(iii) the original use of which commences with the taxpayer after August 31, 2008, and

''(iv) which is—

''(I) acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after August 31, 2008, but only if no written binding contract for the acquisition was in effect before September 1, 2008, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after August 31, 2008.

''(B) EXCEPTIONS.—

''(i) BONUS DEPRECIATION PROPERTY UNDER SUBSECTION (k).—The term 'qualified reuse and recycling property' shall not include any property to which section 168(k) applies.

''(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified reuse and recycling property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

''(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(C) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iv) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after August 31, 2008.

''(D) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified reuse and recycling property shall be determined under this section without regard to any adjustment under section 56.

''(3) DEFINITIONS.—For purposes of this subsection—

''(A) REUSE AND RECYCLING PROPERTY.—

''(i) IN GENERAL.—The term 'reuse and recycling property' means any machinery and equipment (not including buildings or real estate), along with all appurtenances thereto, including software necessary to operate such equipment, which is used exclusively to collect, distribute, or recycle qualified reuse and recyclable materials.

''(ii) EXCLUSION.—Such term does not include rolling stock or other equipment used to transport reuse and recyclable materials.

''(B) QUALIFIED REUSE AND RECYCLABLE MATERIALS.—

''(i) IN GENERAL.—The term 'qualified reuse and recyclable materials' means scrap plastic, scrap glass, scrap textiles, scrap rubber, scrap packaging, recovered fiber, scrap ferrous and nonferrous metals, or electronic scrap generated by an individual or business.

''(ii) ELECTRONIC SCRAP.—For purposes of clause (i), the term 'electronic scrap' means—

''(I) any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than 4 inches measured diagonally, or

''(II) any central processing unit.

''(C) RECYCLING OR RECYCLE.—The term 'recycling' or 'recycle' means that process (including sorting) by which worn or superfluous materials are manufactured or processed into specification grade commodities that are suitable for use as a replacement or substitute for virgin materials in manufacturing tangible consumer and commercial products, including packaging.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after August 31, 2008.

TITLE IV—REVENUE PROVISIONS

SEC. 401. LIMITATION OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Section 199(d) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) SPECIAL RULE FOR TAXPAYERS WITH OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—

''(A) IN GENERAL.—If a taxpayer has oil related qualified production activities income for any taxable year beginning after 2009, the amount otherwise allowable as a deduction under subsection (a) shall be reduced by 3 percent of the least of—

''(i) the oil related qualified production activities income of the taxpayer for the taxable year,

''(ii) the qualified production activities income of the taxpayer for the taxable year, or

''(iii) taxable income (determined without regard to this section).

''(B) OIL RELATED QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this paragraph, the term 'oil related qualified production activities income' means for any taxable year the qualified production activities income which is attributable to the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during such taxable year.

''(C) PRIMARY PRODUCT.—For purposes of this paragraph, the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(b) CONFORMING AMENDMENT.—Section 199(d)(2) (relating to application to individuals) is amended by striking ''subsection (a)(1)(B)'' and inserting ''subsections (a)(1)(B) and (d)(9)(A)(iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 402. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.

(a) IN GENERAL.—Subsections (a) and (b) of section 907 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

''(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

''(1) the amount of the combined foreign oil and gas income for the taxable year,

''(2) multiplied by—

''(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

''(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

''(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

''(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term 'combined foreign oil and gas income' means, with respect to any taxable year, the sum of—

''(A) foreign oil and gas extraction income, and

''(B) foreign oil related income.

''(2) FOREIGN OIL AND GAS TAXES.—The term 'foreign oil and gas taxes' means, with respect to any taxable year, the sum of—

''(A) oil and gas extraction taxes, and

''(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.''.

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

''(4) RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.—

''(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

''(i) first by the amount determined under subparagraph (B), and

''(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

''(B) REDUCTION FOR PRE-2009 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2009, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Energy Improvement and Extension Act of 2008) for preceding taxable years beginning after December 31, 1982.

''(C) REDUCTION FOR POST-2008 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2008, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

''(D) FOREIGN OIL AND GAS LOSS DEFINED.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil and gas loss' means the amount by which—

''(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

''(II) the sum of the deductions properly apportioned or allocated thereto.

''(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

''(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

''(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

''(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

''(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Energy Improvement and Extension Act of 2008.''.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(1) by striking ''oil and gas extraction taxes'' each place it appears and inserting ''foreign oil and gas taxes'', and

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

''(4) TRANSITION RULES FOR PRE-2009 AND 2009 DISALLOWED CREDITS.—

''(A) PRE-2009 CREDITS.—In the case of any unused credit year beginning before January 1, 2009, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2008—

''(i) by substituting 'oil and gas extraction taxes' for 'foreign oil and gas taxes' each place it appears in paragraphs (1), (2), and (3), and

''(ii) by computing, for purposes of paragraph (2)(A), the limitation under subparagraph (A) for the year to which such taxes are carried by substituting 'foreign oil and gas extraction income' for 'foreign oil and gas income' in subsection (a).

''(B) 2009 CREDITS.—In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Energy Improvement and Extension Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.''.

(d) CONFORMING AMENDMENT.—Section 6501(i) is amended by striking ''oil and gas extraction taxes'' and inserting ''foreign oil and gas taxes''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 403. BROKER REPORTING OF CUSTOMER'S BASIS IN SECURITIES TRANSACTIONS.

(a) IN GENERAL.—

(1) BROKER REPORTING FOR SECURITIES TRANSACTIONS.—Section 6045 is amended by adding at the end the following new subsection:

''(g) ADDITIONAL INFORMATION REQUIRED IN THE CASE OF SECURITIES TRANSACTIONS, ETC.—

''(1) IN GENERAL.—If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2).

''(2) ADDITIONAL INFORMATION REQUIRED.—

''(A) IN GENERAL.—The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer's adjusted basis in such security and whether any gain or loss with respect to such security is long-term or short-term (within the meaning of section 1222).

''(B) DETERMINATION OF ADJUSTED BASIS.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—The customer's adjusted basis shall be determined—

''(I) in the case of any security (other than any stock for which an average basis method is permissible under section 1012), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred, and

''(II) in the case of any stock for which an average basis method is permissible under section 1012, in accordance with the broker's default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

''(ii) EXCEPTION FOR WASH SALES.—Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

''(3) COVERED SECURITY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'covered security' means any specified security acquired on or after the applicable date if such security—

''(i) was acquired through a transaction in the account in which such security is held, or

''(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

''(B) SPECIFIED SECURITY.—The term 'specified security' means—

''(i) any share of stock in a corporation,

''(ii) any note, bond, debenture, or other evidence of indebtedness,

''(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection, and

''(iv) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection.

''(C) APPLICABLE DATE.—The term 'applicable date' means—

''(i) January 1, 2011, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

''(ii) January 1, 2012, in the case of any stock for which an average basis method is permissible under section 1012, and

''(iii) January 1, 2013, or such later date determined by the Secretary in the case of any other specified security.

''(4) TREATMENT OF S CORPORATIONS.—In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section.

''(5) SPECIAL RULES FOR SHORT SALES.—In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.''.

(2) BROKER INFORMATION REQUIRED WITH RESPECT TO OPTIONS.—Section 6045, as amended by subsection (a), is amended by adding at the end the following new subsection:

''(h) APPLICATION TO OPTIONS ON SECURITIES.—

''(1) EXERCISE OF OPTION.—For purposes of this section, if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

''(2) LAPSE OR CLOSING TRANSACTION.—In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

''(3) PROSPECTIVE APPLICATION.—Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2013.

''(4) DEFINITIONS.—For purposes of this subsection, the terms 'covered security' and 'specified security' shall have the meanings given such terms in subsection (g)(3).''.

(3) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—

(A) IN GENERAL.—Subsection (b) of section 6045 is amended by striking ''January 31'' and inserting ''February 15''.

(B) STATEMENTS RELATED TO SUBSTITUTE PAYMENTS.—Subsection (d) of section 6045 is amended—

(i) by striking ''at such time and'', and

(ii) by inserting after ''other item.'' the following new sentence: ''The written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made.''.

(C) OTHER STATEMENTS.—Subsection (b) of section 6045 is amended by adding at the end the following: ''In the case of a consolidated reporting statement (as defined in regulations) with respect to any customer, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.''.

(b) DETERMINATION OF BASIS OF CERTAIN SECURITIES ON ACCOUNT BY ACCOUNT OR AVERAGE BASIS METHOD.—Section 1012 is amended—

(1) by striking ''The basis of property'' and inserting the following:

''(a) IN GENERAL.—The basis of property'',

(2) by striking ''The cost of real property'' and inserting the following:

''(b) SPECIAL RULE FOR APPORTIONED REAL ESTATE TAXES.—The cost of real property'', and

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

''(c) DETERMINATIONS BY ACCOUNT.—

''(1) IN GENERAL.—In the case of the sale, exchange, or other disposition of a specified security on or after the applicable date, the conventions prescribed by regulations under this section shall be applied on an account by account basis.

''(2) APPLICATION TO CERTAIN FUNDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any stock for which an average basis method is permissible under section 1012 which is acquired before January 1, 2012, shall be treated as a separate account from any such stock acquired on or after such date.

''(B) ELECTION FUND FOR TREATMENT AS SINGLE ACCOUNT.—If a fund described in subparagraph (A) elects to have this subparagraph apply with respect to one or more of its stockholders—

''(i) subparagraph (A) shall not apply with respect to any stock in such fund held by such stockholders, and

''(ii) all stock in such fund which is held by such stockholders shall be treated as covered securities described in section 6045(g)(3) without regard to the date of the acquisition of such stock.

A rule similar to the rule of the preceding sentence shall apply with respect to a broker holding such stock as a nominee.

''(3) DEFINITIONS.—For purposes of this section, the terms 'specified security' and 'applicable date' shall have the meaning given such terms in section 6045(g).

''(d) AVERAGE BASIS FOR STOCK ACQUIRED PURSUANT TO A DIVIDEND REINVESTMENT PLAN.—

''(1) IN GENERAL.—In the case of any stock acquired after December 31, 2010, in connection with a dividend reinvestment plan, the basis of such stock while held as part of such plan shall be determined using one of the methods which may be used for determining the basis of stock in an open-end fund.

''(2) TREATMENT AFTER TRANSFER.—In the case of the transfer to another account of stock to which paragraph (1) applies, such stock shall have a cost basis in such other account equal to its basis in the dividend reinvestment plan immediately before such transfer (properly adjusted for any fees or other charges taken into account in connection with such transfer).

''(3) SEPARATE ACCOUNTS; ELECTION FOR TREATMENT AS SINGLE ACCOUNT.—Rules similar to the rules of subsection (c)(2) shall apply for purposes of this subsection.

''(4) DIVIDEND REINVESTMENT PLAN.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'dividend reinvestment plan' means any arrangement under which dividends on any stock are reinvested in stock identical to the stock with respect to which the dividends are paid.

''(B) INITIAL STOCK ACQUISITION TREATED AS ACQUIRED IN CONNECTION WITH PLAN.—Stock shall be treated as acquired in connection with a dividend reinvestment plan if such stock is acquired pursuant to such plan or if the dividends paid on such stock are subject to such plan.''.

(c) INFORMATION BY TRANSFERORS TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6045 the following new section:

''SEC. 6045A. INFORMATION REQUIRED IN CONNECTION WITH TRANSFERS OF COVERED SECURITIES TO BROKERS.

''(a) FURNISHING OF INFORMATION.—Every applicable person which transfers to a broker (as defined in section 6045(c)(1)) a security which is a covered security (as defined in section 6045(g)(3)) in the hands of such applicable person shall furnish to such broker a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such broker to meet the requirements of section 6045(g).

''(b) APPLICABLE PERSON.—For purposes of subsection (a), the term 'applicable person' means—

''(1) any broker (as defined in section 6045(c)(1)), and

''(2) any other person as provided by the Secretary in regulations.

''(c) TIME FOR FURNISHING STATEMENT.—Except as otherwise provided by the Secretary, any statement required by subsection (a) shall be furnished not later than 15 days after the date of the transfer described in such subsection.''.

(2) ASSESSABLE PENALTIES.—Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating subparagraphs (I) through (DD) as subparagraphs (J) through (EE), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) section 6045A (relating to information required in connection with transfers of covered securities to brokers),''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6045 the following new item:

''Sec. 6045A. Information required in connection with transfers of covered securities to brokers.''.

(d) ADDITIONAL ISSUER INFORMATION TO AID BROKERS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61, as amended by subsection (b), is amended by inserting after section 6045A the following new section:

''SEC. 6045B. RETURNS RELATING TO ACTIONS AFFECTING BASIS OF SPECIFIED SECURITIES.

''(a) IN GENERAL.—According to the forms or regulations prescribed by the Secretary, any issuer of a specified security shall make a return setting forth—

''(1) a description of any organizational action which affects the basis of such specified security of such issuer,

''(2) the quantitative effect on the basis of such specified security resulting from such action, and

''(3) such other information as the Secretary may prescribe.

''(b) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed not later than the earlier of—

''(1) 45 days after the date of the action described in subsection (a), or

''(2) January 15 of the year following the calendar year during which such action occurred.

''(c) STATEMENTS TO BE FURNISHED TO HOLDERS OF SPECIFIED SECURITIES OR THEIR NOMINEES.—According to the forms or regulations prescribed by the Secretary, every person required to make a return under subsection (a) with respect to a specified security shall furnish to the nominee with respect to the specified security (or certificate holder if there is no nominee) a written statement showing—

''(1) the name, address, and phone number of the information contact of the person required to make such return,

''(2) the information required to be shown on such return with respect to such security, and

''(3) such other information as the Secretary may prescribe.

The written statement required under the preceding sentence shall be furnished to the holder on or before January 15 of the year following the calendar year during which the action described in subsection (a) occurred.

''(d) SPECIFIED SECURITY.—For purposes of this section, the term 'specified security' has the meaning given such term by section 6045(g)(3)(B). No return shall be required under this section with respect to actions described in subsection (a) with respect to a specified security which occur before the applicable date (as defined in section 6045(g)(3)(C)) with respect to such security.

''(e) PUBLIC REPORTING IN LIEU OF RETURN.—The Secretary may waive the requirements under subsections (a) and (c) with respect to a specified security, if the person required to make the return under subsection (a) makes publicly available, in such form and manner as the Secretary determines necessary to carry out the purposes of this section—

''(1) the name, address, phone number, and email address of the information contact of such person, and

''(2) the information described in paragraphs (1), (2), and (3) of subsection (a).''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1), as amended by the Housing Assistance Tax Act of 2008, is amended by redesignating clause (iv) and each of the clauses which follow as clauses (v) through (xxiii), respectively, and by inserting after clause (iii) the following new clause:

''(iv) section 6045B(a) (relating to returns relating to actions affecting basis of specified securities),''.

(B) Paragraph (2) of section 6724(d), as amended by the Housing Assistance Tax Act of 2008 and by subsection (c)(2), is amended by redesignating subparagraphs (J) through (EE) as subparagraphs (K) through (FF), respectively, and by inserting after subparagraph (I) the following new subparagraph:

''(J) subsections (c) and (e) of section 6045B (relating to returns relating to actions affecting basis of specified securities),''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61, as amended by subsection (b)(3), is amended by inserting after the item relating to section 6045A the following new item:

''Sec. 6045B. Returns relating to actions affecting basis of specified securities.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 2011.

(2) EXTENSION OF PERIOD FOR STATEMENTS SENT TO CUSTOMERS.—The amendments made by subsection (a)(3) shall apply to statements required to be furnished after December 31, 2008.

SEC. 404. 0.2 PERCENT FUTA SURTAX.

(a) IN GENERAL.—Section 3301 (relating to rate of tax) is amended—

(1) by striking ''through 2008'' in paragraph (1) and inserting ''through 2009'', and

(2) by striking ''calendar year 2009'' in paragraph (2) and inserting ''calendar year 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 2008.

SEC. 405. INCREASE AND EXTENSION OF OIL SPILL LIABILITY TRUST FUND TAX.

(a) INCREASE IN RATE.—

(1) IN GENERAL.—Section 4611(c)(2)(B) (relating to rates) is amended by striking ''is 5 cents a barrel.'' and inserting ''is—

''(i) in the case of crude oil received or petroleum products entered before January 1, 2017, 8 cents a barrel, and

''(ii) in the case of crude oil received or petroleum products entered after December 31, 2016, 9 cents a barrel.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply on and after the first day of the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

(b) EXTENSION.—

(1) IN GENERAL.—Section 4611(f) (relating to application of Oil Spill Liability Trust Fund financing rate) is amended by striking paragraphs (2) and (3) and inserting the following new paragraph:

''(2) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2017.''.

(2) CONFORMING AMENDMENT.—Section 4611(f)(1) is amended by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

DIVISION C—TAX EXTENDERS AND ALTERNATIVE MINIMUM TAX RELIEF

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Tax Extenders and Alternative Minimum Tax Relief Act of 2008''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—ALTERNATIVE MINIMUM TAX RELIEF

Sec. 101. Extension of alternative minimum tax relief for nonrefundable personal credits.
Sec. 102. Extension of increased alternative minimum tax exemption amount.
Sec. 103. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.

TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS

Sec. 201. Deduction for State and local sales taxes.
Sec. 202. Deduction of qualified tuition and related expenses.
Sec. 203. Deduction for certain expenses of elementary and secondary school teachers.
Sec. 204. Additional standard deduction for real property taxes for nonitemizers.
Sec. 205. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 206. Treatment of certain dividends of regulated investment companies.
Sec. 207. Stock in RIC for purposes of determining estates of nonresidents not citizens.
Sec. 208. Qualified investment entities.

TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS

Sec. 301. Extension and modification of research credit.
Sec. 302. New markets tax credit.
Sec. 303. Subpart F exception for active financing income.
Sec. 304. Extension of look-thru rule for related controlled foreign corporations.
Sec. 305. Extension of 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements; 15-year straight-line cost recovery for certain improvements to retail space.
Sec. 306. Modification of tax treatment of certain payments to controlling exempt organizations.
Sec. 307. Basis adjustment to stock of S corporations making charitable contributions of property.
Sec. 308. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.
Sec. 309. Extension of economic development credit for American Samoa.
Sec. 310. Extension of mine rescue team training credit.
Sec. 311. Extension of election to expense advanced mine safety equipment.
Sec. 312. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 313. Qualified zone academy bonds.
Sec. 314. Indian employment credit.
Sec. 315. Accelerated depreciation for business property on Indian reservations.
Sec. 316. Railroad track maintenance.
Sec. 317. Seven-year cost recovery period for motorsports racing track facility.
Sec. 318. Expensing of environmental remediation costs.
Sec. 319. Extension of work opportunity tax credit for Hurricane Katrina employees.
Sec. 320. Extension of increased rehabilitation credit for structures in the Gulf Opportunity Zone.
Sec. 321. Enhanced deduction for qualified computer contributions.
Sec. 322. Tax incentives for investment in the District of Columbia.
Sec. 323. Enhanced charitable deductions for contributions of food inventory.
Sec. 324. Extension of enhanced charitable deduction for contributions of book inventory.
Sec. 325. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.

TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS

Sec. 401. Permanent authority for undercover operations.
Sec. 402. Permanent authority for disclosure of information relating to terrorist activities.

TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS

Subtitle A—General Provisions

Sec. 501. $8,500 income threshold used to calculate refundable portion of child tax credit.
Sec. 502. Provisions related to film and television productions.
Sec. 503. Exemption from excise tax for certain wooden arrows designed for use by children.
Sec. 504. Income averaging for amounts received in connection with the Exxon Valdez litigation.
Sec. 505. Certain farming business machinery and equipment treated as 5-year property.
Sec. 506. Modification of penalty on understatement of taxpayer's liability by tax return preparer.

Subtitle B—Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

Sec. 511. Short title.
Sec. 512. Mental health parity.

TITLE VI—OTHER PROVISIONS

Sec. 601. Secure rural schools and community self-determination program.
Sec. 602. Transfer to abandoned mine reclamation fund.

TITLE VII—DISASTER RELIEF

Subtitle A—Heartland and Hurricane Ike Disaster Relief

Sec. 701. Short title.
Sec. 702. Temporary tax relief for areas damaged by 2008 Midwestern severe storms, tornados, and flooding.
Sec. 703. Reporting requirements relating to disaster relief contributions.
Sec. 704. Temporary tax-exempt bond financing and low-income housing tax relief for areas damaged by Hurricane Ike.

Subtitle B—National Disaster Relief

Sec. 706. Losses attributable to federally declared disasters.
Sec. 707. Expensing of Qualified Disaster Expenses.
Sec. 708. Net operating losses attributable to federally declared disasters.
Sec. 709. Waiver of certain mortgage revenue bond requirements following federally declared disasters.
Sec. 710. Special depreciation allowance for qualified disaster property.
Sec. 711. Increased expensing for qualified disaster assistance property.
Sec. 712. Coordination with Heartland disaster relief.

TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY

Sec. 801. Nonqualified deferred compensation from certain tax indifferent parties.

TITLE I—ALTERNATIVE MINIMUM TAX RELIEF

SEC. 101. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2007) is amended—

(1) by striking ''or 2007'' and inserting ''2007, or 2008'', and

(2) by striking ''2007'' in the heading thereof and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 102. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking ''($66,250 in the case of taxable years beginning in 2007)'' in subparagraph (A) and inserting ''($69,950 in the case of taxable years beginning in 2008)'', and

(2) by striking ''($44,350 in the case of taxable years beginning in 2007)'' in subparagraph (B) and inserting ''($46,200 in the case of taxable years beginning in 2008)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 103. INCREASE OF AMT REFUNDABLE CREDIT AMOUNT FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS FOR PRIOR YEAR MINIMUM TAX LIABILITY, ETC.

(a) IN GENERAL.—Paragraph (2) of section 53(e) is amended to read as follows:

''(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1), the term 'AMT refundable credit amount' means, with respect to any taxable year, the amount (not in excess of the long-term unused minimum tax credit for such taxable year) equal to the greater of—

''(A) 50 percent of the long-term unused minimum tax credit for such taxable year, or

''(B) the amount (if any) of the AMT refundable credit amount determined under this paragraph for the taxpayer's preceding taxable year (determined without regard to subsection (f)(2)).''.

(b) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 53 is amended by adding at the end the following new subsection:

''(f) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—

''(1) ABATEMENT.—Any underpayment of tax outstanding on the date of the enactment of this subsection which is attributable to the application of section 56(b)(3) for any taxable year ending before January 1, 2008, and any interest or penalty with respect to such underpayment which is outstanding on such date of enactment, is hereby abated. The amount determined under subsection (b)(1) shall not include any tax abated under the preceding sentence.

''(2) INCREASE IN CREDIT FOR CERTAIN INTEREST AND PENALTIES ALREADY PAID.—The AMT refundable credit amount, and the minimum tax credit determined under subsection (b), for the taxpayer's first 2 taxable years beginning after December 31, 2007, shall each be increased by 50 percent of the aggregate amount of the interest and penalties which were paid by the taxpayer before the date of the enactment of this subsection and which would (but for such payment) have been abated under paragraph (1).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) ABATEMENT.—Section 53(f)(1), as added by subsection (b), shall take effect on the date of the enactment of this Act.

TITLE II—EXTENSION OF INDIVIDUAL TAX PROVISIONS

SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) (relating to certain expenses of elementary and secondary school teachers) is amended by striking ''or 2007'' and inserting ''2007, 2008, or 2009''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2007.

SEC. 204. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1), as added by the Housing Assistance Tax Act of 2008, is amended by inserting ''or 2009'' after ''2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 205. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2007.

SEC. 206. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) (defining interest-related dividend) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Subparagraph (C) of section 871(k)(2) (defining short-term capital gain dividend) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2007.

SEC. 207. STOCK IN RIC FOR PURPOSES OF DETERMINING ESTATES OF NONRESIDENTS NOT CITIZENS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) (relating to stock in a RIC) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to decedents dying after December 31, 2007.

SEC. 208. QUALIFIED INVESTMENT ENTITIES.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2008.

TITLE III—EXTENSION OF BUSINESS TAX PROVISIONS

SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009'' in paragraph (1)(B).

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) (relating to special rule) is amended by striking ''after December 31, 2007'' and inserting ''after December 31, 2009''.

(b) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—Section 41(h) is amended by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—No election under subsection (c)(4) shall apply to taxable years beginning after December 31, 2008.''.

(c) MODIFICATION OF ALTERNATIVE SIMPLIFIED CREDIT.—Paragraph (5)(A) of section 41(c) (relating to election of alternative simplified credit) is amended by striking ''12 percent'' and inserting ''14 percent (12 percent in the case of taxable years ending before January 1, 2009)''.

(d) TECHNICAL CORRECTION.—Paragraph (3) of section 41(h) is amended to read as follows:

''(2) COMPUTATION FOR TAXABLE YEAR IN WHICH CREDIT TERMINATES.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year—

''(A) the amount determined under subsection (c)(1)(B) with respect to such taxable year shall be the amount which bears the same ratio to such amount (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year, and

''(B) for purposes of subsection (c)(5), the average qualified research expenses for the preceding 3 taxable years shall be the amount which bears the same ratio to such average qualified research expenses (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) EXTENSION.—The amendments made by subsection (a) shall apply to amounts paid or incurred after December 31, 2007.

SEC. 302. NEW MARKETS TAX CREDIT.

Subparagraph (D) of section 45D(f)(1) (relating to national limitation on amount of investments designated) is amended by striking ''and 2008'' and inserting ''2008, and 2009''.

SEC. 303. SUBPART F EXCEPTION FOR ACTIVE FINANCING INCOME.

(a) EXEMPT INSURANCE INCOME.—Paragraph (10) of section 953(e) (relating to application) is amended—

(1) by striking ''January 1, 2009'' and inserting ''January 1, 2010'', and

(2) by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) EXCEPTION TO TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (9) of section 954(h) (relating to application) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

SEC. 304. EXTENSION OF LOOK-THRU RULE FOR RELATED CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) (relating to application) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2007, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 305. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2007.

(b) TREATMENT TO INCLUDE NEW CONSTRUCTION.—

(1) IN GENERAL.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified restaurant property' means any section 1250 property which is—

''(i) a building, if such building is placed in service after December 31, 2008, and before January 1, 2010, or

''(ii) an improvement to a building,

if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.

''(B) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph shall not be considered qualified property for purposes of subsection (k).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2008.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) (relating to 15-year property) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting '', and'', and by adding at the end the following new clause:

''(ix) any qualified retail improvement property placed in service after December 31, 2008, and before January 1, 2010.''.

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) is amended by adding at the end the following new paragraph:

''(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

''(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

''(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefitting a common area, or

''(iv) the internal structural framework of the building.

''(D) EXCLUSION FROM BONUS DEPRECIATION.—Property described in this paragraph shall not be considered qualified property for purposes of subsection (k).

''(E) TERMINATION.—Such term shall not include any improvement placed in service after December 31, 2009.''.

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

''(I) Qualified retail improvement property described in subsection (e)(8).''.

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

''(E)(ix) ..... 39''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2008.

SEC. 306. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2007.

SEC. 307. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—The last sentence of section 1367(a)(2) (relating to decreases in basis) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. 308. INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAX TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2007.

SEC. 309. EXTENSION OF ECONOMIC DEVELOPMENT CREDIT FOR AMERICAN SAMOA.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking ''first two taxable years'' and inserting ''first 4 taxable years'', and

(2) by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 310. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.

Section 45N(e) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. 311. EXTENSION OF ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

Section 179E(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. 312. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) (relating to termination) is amended—

(1) by striking ''first 2 taxable years'' and inserting ''first 4 taxable years'', and

(2) by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 313. QUALIFIED ZONE ACADEMY 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. 54E. QUALIFIED ZONE ACADEMY BONDS.

''(a) QUALIFIED ZONE ACADEMY BONDS.—For purposes of this subchapter, the term 'qualified zone academy 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 a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

''(2) the bond is issued by a State or local government within the jurisdiction of which such academy is located, and

''(3) the issuer—

''(A) designates such bond for purposes of this section,

''(B) certifies that it has written assurances that the private business contribution requirement of subsection (b) will be met with respect to such academy, and

''(C) certifies that it has the written approval of the eligible local education agency for such bond issuance.

''(b) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—For purposes of subsection (a), the private business contribution requirement of this subsection is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a national zone academy bond limitation for each calendar year. Such limitation is $400,000,000 for 2008 and 2009, and, except as provided in paragraph (4), zero thereafter.

''(2) ALLOCATION OF LIMITATION.—The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

''(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

''(4) CARRYOVER OF UNUSED LIMITATION.—

''(A) IN GENERAL.—If for any calendar year—

''(i) the limitation amount for any State, exceeds

''(ii) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

''(B) LIMITATION ON CARRYOVER.—Any carryforward of a limitation amount may be carried only to the first 2 years following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.

''(C) COORDINATION WITH SECTION 1397E.—Any carryover determined under section 1397E(e)(4) (relating to carryover of unused limitation) with respect to any State to calendar year 2008 or 2009 shall be treated for purposes of this section as a carryover with respect to such State for such calendar year under subparagraph (A), and the limitation of subparagraph (B) shall apply to such carryover taking into account the calendar years to which such carryover relates.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

''(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

''(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

''(C) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

''(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

''(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

''(2) ELIGIBLE LOCAL EDUCATION AGENCY.—For purposes of this section, the term 'eligible local education agency' means any local educational agency as defined in section 9101 of the Elementary and Secondary Education Act of 1965.

''(3) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

''(A) rehabilitating or repairing the public school facility in which the academy is established,

''(B) providing equipment for use at such academy,

''(C) developing course materials for education to be provided at such academy, and

''(D) training teachers and other school personnel in such academy.

''(4) QUALIFIED CONTRIBUTIONS.—The term 'qualified contribution' means any contribution (of a type and quality acceptable to the eligible local education agency) of—

''(A) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

''(B) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

''(C) services of employees as volunteer mentors,

''(D) internships, field trips, or other educational opportunities outside the academy for students, or

''(E) any other property or service specified by the eligible local education agency.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (B), by inserting ''or'' at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

''(D) a qualified zone academy bond,''.

(2) Subparagraph (C) of section 54A(d)(2), as amended by this Act, 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) in the case of a qualified zone academy bond, a purpose specified in section 54E(a)(1).''.

(3) Section 1397E is amended by adding at the end the following new subsection:

''(m) TERMINATION.—This section shall not apply to any obligation issued after the date of the enactment of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.''.

(4) 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. 54E. Qualified zone academy 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. 314. INDIAN EMPLOYMENT CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 315. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATIONS.

(a) IN GENERAL.—Paragraph (8) of section 168(j) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. 316. RAILROAD TRACK MAINTENANCE.

(a) IN GENERAL.—Subsection (f) of section 45G (relating to application of section) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4), as amended by this Act, is amended—

(1) by redesignating clauses (v), (vi), and (vii) as clauses (vi), (vii), and (viii), respectively, and

(2) by inserting after clause (iv) the following new clause:

''(v) the credit determined under section 45G,''.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to expenditures paid or incurred during taxable years beginning after December 31, 2007.

(2) The amendments made by subsection (b) shall apply to credits determined under section 45G of the Internal Revenue Code of 1986 in taxable years beginning after December 31, 2007, and to carrybacks of such credits.

SEC. 317. SEVEN-YEAR COST RECOVERY PERIOD FOR MOTORSPORTS RACING TRACK FACILITY.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. 318. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2007.

SEC. 319. EXTENSION OF WORK OPPORTUNITY TAX CREDIT FOR HURRICANE KATRINA EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''2-year'' and inserting ''4-year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2007.

SEC. 320. EXTENSION OF INCREASED REHABILITATION CREDIT FOR STRUCTURES IN THE GULF OPPORTUNITY ZONE.

(a) IN GENERAL.—Subsection (h) of section 1400N is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act.

SEC. 321. ENHANCED DEDUCTION FOR QUALIFIED COMPUTER CONTRIBUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made during taxable years beginning after December 31, 2007.

SEC. 322. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''2007'' both places it appears and inserting ''2009''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2007.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking ''2007'' and inserting ''2009''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2007.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2008'' each place it appears and inserting ''2010''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2012'' and inserting ''2014'', and

(ii) by striking ''2012'' in the heading thereof and inserting ''2014''.

(B) Section 1400B(g)(2) is amended by striking ''2012'' and inserting ''2014''.

(C) Section 1400F(d) is amended by striking ''2012'' and inserting ''2014''.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2007.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking ''2008'' and inserting ''2010''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2007.

SEC. 323. 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) 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) 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. 324. EXTENSION OF ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) EXTENSION.—Clause (iv) of section 170(e)(3)(D) (relating to termination) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2009''.

(b) CLERICAL AMENDMENT.—Clause (iii) of section 170(e)(3)(D) (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. 325. EXTENSION AND MODIFICATION OF DUTY SUSPENSION ON WOOL PRODUCTS; WOOL RESEARCH FUND; WOOL DUTY REFUNDS.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective period column and inserting ''12/31/2014'':

(1) Heading 9902.51.11 (relating to fabrics of worsted wool).

(2) Heading 9902.51.13 (relating to yarn of combed wool).

(3) Heading 9902.51.14 (relating to wool fiber, waste, garnetted stock, combed wool, or wool top).

(4) Heading 9902.51.15 (relating to fabrics of combed wool).

(5) Heading 9902.51.16 (relating to fabrics of combed wool).

(b) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—Section 4002(c) of the Wool Suit and Textile Trade Extension Act of 2004 (Public Law 108–429; 118 Stat. 2603) is amended—

(A) in paragraph (3)(C), by striking ''2010'' and inserting ''2015''; and

(B) in paragraph (6)(A), by striking ''through 2009'' and inserting ''through 2014''.

(2) SUNSET.—Section 506(f) of the Trade and Development Act of 2000 (Public 106–200; 114 Stat. 303 (7 U.S.C. 7101 note)) is amended by striking ''2010'' and inserting ''2015''.

TITLE IV—EXTENSION OF TAX ADMINISTRATION PROVISIONS

SEC. 401. PERMANENT AUTHORITY FOR UNDERCOVER OPERATIONS.

(a) IN GENERAL.—Section 7608(c) (relating to rules relating to undercover operations) is amended by striking paragraph (6).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to operations conducted after the date of the enactment of this Act.

SEC. 402. PERMANENT AUTHORITY FOR DISCLOSURE OF INFORMATION RELATING TO TERRORIST ACTIVITIES.

(a) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF TERRORIST ACTIVITIES.—Subparagraph (C) of section 6103(i)(3) is amended by striking clause (iv).

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES.—Paragraph (7) of section 6103(i) is amended by striking subparagraph (E).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures after the date of the enactment of this Act.

TITLE V—ADDITIONAL TAX RELIEF AND OTHER TAX PROVISIONS

Subtitle A—General Provisions

SEC. 501. $8,500 INCOME THRESHOLD USED TO CALCULATE REFUNDABLE PORTION OF CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(d) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR 2008.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2008, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be $8,500.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 502. PROVISIONS RELATED TO FILM AND TELEVISION PRODUCTIONS.

(a) EXTENSION OF EXPENSING RULES FOR QUALIFIED FILM AND TELEVISION PRODUCTIONS.—Section 181(f) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) MODIFICATION OF LIMITATION ON EXPENSING.—Subparagraph (A) of section 181(a)(2) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to so much of the aggregate cost of any qualified film or television production as exceeds $15,000,000.''.

(c) MODIFICATIONS TO DEDUCTION FOR DOMESTIC ACTIVITIES.—

(1) DETERMINATION OF W–2 WAGES.—Paragraph (2) of section 199(b) is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR QUALIFIED FILM.—In the case of a qualified film, such term shall include compensation for services performed in the United States by actors, production personnel, directors, and producers.''.

(2) DEFINITION OF QUALIFIED FILM.—Paragraph (6) of section 199(c) is amended by adding at the end the following: ''A qualified film shall include any copyrights, trademarks, or other intangibles with respect to such film. The methods and means of distributing a qualified film shall not affect the availability of the deduction under this section.''.

(3) PARTNERSHIPS.—Subparagraph (A) of section 199(d)(1) 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) in the case of each partner of a partnership, or shareholder of an S corporation, who owns (directly or indirectly) at least 20 percent of the capital interests in such partnership or of the stock of such S corporation—

''(I) such partner or shareholder shall be treated as having engaged directly in any film produced by such partnership or S corporation, and

''(II) such partnership or S corporation shall be treated as having engaged directly in any film produced by such partner or shareholder.''.

(d) CONFORMING AMENDMENT.—Section 181(d)(3)(A) is amended by striking ''actors'' and all that follows and inserting ''actors, production personnel, directors, and producers.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to qualified film and television productions commencing after December 31, 2007.

(2) DEDUCTION.—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 2007.

SEC. 503. EXEMPTION FROM EXCISE TAX FOR CERTAIN WOODEN ARROWS DESIGNED FOR USE BY CHILDREN.

(a) IN GENERAL.—Paragraph (2) of section 4161(b) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXEMPTION FOR CERTAIN WOODEN ARROW SHAFTS.—Subparagraph (A) shall not apply to any shaft consisting of all natural wood with no laminations or artificial means of enhancing the spine of such shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly—

''(i) measures 5/16 of an inch or less in diameter, and

''(ii) is not suitable for use with a bow described in paragraph (1)(A).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to shafts first sold after the date of enactment of this Act.

SEC. 504. INCOME AVERAGING FOR AMOUNTS RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—For purposes of section 1301 of the Internal Revenue Code of 1986—

(1) any qualified taxpayer who receives any qualified settlement income in any taxable year shall be treated as engaged in a fishing business (determined without regard to the commercial nature of the business), and

(2) such qualified settlement income shall be treated as income attributable to such a fishing business for such taxable year.

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an eligible retirement plan of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the lesser of—

(A) $100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in prior taxable years pursuant to this subsection), or

(B) the amount of qualified settlement income received by the individual during the taxable year.

(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraph (1), a qualified taxpayer shall be deemed to have made a contribution to an eligible retirement plan on the last day of the taxable year in which such income is received if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

(A) except as provided in paragraph (4)—

(i) to the extent of such contribution, the qualified settlement income shall not be included in taxable income, and

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract,

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

(I) in the case of a contribution to an individual retirement plan (as defined under section 7701(a)(37) of such Code), in a distribution described in section 408(d)(3) of such Code, and

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution,

(C) section 408(d)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts treated as a rollover under this paragraph, and

(D) section 408A(c)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts contributed to a Roth IRA (as defined under section 408A(b) of such Code) or a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code) under this paragraph.

(4) SPECIAL RULE FOR ROTH IRAS AND ROTH 401(k)S.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income to a Roth IRA (as defined under section 408A(b) of such Code) or as a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code), then—

(A) the qualified settlement income shall be includible in taxable income, and

(B) for purposes of section 72 of such Code, such contribution shall be considered to be investment in the contract.

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term ''eligible retirement plan'' has the meaning given such term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) TREATMENT OF QUALIFIED SETTLEMENT INCOME UNDER EMPLOYMENT TAXES.—

(1) SECA.—For purposes of chapter 2 of the Internal Revenue Code of 1986 and section 211 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as self-employment income.

(2) FICA.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as wages.

(d) QUALIFIED TAXPAYER.—For purposes of this section, the term ''qualified taxpayer'' means—

(1) any individual who is a plaintiff in the civil action *In re Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated) (D. Alaska); or

(2) any individual who is a beneficiary of the estate of such a plaintiff who—

(A) acquired the right to receive qualified settlement income from that plaintiff; and

(B) was the spouse or an immediate relative of that plaintiff.

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term ''qualified settlement income'' means any interest and punitive damage awards which are—

(1) otherwise includible in taxable income, and

(2) received (whether as lump sums or periodic payments) in connection with the civil action *In re Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated) (D. Alaska) (whether pre- or post-judgment and whether related to a settlement or judgment).

SEC. 505. CERTAIN FARMING BUSINESS MACHINERY AND EQUIPMENT TREATED AS 5-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(B) (defining 5-year property) is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi)(III) and inserting '', and'', and by inserting after clause (vi) the following new clause:

''(vii) any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) which is used in a farming business (as defined in section 263A(e)(4)), the original use of which commences with the taxpayer after December 31, 2008, and which is placed in service before January 1, 2010.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by inserting after the item relating to subparagraph (B)(iii) the following:

(B)(vii) ..... 10''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2008.

SEC. 506. MODIFICATION OF PENALTY ON UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY TAX RETURN PREPARER.

(a) IN GENERAL.—Subsection (a) of section 6694 is amended to read as follows:

''(a) UNDERSTATEMENT DUE TO UNREASONABLE POSITIONS.—

''(1) IN GENERAL.—If a tax return preparer—

''(A) prepares any return or claim of refund with respect to which any part of an understatement of liability is due to a position described in paragraph (2), and

''(B) knew (or reasonably should have known) of the position,

such tax return preparer shall pay a penalty with respect to each such return or claim in an amount equal to the greater of $1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

''(2) UNREASONABLE POSITION.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, a position is described in this paragraph unless there is or was substantial authority for the position.

''(B) DISCLOSED POSITIONS.—If the position was disclosed as provided in section 6662(d)(2)(B)(ii)(I) and is not a position to which subparagraph (C) applies, the position is described in this paragraph unless there is a reasonable basis for the position.

''(C) TAX SHELTERS AND REPORTABLE TRANSACTIONS.—If the position is with respect to a tax shelter (as defined in section 6662(d)(2)(C)(ii)) or a reportable transaction to which section 6662A applies, the position is described in this paragraph unless it is reasonable to believe that the position would more likely than not be sustained on its merits.

''(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply—

(1) in the case of a position other than a position described in subparagraph (C) of section 6694(a)(2) of the Internal Revenue Code of 1986 (as amended by this section), to returns prepared after May 25, 2007, and

(2) in the case of a position described in such subparagraph (C), to returns prepared for taxable years ending after the date of the enactment of this Act.

Subtitle B—Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008''.

SEC. 512. MENTAL HEALTH PARITY.

(a) AMENDMENTS TO ERISA.—Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a) is amended—

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

''(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

''(A) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan or coverage shall ensure that—

''(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

''(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

''(B) DEFINITIONS.—In this paragraph:

''(i) FINANCIAL REQUIREMENT.—The term 'financial requirement' includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2),

''(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

''(iii) TREATMENT LIMITATION.—The term 'treatment limitation' includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits (or the health insurance coverage offered in connection with the plan with respect to such benefits) shall be made available by the plan administrator (or the health insurance issuer offering such coverage) in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan (or coverage) of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator (or the health insurance issuer offering such coverage) to the participant or beneficiary in accordance with regulations.

''(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan or coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan or coverage provides coverage for medical or surgical benefits provided by out-of-network providers, the plan or coverage

shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.'';

(2) in subsection (b), by amending paragraph (2) to read as follows:

''(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan or coverage relating to such benefits under the plan or coverage, except as provided in subsection (a).'';

(3) in subsection (c)—

(A) in paragraph (1)(B)—

(i) by inserting ''(or 1 in the case of an employer residing in a State that permits small groups to include a single individual)'' after ''at least 2'' the first place that such appears; and

(ii) by striking ''and who employs at least 2 employees on the first day of the plan year''; and

(B) by striking paragraph (2) and inserting the following:

''(2) COST EXEMPTION.—

''(A) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connection with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

''(B) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this subparagraph shall be—

''(i) 2 percent in the case of the first plan year in which this section is applied; and

''(ii) 1 percent in the case of each subsequent plan year.

''(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under subparagraph (E).

''(D) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

''(E) NOTIFICATION.—

''(i) IN GENERAL.—A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

''(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

''(I) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan (or coverage);

''(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

''(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

''(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

''(I) a breakdown of States by the size and type of employers submitting such notification; and

''(II) a summary of the data received under clause (ii).

''(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan or health insurance issuer relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.'';

(4) in subsection (e), by striking paragraph (4) and inserting the following:

''(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

''(5) SUBSTANCE USE DISORDER BENEFITS.—The term 'substance use disorder benefits' means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.'';

(5) by striking subsection (f);

(6) by inserting after subsection (e) the following:

''(f) SECRETARY REPORT.—The Secretary shall, by January 1, 2012, and every two years thereafter, submit to the appropriate committees of Congress a report on compliance of group health plans (and health insurance coverage offered in connection with such plans) with the requirements of this section. Such report shall include the results of any surveys or audits on compliance of group health plans (and health insurance coverage offered in connection with such plans) with such requirements and an analysis of the reasons for any failures to comply.

''(g) NOTICE AND ASSISTANCE.—The Secretary, in cooperation with the Secretaries of Health and Human Services and Treasury, as appropriate, shall publish and widely disseminate guidance and information for group health plans, participants and beneficiaries, applicable State and local regulatory bodies, and the National Association of Insurance Commissioners concerning the requirements of this section and shall provide assistance concerning such requirements and the continued operation of applicable State law. Such guidance and information shall inform participants and beneficiaries of how they may obtain assistance under this section, including, where appropriate, assistance from State consumer and insurance agencies.'';

(7) by striking ''mental health benefits'' and inserting ''mental health and substance use disorder benefits'' each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(8) by striking ''mental health benefits'' and inserting ''mental health or substance use disorder benefits'' each place it appears (other than in any provision amended by the previous paragraph).

(b) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Section 2705 of the Public Health Service Act (42 U.S.C. 300gg–5) is amended—

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

''(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

''(A) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan or coverage shall ensure that—

''(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

''(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage) and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

''(B) DEFINITIONS.—In this paragraph:

''(i) FINANCIAL REQUIREMENT.—The term 'financial requirement' includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2).

''(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

''(iii) TREATMENT LIMITATION.—The term 'treatment limitation' includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits (or the health insurance coverage offered in connection with the plan with respect to such benefits) shall be made available by the plan administrator (or the health insurance issuer offering such coverage) in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan (or coverage) of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator (or the health insurance issuer offering such coverage) to the participant or beneficiary in accordance with regulations.

''(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan or coverage that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan or coverage provides coverage for medical or surgical benefits provided by out-of-network providers, the plan or coverage shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.'';

(2) in subsection (b), by amending paragraph (2) to read as follows:

''(2) in the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan or coverage relating to such benefits under the plan or coverage, except as provided in subsection (a).'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting before the period the following: ''(as defined in section 2791(e)(4), except that for purposes of this paragraph such term shall include employers with 1 employee in the case of an employer residing in a State that permits small groups to include a single individual)''; and

(B) by striking paragraph (2) and inserting the following:

''(2) COST EXEMPTION.—

''(A) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connection with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

''(B) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this subparagraph shall be—

''(i) 2 percent in the case of the first plan year in which this section is applied; and

''(ii) 1 percent in the case of each subsequent plan year.

''(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under subparagraph (E).

''(D) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

''(E) NOTIFICATION.—

''(i) IN GENERAL.—A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

''(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

''(I) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan (or coverage);

''(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

''(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

''(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

''(I) a breakdown of States by the size and type of employers submitting such notification; and

''(II) a summary of the data received under clause (ii).

''(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan or health insurance issuer relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.'';

(4) in subsection (e), by striking paragraph (4) and inserting the following:

''(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

''(5) SUBSTANCE USE DISORDER BENEFITS.—The term 'substance use disorder benefits' means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.'';

(5) by striking subsection (f);

(6) by striking ''mental health benefits'' and inserting ''mental health and substance use disorder benefits'' each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(7) by striking ''mental health benefits'' and inserting ''mental health or substance use disorder benefits'' each place it appears (other than in any provision amended by the previous paragraph).

(c) AMENDMENTS TO INTERNAL REVENUE CODE.—Section 9812 of the Internal Revenue Code of 1986 is amended—

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

''(3) FINANCIAL REQUIREMENTS AND TREATMENT LIMITATIONS.—

''(A) IN GENERAL.—In the case of a group health plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, such plan shall ensure that—

''(i) the financial requirements applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant financial requirements applied to substantially all medical and surgical benefits covered by the plan, and there are no separate cost sharing requirements that are applicable only with respect to mental health or substance use disorder benefits; and

''(ii) the treatment limitations applicable to such mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered by the plan and there are no separate treatment limitations that are applicable only with respect to mental health or substance use disorder benefits.

''(B) DEFINITIONS.—In this paragraph:

''(i) FINANCIAL REQUIREMENT.—The term 'financial requirement' includes deductibles, copayments, coinsurance, and out-of-pocket expenses, but excludes an aggregate lifetime limit and an annual limit subject to paragraphs (1) and (2),

''(ii) PREDOMINANT.—A financial requirement or treatment limit is considered to be predominant if it is the most common or frequent of such type of limit or requirement.

''(iii) TREATMENT LIMITATION.—The term 'treatment limitation' includes limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(4) AVAILABILITY OF PLAN INFORMATION.—The criteria for medical necessity determinations made under the plan with respect to mental health or substance use disorder benefits shall be made available by the plan administrator in accordance with regulations to any current or potential participant, beneficiary, or contracting provider upon request. The reason for any denial under the plan of reimbursement or payment for services with respect to mental health or substance use disorder benefits in the case of any participant or beneficiary shall, on request or as otherwise required, be made available by the plan administrator to the participant or beneficiary in accordance with regulations.

''(5) OUT-OF-NETWORK PROVIDERS.—In the case of a plan that provides both medical and surgical benefits and mental health or substance use disorder benefits, if the plan provides coverage for medical or surgical benefits provided by out-of-network providers, the plan shall provide coverage for mental health or substance use disorder benefits provided by out-of-network providers in a manner that is consistent with the requirements of this section.'';

(2) in subsection (b), by amending paragraph (2) to read as follows:

''(2) in the case of a group health plan that provides mental health or substance use disorder benefits, as affecting the terms and conditions of the plan relating to such benefits under the plan, except as provided in subsection (a).'';

(3) in subsection (c)—

(A) by amending paragraph (1) to read as follows:

''(1) SMALL EMPLOYER EXEMPTION.—

''(A) IN GENERAL.—This section shall not apply to any group health plan for any plan year of a small employer.

''(B) SMALL EMPLOYER.—For purposes of subparagraph (A), the term 'small employer' means, with respect to a calendar year and a plan year, an employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year. For purposes of the preceding sentence, all persons

treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer and rules similar to rules of subparagraphs (B) and (C) of section 4980D(d)(2) shall apply.''; and

(B) by striking paragraph (2) and inserting the following:

''(2) COST EXEMPTION.—

''(A) IN GENERAL.—With respect to a group health plan, if the application of this section to such plan results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan (as determined and certified under subparagraph (C)) by an amount that exceeds the applicable percentage described in subparagraph (B) of the actual total plan costs, the provisions of this section shall not apply to such plan during the following plan year, and such exemption shall apply to the plan for 1 plan year. An employer may elect to continue to apply mental health and substance use disorder parity pursuant to this section with respect to the group health plan involved regardless of any increase in total costs.

''(B) APPLICABLE PERCENTAGE.—With respect to a plan, the applicable percentage described in this subparagraph shall be—

''(i) 2 percent in the case of the first plan year in which this section is applied; and

''(ii) 1 percent in the case of each subsequent plan year.

''(C) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan for a period of 6 years following the notification made under subparagraph (E).

''(D) 6-MONTH DETERMINATIONS.—If a group health plan seeks an exemption under this paragraph, determinations under subparagraph (A) shall be made after such plan has complied with this section for the first 6 months of the plan year involved.

''(E) NOTIFICATION.—

''(i) IN GENERAL.—A group health plan that, based upon a certification described under subparagraph (C), qualifies for an exemption under this paragraph, and elects to implement the exemption, shall promptly notify the Secretary, the appropriate State agencies, and participants and beneficiaries in the plan of such election.

''(ii) REQUIREMENT.—A notification to the Secretary under clause (i) shall include—

''(I) a description of the number of covered lives under the plan involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this paragraph by such plan;

''(II) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health and substance use disorder benefits under the plan; and

''(III) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health and substance use disorder benefits under the plan.

''(iii) CONFIDENTIALITY.—A notification to the Secretary under clause (i) shall be confidential. The Secretary shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

''(I) a breakdown of States by the size and type of employers submitting such notification; and

''(II) a summary of the data received under clause (ii).

''(F) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this paragraph, the Secretary may audit the books and records of a group health plan relating to an exemption, including any actuarial reports prepared pursuant to subparagraph (C), during the 6 year period following the notification of such exemption under subparagraph (E). A State agency receiving a notification under subparagraph (E) may also conduct such an audit with respect to an exemption covered by such notification.'';

(4) in subsection (e), by striking paragraph (4) and inserting the following:

''(4) MENTAL HEALTH BENEFITS.—The term 'mental health benefits' means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

''(5) SUBSTANCE USE DISORDER BENEFITS.—The term 'substance use disorder benefits' means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.'';

(5) by striking subsection (f);

(6) by striking ''mental health benefits'' and inserting ''mental health and substance use disorder benefits'' each place it appears in subsections (a)(1)(B)(i), (a)(1)(C), (a)(2)(B)(i), and (a)(2)(C); and

(7) by striking ''mental health benefits'' and inserting ''mental health or substance use disorder benefits'' each place it appears (other than in any provision amended by the previous paragraph).

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretaries of Labor, Health and Human Services, and the Treasury shall issue regulations to carry out the amendments made by subsections (a), (b), and (c), respectively.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of enactment of this Act, regardless of whether regulations have been issued to carry out such amendments by such effective date, except that the amendments made by subsections (a)(5), (b)(5), and (c)(5), relating to striking of certain sunset provisions, shall take effect on January 1, 2009.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the later of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 2009.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

(f) ASSURING COORDINATION.—The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may ensure, through the execution or revision of an interagency memorandum of understanding among such Secretaries, that—

(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this section (and the amendments made by this section) are administered so as to have the same effect at all times; and

(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.

(g) CONFORMING CLERICAL AMENDMENTS.—

(1) ERISA HEADING.—

(A) IN GENERAL.—The heading of section 712 of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

''SEC. 712. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.''.

(B) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 712 and inserting the following new item:

''Sec. 712. Parity in mental health and substance use disorder benefits.''.

(2) PHSA HEADING.—The heading of section 2705 of the Public Health Service Act is amended to read as follows:

''SEC. 2705. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.''.

(3) IRC HEADING.—

(A) IN GENERAL.—The heading of section 9812 of the Internal Revenue Code of 1986 is amended to read as follows:

''SEC. 9812. PARITY IN MENTAL HEALTH AND SUBSTANCE USE DISORDER BENEFITS.''.

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 100 of such Code is amended by striking the item relating to section 9812 and inserting the following new item:

''Sec. 9812. Parity in mental health and substance use disorder benefits.''.

(h) GAO STUDY ON COVERAGE AND EXCLUSION OF MENTAL HEALTH AND SUBSTANCE USE DISORDER DIAGNOSES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study that analyzes the specific rates, patterns, and trends in coverage and exclusion of specific mental health and substance use disorder diagnoses by health plans and health insurance. The study shall include an analysis of—

(A) specific coverage rates for all mental health conditions and substance use disorders;

(B) which diagnoses are most commonly covered or excluded;

(C) whether implementation of this Act has affected trends in coverage or exclusion of such diagnoses; and

(D) the impact of covering or excluding specific diagnoses on participants' and enrollees' health, their health care coverage, and the costs of delivering health care.

(2) REPORTS.—Not later than 3 years after the date of the enactment of this Act, and 2 years after the date of submission the first report under this paragraph, the Comptroller General shall submit to Congress a report on the results of the study conducted under paragraph (1).

TITLE VI—OTHER PROVISIONS

SEC. 601. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.

(a) REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is

amended by striking sections 1 through 403 and inserting the following:

"SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Secure Rural Schools and Community Self-Determination Act of 2000'.

"SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

''(2) to make additional investments in, and create additional employment opportunities through, projects that—

''(A)(i) improve the maintenance of existing infrastructure;

''(ii) implement stewardship objectives that enhance forest ecosystems; and

''(iii) restore and improve land health and water quality;

''(B) enjoy broad-based support; and

''(C) have objectives that may include—

''(i) road, trail, and infrastructure maintenance or obliteration;

''(ii) soil productivity improvement;

''(iii) improvements in forest ecosystem health;

''(iv) watershed restoration and maintenance;

''(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

''(vi) the control of noxious and exotic weeds; and

''(vii) the reestablishment of native species; and

''(3) to improve cooperative relationships among—

''(A) the people that use and care for Federal land; and

''(B) the agencies that manage the Federal land.

"SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADJUSTED SHARE.—The term 'adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

''(2) BASE SHARE.—The term 'base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(3) COUNTY PAYMENT.—The term 'county payment' means the payment for an eligible county calculated under section 101(b).

''(4) ELIGIBLE COUNTY.—The term 'eligible county' means any county that—

''(A) contains Federal land (as defined in paragraph (7)); and

''(B) elects to receive a share of the State payment or the county payment under section 102(b).

''(5) ELIGIBILITY PERIOD.—The term 'eligibility period' means fiscal year 1986 through fiscal year 1999.

''(6) ELIGIBLE STATE.—The term 'eligible State' means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

''(7) FEDERAL LAND.—The term 'Federal land' means—

''(A) land within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

''(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

''(8) 50-PERCENT ADJUSTED SHARE.—The term '50-percent adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the 50-percent base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

''(9) 50-PERCENT BASE SHARE.—The term '50-percent base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 50-percent payments made to each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(10) 50-PERCENT PAYMENT.—The term '50-percent payment' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

''(11) FULL FUNDING AMOUNT.—The term 'full funding amount' means—

''(A) $500,000,000 for fiscal year 2008; and

''(B) for fiscal year 2009 and each fiscal year thereafter, the amount that is equal to 90 percent of the full funding amount for the preceding fiscal year.

''(12) INCOME ADJUSTMENT.—The term 'income adjustment' means the square of the quotient obtained by dividing—

''(A) the per capita personal income for each eligible county; by

''(B) the median per capita personal income of all eligible counties.

''(13) PER CAPITA PERSONAL INCOME.—The term 'per capita personal income' means the most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

''(14) SAFETY NET PAYMENTS.—The term 'safety net payments' means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

''(15) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

''(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

''(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

''(16) STATE PAYMENT.—The term 'State payment' means the payment for an eligible State calculated under section 101(a).

''(17) 25-PERCENT PAYMENT.—The term '25-percent payment' means the payment to States required by the sixth paragraph under the heading of 'FOREST SERVICE' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

"TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

"SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.

''(a) STATE PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

''(1) the adjusted share for each eligible county within the eligible State; by

''(2) the full funding amount for the fiscal year.

''(b) COUNTY PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

''(1) the 50-percent adjusted share for the eligible county; by

''(2) the full funding amount for the fiscal year.

"SEC. 102. PAYMENTS TO STATES AND COUNTIES.

''(a) PAYMENT AMOUNTS.—Except as provided in section 103, the Secretary of the Treasury shall pay to—

''(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

''(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

''(B) the share of the State payment of the eligible county; and

''(2) a county an amount equal to the amount elected under subsection (b) by each county for—

''(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

''(B) the county payment for the eligible county.

''(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

''(1) ELECTION; SUBMISSION OF RESULTS.—

''(A) IN GENERAL.—The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and August 1 of each second fiscal

year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

''(B) FAILURE TO TRANSMIT.—If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

''(2) DURATION OF ELECTION.—

''(A) IN GENERAL.—A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable, shall be effective for 2 fiscal years.

''(B) FULL FUNDING AMOUNT.—If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

''(3) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

''(A) any amounts that are appropriated to carry out this Act;

''(B) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land; and

''(C) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

''(c) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

''(1) DISTRIBUTION METHOD.—A State that receives a payment under subsection (a) for Federal land described in section 3(7)(A) shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

''(A) the Act of May 23, 1908 (16 U.S.C. 500); and

''(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''(2) EXPENDITURE PURPOSES.—Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

''(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

''(1) ALLOCATIONS.—

''(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE.—Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

''(B) ELECTION AS TO USE OF BALANCE.—Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

''(i) Reserve any portion of the balance for projects in accordance with title II.

''(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with title III.

''(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

''(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to which more than $100,000, but less than $350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

''(i) reserve any portion of the balance for—

''(I) carrying out projects under title II;

''(II) carrying out projects under title III; or

''(III) a combination of the purposes described in subclauses (I) and (II); or

''(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

''(2) DISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

''(B) AVAILABILITY.—Amounts deposited under subparagraph (A) shall—

''(i) be available for expenditure by the Secretary concerned, without further appropriation; and

''(ii) remain available until expended in accordance with title II.

''(3) ELECTION.—

''(A) NOTIFICATION.—

''(i) IN GENERAL.—An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year.

''(ii) FAILURE TO ELECT.—Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

''(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

''(II) return the balance to the Treasury of the United States.

''(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

''(e) TIME FOR PAYMENT.—The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

"SEC. 103. TRANSITION PAYMENTS TO STATES.

''(a) DEFINITIONS.—In this section:

''(1) ADJUSTED AMOUNT.—The term 'adjusted amount' means, with respect to a covered State—

''(A) for fiscal year 2008, 90 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

''(B) for fiscal year 2009, 81 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009; and

''(C) for fiscal year 2010, 73 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010.

''(2) COVERED STATE.—The term 'covered State' means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

''(b) TRANSITION PAYMENTS.—For each of fiscal years 2008 through 2010, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

''(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Except as provided in subsection (d), it is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in the covered States for each of fiscal years 2008 through 2010 be in the same proportion that the payments were distributed to the eligible counties in fiscal year 2006.

''(d) DISTRIBUTION OF PAYMENTS IN CALIFORNIA.—The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

''(1) Payments to the State of California under subsection (b).

''(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

''(e) TREATMENT OF PAYMENTS.—For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

"TITLE II—SPECIAL PROJECTS ON FEDERAL LAND

"SEC. 201. DEFINITIONS.

''In this title:

''(1) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''(2) PROJECT FUNDS.—The term 'project funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(3) RESOURCE ADVISORY COMMITTEE.—The term 'resource advisory committee' means—

''(A) an advisory committee established by the Secretary concerned under section 205; or

''(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

''(4) RESOURCE MANAGEMENT PLAN.—The term 'resource management plan' means—

''(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

''(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

''SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.

''(a) LIMITATION.—Project funds shall be expended solely on projects that meet the requirements of this title.

''(b) AUTHORIZED USES.—Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

''SEC. 203. SUBMISSION OF PROJECT PROPOSALS.

''(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

''(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

''(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

''(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

''(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

''(1) The purpose of the project and a description of how the project will meet the purposes of this title.

''(2) The anticipated duration of the project.

''(3) The anticipated cost of the project.

''(4) The proposed source of funding for the project, whether project funds or other funds.

''(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

''(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

''(6) A detailed monitoring plan, including funding needs and sources, that—

''(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring; and

''(B) includes an assessment of the following:

''(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

''(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

''(7) An assessment that the project is to be in the public interest.

''(c) AUTHORIZED PROJECTS.—Projects proposed under subsection (a) shall be consistent with section 2.

''SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

''(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

''(1) The project complies with all applicable Federal laws (including regulations).

''(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

''(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.

''(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

''(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

''(b) ENVIRONMENTAL REVIEWS.—

''(1) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

''(2) CONDUCT OF ENVIRONMENTAL REVIEW.—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

''(3) EFFECT OF REFUSAL TO PAY.—

''(A) IN GENERAL.—If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

''(B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).

''(c) DECISIONS OF SECRETARY CONCERNED.—

''(1) REJECTION OF PROJECTS.—

''(A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

''(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

''(C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

''(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.

''(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.

''(e) IMPLEMENTATION OF APPROVED PROJECTS.—

''(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

''(2) BEST VALUE CONTRACTING.—

''(A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

''(B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—

''(i) the technical demands and complexity of the work to be done;

''(ii)(I) the ecological objectives of the project; and

''(II) the sensitivity of the resources being treated;

''(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and

''(iv) the commitment of the contractor to hiring highly qualified workers and local residents.

''(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—

''(i) the harvesting or collection of merchantable timber; and

''(ii) the sale of the timber.

''(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

''(i) For fiscal year 2008, 35 percent.

''(ii) For fiscal year 2009, 45 percent.

''(iii) For each of fiscal years 2010 and 2011, 50 percent.

''(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

''(D) ASSISTANCE.—

''(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

''(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

''(E) REVIEW AND REPORT.—

''(i) INITIAL REPORT.—Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

''(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

''(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

''(1) to road maintenance, decommissioning, or obliteration; or

''(2) to restoration of streams and watersheds.

''SEC. 205. RESOURCE ADVISORY COMMITTEES.

''(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

''(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

''(2) PURPOSE.—The purpose of a resource advisory committee shall be—

''(A) to improve collaborative relationships; and

''(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

''(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

''(4) EXISTING ADVISORY COMMITTEES.—

''(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

''(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.

''(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

''(b) DUTIES.—A resource advisory committee shall—

''(1) review projects proposed under this title by participating counties and other persons;

''(2) propose projects and funding to the Secretary concerned under section 203;

''(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

''(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

''(5)(A) monitor projects that have been approved under section 204; and

''(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

''(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

''(c) APPOINTMENT BY THE SECRETARY.—

''(1) APPOINTMENT AND TERM.—

''(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

''(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.

''(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

''(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

''(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

''(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

''(d) COMPOSITION OF ADVISORY COMMITTEE.—

''(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

''(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:

''(A) 5 persons that—

''(i) represent organized labor or non-timber forest product harvester groups;

''(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

''(iii) represent—

''(I) energy and mineral development interests; or

''(II) commercial or recreational fishing interests;

''(iv) represent the commercial timber industry; or

''(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

''(B) 5 persons that represent—

''(i) nationally recognized environmental organizations;

''(ii) regionally or locally recognized environmental organizations;

''(iii) dispersed recreational activities;

''(iv) archaeological and historical interests; or

''(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

''(C) 5 persons that—

''(i) hold State elected office (or a designee);

''(ii) hold county or local elected office;

''(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

''(iv) are school officials or teachers; or

''(v) represent the affected public at large.

''(3) BALANCED REPRESENTATION.—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

''(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

''(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

''(e) APPROVAL PROCEDURES.—

''(1) IN GENERAL.—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

''(2) QUORUM.—A quorum must be present to constitute an official meeting of the committee.

''(3) APPROVAL BY MAJORITY OF MEMBERS.—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

''(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

''(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

''(2) MEETINGS.—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

''(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

''SEC. 206. USE OF PROJECT FUNDS.

''(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

''(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

''(A) The schedule for completing the project.

''(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

''(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

''(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

''(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

''(b) TRANSFER OF PROJECT FUNDS.—

''(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

''(A) in the case of a project to be completed in a single fiscal year, the total

amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

''(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

''(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

''(3) SUBSEQUENT TRANSFERS FOR MULTIYEAR PROJECTS.—

''(A) IN GENERAL.—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

''(B) SUSPENSION OF WORK.—The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

''SEC. 207. AVAILABILITY OF PROJECT FUNDS.

''(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By September 30, 2008 (or as soon thereafter as the Secretary concerned determines is practicable), and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

''(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

''(c) EFFECT OF REJECTION OF PROJECTS.—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

''(d) EFFECT OF COURT ORDERS.—

''(1) IN GENERAL.—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

''(2) EXPENDITURE OF FUNDS.—The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

''SEC. 208. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title shall terminate on September 30, 2011.

''(b) DEPOSITS IN TREASURY.—Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

''TITLE III—COUNTY FUNDS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COUNTY FUNDS.—The term 'county funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(2) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''SEC. 302. USE.

''(a) AUTHORIZED USES.—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—

''(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

''(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

''(A) performed on Federal land after the date on which the use was approved under subsection (b);

''(B) paid for by the participating county; and

''(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

''(b) PROPOSALS.—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—

''(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

''(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

''SEC. 303. CERTIFICATION.

''(a) IN GENERAL.—Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

''(b) REVIEW.—The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

''SEC. 304. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title terminates on September 30, 2011.

''(b) AVAILABILITY.—Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

''TITLE IV—MISCELLANEOUS PROVISIONS

''SEC. 401. REGULATIONS.

''The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

''SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

''SEC. 403. TREATMENT OF FUNDS AND REVENUES.

''(a) RELATION TO OTHER APPROPRIATIONS.—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

''(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.''.

(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES AND COUNTIES.—

(1) ACT OF MAY 23, 1908.—The sixth paragraph under the heading ''FOREST SERVICE'' in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(2) WEEKS LAW.—Section 13 of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(c) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

''§ 6906. Funding

''For each of fiscal years 2008 through 2012—

''(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

''(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

''6906. Funding.''.

(3) BUDGET SCOREKEEPING.—

(A) IN GENERAL.—Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the section in this title regarding Payments in Lieu of Taxes shall be treated in the baseline for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002), and by the Chairmen of the House and Senate Budget Committees, as appropriate, for purposes of budget enforcement in the House and Senate, and under the Congressional Budget Act of 1974 as if Payment in Lieu of Taxes (14–1114–0–1–806) were an account designated as Appropriated Entitlements and Mandatories for Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217.

(B) EFFECTIVE DATE.—This paragraph shall remain in effect for the fiscal years to which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

SEC. 602. TRANSFER TO ABANDONED MINE RECLAMATION FUND.

Subparagraph (C) of section 402(i)(1) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(i)(1)) is amended by striking ''and $9,000,000 on October 1, 2009'' and inserting ''$9,000,000 on October 1, 2009, and $9,000,000 on October 1, 2010''.

TITLE VII—DISASTER RELIEF

Subtitle A—Heartland and Hurricane Ike Disaster Relief

SEC. 701. SHORT TITLE.

This subtitle may be cited as the ''Heartland Disaster Tax Relief Act of 2008''.

SEC. 702. 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), (d), (e), (i), (j), (m), and (o) 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.

(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 on or 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, Nebraska, 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, except that in determining whether a bond is a qualified Midwestern disaster area bond—

(i) paragraph (2)(A)(i) shall be applied by only treating costs as qualified project costs if—

(I) in the case of a project involving a private business use (as defined in section 141(b)(6)), either the person using the property suffered a loss in a trade or business attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A) or is a person designated for purposes of this section by the Governor of the State in which the project is located as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss, and

(II) in the case of a project relating to public utility property, the project involves repair or reconstruction of public utility property damaged by such severe storms, tornados, or flooding, and

(ii) paragraph (2)(A)(ii) shall be applied by treating an issue as a qualified mortgage issue only if 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of the issue are to be used to provide financing for mortgagors who suffered damages to their principal residences attributable to such severe storms, tornados, or flooding,

(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 ''$1,000'' 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,

(G) by substituting ''after the date of the enactment of the Heartland Disaster Tax Relief 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), and

(H) by disregarding paragraph (8) thereof.

(2) LOW-INCOME HOUSING CREDIT.—Section 1400N(c)—

(A) only with respect to calendar years 2008, 2009, and 2010,

(B) by substituting ''Disaster Recovery Assistance housing amount'' for ''Gulf Opportunity housing amount'' each place it appears,

(C) in paragraph (1)(B)—

(i) by substituting ''$8.00'' for ''$18.00'', and

(ii) by substituting ''before the earliest applicable disaster date for Midwestern disaster areas within the State'' for ''before August 28, 2005'' , and

(D) determined without regard to paragraphs (2), (3), (4), (5), and (6) thereof.

(3) 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,

(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), and

(C) by treating costs as qualified Disaster Recovery Assistance clean-up costs only if the removal of debris or demolition of any structure was necessary due to damage attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(4) 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),

(C) by substituting ''December 31, 2010'' for ''December 31, 2007'' in paragraph (1), and

(D) by treating a site as a qualified contaminated site only if the release (or threat of release) or disposal of a hazardous substance at the site was attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(5) INCREASE IN REHABILITATION CREDIT.—Section 1400N(h), as amended by this Act—

(A) by substituting ''the applicable disaster date'' for ''August 28, 2005'',

(B) by substituting ''December 31, 2011'' for ''December 31, 2009'' in paragraph (1), and

(C) by only applying such subsection to qualified rehabilitation expenditures with respect to any building or structure which was damaged or destroyed as a result of the severe storms, tornados, or flooding giving rise to any Presidential declaration described in subsection (b)(1)(A).

(6) 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.

(7) 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 or any instrumentality of the State'' 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 any State with an aggregate population located in all Midwestern disaster areas within the State of at least 2,000,000, $50,000,000 for any State with an aggregate population located in all Midwestern disaster areas within the State of at least 1,000,000 but less than 2,000,000, and zero for any other State. The population of a State within any area shall be determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before the earliest applicable disaster date for Midwestern disaster areas within the State.'' 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).

(8) EDUCATION TAX BENEFITS.—Section 1400O, by substituting ''2008 or 2009'' for ''2005 or 2006''.

(9) HOUSING TAX BENEFITS.—Section 1400P, by substituting ''the applicable disaster date'' for ''August 28, 2005'' in subsection (c)(1).

(10) 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 Heartland Disaster Tax Relief 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 disregarding subparagraphs (C) and (D) of subsection (c)(3) thereof,

(L) by substituting ''beginning on the date of the enactment of the Heartland Disaster Tax Relief 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),

(M) by substituting ''the applicable disaster date'' for ''August 25, 2005'' in subsection (c)(4)(A)(ii), and

(N) by substituting ''January 1, 2010'' for ''January 1, 2007'' in subsection (d)(2)(A)(ii).

(11) 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.

(12) 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.''.

(13) SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.—Section 1400S(b)(1), by substituting ''the applicable disaster date'' for ''August 25, 2005''.

(14) 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).

(15) 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 ''2008 or 2009'' for ''2005 or 2006'' in subsection (a) thereof,

(B) by substituting ''Midwestern displaced individual'' for ''Hurricane Katrina displaced individual'' each place it appears, and

(C) 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, 2008'' 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, 2008'' 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. 703. REPORTING REQUIREMENTS RELATING TO DISASTER RELIEF CONTRIBUTIONS.

(a) IN GENERAL.—Section 6033(b) (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.

SEC. 704. TEMPORARY TAX-EXEMPT BOND FINANCING AND LOW-INCOME HOUSING TAX RELIEF FOR AREAS DAMAGED BY HURRICANE IKE.

(a) TAX-EXEMPT BOND FINANCING.—Section 1400N(a) of the Internal Revenue Code of 1986 shall apply to any Hurricane Ike disaster area in addition to any other area referenced in such section, but with the following modifications:

(1) By substituting ''qualified Hurricane Ike disaster area bond'' for ''qualified Gulf Opportunity Zone Bond'' each place it appears, except that in determining whether a bond is a qualified Hurricane Ike disaster area bond—

(A) paragraph (2)(A)(i) shall be applied by only treating costs as qualified project costs if—

(i) in the case of a project involving a private business use (as defined in section 141(b)(6)), either the person using the property suffered a loss in a trade or business attributable to Hurricane Ike or is a person designated for purposes of this section by the Governor of the State in which the project is located as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss, and

(ii) in the case of a project relating to public utility property, the project involves repair or reconstruction of public utility property damaged by Hurricane Ike, and

(B) paragraph (2)(A)(ii) shall be applied by treating an issue as a qualified mortgage issue only if 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of the issue are to be used to provide financing for mortgagors who suffered damages to their principal residences attributable to Hurricane Ike.

(2) By substituting ''any State in which any Hurricane Ike disaster area is located'' for ''the State of Alabama, Louisiana, or Mississippi'' in paragraph (2)(B).

(3) 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).

(4) By substituting ''January 1, 2013'' for ''January 1, 2011'' in paragraph (2)(D).

(5) By substituting the following for subparagraph (A) of paragraph (3):

''(A) AGGREGATE AMOUNT DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection with respect to any State shall not exceed the product of $2,000 multiplied by the portion of the State population which is in—

''(i) in the case of Texas, the counties of Brazoria, Chambers, Galveston, Jefferson, and Orange, and

''(ii) in the case of Louisiana, the parishes of Calcasieu and Cameron,

(as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before September 13, 2008).''.

(6) By substituting ''qualified Hurricane Ike disaster area repair or construction'' for ''qualified GO Zone repair or construction'' each place it appears.

(7) By substituting ''after the date of the enactment of the Heartland Disaster Tax Relief 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).

(8) By disregarding paragraph (8) thereof.

(9) By substituting ''any Hurricane Ike disaster area'' for ''the Gulf Opportunity Zone'' each place it appears.

(b) LOW-INCOME HOUSING CREDIT.—Section 1400N(c) of the Internal Revenue Code of 1986 shall apply to any Hurricane Ike disaster area in addition to any other area referenced in such section, but with the following modifications:

(1) Only with respect to calendar years 2008, 2009, and 2010.

(2) By substituting ''any Hurricane Ike disaster area'' for ''the Gulf Opportunity Zone'' each place it appears.

(3) By substituting ''Hurricane Ike Recovery Assistance housing amount'' for ''Gulf Opportunity housing amount'' each place it appears.

(4) By substituting the following for subparagraph (B) of paragraph (1):

''(B) HURRICANE IKE HOUSING AMOUNT.—For purposes of subparagraph (A), the term 'Hurricane Ike housing amount' means, for any calendar year, the amount equal to the product of $16.00 multiplied by the portion of the State population which is in—

''(i) in the case of Texas, the counties of Brazoria, Chambers, Galveston, Jefferson, and Orange, and

''(ii) in the case of Louisiana, the parishes of Calcasieu and Cameron,

(as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before September 13, 2008).''.

(5) Determined without regard to paragraphs (2), (3), (4), (5), and (6) thereof.

(c) HURRICANE IKE DISASTER AREA.—For purposes of this section and for applying the substitutions described in subsections (a) and (b), the term ''Hurricane Ike disaster area'' means an area in the State of Texas or Louisiana—

(1) with respect to which a major disaster has been declared by the President on September 13, 2008, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Ike, and

(2) 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 Hurricane Ike.

Subtitle B—National Disaster Relief

SEC. 706. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) WAIVER OF ADJUSTED GROSS INCOME LIMITATION.—

(1) IN GENERAL.—Subsection (h) of section 165 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULE FOR LOSSES IN FEDERALLY DECLARED DISASTERS.—

''(A) IN GENERAL.—If an individual has a net disaster loss for any taxable year, the amount determined under paragraph (2)(A)(ii) shall be the sum of—

''(i) such net disaster loss, and

''(ii) so much of the excess referred to in the matter preceding clause (i) of paragraph (2)(A) (reduced by the amount in clause (i) of this subparagraph) as exceeds 10 percent of the adjusted gross income of the individual.

''(B) NET DISASTER LOSS.—For purposes of subparagraph (A), the term 'net disaster loss' means the excess of—

''(i) the personal casualty losses—

''(I) attributable to a federally declared disaster occurring before January 1, 2010, and

''(II) occurring in a disaster area, over

''(ii) personal casualty gains.

''(C) FEDERALLY DECLARED DISASTER.—For purposes of this paragraph—

''(i) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(ii) DISASTER AREA.—The term 'disaster area' means the area so determined to warrant such assistance.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 165(h)(4)(B) (as so redesignated) is amended by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''.

(B) Section 165(i)(1) is amended by striking ''loss'' and all that follows through ''Act'' and inserting ''loss occurring in a disaster area (as defined by clause (ii) of subsection (h)(3)(C)) and attributable to a federally declared disaster (as defined by clause (i) of such subsection)''.

(C) Section 165(i)(4) is amended by striking ''Presidentially declared disaster (as defined by section 1033(h)(3))'' and inserting ''federally declared disaster (as defined by subsection (h)(3)(C)(i)''.

(D)(i) So much of subsection (h) of section 1033 as precedes subparagraph (A) of paragraph (1) thereof is amended to read as follows:

''(h) SPECIAL RULES FOR PROPERTY DAMAGED BY FEDERALLY DECLARED DISASTERS.—

''(1) PRINCIPAL RESIDENCES.—If the taxpayer's principal residence or any of its contents is located in a disaster area and is compulsorily or involuntarily converted as a result of a federally declared disaster—''.

(ii) Paragraph (2) of section 1033(h) is amended by striking ''investment'' and all that follows through ''disaster'' and inserting ''investment located in a disaster area and compulsorily or involuntarily converted as a result of a federally declared disaster''.

(iii) Paragraph (3) of section 1033(h) is amended to read as follows:

''(3) FEDERALLY DECLARED DISASTER; DISASTER AREA.—The terms ''federally declared disaster'' and ''disaster area'' shall have the respective meaning given such terms by section 165(h)(3)(C).''.

(iv) Section 139(c)(2) is amended to read as follows:

''(2) federally declared disaster (as defined by section 165(h)(3)(C)(i)),''.

(v) Subclause (II) of section 172(b)(1)(F)(ii) is amended by striking ''Presidentially declared disasters (as defined in section 1033(h)(3))'' and inserting ''federally declared disasters (as defined by subsection (h)(3)(C)(i))''.

(vi) Subclause (III) of section 172(b)(1)(F)(ii) is amended by striking ''Presidentially declared disasters'' and inserting ''federally declared disasters''.

(vii) Subsection (a) of section 7508A is amended by striking ''Presidentially declared disaster (as defined in section 1033(h)(3))'' and inserting ''federally declared disaster (as defined by section 165(h)(3)(C)(i))''.

(b) INCREASE IN STANDARD DEDUCTION BY DISASTER CASUALTY LOSS.—

(1) IN GENERAL.—Paragraph (1) of section 63(c), as amended by the Housing Assistance Tax Act of 2008, 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) the disaster loss deduction.''.

(2) DISASTER LOSS DEDUCTION.—Subsection (c) of section 63, as amended by the Housing Assistance Tax Act of 2008, is amended by adding at the end the following new paragraph:

''(8) DISASTER LOSS DEDUCTION.—For the purposes of paragraph (1), the term 'disaster loss deduction' means the net disaster loss (as defined in section 165(h)(3)(B)).''.

(3) ALLOWANCE IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.—Subparagraph (E) of section 56(b)(1) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to so much of the standard deduction as is determined under section 63(c)(1)(D).''.

(c) INCREASE IN LIMITATION ON INDIVIDUAL LOSS PER CASUALTY.—Paragraph (1) of section 165(h) is amended by striking ''$100'' and inserting ''$500 ($100 for taxable years beginning after December 31, 2009)''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to disasters declared in taxable years beginning after December 31, 2007.

(2) INCREASE IN LIMITATION ON INDIVIDUAL LOSS PER CASUALTY.—The amendment made by subsection (c) shall apply to taxable years beginning after December 31, 2008.

SEC. 707. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 198 the following new section:

''SEC. 198A. EXPENSING OF QUALIFIED DISASTER EXPENSES.

''(a) IN GENERAL.—A taxpayer may elect to treat any qualified disaster expenses which are paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expense which is so treated

shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED DISASTER EXPENSE.—For purposes of this section, the term 'qualified disaster expense' means any expenditure—

''(1) which is paid or incurred in connection with a trade or business or with business-related property,

''(2) which is—

''(A) for the abatement or control of hazardous substances that were released on account of a federally declared disaster occurring before January 1, 2010,

''(B) for the removal of debris from, or the demolition of structures on, real property which is business-related property damaged or destroyed as a result of a federally declared disaster occurring before such date, or

''(C) for the repair of business-related property damaged as a result of a federally declared disaster occurring before such date, and

''(3) which is otherwise chargeable to capital account.

''(c) OTHER DEFINITIONS.—For purposes of this section—

''(1) BUSINESS-RELATED PROPERTY.—The term 'business-related property' means property—

''(A) held by the taxpayer for use in a trade or business or for the production of income, or

''(B) described in section 1221(a)(1) in the hands of the taxpayer.

''(2) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' has the meaning given such term by section 165(h)(3)(C)(i).

''(d) DEDUCTION RECAPTURED AS ORDINARY INCOME ON SALE, ETC.—Solely for purposes of section 1245, in the case of property to which a qualified disaster expense would have been capitalized but for this section—

''(1) the deduction allowed by this section for such expense shall be treated as a deduction for depreciation, and

''(2) such property (if not otherwise section 1245 property) shall be treated as section 1245 property solely for purposes of applying section 1245 to such deduction.

''(e) COORDINATION WITH OTHER PROVISIONS.—Sections 198, 280B, and 468 shall not apply to amounts which are treated as expenses under this section.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 198 the following new item:

''Sec. 198A. Expensing of Qualified Disaster Expenses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2007 in connection with disaster declared after such date.

SEC. 708. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) is amended by adding at the end the following new subparagraph:

''(J) CERTAIN LOSSES ATTRIBUTABLE FEDERALLY DECLARED DISASTERS.—In the case of a taxpayer who has a qualified disaster loss (as defined in subsection (j)), such loss shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.''.

(b) QUALIFIED DISASTER LOSS.—Section 172 is amended by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting after subsection (i) the following new subsection:

''(j) RULES RELATING TO QUALIFIED DISASTER LOSSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified disaster loss' means the lesser of—

''(A) the sum of—

''(i) the losses allowable under section 165 for the taxable year—

''(I) attributable to a federally declared disaster (as defined in section 165(h)(3)(C)(i)) occurring before January 1, 2010, and

''(II) occurring in a disaster area (as defined in section 165(h)(3)(C)(ii)), and

''(ii) the deduction for the taxable year for qualified disaster expenses which is allowable under section 198A(a) or which would be so allowable if not otherwise treated as an expense, or

''(B) the net operating loss for such taxable year.

''(2) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), a qualified disaster loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.

''(3) ELECTION.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(J) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(J). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

''(4) EXCLUSION.—The term 'qualified disaster loss' shall not include any loss with respect to any property described in section 1400N(p)(3).''.

(c) LOSS DEDUCTION ALLOWED IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.—Subsection (d) of section 56 is amended by adding at the end the following new paragraph:

''(3) NET OPERATING LOSS ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.—In the case of a taxpayer which has a qualified disaster loss (as defined by section 172(b)(1)(J)) for the taxable year, paragraph (1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of such loss.''.

(d) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 172(b)(1)(F) is amended by inserting ''or qualified disaster loss (as defined in subsection (j))'' before the period at the end of the last sentence.

(2) Paragraph (1) of section 172(i) is amended by adding at the end the following new flush sentence:

''Such term shall not include any qualified disaster loss (as defined in subsection (j)).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to losses arising in taxable years beginning after December 31, 2007, in connection with disasters declared after such date.

SEC. 709. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS FOLLOWING FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subsection (k) of section 143 is amended by adding at the end the following new paragraph:

''(12) SPECIAL RULES FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—

''(A) PRINCIPAL RESIDENCE DESTROYED.—At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer is—

''(i) rendered unsafe for use as a residence by reason of a federally declared disaster occurring before January 1, 2010, or

''(ii) demolished or relocated by reason of an order of the government of a State or political subdivision thereof on account of a federally declared disaster occurring before such date,

then, for the 2-year period beginning on the date of the disaster declaration, subsection (d)(1) shall not apply with respect to such taxpayer and subsection (e) shall be applied by substituting '110' for '90' in paragraph (1) thereof.

''(B) PRINCIPAL RESIDENCE DAMAGED.—

''(i) IN GENERAL.—At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer was damaged as the result of a federally declared disaster occurring before January 1, 2010, any owner-financing provided in connection with the repair or reconstruction of such residence shall be treated as a qualified rehabilitation loan.

''(ii) LIMITATION.—The aggregate owner-financing to which clause (i) applies shall not exceed the lesser of—

''(I) the cost of such repair or reconstruction, or

''(II) $150,000.

''(C) FEDERALLY DECLARED DISASTER.—For purposes of this paragraph, the term 'federally declared disaster' has the meaning given such term by section 165(h)(3)(C)(i).

''(D) ELECTION; DENIAL OF DOUBLE BENEFIT.—

''(i) ELECTION.—An election under this paragraph may not be revoked except with the consent of the Secretary.

''(ii) DENIAL OF DOUBLE BENEFIT.—If a taxpayer elects the application of this paragraph, paragraph (11) shall not apply with respect to the purchase or financing of any residence by such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disasters occurring after December 31, 2007.

SEC. 710. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

(a) IN GENERAL.—Section 168, as amended by this Act, is amended by adding at the end the following new subsection:

''(n) SPECIAL ALLOWANCE FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.—

''(1) IN GENERAL.—In the case of any qualified disaster assistance property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of the qualified disaster assistance property, and

''(B) the adjusted basis of the qualified disaster assistance property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED DISASTER ASSISTANCE PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified disaster assistance property' means any property—

''(i)(I) which is described in subsection (k)(2)(A)(i), or

''(II) which is nonresidential real property or residential rental property,

''(ii) substantially all of the use of which is—

''(I) in a disaster area with respect to a federally declared disaster occurring before January 1, 2010, and

''(II) in the active conduct of a trade or business by the taxpayer in such disaster area,

''(iii) which—

''(I) rehabilitates property damaged, or replaces property destroyed or condemned, as a result of such federally declared disaster, except that, for purposes of this clause, property shall be treated as replacing property destroyed or condemned if, as part of an integrated plan, such property replaces property which is included in a continuous area which includes real property destroyed or condemned, and

''(II) is similar in nature to, and located in the same county as, the property being rehabilitated or replaced,

''(iv) the original use of which in such disaster area commences with an eligible taxpayer on or after the applicable disaster date,

''(v) which is acquired by such eligible taxpayer by purchase (as defined in section 179(d)) on or after the applicable disaster date, but only if no written binding contract for the acquisition was in effect before such date, and

''(vi) which is placed in service by such eligible taxpayer on or before the date which is the last day of the third calendar year following the applicable disaster date (the fourth calendar year in the case of nonresidential real property and residential rental property).

''(B) EXCEPTIONS.—

''(i) OTHER BONUS DEPRECIATION PROPERTY.—The term 'qualified disaster assistance property' shall not include—

''(I) any property to which subsection (k) (determined without regard to paragraph (4)), (l), or (m) applies,

''(II) any property to which section 1400N(d) applies, and

''(III) any property described in section 1400N(p)(3).

''(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified disaster assistance property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined without regard to paragraph (7) of subsection (g) (relating to election to have system apply).

''(iii) TAX-EXEMPT BOND FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

''(iv) QUALIFIED REVITALIZATION BUILDINGS.—Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

''(v) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(C) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of subparagraph (E) of subsection (k)(2) shall apply, except that such subparagraph shall be applied—

''(i) by substituting 'the applicable disaster date' for 'December 31, 2007' each place it appears therein,

''(ii) without regard to 'and before January 1, 2009' in clause (i) thereof, and

''(iii) by substituting 'qualified disaster assistance property' for 'qualified property' in clause (iv) thereof.

''(D) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of subsection (k)(2)(G) shall apply.

''(3) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) APPLICABLE DISASTER DATE.—The term 'applicable disaster date' means, with respect to any federally declared disaster, the date on which such federally declared disaster occurs.

''(B) FEDERALLY DECLARED DISASTER.—The term 'federally declared disaster' has the meaning given such term under section 165(h)(3)(C)(i).

''(C) DISASTER AREA.—The term 'disaster area' has the meaning given such term under section 165(h)(3)(C)(ii).

''(D) ELIGIBLE TAXPAYER.—The term 'eligible taxpayer' means a taxpayer who has suffered an economic loss attributable to a federally declared disaster.

''(4) RECAPTURE.—For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified disaster assistance property which ceases to be qualified disaster assistance property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007, with respect disasters declared after such date.

SEC. 711. INCREASED EXPENSING FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.

(a) IN GENERAL.—Section 179 is amended by adding at the end the following new subsection:

''(e) SPECIAL RULES FOR QUALIFIED DISASTER ASSISTANCE PROPERTY.—

''(1) IN GENERAL.—For purposes of this section—

''(A) the dollar amount in effect under subsection (b)(1) for the taxable year shall be increased by the lesser of—

''(i) $100,000, or

''(ii) the cost of qualified section 179 disaster assistance property placed in service during the taxable year, and

''(B) the dollar amount in effect under subsection (b)(2) for the taxable year shall be increased by the lesser of—

''(i) $600,000, or

''(ii) the cost of qualified section 179 disaster assistance property placed in service during the taxable year.

''(2) QUALIFIED SECTION 179 DISASTER ASSISTANCE PROPERTY.—For purposes of this subsection, the term 'qualified section 179 disaster assistance property' means section 179 property (as defined in subsection (d)) which is qualified disaster assistance property (as defined in section 168(n)(2)).

''(3) COORDINATION WITH EMPOWERMENT ZONES AND RENEWAL COMMUNITIES.—For purposes of sections 1397A and 1400J, qualified section 179 disaster assistance property shall not be treated as qualified zone property or qualified renewal property, unless the taxpayer elects not to take such qualified section 179 disaster assistance property into account for purposes of this subsection.

''(4) RECAPTURE.—For purposes of this subsection, rules similar to the rules under subsection (d)(10) shall apply with respect to any qualified section 179 disaster assistance property which ceases to be qualified section 179 disaster assistance property.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007, with respect disasters declared after such date.

SEC. 712. COORDINATION WITH HEARTLAND DISASTER RELIEF.

The amendments made by this subtitle, other than the amendments made by sections 706(a)(2), 710, and 711, shall not apply to any disaster described in section 702(c)(1)(A), or to any expenditure or loss resulting from such disaster.

TITLE VIII—SPENDING REDUCTIONS AND APPROPRIATE REVENUE RAISERS FOR NEW TAX RELIEF POLICY

SEC. 801. 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 the Housing Assistance Tax Act of 2008, 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) 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.

(4) 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.

(5) 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 5686. Mr. DODD proposed an amendment to the bill H.R. 1424, of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes; as follows:

Amend the title so as to read:

''To provide authority for the Federal Government to purchase and insure certain types of troubled assets for the purposes of providing stability to and preventing disruption in the economy and financial system and protecting taxpayers, to amend the Internal Revenue Code of 1986 to provide incentives for energy production and conservation, to extend certain expiring provisions, to provide individual income tax relief, and for other purposes''.

SA 5687. Mr. SANDERS proposed an amendment to amendment SA 5685 proposed by Mr. DODD to the bill H.R. 1424, of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes; as follows:

At the end add the following:

SEC. 304. SURTAX ON HIGH INCOME EARNERS.

(a) IN GENERAL.—Part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 1 the following new section:

''SEC. 1A. INCREASE IN TAX ON HIGH INCOME INDIVIDUALS.

''(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 10 percent of so much of modified adjusted gross income as exceeds $500,000 ($1,000,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)).

''(b) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term 'modified adjusted gross income' means adjusted gross income reduced by any deduction allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, a rule similar to the rule of section 67(e) shall apply for purposes of determining adjusted gross income for purposes of this section.

''(c) NONRESIDENT ALIEN.—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed by section 871(b) shall be taken into account under this section.

''(d) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 7703.

''(e) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(f) TERMINATION.—This section shall not apply to taxable years beginning after the date which is 5 years after the date of the enactment of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 1 the following new item:

''Sec. 1A. Increase in tax on high income individuals.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(d) SECTION 15 NOT TO APPLY.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

SA 5688. Mr. DURBIN proposed an amendment to the bill S. 1703, to prevent and reduce trafficking in persons; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trafficking in Persons Accountability Act of 2008''.

SEC. 2. JURISDICTION IN CERTAIN TRAFFICKING OFFENSES.

(a) IN GENERAL.—Chapter 77 of title 18, United States Code, is amended by adding at the end the following:

''§ 1596. Additional jurisdiction in certain trafficking offenses

''(a) IN GENERAL.—In addition to any domestic or extra-territorial jurisdiction otherwise provided by law, the courts of the United States have extra-territorial jurisdiction over any offense (or any attempt or conspiracy to commit an offense) under section 1581, section 1583, section 1584, section 1589, section 1590, or section 1591 of this title if—

''(1) an alleged offender is a national of the United States or an alien lawfully admitted for permanent residence (as those terms are defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); or

''(2) an alleged offender is present in the United States, irrespective of the nationality of the alleged offender.

''(b) LIMITATION ON PROSECUTIONS OF OFFENSES PROSECUTED IN OTHER COUNTRIES.—No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 77 of title 18, United States Code, is amended by adding at the end the following:

''1596. Additional jurisdiction in certain trafficking offenses.''.

SA 5689. Mr. DURBIN (for Ms. COLLINS) proposed an amendment to the bill S. 3013, to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes; as follows:

On page 7, line 8, strike ''9'' and insert ''8''.

On page 10, line 12, strike ''the'' and insert ''this''.

On page 17, line 18, strike ''or 8''.

On page 21, line 1, strike all through page 22, line 17.

On page 22, line 18, strike ''**SEC. 9**'' and insert ''**SEC. 8**''.

On page 23, line 20, strike ''**SEC. 10**'' and insert ''**SEC. 9**''.

SA 5690. Mr. DURBIN (for Mr. CORNYN (for himself and Mrs. FEINSTEIN)) proposed an amendment to the bill S. 3073, to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

(a) PROCEDURES.—

(1) IN GENERAL.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended by inserting after section 103 the following new section:

''SEC. 103A. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

''(a) COLLECTION.—The Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and Federal write-in absentee ballots prescribed under section 103, and for delivering the ballots to the appropriate election officials.

''(b) ENSURING DELIVERY PRIOR TO CLOSING OF POLLS.—

''(1) IN GENERAL.—Under the procedures established under this section, the Presidential designee shall ensure that any marked absentee ballot for a regularly scheduled general election for Federal office which is collected prior to the deadline described in paragraph (3) is delivered to the appropriate election official in a State prior to the time established by the State for the closing of the polls on the date of the election.

''(2) CONTRACT WITH EXPRESS MAIL PROVIDERS.—

''(A) IN GENERAL.—The Presidential designee shall carry out this section by contract with one or more providers of express mail services.

''(B) SPECIAL RULE FOR VOTERS IN JURISDICTIONS USING POST OFFICE BOXES FOR COLLECTION OF MARKED ABSENTEE BALLOTS.—In the case of an absent uniformed services voter who wishes to use the procedures established under this section and whose marked absentee ballot is required by the appropriate election official to be delivered to a post office box, the Presidential designee shall enter into an agreement with the United States Postal Service for the delivery of the ballot to the election official under the procedures established under this section.

''(3) DEADLINE DESCRIBED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the deadline described in this paragraph is noon (in the location in which the ballot is collected) on the last Tuesday that precedes the date of the election.

''(B) AUTHORITY TO ESTABLISH ALTERNATIVE DEADLINE FOR CERTAIN LOCATIONS.—If the Presidential designee determines that the deadline described in subparagraph (A) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential designee may establish as an alternative deadline for that location the latest date occurring prior to the deadline described in subparagraph (A) which is sufficient to ensure timely delivery of the ballot under paragraph (1).

''(4) PROHIBITION ON REFUSAL BY STATES TO ACCEPT MARKED ABSENTEE BALLOTS NOT DELIVERED BY POSTAL SERVICE OR IN PERSON.—A State may not refuse to accept or process any marked absentee ballot delivered under the procedures established under this section on the grounds that the ballot is received by the State other than through delivery by the United States Postal Service.

''(c) TRACKING MECHANISM.—Under the procedures established under this section, the entity responsible for delivering marked absentee ballots to the appropriate election officials shall implement procedures to enable any individual whose ballot for a regularly scheduled general election for Federal office is collected by the Presidential designee to determine whether the ballot has been delivered to the appropriate election official, using the Internet, an automated telephone system, or such other methods as the entity may provide.

''(d) ABSENT OVERSEAS UNIFORMED SERVICES VOTER DEFINED.—In this section, the term 'absent overseas uniformed services voter' means an overseas voter described in section 107(5)(A).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this section.''.

(2) EFFECTIVE DATE.—Section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by this subsection, shall apply with respect to each regularly scheduled general election for Federal office held on or after November 1, 2010.

(b) CONFORMING AMENDMENTS.—

(1) FEDERAL RESPONSIBILITIES.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(A) by striking ''and'' at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting ''; and''; and

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

''(8) carry out section 103A with respect to the collection and delivery of marked absentee ballots of absent overseas uniformed services voters in elections for Federal office.''.

(2) STATE RESPONSIBILITIES.—Section 102(a) of such Act (42 U.S.C. 1973ff—1(a)) is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ''; and''; and

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

''(6) carry out section 103A(b)(2) with respect to the processing and acceptance of marked absentee ballots of absent overseas uniformed services voters.''.

(c) OUTREACH FOR ABSENT OVERSEAS UNIFORMED SERVICES VOTERS ON PROCEDURES.—The Presidential designee shall take appropriate actions to inform individuals who are anticipated to be absent overseas uniformed services voters in the regularly scheduled general election for Federal office held in November 2008 of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a), including the manner in which such voters may utilize such procedures for the submittal of marked absentee ballots in regularly scheduled elections for Federal office.

(d) REPORTS ON UTILIZATION OF PROCEDURES.—

(1) REPORTS REQUIRED.—Not later than 180 days after each regularly scheduled general election for Federal office held after January 1, 2008, the Presidential designee shall submit to the congressional defense committees a report on the utilization of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as so added, during such general election.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the general election covered by such report, a description of the utilization of the procedures described in that paragraph during such general election, including the number of marked absentee ballots collected and delivered under such procedures.

(e) REPORT ON STATUS OF IMPLEMENTATION.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Presidential designee shall submit to the congressional defense committees a report on the status of the implementation of the program for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include a status of the implementation of the program and a detailed description of the specific steps taken towards its implementation for November 2009 and November 2010.

(f) DEFINITIONS.—In this section:

(1) The term ''absent overseas uniformed services voter'' has the meaning given that term in section 103A(d) of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a).

(2) The term ''Presidential designee'' means the official designated under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).

(3) The term ''congressional defense committees'' means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

SEC. 2. PROHIBITION ON REFUSAL TO ACCEPT VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS AND FEDERAL WRITE-IN ABSENTEE BALLOTS FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.

(a) VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS.—

(1) PROHIBITING REFUSAL TO ACCEPT APPLICATIONS FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended by adding at the end the following new subsection:

''(e) PROHIBITING REFUSAL TO ACCEPT APPLICATIONS FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—A State shall accept and process any otherwise valid voter registration application or absentee ballot application (including the official post card form prescribed under section 101) submitted in any manner by an absent uniformed services voter or overseas voter that contains the information required on the official post card form prescribed under section 101 (other than information which the Presidential designee, in consultation with the Election Assistance Commission and the Election Assistance Commission Board of Advisors under section 214 of the Help America Vote Act of 2002 (42 U.S.C. 15344), determines, under regulations promulgated by the Presidential designee, is not clearly necessary to prevent fraud in the conduct of elections).''.

(2) EFFECTIVE DATE.—Subsection (e) of section 102 of the Uniformed and Overseas Citizens Absentee Voting Act, as added by this subsection, shall apply with respect to each regularly scheduled general election for Federal office held on or after November 1, 2010.

(b) FEDERAL WRITE-IN ABSENTEE BALLOT.—

(1) PROHIBITING REFUSAL TO ACCEPT BALLOT FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—Section 103 of such Act (42 U.S.C. 1973ff–2) is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection:

''(f) PROHIBITING REFUSAL TO ACCEPT BALLOT FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—A State shall accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter that contains the information required to be submitted with such ballot by the Presidential designee (other than information which the Presidential designee, in consultation with the Election Assistance Commission and the Election Assistance Commission Board of Advisors under section 214 of the Help America Vote Act of 2002 (42 U.S.C. 15344), determines, under regulations promulgated by the Presidential designee, is not clearly necessary to prevent fraud in the conduct of elections).''.

(2) EFFECTIVE DATE.—Subsection (f) of section 102 of the Uniformed and Overseas Citizens Absentee Voting Act, as amended by this subsection, shall apply with respect to each regularly scheduled general election for Federal office held on or after November 1, 2010.

SA 5691. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 1424, of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 137. EQUITY AUTHORITY.

(a) IN GENERAL.—If the Secretary establishes a program under this division, the Secretary shall use not less than $350,000,000,000 of the purchase authority provided under section 101 for the purchase of nonvoting preferred stock meeting the criteria in subsection (b).

(b) ELIGIBLE FINANCIAL INSTITUTIONS.—The authority under this section may be exercised only with respect to financial institutions that—

(1) are deemed by the appropriate regulatory authorities to be adequately capitalized, in relation to their current balance sheets;

(2) raises such additional capital from private sources or from the Secretary under this Act as is determined sufficient by the appropriate regulatory authority for such financial institution; and

(3) is not deemed to be insolvent by the appropriate regulatory authority.

(c) EQUITY CRITERIA.—Nonvoting preferred stock authorized for purchase under this section shall—

(1) have a low-interest-rate coupon (not to exceed 5 percent), with warrants attached;

(2) provide that shareholders will have rights to invest on terms that are equivalent to those of the Secretary, and such rights shall be tradeable;

(3) set terms to give such rights a positive value; and

(4) give private investors preference over the Secretary in the allocation of the new issues.

(d) LIMITS.—Financial institutions recapitalized in accordance with this section shall be permitted to increase their leverage until such time as the economy recovers subject to limitations established by the Board when such conditions return to normal.

PRIVILEGES OF THE FLOOR

Mr. DORGAN. I ask unanimous consent that Jon Cary, a legislative fellow in my office, be allowed the privilege of the floor during debate on H.R. 7801.

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

Mr. DODD. I ask unanimous consent that the following fellows, law clerks, and interns on the staff of the Finance Committee be granted the privileges of the floor for the duration of the debate on economic stabilization, tax extenders, and energy: Bridget Mallon, Mary Baker, Sean Thomas, and Kelcy Poulson.

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

Mr. REED. I ask unanimous consent that a detailee to the Committee on Banking, Housing, and Urban Affairs, Robert Lee, be granted the privileges of the floor for the remainder of this session.

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

Mr. DODD. I ask unanimous consent that Eric Reither, from Senator ENSIGN's office, be granted the privilege of the floor.

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

CORRECTING THE ENROLLMENT OF H.R. 6063

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 105, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 105) directing the Clerk of the House of Representatives to correct the enrollment of H.R. 6063.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 105) was agreed to, as follows:

S. CON. RES. 105

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill H.R. 6063, an Act to authorize the programs of the National Aeronautics and Space Administration, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

In section 601(b)(2)(A)(iii) of the bill, strike ''Orbiter''.

In section 611(d)(1) of the bill, strike ''first President'' and insert ''President''.

In section 611(e)(3) of the bill, strike ''correctly'' and insert ''currently''.

In section 611(e)(7) of the bill, strike ''extention'' and insert ''extension''.

In section 612 of the bill, strike ''operations'' and insert ''operational''.

In section 1119 of the bill, strike ''The Report'' and insert ''The report''.

TRAFFICKING IN PERSONS ACCOUNTABILITY ACT OF 2007

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 903, S. 1703.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1703) to prevent and reduce trafficking in persons.

There being no objection, the Senate proceeded to consider the bill, which

had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trafficking in Persons Accountability Act of 2007''.

SEC. 2. JURISDICTION IN CERTAIN TRAFFICKING OFFENSES.

(a) IN GENERAL.—Chapter 77 of title 18, United States Code, is amended by adding at the end the following:

''§ 1596. Additional jurisdiction in certain trafficking offenses

''(a) IN GENERAL.—In addition to any domestic or extra-territorial jurisdiction otherwise provided by law, the courts of the United States have extra-territorial jurisdiction over any offense (or any attempt or conspiracy to commit an offense) under section 1581, section 1583, section 1584, section 1589, section 1590, or section 1591 of this title if—

''(1) an alleged offender or victim of the offense is a national of the United States or an alien lawfully admitted for permanent residence (as those terms are defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); or

''(2) an alleged offender is present in the United States, irrespective of the nationality of the alleged offender.

''(b) LIMITATION ON PROSECUTIONS OF OFFENSES PROSECUTED IN OTHER COUNTRIES.—No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 77 of title 18, United States Code, is amended by adding at the end the following:

''1596. Additional jurisdiction in certain trafficking offenses.''.

Mr. DURBIN. Mr. President, few issues in the world today raise as many human rights implications as the insidious practice of human trafficking. According to International Labor Organization estimates, there are over 12 million people in forced or bonded labor, forced child labor, or sexual servitude at any given time around the globe. Human trafficking truly represents commerce in human misery.

The U.S. Government has been increasingly vigilant in addressing this global scourge. In 2000, Congress passed the Trafficking Victims Protection Act, which gave our government important new tools to better protect trafficking victims, prosecute traffickers, and prevent future trafficking crimes in this country and abroad. In 2003 and again in 2005, Congress reauthorized the Trafficking Victims Protection Act, and I am proud to cosponsor the latest reauthorization bill—the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008—which Senators BIDEN and BROWNBACK introduced in May.

I chair the Senate Judiciary Committee's new Subcommittee on Human Rights and the Law, created at the beginning of the 110th Congress. Our subcommittee's second hearing, in March 2007, considered legal options to stop human trafficking.

The hearing shed light on a legal loophole in current law. The U.S. government is allowed to prosecute human traffickers who commit crimes in the United States, but it is not permitted to prosecute traffickers who commit crimes abroad and then come to our shores.

In June 2007, Senator COBURN and I introduced a bill to close this loophole. The Trafficking in Persons Accountability Act would permit the U.S. Government to go after human traffickers who are present in the United States, regardless of whether their heinous acts took place in this country or elsewhere. Our bill says to the traffickers: You cannot come to the United States and use us as a zone of impunity and as a safe haven for your ill-gotten gains. Closing this loophole would serve as another tool in the global fight against human trafficking.

The Trafficking in Persons Accountability Act follows on other human rights legislation I have introduced with Senator COBURN, the ranking member of the Subcommittee on Human Rights and the Law. We introduced similar legislation to allow the U.S. Government to prosecute individuals found in the United States who have recruited children for combat or deployed child soldiers in another country. Congress recently approved this bill, and it awaits the President's signature.

And last year, Congress approved a bill to permit the U.S. Government to prosecute those present in the United States who have committed the human rights atrocity of genocide anywhere in the world.

The Trafficking in Persons Accountability Act is supported by the International Justice Mission, the Chicago-based National Immigrant Justice Center, the Break the Chain Campaign, the Urban Justice Center, Mosaic Family Services, Global Rights, the Florida Immigrant Advocacy Center, Asian Pacific Islander Legal Outreach, and the Rape, Abuse & Incest National Network.

We cannot discuss the issue of human trafficking without acknowledging the visionary leadership of the late Senator Paul Wellstone, who called the trafficking of human beings ''one of the most horrendous human rights violations of our time.''

On the day Congress passed the Trafficking Victims Protection Act on October 11, 2000, Senator Wellstone went to the Senate floor and said the following: ''I believe with passage of this legislation . . . we are lighting a candle. We are lighting a candle for these women and girls and sometimes men forced into forced labor. . . . This is the beginning of an international effort to go after this trafficking, to go after this major, god-awful human rights abuse.''

Senator Wellstone's commitment to combating human trafficking and other human rights abuses stands as one of his most enduring legacies. The candle Senator Wellstone lit nearly 8 years ago is burning bright, and we will rekindle it today with the passage of this legislation.

I urge my Senate colleagues to pass the Trafficking in Persons Accountability Act, and I hope the House of Representatives will soon follow suit, so this important bill can be sent to the President and signed into law.

Mr. LEAHY. Mr. President, I am pleased that today the Senate has passed the Trafficking in Persons Accountability Act of 2007, which would improve our efforts to stop the abominable practice of human trafficking in the United States and around the world. This modern-day form of slavery forces, defrauds, or coerces victims into sexual or labor exploitation. It is the world's fastest growing criminal enterprise and generates $9.5 billion annually, $4 billion of which goes to the prostitution industry. Nearly 1 million people, mostly women and children, are trafficked worldwide, including nearly 18,000 persons in the United States.

This legislation would expand the Federal court's jurisdiction over human trafficking cases to include offenses committed abroad by noncitizens that enter our borders. Currently, the Department of Justice can only prosecute human trafficking crimes if they occur within the United States or are committed by a U.S. citizen abroad. This legislation would permit the Department of Justice to prosecute offenders of trafficking crimes abroad if they are present in the United States and punish human traffickers who attempt to seek refuge in this country.

Nowhere on Earth should it be acceptable to deceive, abuse, and force a person into a life of enslavement. We should not tolerate human trafficking across our borders, nor should we allow trafficking offenders to seek a safe haven in our country. I commend subcommittee chairman Senator DURBIN for introducing this legislation and for his hard work to combat human rights abuses worldwide. This is an area in which I have worked for many years as the chairman and ranking member of the Foreign Operations Subcommittee of the Appropriations Committee.

I was proud to work with Senator DURBIN to create the Human Rights and the Law Subcommittee, the first congressional committee to specifically address human rights issues. This subcommittee has held hearings on many important issues, and two important pieces of legislation considered by the subcommittee will become law this Congress. The Genocide Accountability Act closed a loophole that until now allowed those who commit or incite genocide to seek refuge in our country without fear of prosecution for their actions. Soon, the President will sign into law the Child Soldiers Accountability Act, making it a crime to recruit or use child soldiers. I look forward to continuing to work with Senator DURBIN to make progress towards

eradicating these and other human rights abuses.

This bill is a step forward towards the prevention of human trafficking, protection of victims, and prosecution of traffickers. I hope the House of Representatives acts quickly on this legislation so it can be enacted before Congress adjourns.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Durbin amendment, which is at the desk, be agreed to, the committee substitute, as amended be agreed to, the bill, as amended be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 5688) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trafficking in Persons Accountability Act of 2008''.

SEC. 2. JURISDICTION IN CERTAIN TRAFFICKING OFFENSES.

(a) IN GENERAL.—Chapter 77 of title 18, United States Code, is amended by adding at the end the following:

''§ 1596. Additional jurisdiction in certain trafficking offenses

''(a) IN GENERAL.—In addition to any domestic or extra-territorial jurisdiction otherwise provided by law, the courts of the United States have extra-territorial jurisdiction over any offense (or any attempt or conspiracy to commit an offense) under section 1581, section 1583, section 1584, section 1589, section 1590, or section 1591 of this title if—

''(1) an alleged offender is a national of the United States or an alien lawfully admitted for permanent residence (as those terms are defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)); or

''(2) an alleged offender is present in the United States, irrespective of the nationality of the alleged offender.

''(b) LIMITATION ON PROSECUTIONS OF OFFENSES PROSECUTED IN OTHER COUNTRIES.—No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 77 of title 18, United States Code, is amended by adding at the end the following:

''1596. Additional jurisdiction in certain trafficking offenses.''.

The committee substitute amendment, as amended, was agreed to.

The bill (S. 1703), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

NON-FOREIGN AREA RETIREMENT EQUITY ASSURANCE ACT OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 954, S. 3013.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3013) to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics)

S. 3013

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 ''Non-Foreign Area Retirement Equity Assurance Act of 2008'' or the ''Non-Foreign AREA Act of 2008''.

SEC. 2. EXTENSION OF LOCALITY PAY.

[(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304(f)(1) of title 5, United States Code, is amended by striking subparagraph (A) and inserting the following:

[''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands shall be included within a pay locality; and''.**]**

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting after subparagraph (A) the following:

''(B) positions under subsection (h)(1)(D) not covered by appraisal systems certified under section 5382; and''; and

(iv) in subparagraph (C) (as redesignated by this paragraph), by striking ''under subsection (h)(1)(D)'' and inserting ''under subsection (h)(1)(E)''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(D) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (C) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (D) as subparagraph (E);

(C) by inserting after subparagraph (C) the following:

''(D) a Senior Executive Service position under section 3132 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008 was eligible to receive a cost-of-living allowance under section 5941; and''; and

(D) in clause (iii) in the matter following subparagraph (D), by inserting ''stationed in the 48 contiguous States and the District of Columbia, or stationed within the United States, but outside the 48 contiguous States and the District of Columbia, in which the incumbent the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008 was not eligible to receive a cost-of-living allowance under section 5941; and'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) of this subsection shall be the cost-of-living allowance rate in effect on December 31, 2008, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2008.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2009; and

''(B) on January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 4 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2008.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2009 and each calendar year thereafter, the applicable percentage under section 4 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2008.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2008; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. 3. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 4 of this Act, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 9 of this Act.

(b) DEPARTMENT OF VETERANS AFFAIRS.—Each special rate of pay established under

section 7455 of title 38, United States Code, and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the Secretary of Veterans Affairs that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 4 ending on the first day of the first pay period beginning on or after January 1, 2011, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. 4. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this Act or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this Act, for each non-foreign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2009, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2010, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2011 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. 5. SAVINGS PROVISION.

[(a) IN GENERAL.—The application of this Act to any employee may not result in the amount of the decrease in the amount of pay attributable to special rate pay and the cost-of-living allowance as in effect on the date of enactment of this Act exceeding the amount of the increase in the locality-based comparability payments paid to that employee.

[(b)*(a)* SENSE OF CONGRESS.—It is the sense of Congress that the application of this Act to any employee should not result in a decrease in the take home pay of that employee.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Bureau of Labor Statistics will conduct separate surveys pursuant to the establishment by the President's Pay Agent of 1 new locality area for the entire State of Hawaii and 1 new locality area for the entire state of Alaska, and that upon the completion of the phase in period no employee shall receive less than the Rest of the U.S. locality pay rate.

(c) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section 4 of this Act, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 4 of the Act, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this Act, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2008 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 4 of this Act which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay caps under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. 6. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on—

(I) the day before the date of enactment of this Act—

(aa) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(bb) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(II) or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(ii) except as provided under paragraph (2), is not covered under—

(I) section 5941 of title 5, United States Code (as amended by section 2 of this Act); and

(II) section 4 of this Act; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code; or

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code; or

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any [provision of title 5, United States Code,]*other provision of law*, for purposes of this Act (including the amendments made by this Act) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 2 of this Act), and section 4 of this Act apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this Act shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this Act including section 5941 of title 5, United States Code (as amended by section 2 of this Act), may be reduced on the basis of the performance of that employee.

[(b) POSTAL SERVICE EMPLOYEES IN NON-FOREIGN AREAS.—Section 1005(b) of title 39, United States Code, is amended by inserting ''and the Non-Foreign Area Retirement Equity Assurance Act of 2008'' after ''Section 5941 of title 5''.]

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003(b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) section 6(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this Act (including the amendments made by this Act) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2008 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section 4.

(B) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section 7 or 8 of this Act.

SEC. 7. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section 4 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2009, through December 31, 2011; and

(3) who files and election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2011.

[(c) COMPUTATION OF ANNUITY.—For purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2009 through the first applicable pay period ending on or after December 31, 2011, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.]

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2009 through the first applicable pay period ending on or after December 31, 2011, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 4 of this Act did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if that subsection had been in effect during that period; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. 8. ELECTION OF COVERAGE BY EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of this Act *(other than section 6(b))*, an employee may make an irrevocable election in accordance with this section, if—

(1) that employee is paid an allowance under section [5491]*5941* of title 5, United States Code, during a pay period in which the date of the enactment of this Act occurs; or

(2) that employee—

(A) is a covered employee as defined under section 6(a)(1); and

(B) during a pay period in which the date of the enactment of this Act occurs is paid an allowance—

(i) under section 1603(b) of title 10, United States Code;

(ii) under section 1005(b) of title 39, United States Code; or

(iii) based on section 5941 of title 5, United States Code.

(b) FILING ELECTION.—Not later than 60 days after the date of enactment of this Act, an employee described under subsection (a) may file an election with the Office of Personnel Management to be treated for all purposes—

(1) in accordance with the provisions of this Act (including the amendments made by this Act); or

(2) as if the provisions of this Act (including the amendments made by this Act) had not been enacted, except that the cost-of-living allowance rate paid to that employee shall be the cost-of-living allowance rate in effect on December 31, 2008, for that employee without any adjustment after that date.

(c) FAILURE TO FILE.—Failure to make a timely election under this section shall be treated in the same manner as an election made under subsection (b)(1) on the last day authorized under that subsection.

(d) NOTICE.—To the greatest extent practicable, the Office of Personnel Management shall provide timely notice of the election which may be filed under this section to employees described under subsection (a).

SEC. 9. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this Act, including—

(1) rules for special rate employees described under section 3;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 4 ending on the first day of the first pay period beginning on or after January 1, 2011; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2011.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this Act with respect to employees in such pay system, consistent with the regulations issued by the Office under subsection (a).

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this Act (including the amendments made by this Act) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 2 and the provisions of section 4 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2009.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee amendments be agreed to as original text, the Collins amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

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

The committee amendments were agreed to.

The amendment (No. 5689) was agreed to, as follows:

(Purpose: To strike the provision relating to election of coverage by employees; and for other purposes)

On page 7, line 8, strike ''9'' and insert ''8''.

On page 10, line 12, strike ''the'' and insert ''this''.

On page 17, line 18, strike ''or 8''.

On page 21, line 1, strike all through page 22, line 17.

On page 22, line 18, strike ''SEC. 9'' and insert ''SEC. 8''.

On page 23, line 20, strike ''SEC. 10'' and insert ''SEC. 9''.

The bill (S. 3013), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3013

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 ''Non-Foreign Area Retirement Equity Assurance Act of 2008'' or the ''Non-Foreign AREA Act of 2008''.

SEC. 2. EXTENSION OF LOCALITY PAY.

(a) LOCALITY-BASED COMPARABILITY PAYMENTS.—Section 5304 of title 5, United States Code, is amended—

(1) in subsection (f)(1), by striking subparagraph (A) and inserting the following:

''(A) each General Schedule position in the United States, as defined under section 5921(4), and its territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, shall be included within a pay locality;'';

(2) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'' after the semicolon;

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting after subparagraph (A) the following:

''(B) positions under subsection (h)(1)(D) not covered by appraisal systems certified under section 5382; and''; and

(iv) in subparagraph (C) (as redesignated by this paragraph), by striking ''under subsection (h)(1)(D)'' and inserting ''under subsection (h)(1)(E)''; and

(B) by adding at the end the following:

''(3) The applicable maximum under this subsection shall be level II of the Executive Schedule for positions under subsection (h)(1)(D) covered by appraisal systems certified under section 5307(d).''; and

(3) in subsection (h)(1)—

(A) in subparagraph (C) by striking ''and'' after the semicolon;

(B) by redesignating subparagraph (D) as subparagraph (E);

(C) by inserting after subparagraph (C) the following:

''(D) a Senior Executive Service position under section 3132 stationed within the United States, but outside the 48 contiguous States and the District of Columbia in which the incumbent the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008 was eligible to receive a cost-of-living allowance under section 5941; and''; and

(D) in clause (iii) in the matter following subparagraph (D), by inserting ''stationed in the 48 contiguous States and the District of Columbia, or stationed within the United States, but outside the 48 contiguous States and the District of Columbia, in which the incumbent the day before the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008 was not eligible to receive a cost-of-living allowance under section 5941; and'' before the semicolon.

(b) ALLOWANCES BASED ON LIVING COSTS AND CONDITIONS OF ENVIRONMENT.—Section 5941 of title 5, United States Code, is amended—

(1) in subsection (a), by adding after the last sentence ''Notwithstanding any preceding provision of this subsection, the cost-of-living allowance rate based on paragraph (1) of this subsection shall be the cost-of-living allowance rate in effect on December 31, 2008, except as adjusted under subsection (c).'';

(2) by redesignating subsection (b) as subsection (d); and

(3) by inserting after subsection (a) the following:

''(b) This section shall apply only to areas that are designated as cost-of-living allowance areas as in effect on December 31, 2008.

''(c)(1) The cost-of-living allowance rate payable under this section shall be adjusted on the first day of the first applicable pay period beginning on or after—

''(A) January 1, 2009; and

''(B) on January 1 of each calendar year in which a locality-based comparability adjustment takes effect under section 4 (2) and (3) of the Non-Foreign Area Retirement Equity Assurance Act of 2008.

''(2)(A) In this paragraph, the term 'applicable locality-based comparability pay percentage' means, with respect to calendar year 2009 and each calendar year thereafter, the applicable percentage under section 4 (1), (2), or (3) of Non-Foreign Area Retirement Equity Assurance Act of 2008.

''(B) Each adjusted cost-of-living allowance rate under paragraph (1) shall be computed by—

''(i) subtracting 65 percent of the applicable locality-based comparability pay percentage from the cost-of-living allowance percentage rate in effect on December 31, 2008; and

''(ii) dividing the resulting percentage determined under clause (i) by the sum of—

''(I) one; and

''(II) the applicable locality-based comparability payment percentage expressed as a numeral.

''(3) No allowance rate computed under paragraph (2) may be less than zero.

''(4) Each allowance rate computed under paragraph (2) shall be paid as a percentage of basic pay (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law).''.

SEC. 3. ADJUSTMENT OF SPECIAL RATES.

(a) IN GENERAL.—Each special rate of pay established under section 5305 of title 5, United States Code, and payable in an area designated as a cost-of-living allowance area under section 5941(a) of that title, shall be adjusted, on the dates prescribed by section 4 of this Act, in accordance with regulations prescribed by the Director of the Office of Personnel Management under section 8 of this Act.

(b) DEPARTMENT OF VETERANS AFFAIRS.—Each special rate of pay established under section 7455 of title 38, United States Code, and payable in a location designated as a cost-of-living allowance area under section 5941(a)(1) of title 5, United States Code, shall be adjusted in accordance with regulations prescribed by the Secretary of Veterans Affairs that are consistent with the regulations issued by the Director of the Office of Personnel Management under subsection (a).

(c) TEMPORARY ADJUSTMENT.—Regulations issued under subsection (a) or (b) may provide that statutory limitations on the amount of such special rates may be temporarily raised to a higher level during the transition period described in section 4 ending on the first day of the first pay period beginning on or after January 1, 2011, at which time any special rate of pay in excess of the applicable limitation shall be converted to a retained rate under section 5363 of title 5, United States Code.

SEC. 4. TRANSITION SCHEDULE FOR LOCALITY-BASED COMPARABILITY PAYMENTS.

Notwithstanding any other provision of this Act or section 5304 or 5304a of title 5, United States Code, in implementing the amendments made by this Act, for each nonforeign area determined under section 5941(b) of that title, the applicable rate for the locality-based comparability adjustment that is used in the computation required under section 5941(c) of that title shall be adjusted effective on the first day of the first pay period beginning on or after January 1—

(1) in calendar year 2009, by using ⅓ of the locality pay percentage for the rest of United States locality pay area;

(2) in calendar year 2010, by using ⅔ of the otherwise applicable comparability payment approved by the President for each non-foreign area; and

(3) in calendar year 2011 and each subsequent year, by using the full amount of the applicable comparability payment approved by the President for each non-foreign area.

SEC. 5. SAVINGS PROVISION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the application of this Act to any employee should not result in a decrease in the take home pay of that employee.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Bureau of Labor Statistics will conduct separate surveys pursuant to the establishment by the President's Pay Agent of 1 new locality area for the entire State of Hawaii and 1 new locality area for the entire state of Alaska, and that upon the completion of the phase in period no employee shall receive less than the Rest of the U.S. locality pay rate.

(c) SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period described under section 4 of this Act, an employee paid a special rate under 5305 of title 5, United States Code, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, and who continues to be officially stationed in an allowance area, shall receive an increase in the employee's special rate consistent with increases in the applicable special rate schedule. For employees in allowance areas, the minimum step rate for any grade of a special rate schedule shall be increased at the time of an increase in the applicable locality rate percentage for the allowance area by not less than the dollar increase in the locality-based comparability payment for a non-special rate employee at the same minimum step provided under section 4 of this Act, and corresponding increases shall be provided for all step rates of the given pay range.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE RATE.—If an employee, who the day before the date of enactment of this Act was eligible to receive a cost-of-living allowance under section 5941 of title 5, United States Code, would receive a rate of basic pay and applicable locality-based comparability payment which is in excess of the maximum rate limitation set under section 5304(g) of title 5, United States Code, for his position (but for that maximum rate limitation) due to the operation of this Act, the employee shall continue to receive the cost-of-living allowance rate in effect on December 31, 2008 without adjustment until—

(A) the employee leaves the allowance area or pay system; or

(B) the employee is entitled to receive basic pay (including any applicable locality-based comparability payment or similar supplement) at a higher rate,

but, when any such position becomes vacant, the pay of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

(3) LOCALITY-BASED COMPARABILITY PAYMENTS.—Any employee covered under paragraph (2) shall receive any applicable locality-based comparability payment extended under section 4 of this Act which is not in excess of the maximum rate set under section 5304(g) of title 5, United States Code, for his position including any future increase to statutory pay caps under 5318 of title 5, United States Code. Notwithstanding paragraph (2), to the extent that an employee covered under that paragraph receives any amount of locality-based comparability payment, the cost-of-living allowance rate under that paragraph shall be reduced accordingly, as provided under section 5941(c)(2)(B) of title 5, United States Code.

SEC. 6. APPLICATION TO OTHER ELIGIBLE EMPLOYEES.

(a) IN GENERAL.—

(1) DEFINITION.—In this subsection, the term ''covered employee'' means—

(A) any employee who—

(i) on—

(I) the day before the date of enactment of this Act—

(aa) was eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(bb) was not eligible to be paid locality-based comparability payments under 5304 or 5304a of that title; or

(II) or after the date of enactment of this Act becomes eligible to be paid a cost-of-living allowance under 5941 of title 5, United States Code; and

(ii) except as provided under paragraph (2), is not covered under—

(I) section 5941 of title 5, United States Code (as amended by section 2 of this Act); and

(II) section 4 of this Act; or

(B) any employee who—

(i) on the day before the date of enactment of this Act—

(I) was eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) was eligible to be paid an allowance under section 1005(b) of title 39, United States Code; or

(III) was employed by the Transportation Security Administration of the Department of Homeland Security and was eligible to be paid an allowance based on section 5941 of title 5, United States Code; or

(ii) on or after the date of enactment of this Act—

(I) becomes eligible to be paid an allowance under section 1603(b) of title 10, United States Code;

(II) becomes eligible to be paid an allowance under section 1005(b) of title 39, United States Code; or

(III) is employed by the Transportation Security Administration of the Department of Homeland Security and becomes eligible to be paid an allowance based on section 5941 of title 5, United States Code.

(2) APPLICATION TO COVERED EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of this Act (including the amendments made by this Act) any covered employee shall be treated as an employee to whom section 5941 of title 5, United States Code (as amended by section 2 of this Act), and section 4 of this Act apply.

(B) PAY FIXED BY STATUTE.—Pay to covered employees under section 5304 or 5304a of title 5, United States Code, as a result of the application of this Act shall be considered to be fixed by statute.

(C) PERFORMANCE APPRAISAL SYSTEM.—With respect to a covered employee who is subject to a performance appraisal system no part of pay attributable to locality-based comparability payments as a result of the application of this Act including section 5941 of title 5, United States Code (as amended by section 2 of this Act), may be reduced on the basis of the performance of that employee.

(b) POSTAL EMPLOYEES IN NON-FOREIGN AREAS.—

(1) IN GENERAL.—Section 1005(b) of title 39, United States Code, is amended—

(A) by inserting ''(1)'' after ''(b)'';

(B) by striking ''Section 5941,'' and inserting ''Except as provided under paragraph (2), section 5941'';

(C) by striking ''For purposes of such section,'' and inserting ''Except as provided under paragraph (2), for purposes of section 5941 of that title,''; and

(D) by adding at the end the following:

''(2) On and after the date of enactment of the Non-Foreign Area Retirement Equity Assurance Act of 2008—

''(A) the provisions of that Act and section 5941 of title 5 shall apply to officers and employees covered by section 1003(b) and (c) whose duty station is in a nonforeign area; and

''(B) with respect to officers and employees of the Postal Service (other than those officers and employees described under subparagraph (A)) section 6(b)(2) of that Act shall apply.''.

(2) CONTINUATION OF COST OF LIVING ALLOWANCE.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, any employee of the Postal Service (other than an employee covered by section 1003 (b) and (c) of title 39, United States Code, whose duty station is in a nonforeign area) who is paid an allowance under section 1005(b) of that title shall be treated for all purposes as if the provisions of this Act (including the amendments made by this Act) had not been enacted, except that the cost-of-living allowance rate paid to that employee—

(i) may result in the allowance exceeding 25 percent of the rate of basic pay of that employee; and

(ii) shall be the greater of—

(I) the cost-of-living allowance rate in effect on December 31, 2008 for the applicable area; or

(II) the applicable locality-based comparability pay percentage under section 4.

(B) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(i) provide for an employee described under subparagraph (A) to be a covered employee as defined under subsection (a); or

(ii) authorize an employee described under subparagraph (A) to file an election under section 7 of this Act.

SEC. 7. ELECTION OF ADDITIONAL BASIC PAY FOR ANNUITY COMPUTATION BY EMPLOYEES.

(a) DEFINITION.—In this section the term ''covered employee'' means any employee—

(1) to whom section 4 applies;

(2) who is separated from service by reason of retirement under chapter 83 or 84 of title 5, United States Code, during the period of January 1, 2009, through December 31, 2011; and

(3) who files and election with the Office of Personnel Management under subsection (b).

(b) ELECTION.—

(1) IN GENERAL.—An employee described under subsection (a) (1) and (2) may file an election with the Office of Personnel Management to be covered under this section.

(2) DEADLINE.—An election under this subsection may be filed not later than December 31, 2011.

(c) COMPUTATION OF ANNUITY.—

(1) IN GENERAL.—Except as provided under paragraph (2), for purposes of the computation of an annuity of a covered employee any cost-of-living allowance under section 5941 of title 5, United States Code, paid to that employee during the first applicable pay period beginning on or after January 1, 2009 through the first applicable pay period ending on or after December 31, 2011, shall be considered basic pay as defined under section 8331(3) or 8401(4) of that title.

(2) LIMITATION.—The amount of the cost-of-living allowance which may be considered basic pay under paragraph (1) may not exceed the amount of the locality-based comparability payments the employee would have received during that period for the applicable pay area if the limitation under section 4 of this Act did not apply.

(d) CIVIL SERVICE RETIREMENT AND DISABILITY RETIREMENT FUND.—

(1) EMPLOYEE CONTRIBUTIONS.—A covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund—

(A) an amount equal to the difference between—

(i) employee contributions that would have been deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during the period described under subsection (c) of this section if that subsection had been in effect during that period; and

(ii) employee contributions that were actually deducted and withheld from pay under section 8334 or 8422 of title 5, United States Code, during that period; and

(B) interest as prescribed under section 8334(e) of title 5, United States Code, based on the amount determined under subparagraph (A).

(2) AGENCY CONTRIBUTIONS.—

(A) IN GENERAL.—The employing agency of a covered employee shall pay into the Civil Service Retirement and Disability Retirement Fund an amount for applicable agency contributions based on payments made under paragraph (1).

(B) SOURCE.—Amounts paid under this paragraph shall be contributed from the appropriation or fund used to pay the employee.

(3) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this section.

SEC. 8. REGULATIONS.

(a) IN GENERAL.—The Director of the Office of Personnel Management shall prescribe regulations to carry out this Act, including—

(1) rules for special rate employees described under section 3;

(2) rules for adjusting rates of basic pay for employees in pay systems administered by the Office of Personnel Management when such employees are not entitled to locality-based comparability payments under section 5304 of title 5, United States Code, without regard to otherwise applicable statutory pay limitations during the transition period described in section 4 ending on the first day of the first pay period beginning on or after January 1, 2011; and

(3) rules governing establishment and adjustment of saved or retained rates for any employee whose rate of pay exceeds applicable pay limitations on the first day of the first pay period beginning on or after January 1, 2011.

(b) OTHER PAY SYSTEMS.—With the concurrence of the Director of the Office of Personnel Management, the administrator of a pay system not administered by the Office of Personnel Management shall prescribe regulations to carry out this Act with respect to employees in such pay system, consistent with the regulations issued by the Office under subsection (a).

SEC. 9. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided by subsection (b), this Act (including the amendments made by this Act) shall take effect on the date of enactment of this Act.

(b) LOCALITY PAY AND SCHEDULE.—The amendments made by section 2 and the provisions of section 4 shall take effect on the first day of the first applicable pay period beginning on or after January 1, 2009.

MILITARY VOTING PROTECTION ACT OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of S. 3073, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3073) to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Cornyn-Feinstein substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 5690) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

(a) PROCEDURES.—

(1) IN GENERAL.—The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.) is amended by inserting after section 103 the following new section:

"SEC. 103A. PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

''(a) COLLECTION.—The Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and Federal write-in absentee ballots prescribed under section 103, and for delivering the ballots to the appropriate election officials.

''(b) ENSURING DELIVERY PRIOR TO CLOSING OF POLLS.—

''(1) IN GENERAL.—Under the procedures established under this section, the Presidential designee shall ensure that any marked absentee ballot for a regularly scheduled general election for Federal office which is collected prior to the deadline described in paragraph (3) is delivered to the appropriate election official in a State prior to the time established by the State for the closing of the polls on the date of the election.

''(2) CONTRACT WITH EXPRESS MAIL PROVIDERS.—

''(A) IN GENERAL.—The Presidential designee shall carry out this section by contract with one or more providers of express mail services.

''(B) SPECIAL RULE FOR VOTERS IN JURISDICTIONS USING POST OFFICE BOXES FOR COLLECTION OF MARKED ABSENTEE BALLOTS.—In the case of an absent uniformed services voter who wishes to use the procedures established under this section and whose marked absentee ballot is required by the appropriate election official to be delivered to a post office box, the Presidential designee shall enter into an agreement with the United States Postal Service for the delivery of the ballot to the election official under the procedures established under this section.

''(3) DEADLINE DESCRIBED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the deadline described in this paragraph is noon (in the location in which the ballot is collected) on the last Tuesday that precedes the date of the election.

''(B) AUTHORITY TO ESTABLISH ALTERNATIVE DEADLINE FOR CERTAIN LOCATIONS.—If the Presidential designee determines that the deadline described in subparagraph (A) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential designee may establish as an alternative deadline for that location the latest date occurring prior to the deadline described in subparagraph (A) which is sufficient to ensure timely delivery of the ballot under paragraph (1).

''(4) PROHIBITION ON REFUSAL BY STATES TO ACCEPT MARKED ABSENTEE BALLOTS NOT DELIVERED BY POSTAL SERVICE OR IN PERSON.—A State may not refuse to accept or process any marked absentee ballot delivered under the procedures established under this section on the grounds that the ballot is received by the State other than through delivery by the United States Postal Service.

''(c) TRACKING MECHANISM.—Under the procedures established under this section, the entity responsible for delivering marked absentee ballots to the appropriate election officials shall implement procedures to enable any individual whose ballot for a regularly scheduled general election for Federal office is collected by the Presidential designee to determine whether the ballot has been delivered to the appropriate election official, using the Internet, an automated telephone system, or such other methods as the entity may provide.

''(d) ABSENT OVERSEAS UNIFORMED SERVICES VOTER DEFINED.—In this section, the term 'absent overseas uniformed services voter' means an overseas voter described in section 107(5)(A).

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this section.''.

(2) EFFECTIVE DATE.—Section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by this subsection, shall apply with respect to each regularly scheduled general election for Federal office held on or after November 1, 2010.

(b) CONFORMING AMENDMENTS.—

(1) FEDERAL RESPONSIBILITIES.—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(A) by striking ''and'' at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting ''; and''; and

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

''(8) carry out section 103A with respect to the collection and delivery of marked absentee ballots of absent overseas uniformed services voters in elections for Federal office.''.

(2) STATE RESPONSIBILITIES.—Section 102(a) of such Act (42 U.S.C. 1973ff—1(a)) is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ''; and''; and

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

''(6) carry out section 103A(b)(2) with respect to the processing and acceptance of marked absentee ballots of absent overseas uniformed services voters.''.

(c) OUTREACH FOR ABSENT OVERSEAS UNIFORMED SERVICES VOTERS ON PROCEDURES.—The Presidential designee shall take appropriate actions to inform individuals who are anticipated to be absent overseas uniformed services voters in the regularly scheduled general election for Federal office held in November 2008 of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a), including the manner in which such voters may utilize such procedures for the submittal of marked absentee ballots in regularly scheduled elections for Federal office.

(d) REPORTS ON UTILIZATION OF PROCEDURES.—

(1) REPORTS REQUIRED.—Not later than 180 days after each regularly scheduled general election for Federal office held after January 1, 2008, the Presidential designee shall submit to the congressional defense committees a report on the utilization of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as so added, during such general election.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the general election covered by such report, a description of the utilization of the procedures described in that paragraph during such general election, including the number of marked absentee ballots collected and delivered under such procedures.

(e) REPORT ON STATUS OF IMPLEMENTATION.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the Presidential designee shall submit to the congressional defense committees a report on the status of the implementation of the program for the collection and delivery of marked absentee ballots established pursuant to section 103A of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a).

(2) ELEMENTS.—The report under paragraph (1) shall include a status of the implementation of the program and a detailed description of the specific steps taken towards its implementation for November 2009 and November 2010.

(f) DEFINITIONS.—In this section:

(1) The term ''absent overseas uniformed services voter'' has the meaning given that term in section 103A(d) of the Uniformed and Overseas Citizens Absentee Voting Act, as added by subsection (a).

(2) The term ''Presidential designee'' means the official designated under section 101(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(a)).

(3) The term ''congressional defense committees'' means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

SEC. 2. PROHIBITION ON REFUSAL TO ACCEPT VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS AND FEDERAL WRITE-IN ABSENTEE BALLOTS FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.

(a) VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS.—

(1) PROHIBITING REFUSAL TO ACCEPT APPLICATIONS FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1) is amended by adding at the end the following new subsection:

''(e) PROHIBITING REFUSAL TO ACCEPT APPLICATIONS FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—A State shall accept and process any otherwise valid voter registration application or absentee ballot application (including the official post card form prescribed under section 101) submitted in any manner by an absent uniformed services voter or overseas voter that contains the information required on the official post card form prescribed under section 101 (other than information which the Presidential designee, in consultation with the Election Assistance Commission and the Election Assistance Commission Board of Advisors under section 214 of the Help America Vote Act of 2002 (42 U.S.C. 15344), determines, under regulations promulgated by the Presidential designee, is not clearly necessary to prevent fraud in the conduct of elections).''.

(2) EFFECTIVE DATE.—Subsection (e) of section 102 of the Uniformed and Overseas Citizens Absentee Voting Act, as added by this subsection, shall apply with respect to each regularly scheduled general election for Federal office held on or after November 1, 2010.

(b) FEDERAL WRITE-IN ABSENTEE BALLOT.—

(1) PROHIBITING REFUSAL TO ACCEPT BALLOT FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—Section 103 of such Act (42 U.S.C. 1973ff–2) is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection:

''(f) PROHIBITING REFUSAL TO ACCEPT BALLOT FOR FAILURE TO MEET NONESSENTIAL REQUIREMENTS.—A State shall accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter that contains the information required to be submitted with such ballot by the Presidential designee (other than information which the Presidential designee, in consultation with the Election Assistance Commission and the Election Assistance Commission

Board of Advisors under section 214 of the Help America Vote Act of 2002 (42 U.S.C. 15344), determines, under regulations promulgated by the Presidential designee, is not clearly necessary to prevent fraud in the conduct of elections).''.

(2) EFFECTIVE DATE.—Subsection (f) of section 102 of the Uniformed and Overseas Citizens Absentee Voting Act, as amended by this subsection, shall apply with respect to each regularly scheduled general election for Federal office held on or after November 1, 2010.

The bill (S. 3073), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

NAVAL VESSEL TRANSFER ACT OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7177 which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 7177) to authorize the transfer of naval vessels to certain foreign recipients, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

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

The bill (H.R. 7177) was ordered to a third reading, read the third time, and passed.

STEPHANIE TUBBS JONES GIFT OF LIFE MEDAL ACT OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7198 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 7198) to establish the Stephanie Tubbs Jones Gift of Life Medal for organ donors and the family of organ donors.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 7198) was ordered to a third reading, read the third time, and passed.

ORDERS FOR THURSDAY, OCTOBER 2, 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Thursday, October 2; that following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and that the Senate then proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand in recess under the previous order.

There being no objection, the Senate, at 9:56 p.m., recessed until Thursday, October 2, 2008, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF HOMELAND SECURITY

JONATHAN R. SCHARFEN, OF VIRGINIA, TO BE DIRECTOR OF THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY, VICE EMILIO T. GONZALEZ.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant (junior grade)

KYLE W. RYAN
OLIVER E. BROWN

To be ensign

GREGORY R. SCHWEITZER
JOHN H. PETERSEN
BENJAMIN S. BLOSS
JOHN F. ROSSI
CHARLENE R. FELKLEY
EMILY M. ROSE
KEVIN W. ADAMS
MATTHEW M. FORNEY
PATRICIA E. RAYMOND
MATTHEW J. NARDI
ADAM R. REED
ADRIENNE L. HOPPER
RACHEL M. SARGENT
JONATHAN E. OWEN
RYAN A. WARTICK

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant (junior grade)

ANDREW R. COLEGROVE
ANNA-ELIZABETH B. VILLARD-HOWE
NICHOLAS C. MORGAN
JEFFREY G. PEREIRA
COLIN T. KLIEWER
HAROLD B EMMONS III
PAUL M. CHAMBERLAIN
MICHAEL W. O'NEAL
JULIE L. EARP
KYLE A. BYERS
LOREN M. EVORY
ANDREW J. OSTAPENKO
LAURA T. GALLANT
GREGORY R. SCHWEITZER
MARK S. ANDREWS
MEGAN R. GUBERSKI
NATHAN E. WITHERLY
CHRISTINE L. SCHULTZ
CLAIRE V. SURREY
RONALD L MOYERS, JR.
BRIAN D. PRESTCOTT
GLEN A. RICE
PATRICK M. REDMOND
RUSSELL A. QUINTERO
NATHAN B. PARKER
JONATHAN R. HEESCH
MATTHEW C. GRIFFIN
FAITH C. OPATRNY

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE COMMISSIONED CORPS OF THE U.S. PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS:

To be medical director

MATTHEW T. MCKENNA
ZACHARY TAYLOR III

To be senior surgeon

TIMOTHY R. COTE
JULIETTE MORGAN

To be surgeon

HENRY C. BAGGETT III
EDWARD C. DOO
PAUL D. HEIDERSCHEIDT
JOHN T. REDD
JOSEPH P. SIMON

To be senior assistant surgeon

SCOTT J. FILLER
MONIQUE R. FOUNTAIN
ANA I. GUZMAN
KAREN C. LEE
LORI A. POLLACK
JAMES J. SEJVAR
MICHAEL C. THIGPEN

To be senior dental surgeon

SEYED H. MORTAZAVI

To be dental surgeon

JUAN K. PACKER
PHILLIP A. WILSON
PAUL A. WONG

To be senior assistant dental surgeon

JODINE C. ANDERSON
CAROL L. MCDANIEL

To be nurse director

HOLLY A. WILLIAMS

To be senior nurse officer

ANN M. MCCARTHY

To be nurse officer

KRISTAL E. DYE
SUSAN E. ERWIN
MARTIN A. FOREMAN
BRANT B. GOODE
VERONICA M. GORDON
JERRI L. MCGINNIS
DOROTHY R. MERCHANT
ELVIRA D. MOSELY
REBECCA S. NOE
ARLENE M. PATUC
CAROLYN R. STACY-WILKIN
DEBRA TUBBS

To be senior assistant nurse officer

ANNE M. ARCEO
HELEN E. BALLANTYNE
DEMETRIUS CHAPMAN
SUMMER A. CUTTING
DAN FLETCHER III
MELISSA A. GEORGE
SHAWNA L. HUTCHINS
DEBORAH N. LAMPING

To be engineer officer

JEFFREY A. MURRAY

To be senior assistant engineer officer

VARSHA B. SAVALIA

To be scientist

DAVID J. MCINTYRE
DANISHA L. ROBBINS

To be senior environmental health officer

PAUL M. LEWIS

To be environmental health officer

BRIAN L. LEWELLING
MATHEW J. THOMAS
JOHN T. WHITESIDES

To be senior assistant environmental health officer

JEFFREY T. DICKSON
MOLLY E. PATTON

To be pharmacist

STEVEN A. LABROZZI
JUDY L. ROSE
JAMIE L. SHADDON

To be senior assistant pharmacist

KRISTINA J. BALLINGER
JEFFERSON FREDY
KATIE E. JOHNSON
RANDI R. LANIER
JEFFREY J. MALLETTE
LORI B. MOORE
ALLISON M. PAYNTER
VINCENT S. SANSONE
COURTNEY M. SUGGS
JUDITH B. THOMPSON
LEO B. ZADECKY

To be senior assistant therapist

JAMES M. COWHER

To be health services officer director

CLIFFORD D. BROWN

To be health services officer

IRWIN W. FISH

To be senior assistant health services officer

JULIA H. BRYAN
ALNISSA T. CARTER
MICHAEL C. CLAY
MARTHA S. FERMIN
LORI A. GOODMAN
RACHAEL TRIMPERT SCHMIDT
CAMERON C. SCOTT
MICHAEL R. TILUS
EMILY J. WILLIAMS

To be junior assistant health services officer

KRISTI R. ANDERSON
KEREN ARKIN
SARAH E. COLEMAN
MATTHEW R. DAAB
JAMES C. DECKER
DIMANA DIMITROVA
ELIZABETH A. FRANKLIN
DAVID M. GIANFERANTE
MARILOU GONZALEZ
REBECCA HARDY
AMY J. HATCHER
SARA A. KIERPIEC
TINA PATTARATORNKOSOHN
JEFFREY R. STRICH
XI HUA YANG
JOHN I. YOUNG

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 2, 2008 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 3

9:30 a.m.

Joint Economic Committee

To hold hearings to examine the employment situation in September 2008.

SD–106

● 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.

Daily Digest

HIGHLIGHTS

See Résumé of Congressional Activity.

Senate completed action on H.R. 2095, Federal Railroad Safety Improvement Act.

Senate passed H.R. 7081, United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act.

Senate passed H.R. 1424, Paul Wellstone Mental Health and Addiction Equity Act (Emergency Economic Stabilization Act).

Senate

Chamber Action

Routine Proceedings, pages S10189–S10397

Measures Introduced: Twenty bills and two resolutions were introduced, as follows: S. 3659–3678, S. Res. 701, and S. Con. Res. 105. **Pages S10323–24**

Measures Reported:

H.R. 1187, To expand the boundaries of the Gulf of the Farallones National Marine Sanctuary and the Cordell Bank National Marine Sanctuary, with amendments. (S. Rept. No. 110–516)

S. 2148, to provide for greater diversity within, and to improve policy direction and oversight of, the Senior Executive Service, with an amendment in the nature of a substitute. (S. Rept. No. 110–517)

S. 2838, to amend chapter 1 of title 9 of United States Code with respect to arbitration. (S. Rept. No. 110–518)

S. 1779, to establish a program for tribal colleges and universities within the Department of Health and Human Services and to amend the Native American Programs Act of 1974 to authorize the provision of grants and cooperative agreements to tribal colleges and universities, with an amendment in the nature of a substitute. (S. Rept. No. 110–519)

H.R. 404, to require the establishment of customer service standards for Federal agencies, with an amendment in the nature of a substitute.

S. 547, to establish a Deputy Secretary of Homeland Security for Management.

S. 967, to amend chapter 41 of title 5, United States Code, to provide for the establishment and authorization of funding for certain training programs for supervisors of Federal employees, with amendments.

S. 1000, to enhance the Federal Telework Program, with an amendment in the nature of a substitute.

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, with an amendment in the nature of a substitute.

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, with an amendment in the nature of a substitute.

S. 3384, to amend section 11317 of title 40, United States Code, to require greater accountability for cost overruns on Federal IT investment projects, with an amendment in the nature of a substitute.

S. 3474, to amend title 44, United States Code, to enhance information security of the Federal Government.

S. 3662, to establish the Controlled Unclassified Information Office, to require policies and procedures for the designation, marking, safeguarding, and dissemination of controlled unclassified information. **Page S10323**

Measures Passed:

Child Safe Viewing Act: Senate passed S. 602, to develop the next generation of parental control technology, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Page S10199**

Dodd (for Pryor) Amendment No. 5684, of a perfecting nature. **Page S10199**

United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act: By 86 yeas to 13 nays (Vote No. 211), Senate passed H.R. 7081, to approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, pursuant to the order of the Senate of Tuesday, September 30, 2008, the bill having achieved 60 affirmative votes, and after taking action on the following amendments proposed thereto:

Pages S10191–S10208, S10290–91

Rejected:

Bingaman (for Dorgan) Amendment No. 5683, to prohibit nuclear trade with India in the event that India detonates a nuclear weapon and to impose certain certification, reporting, and control requirements. **Page S10201**

Paul Wellstone Mental Health And Addiction Equity Act (Emergency Economic Stabilization Act): By 74 yeas to 25 nays (Vote No. 213), Senate passed H.R. 1424, to amend section 712 of the Employee Retirement Income Security Act of 1974, section 2705 of the Public Health Service Act, section 9812 of the Internal Revenue Code of 1986 to require equity in the provision of mental health and substance-related disorder benefits under group health plans, to prohibit discrimination on the basis of genetic information with respect to health insurance and employment, pursuant to the order of the Senate of Tuesday, September 30, 2008, the bill having achieved 60 affirmative votes, after taking action on the following amendments proposed thereto:

Pages S10220–83, S10291–95

Adopted:

Dodd Amendment No. 5685, in the nature of a substitute. (By 74 yeas to 25 nays (Vote No. 212), and pursuant to the order of the Senate of Tuesday, September 30, 2008, the amendment having achieved 60 votes in the affirmative, was agreed to).

Pages S10222–34, S10292–94

Rejected:

Sanders Amendment No. 5687 (to Amendment No. 5685), to amend the Internal Revenue Code of 1986 to increase the tax on high income individuals.

Pages S10234–36, S10291–92

Enrollment Correction: Senate agreed to S. Con. Res. 105, directing the Clerk of the House of Representatives to correct the enrollment of H.R. 6063. **Page S10388**

Trafficking in Persons Accountability Act: Senate passed S. 1703, to prevent and reduce trafficking in persons, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S10388–90**

Durbin Amendment No. 5688, in the nature of a substitute. **Page S10390**

Non-Foreign AREA Act: Senate passed S. 3013, to provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, after agreeing to the committee amendments, which will be considered as original text for the purpose of further amendment, and the following amendment proposed thereto: **Pages S10390–94**

Durbin (for Collins) Amendment No. 5689, to strike the provision relating to election of coverage by employees. **Page S10394**

Military Voting Protection Act: Committee on Rules and Administration was discharged from further consideration of S. 3073, to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of absentee ballots of absent overseas uniformed services voters, and the bill was then passed, after agreeing to the following amendment proposed thereto:

Pages S10394–96

Durbin (for Cornyn) Amendment No. 5690, in the nature of a substitute. **Pages S10394–96**

Transfer of Naval Vessels: Senate passed H.R. 7177, to authorize the transfer of naval vessels to certain foreign recipients, clearing the measure for the President. **Page S10396**

Stephanie Tubbs Jones Gift of Life Medal Act: Senate passed H.R. 7198, to establish the Stephanie Tubbs Jones Gift of Life Medal for organ donors and the family of organ donors, clearing the measure for the President. **Page S10396**

House Messages:

Federal Railroad Safety Improvement Act: By 74 yeas to 24 nays (Vote No. 210), Senate concurred in the amendment of the House of Representatives to the amendment of the Senate to H.R. 2095, to amend title 49, United States Code, to prevent railroad fatalities, injuries, and hazardous materials releases, to authorize the Federal Railroad Safety Administration, taking action on the following motion and amendments proposed thereto: **Pages S10283–90**

Withdrawn:

Reid Motion to Concur in the amendment of the House of Representatives to the amendment of the Senate to the bill with Reid Amendment No. 5677, to establish the enactment date. **Page S10283**

During consideration of this measure today, Senate also took the following action:

Reid Amendment No. 5678 (to Amendment No. 5677), of a perfecting nature, fell when Reid Motion to Concur in the amendment of the House of Representatives to the amendment of the Senate to the

bill with Reid Amendment No. 5677 was withdrawn. Page S10283

Appointments:

Commission on the Abolition of the Transatlantic Slave Trade: The Chair, on behalf of the Majority Leader, pursuant to Public Law 110–183, announced the appointment of the following individual as a member of the Commission on the Abolition of the Transatlantic Slave Trade: Rainier Spencer of Nevada. Page S10191

Nominations Received: Senate received the following nominations:

Jonathan R. Scharfen, of Virginia, to be Director of the United States Citizenship and Immigration Services, Department of Homeland Security.

Routine lists in the National Oceanic and Atmospheric Administration and the Public Health Service. Pages S10396–97

Messages from the House: Pages S10320–21

Executive Communications: Pages S10321–23

Statements on Introduced Bills/Resolutions: Pages S10324–39

Additional Statements: Pages S10307–20

Amendments Submitted: Pages S10339–88

Privileges of the Floor: Page S10388

Record Votes: Four record votes were taken today. (Total—213) Pages S10290, S10291, S10294

Recess: Senate convened at 10:00 a.m. and recessed at 9:56 p.m., until 10:00 a.m. on Thursday, October 2, 2008. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S10396.)

Committee Meetings

(Committees not listed did not meet)

No committee meetings were held.

House of Representatives

Chamber Action

The House was not in session today. The House is scheduled to meet at 12 p.m. on Thursday, October 2, 2008.

Committee Meetings

No committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1191)*

H.R. 1777, to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws. Signed on September 30, 2008. (Public Law 110–327)

H.R. 2608, to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud. Signed on September 30, 2008. (Public Law 110–328)

H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008. Signed on September 30, 2008. (Public Law 110–329)

H.R. 6984, to amend title 49, United States Code, to extend authorizations for the airport improvement program, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund. Signed on September 30, 2008. (Public Law 110–330)

S. 171, to designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, Oklahoma, as the ''Mickey Mantle Post Office Building''. Signed on September 30, 2008. (Public Law 110–331)

S. 2339, to designate the Department of Veterans Affairs clinic in Alpena, Michigan, as the ''Lieutenant Colonel Clement C. Van Wagoner Department of Veterans Affairs Clinic''. Signed on September 30, 2008. (Public Law 110–332)

S. 3241, to designate the facility of the United States Postal Service located at 1717 Orange Avenue in Fort Pierce, Florida, as the ''CeeCee Ross Lyles Post Office Building''. Signed on September 30, 2008. (Public Law 110–333)

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''. Signed on October 1, 2008. (Public Law 110–334)

COMMITTEE MEETINGS FOR THURSDAY, OCTOBER 2, 2008

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Résumé of Congressional Activity

SECOND SESSION OF THE ONE HUNDRED TENTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House. The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

DATA ON LEGISLATIVE ACTIVITY

January 3 through September 30, 2008

	Senate	*House*	*Total*
Days in session	150	112	..
Time in session	914 hrs., 56′	869 hrs., 43′	..
Congressional Record:			
Pages of proceedings	10,188	10,643	..
Extensions of Remarks	..	2,160	..
Public bills enacted into law	49	99	..
Private bills enacted into law	..	..	..
Bills in conference	4	5	..
Measures passed, total	521	978	1,499
Senate bills	97	90	..
House bills	155	421	..
Senate joint resolutions	4	4	..
House joint resolutions	3	3	..
Senate concurrent resolutions	22	5	..
House concurrent resolutions	33	92	..
Simple resolutions	207	363	..
Measures reported, total	*436	*389	825
Senate bills	283	4	..
House bills	125	281	..
Senate joint resolutions	3	1	..
House joint resolutions	1	..	..
Senate concurrent resolutions	2	..	..
House concurrent resolutions	2	5	..
Simple resolutions	20	98	..
Special reports	6	5	..
Conference reports	1	4	..
Measures pending on calendar	638	81	..
Measures introduced, total	1,468	3,108	4,576
Bills	1,128	2,309	..
Joint resolutions	18	25	..
Concurrent resolutions	40	163	..
Simple resolutions	282	611	..
Quorum calls	3	2	..
Yea-and-nay votes	209	460	..
Recorded votes	..	212	..
Bills vetoed	..	4	..
Vetoes overridden	3	3	..

*These figures include all measures reported, even if there was no accompanying report. A total of 261 written reports have been filed in the Senate, a total of 397 reports have been filed in the House.

DISPOSITION OF EXECUTIVE NOMINATIONS

January 3 through September 30, 2008

Civilian nominations, totaling 488 (including 180 nominations carried over from the First Session), disposed of as follows:	
Confirmed	210
Unconfirmed	238
Withdrawn	40
Civilian nominations, totaling 2,459 (including 8 nominations carried over from the First Session), disposed of as follows:	
Confirmed	1,084
Unconfirmed	1,375
Air Force nominations, totaling 5,917 (including 5 nominations carried over from the First Session), disposed of as follows:	
Confirmed	4,979
Unconfirmed	937
Withdrawn	1
Army nominations, totaling 5,667 (including 19 nominations carried over from the First Session), disposed of as follows:	
Confirmed	3,308
Unconfirmed	2,358
Withdrawn	1
Navy nominations, totaling 4,677 (including 3 nominations carried over from the First Session), disposed of as follows:	
Confirmed	2,417
Unconfirmed	2,259
Withdrawn	1
Marine Corps nominations, totaling 1,558 (including 1 nomination carried over from the First Session), disposed of as follows:	
Confirmed	1,557
Unconfirmed	1

Summary

Total nominations carried over from the First Session	216
Total nominations received this Session	20,550
Total confirmed	13,555
Total unconfirmed	7,168
Total withdrawn	43
Total returned to the White House	0

Next Meeting of the SENATE

10 a.m., Thursday, October 2

Senate Chamber

Program for Thursday: Senate will be in a period of morning business.

Next meeting of the HOUSE OF REPRESENTATIVES

12 p.m., Thursday, October 2

House Chamber

Program for Thursday: To be announced.

Congressional Record

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