United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, MONDAY, JANUARY 26, 2009 No. 15

Senate

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Almighty God, by whose Providence our forebears brought forth a nation, conceived in liberty and dedicated to equal justice for all, give the Members of this body that same spirit as they seek to make a better world. May this quest for justice motivate them to eliminate those things that obstruct the coming of Your kingdom. Lord, each day may they give primacy to prayer, seeking Your guidance as they strive to make decisions that honor You. Guide them by Your higher wisdom so that they will not give in to disappointment, doubt or despair.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB 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, January 26, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period for the transaction of morning business until 4 p.m. today. Senators will be permitted to speak for up to 10 minutes each.

At 4 p.m., the Senate will turn to executive session to consider the nomination of Timothy Geithner to be Secretary of the Treasury, with the time until 6 p.m. equally divided and controlled between the chair and ranking member of the Finance Committee, Senators BAUCUS and GRASSLEY, or their designees. At 6 p.m., the Senate will proceed to vote on the confirmation of the Geithner nomination.

Following executive session, the Senate will proceed to the consideration of H.R. 2, the Children's Health Insurance Program Reauthorization Act of 2009.

At approximately 12:30 p.m. tomorrow, KIRSTEN GILLIBRAND will take the oath of office and become a Senator from the State of New York.

CHILDREN'S HEALTH INSURANCE

Mr. REID. Mr. President, in the last Congress, the Senate passed an extension of the Children's Health Insurance Program with an overwhelming majority of 69 votes. In a Congress too often marred by partisan divide, this strong vote last session in favor of healthy children briefly stood as a bright example of the good that comes from Government—putting people ahead of politics.

Regrettably, President Bush chose to veto our bipartisan children's health legislation and because of a few too many loyal House Republicans in a narrowly divided House, that veto was upheld.

In Nevada, low-income families have been forced to put their children on waiting lists for future health coverage. In the year and a half since the veto, millions of children have been shut out of regular checkups, medicine, and hospital trips.

From coast to coast, more than 4 million children who would have been covered if our legislation had passed are not getting regular checkups or the care they need when they get sick.

Jeopardizing the health of American children is not a political victory for anyone. It is a loss for everyone, and it is long past time we corrected it.

This week, we have the chance, beginning tonight, to keep our promise to America's children by passing a new Children's Health Insurance Program. With the support of Democrats and Republicans in Congress and a new President in the White House poised to sign this bill into law, we can ensure that more low-income families can provide their children with the medical care they need to grow up strong and healthy.

Our legislation give States the resources and ability to insure an additional 4 million children. Our legislation covers the lowest income children first by giving States new tools to enroll uninsured children who qualify for Medicaid and rewarding States for successful enrollments in the Children's Health Insurance Program.

Our legislation doesn't just provide more children with health care but also improves the quality of care they receive.

In Nevada and across America, the number of uninsured children is rising. The Kaiser Family Foundation estimates that for every 1-point rise in our

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

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national unemployment rate, 700,000 more children join the ranks of the uninsured. In Nevada and across America, the number of uninsured is rising every day. The number of uninsured children is rising every day, which makes it seem so unbearable for America to have so many uninsured children. The number of children who are not getting checkups, medicine, and emergency care is rising every day.

This week, the Senate will engage in an open, fair, and lively debate on this critical legislation. There will surely be points where Republicans and Democrats disagree on specifics. Democrats would have written this legislation to cover more children, but we compromised to create a bill Republicans would support.

Republicans may raise points of concern during the debate, and Democrats will consider their differing views. But during this debate, we should remember that the overwhelming majority of Democrats and Republicans agree on the fundamentals of this legislation.

I look forward to a productive debate, and I look forward to President Obama signing into law an extension of the Children's Health Insurance Program that will allow children of Nevada and all 50 States to get the care they need and deserve.

RESERVATION OF LEADER OF TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a period for the transaction of morning business until 4 p.m., with Senators permitted to speak for up to 10 minutes each.

The Senator from Tennessee.

BIPARTISAN COOPERATION

Mr. ALEXANDER. Mr. President, on Friday, at the National Press Club, Senate Republican leader MITCH MCCONNELL delivered an important address that everyone concerned about the future of our country ought to read.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks Senator MCCONNELL's speech.

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

(See exhibit 1.)

Mr. ALEXANDER. Mr. President, Senator MCCONNELL congratulated the President for reminding many in Washington, including many Republicans, that the American people want their leaders to work together to solve problems, not to set traps. He suggested that among the issues on which we could cooperate are reducing the national debt, energy independence, and lowering taxes. Specifically, Senator MCCONNELL urged the President to follow up on his pledge to put the power of the Democratic majorities to work on entitlement spending, the automatic spending that threatens within just 9 years to consume nearly 70 percent of the Federal budget and to create a national debt that equals our Nation's annual gross domestic product. Already, each American's share of the national debt is $35,000.

In order to do that, Senator MCCONNELL said the President will have to reject the hyperpartisanship that exists in some quarters of Congress and engage Republicans on the merits of our ideas.

Senator MCCONNELL said that as Republican leader of the Senate, he would make this a firm principle of his dealings with the new administration, and he said that if the new President follows up on his promise to address entitlement spending, Democrats can expect more consideration from the Republicans than the last President received from them.

This is a major statement by an experienced Senate leader who has proven he knows how to stop bad legislation but is offering to go to work with the new President to shape and improve good and needed legislation, if the new majorities will meet Republicans on the merits of our ideas.

Some time ago, Senator MCCONNELL invited President Obama to come to the Senate and meet with Senate Republicans. And we all hope that soon he may do that.

The kind of cooperation Senator MCCONNELL talked about in his speech on Friday did not happen often in the last few years. It did on energy, it did on American competitiveness, to some degree on foreign intelligence issues. Earlier, it happened on education and some other issues. But when President Bush, for example, made reforming Social Security the major thrust of his second term, Democrats said no. Neither side moved off their position, and so deficit spending and our national debt kept going up.

If any subject over the last few years deserved cooperation, it was the war in Iraq. Senator Salazar and I assembled 17 Senators, 9 Democrats, and 8 Republicans, and there were 63 Members of the House almost evenly divided between the parties who sponsored a resolution to set as a goal for the country to end the war on the principles recommended by the Iraq Study Group.

President Bush would not support our legislation. The Democratic leaders refused to bring it to a vote. I remember telling both President Bush and Senator REID I believed we were the only ones who actually united them on Iraq. They were both against what we were trying to do. But if either President Bush had supported our resolution or if Senator REID had allowed it to come to a vote, I believe the resolution would have been enacted, sending a message to our troops, to our country, and to our enemy that we were united in bringing an honorable and successful end to that conflict.

Ironically, we are now headed in Iraq toward a conclusion that now seems to have the general support of both President Bush and President Obama, presided over by the same Secretary of Defense, who has served them both. That is approximately the same result that was recommended by the Iraq Study Group.

That is not just my opinion. Toward the end of last year I asked both Secretary Gates and Secretary Rice whether the path toward conclusion of the Iraq war that was agreed upon by the Iraqis and the United States and is now basically being recommended by President Obama, whether that was the path recommended by the Iraq Study Group, and each of them said yes.

There is a lesson here for the new administration. Technically, President Bush did not need Congress's approval to wage the war in Iraq. He is the Commander in Chief. But if he had won that congressional approval for the last 2 years of the war, that would have made the war easier, perhaps more successful, and certainly the Bush Presidency more successful.

Technically, President Obama, with large Democratic majorities in Congress, does not need Republicans to pass most legislation. ''We won the election; we will write the bill,'' said Speaker PELOSI. That is the way to pass many bills, but as President Bush found out, it is not the way to have a successful Presidency.

The President and the Democratic majorities on their own can pass many bills, and we Republicans, with 41 or 42 votes in the Senate, can block some things and slow down almost anything. But most of us Republicans agree with Senator MCCONNELL: That is not what we are here to do. And what President Obama said in his inaugural address is that is not the kind of Presidency he wishes to have.

The new President is off to a good start in his relationships with Republican Members of the Senate. Even the Senate Democratic majority is showing some encouraging signs of letting the Senate function as it is supposed to function, as a guardian against the tyranny of the majority, warned of by de Tocqueville, by allowing debates, by allowing amendments and rollcalls on major pieces of legislation. That is what we are here for; we are here to represent the men and women who live in our States on those issues.

Tomorrow morning, there is a bipartisan breakfast, the first one of this year. We had them during the last 2 years. At that breakfast, we will be discussing the resolution of Senator CONRAD and Senator GREGG to create a Bipartisan Task Force for Responsible Fiscal Action. In other words, to get serious about dealing with runaway entitlement spending. Already we have, I

believe, 26 Members of the Senate, almost evenly split among Democrats and Republicans, who have accepted to come to that breakfast tomorrow morning. That is an unusual number of Senators for such an event.

Republicans and Democrats will not always agree. We emphasize different principles. We have different solutions. We are here because we were nominated in partisan conventions or partisan elections. We are here to contend, we are here to debate, we are here to offer our ideas. But to get here, almost all of us had to earn Independent votes and some votes from the other party.

When we got here, we all took an oath to represent all our constituents.

What will make this Presidency and this Congress different is if after we conclude delivering our sermons to one another, we put aside the 20 percent on which we disagree, and see if we can come to some result on the 80 percent on which we agree, as Senator ENZI of Wyoming likes to say.

This will not happen if the majority takes the position: We won the election, we will write the bill; or if the Democratic leader seeks to muzzle our constituents by not allowing amendments and debates and votes on the Senate floor. It can happen, as the Republican leader, Senator MCCONNELL, said in his address on Friday, if we in the Senate act like grownups and have the courage to put aside hyperpartisanship and reject the advice of groups that protect narrow interests and find ways to work together to solve the real problems that are facing our country today.

EXHIBIT 1

[From the Office of Senator Mitch McConnell, Jan. 23, 2009]

MEETING CHALLENGES: A WAY FORWARD FOR CONGRESS

Remarks of U.S. Senate Republican Leader Mitch McConnell (as prepared for delivery) National Press Club, January 23, 2009.

''Thank you, Donna. I also want to thank John Donnelly of Congressional Quarterly for inviting me here today. I'm delighted to be here, and I'm honored to be joined by such a distinguished group of reporters.

''For more than a century, the National Press Club has served a vital national purpose as a forum for newsmakers and those who cover them. A free press is essential to our Democracy. And today I thought I'd come over here to look for some free press.

''This past Tuesday, millions of Americans who are old enough to remember past inaugurations were reminded of one of the great hallmarks of our republic, and millions of young people experienced for the first time the rejuvenating effect of the peaceful transfer of power. Of all our civic rituals, few elicit the same feelings of national pride at home or more admiration abroad.

''But the inauguration of President Obama was somehow different, and not only because we were moved at seeing an African American take the oath of office from the steps of a building built by slaves. This year's inauguration was different because this year's election was different.

''For the first time in awhile, America has a president who isn't viewed by most people as an overly polarizing figure. Americans are intrigued by President Obama's promise of post-partisanship. And this afternoon I'd like to share some of my thoughts on the possibility of a new era of cooperation.

''As others have noted, the President does not govern alone.

He can't sign a bill Congress hasn't already passed. He can't spend money Congress hasn't appropriated. If President Obama's promise of post-partisanship is to be realized, he'll first need some cooperation from Congress.

''And so, in the spirit of overcoming divisions, let me start out by saying that I agree with President Obama's assertion on Tuesday that many of today's problems are simply too great for us to pass over in the interest of protecting narrow interests. The normal constituencies must be widened.

''On issue after issue, members of both parties have too often fallen into the habit of asking narrow interest groups what they think should be done about something before thinking about what the average American thinks should be done.

''This is how a group like CodePink could end up having so much influence in a national debate about the conduct of a war. This is why a prominent labor leader thinks he can tell a reporter that he expects 'payback' from Democrats for the support he gave them during last year's elections. And this is how vulgar insults hurled from overcaffeinated activists can suddenly pass for legitimate political discourse.

''When these things happen, it's easy to see why cynicism about government persists.

''And it's easy to see why something needs to change.

''Both sides are guilty. Republicans need to reevaluate the way decisions are made in Washington, and so do Democrats. But one thing is clear: every decision cannot be made based on a political calculation—because the usual interest groups so seldom agree.

''President Obama seems to understand this. His campaign was based on the notion that ordinary Americans would have a seat at the table in his administration. And broadening the old constituencies is, as he has suggested, one sure way to uphold that pledge.

''Once we do this, there are many issues on which we can cooperate. President Obama mentioned several of them on the campaign trail: reducing the national debt, increasing energy independence, and lowering taxes. There are others.

But achieving any one of them will be impossible without cooperation between both parties in Congress and between Congress and the White House.

''Now, I realize that if you told most people Mitch McConnell was down at the National Press Club hoping for bipartisanship, they'd tell you that's like an insurance agent hoping for an earthquake. Most people don't exactly view me as the Mr. Rogers of the Senate. But, respectfully, I think reporters too often confuse being conservative with being partisan. And while my voting record clearly reflects my core values, it also reflects a long commitment to working with others.

''Senator Feinstein has been my closest collaborator in fighting human rights abuses in Burma. For years, I worked alongside Senator Dodd on the Senate Rules Committee, where we teamed up to pass the Help America Vote Act. And more recently, I took a lead role in brokering a bipartisan financial rescue plan just a few weeks before my own reelection bid in November.

''I fought for the rescue package because I thought the country needed it, even though my party could have done without it—and I ended up paying for my efforts. Soon after the deal was struck, one of the very people who had sat at the negotiating table with me ended up running ads against me on that very issue. He saw that it made me vulnerable back home, and tried to capitalize on it politically, which I certainly didn't expect. But these are the risks that politicians have to take from time to time in order to achieve something worthwhile. And it's a risk I was willing to take.

''There was, of course, a time when working on a bipartisan basis to achieve big things for the nation didn't mean exposing oneself to attack ads by one's own colleagues. For years, the Senate was a place where real friendships across party lines were common. One thinks of the breakfast meetings between Mike Mansfield and George Aiken; or Jim Eastland and Gaylord Nelson—men as far apart ideologically as you could find—spending time together after a long day's work. My Senate mentor, John Sherman Cooper, had a close relationship with President Kennedy.

''These friendships were always good for the Senate, and occasionally they paid major dividends for the whole country. One of the great examples of this in the modern era is the Social Security fix of 1983, brokered by Pat Moynihan and Bob Dole. And it's an example we could learn a lot from today.

''As Moynihan later recalled it, the genesis of that particular achievement came on the morning of January 3, 1983. Dole had published an op-ed piece in that day's edition of the 'New York Times' in which he said that Republicans were eager to accomplish big things in the coming year.

''He cited Social Security as a case in point, arguing that the looming insolvency of Social Security should overwhelm every other domestic priority. By accelerating already-scheduled taxes and reducing future benefit increases, Dole said, Social Security could be made solvent for decades.

''At some point later in the day, Moynihan approached Dole on the Senate floor. If Dole really thought Social Security could be saved, he said, why not try to do it together? Well, 13 days later, an agreement was reached, and the Social Security crisis had passed.

''Twenty years later, Bob Dole could say that he had been the longest serving Republican Leader in history and the Republican nominee for president of the United States. But when a reporter asked him what he considered his proudest accomplishments in a lifetime of public service, the first thing that came to mind was the Social Security fix of 1983. Dole explained it this way: 'Those things that are lasting are bipartisan. If you don't have a consensus, it's not going to last.'

''This kind of bipartisan consensus has been increasingly rare in recent years, and the nation has suffered as a result. We saw this four years ago, when President Bush, newly reelected and with expanded Republican majorities in Congress, had the courage to put Social Security reform on the agenda. When he asked for bipartisan help, not one Democrat in Congress stepped forward. Every single one of them turned his or her back, reflexively choosing politics over governing—and the nation lost out on an opportunity to fix a crucial program in desperate need of reform.

''Today, Democrats have substantial majorities in the Senate and the House. They control the White House. And now Democrats assume responsibility for a number of pressing problems—including the one they refused to face in 2005. The problem with entitlement spending has not gone away.

''On Social Security in particular, the situation is increasingly dire: in 1950, 16 workers paid for every one person who received Social Security benefits. Today, it's about 3 workers per beneficiary. And within 10 years

times, more money will be coming out of the Social Security fund than going in.

''Looking at entitlements in general, Social Security, Medicare, Medicaid, and other programs will soon consume about twice the percentage of the federal budget they did four decades ago. If we don't rein this spending in, soon we'll have only have a fraction left for things like defense, roads, bridges, and special ed. And this is not a problem that raising taxes will solve. In order to meet all our current entitlement promises, we'd have to extract $495,000 from every American household.

''The expansion of entitlement spending is a looming crisis that has been overlooked for too long. And with control of the White House and big majorities in Congress, Democrats now owe it to the American people to put their power to work on this vital issue. And here's my pledge: If they do so, they can expect more cooperation from Republicans than the last President received from them.

''President Obama has said he wants to tackle the entitlements crisis. But in order to succeed, he'll have to continue to reject the hyper partisanship that exists in some quarters of Congress. And he will have to engage Republicans on the merits of our ideas.

''The good news is that most people think ideas should be assessed on their merits, not on the senator or the president who proposes them. Our new President seems to think the same thing. And as Senate Republican Leader, I also pledge to make this is a firm principle in my dealings with the Obama Administration.

''President Obama's campaign reminded many in Washington, including many Republicans, of the aspirations that the Americans people have about their government.

People want their leaders to work together to solve problems, not to set traps. The challenge now is for both parties to cooperate, not just in word but in deed.

''In all this, politics will have its place. But at this moment, achieving big things for the country is where my ambitions lie. Voters from both parties think Washington is broken. And that's a shame. But if both parties have helped create this cynical view of government, then both parties will have to work to correct it. And we can start, once the current debate over the Stimulus is through, by working to reform Social Security and Medicare.

''In this and in other efforts, there will be disagreements. But they can be principled disagreements, and the result of principled disagreement is often principled cooperation. The result won't satisfy everyone. As Bob Dole said of the 1983 Social Security fix, 'No one got everything, and everyone got something.'

''But many of the domestic problems we face are simply too great to kick the can down the road any longer. We need to summon the courage to act on issues that are of grave concern to our nation's future. And the long-term sustainability of entitlements is one of them.

''As Republicans look for common ground in this and other areas where legislative progress can be made, some will no doubt accuse us of compromise. But those who do so will be confusing compromise with cooperation. And anyone who belittles cooperation resigns him or herself to a state of permanent legislative gridlock. And that is simply no longer acceptable to the American people.

''President Obama has shown himself to be a man of legislative ambition. He reaffirmed this on Tuesday when he called on the country to recognize collective failures, and when he called on politicians to step up to the unpleasant tasks and seek first the interests of the whole.

''Make no mistake: Some of our new President's proposals will be met with strong, principled resistance from me and from others. But many of his ambitions show real potential for bipartisan cooperation. And if we see sensible, bipartisan proposals, Republicans will choose bipartisan solutions over partisan failures every time.

''Thank you very much.''

Mr. ALEXANDER. 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. BUNNING. 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.

GEITHNER NOMINATION

Mr. BUNNING. Mr. President, I rise to speak in opposition to the nomination of Timothy Geithner to be Secretary of the Treasury. Of the many positions in the Federal Government about to be filled, the Treasury Secretary is among the most critical today. We are confronted by several financial panics and disasters, and one false move by the Secretary of the Treasury could result in years of stagnation and high unemployment.

Even before the disclosure of Mr. Geithner's tax problems, I had serious reservations about his nomination. Mr. Geithner has been involved in about every flawed bailout action of the previous administration. He was the frontline regulator in New York when all the so-called financial innovations that have recently brought our markets to their knees became widespread. He went along with all the flawed monetary policy decisions of Alan Greenspan and Ben Bernanke, and he stretched the law beyond recognition to bail out Bear Stearns and later AIG. All those actions, or failures to act, raise questions about the nominee's judgment, but his failure to pay his own Social Security and Medicare taxes, despite clear evidence he knew he owed the taxes, reflects negligence or worse toward the law he will be responsible for enforcing.

The financial crisis we are in the middle of today did not happen overnight and it could have been prevented. Easy monetary policy under former Federal Reserve Chairman Alan Greenspan provided the fuel for a speculative asset bubble that burst. Finally, it popped. Mr. Geithner helped Chairman Greenspan keep pouring that fuel on the fire from the day he got to the New York Fed.

More careful regulation by Mr. Greenspan, his successor Ben Bernanke, and other regulators could have better contained the damage from the bubble. Mr. Geithner sat at their side from 2003 until now. Yet he raised not one objection to their flawed regulations.

Even worse than supporting the flawed Greenspan and Bernanke policies, Mr. Geithner failed himself as a regulator. One of Mr. Geithner's most important jobs was to prevent the collapse of the largest and most important banks. One look at Citigroup today shows how he failed in that job. Although he talked about the great threat or the systemic risk, Mr. Geithner sat idly by as risk became more and more concentrated in the hands of a few large financial institutions and the pricing of risk became detached from reality. Trillions of dollars in savings held by Americans are being destroyed as a result.

When the crisis worsened last fall, Mr. Geithner helped craft the $700 billion bailout presented to Congress. The Geithner-Paulson-Bernanke plan, as sold to Congress, was to buy toxic assets to bail out their Wall Street buddies—no strings attached. But soon, Treasury changed course, choosing to take equity in banks—an option explicitly rejected before Congress. Sadly, Mr. Geithner went along with all these decisions.

Finally, we have learned that Mr. Geithner is comfortable with giving tax dollars away, but not so much with paying them himself. Documents show he repeatedly acknowledged his tax obligation and then ignored clear instructions to pay. I find Mr. Geithner's explanation that this was a careless mistake unconvincing and unsupported by the facts.

His failure to pay what he owed cost Social Security and Medicare more than $34,000, part of which would never have been repaid if Mr. Geithner was not nominated to be Secretary of the Treasury, a position which oversees tax enforcement. And he was able to convince the IRS to refund the penalties they initially charged. I hope Mr. Geithner will remember this experience when considering the tax issues of ordinary Americans.

This is all the more unfortunate because America needs a strong and credible Secretary of the Treasury now more than ever. The most recent Secretary treated Congress with borderline contempt and hostility. He was not forthcoming with information or explanations, only marching orders. I do believe Mr. Geithner understands the important role Congress has to play in our economic policies, and until his evasive and unsatisfactory answers about his tax problems, I thought he would at least do a better job than Secretary Paulson at working with Congress. When Mr. Geithner is indeed confirmed—and I know he will be by this body—I hope he will follow through on his promises to be a responsive and respectful Secretary of Treasury to Congress.

Mr. President, for all these reasons I have discussed, I cannot, in good conscience, support this nomination.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise today to comment on Mr. Geithner's nomination to be the Secretary of the U.S. Department of the Treasury. Although I became a member of the Senate Finance Committee only Thursday, I have spent considerable time reviewing the nomination documents and testimony of Mr. Geithner. I also brought to bear my expertise as an accountant and long-time member of the Senate Banking Committee to make a determination on Mr. Geithner's qualifications. After thoughtful deliberation, I voted against his nomination in the Senate Finance Committee. I continue to oppose his nomination today, and urge my colleagues to do the same.

The position of Secretary of the Treasury is one of the most important nominations this chamber considers. The Treasury executes the domestic and international economic policy of the United States; our trade policy, the purchase and sale of public debt, regulation of national banks, and of course our tax policy. All revenues of the Federal Government pass through the doors of the Treasury.

This position is even more meaningful when we consider the economic condition of the United States today. We are in the middle of a global financial crisis. The U.S. economy is slowing and Americans are losing their jobs, homes, and retirement savings at an alarming rate. The Secretary of the Treasury will be immediately tasked with turning our economy around. This challenge can only be met by the most capable and qualified candidate. Unfortunately, I do not believe that candidate is Mr. Geithner.

As chairman of the New York Federal Reserve, Mr. Geithner helped to orchestrate major bailouts for Bear Stearns, AIG, Citigroup, and others. These bailouts have cost American taxpayers billions of dollars. The AIG bailout alone cost $85 billion in September, 2008. Many of the actions taken by the New York Federal Reserve, under Geithner's leadership, were beyond the purview of the Emergency Economic Stabilization Act and taken without the explicit consent of Congress.

The money used in these bailouts was spent without transparency or accountability. They were also spent on corporate retreats and executive compensation instead of loans to thaw our frozen credit markets. Mr. Geithner's career at the New York Fed should be described more as a financier of Wall Street than as a steward of American monetary policy. I am apprehensive about supporting the nomination of someone who puts shareholder interests above the needs of hardworking taxpayers.

Mr. Geithner has also failed to provide specifics about his plans to use the remaining $350 billion in TARP funding. His testimony before the Senate Finance Committee last week displayed the same urgency and strong language as former Secretary Paulson's testimony before the Senate Banking Committee in September. Soon after, however, we saw that money spent in ways unaccountable to and unintended by the U.S. Senate and the American taxpayer. Measurable goals and clear direction are absolutely required if American taxpayers are to fully understand how and why their money is being spent to assist failing banks and companies. So far, Mr. Geithner has provided neither. I have not and will not support massive Government intervention to rescue private industry.

Finally, I believe Mr. Geithner's failure to pay $34,000 in Social Security and Medicare taxes is inexcusable. The Treasury Secretary is in charge of the Internal Revenue Service and the enforcement of our Nation's tax code. As one of my colleagues already noted, ''How do I explain to my constituents that I voted to confirm someone who will make them pay taxes, but sometimes does not pay his own taxes?'' This negligent behavior deserves more than a simple slap on the wrist or half-hearted apology before a Senate committee.

In previous years, nominees for positions that do not oversee tax reporting and collection have been forced to withdraw their nomination for more minor offenses. They have been ridden out of town on a verbal rail. They have been forced to withdraw. The fact that we are in a global economic crisis is not a reason to overlook these errors. It should be a reason to more closely scrutinize Mr. Geithner's record and his judgment.

The Treasury Secretary makes policy decisions every day that impact the global financial markets and put America on a new economic path. These decisions are often made without the explicit consent, or even knowledge, of those outside the administration. While the Senate cannot scrutinize and debate every decision the Secretary makes, it is our duty to ensure the President's nominee has the character and judgment necessary to perform these duties successfully. Mr. Geithner's past negligence casts doubt on his qualifications in this regard.

Some of my colleagues in the Senate have argued that, despite these concerns, President Obama should have his choice of economic counsel confirmed because he is the President. I respectfully disagree. We are charged with the advice and consent of nominees under the Constitution. Are we saying there is only one person in the whole world qualified to handle the situation as it is today? With the broad authority granted to the Treasury Secretary and the enormous challenge facing the new Secretary to right our country's economic ship, President Obama's choice impacts every American in a very personal way. The Senate would not be doing its duty if we simply confirmed this nominee without addressing these issues.

Many of my constituents are asking, ''Are you seriously considering putting someone who failed to pay their taxes in charge of the department which controls the IRS? You couldn't find anyone better?'' Yet that is exactly what we are doing. Many of your constituents are asking the same thing, but my voice seems to be one of the few of dissent. But that is not why we have a Senate. The Senate is not supposed to be a group of ''yes men'' rubber stamping everything the executive branch sends us. We are supposed to stand out, stand up and reason during the rush. We are supposed to think and then act based on understanding and knowledge. We are not doing so today.

Mr. President, I intend to vote against the nomination of Mr. Timothy Geithner as Secretary to the U.S. Department of the Treasury. The Senate needs more time to fully address the problems I have identified and debate Mr. Geithner's qualifications. I respectfully urge my colleagues to vote no.

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

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

The assistant legislative clerk called the roll.

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

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

SCHIP REAUTHORIZATION

Mr. KYL. Madam President, this week the Senate is considering the so-called SCHIP bill, the State Children's Health Insurance Program, which is what SCHIP stands for. It is a program that has been worthwhile to take care of kids who are from families of lower income and need help with their health insurance. Last year, we attempted to work in a bipartisan way to get a reauthorization of the so-called SCHIP bill. This year, however, the Democratic majority has decided to work it alone, to write a partisan bill without Republican input. In fact, every single one of the Republican amendments offered during the Finance Committee markup of this bill last week was defeated. There was one small amendment that was accepted; otherwise, they were all defeated.

It is my judgment that this is not the best way to start off the year—working together, bridging the partisan gap, all of the things President Obama talked about, trying to put the old politics behind us—if we are simply going to approach something this important on a partisan basis.

I rise to talk about four specific ways in which I hope we can come together and work in a more bipartisan way to improve the bill. It doesn't put low-income children first, and that should be the whole point of the SCHIP bill.

First, it expands SCHIP to higher income families—in fact, for two States and only two States, for families making $88,200 a year. That is not for the State of the Presiding Officer or for my State. That is only for New York State. People in New York State would be able to make $88,000 per year—actually, about $40,000 even above that—and qualify. So it is not about helping low-income children.

Second, it removes about 2.5 million people who are already in private insurance programs with their employer. It will result in their leaving the employer's health care coverage to come to a Government-sponsored program, something called the ''crowd out'' effect.

Third, it is actually not even paid for in the sense that we normally treat these authorization bills. We try to make sure that whatever new spending we provide is offset by some other spending. But there is a budget gimmick that is used to account for the spending in this bill.

Finally, for the first time it significantly expands the program to include not only citizens but legal immigrants, primarily green card holders. It eliminates most of the requirement for demonstrating eligibility for citizens, which would result in a lot of illegal immigrants getting coverage.

In these four important areas, we ought to work together and find a way to amend the bill before we end up voting on it, perhaps at the end of the week.

Let me first turn to the question of the budget gimmick. Sometimes you say how much something costs. In the Senate, our scoring always requires that we show a 5-year cost and a 10-year cost. That is a good thing to do. What they do in this bill is make it work, in effect, for about 4.5 years, then they slow the spending way down so that it doesn't look as if it is going to cost any more. The result would be that we would have to disenroll millions of children. Think about it. Are we being honest when we have a level of spending for 4.5 years and then it drops off a cliff to virtually nothing? Are we honest to say that is the 10-year cost of the bill when we know we would have to disenroll kids in order to make it work that way? No. The reality is, we are going to continue to keep the level of spending for the entire 10 years, and the bill, therefore, will cost about twice as much as we say it is going to cost. In fact, the Congressional Budget Office, which pays attention to these things, says the cost of the bill is going to be about $115.2 billion over 10 years, of which only $73.3 billion is offset. So the net result is a $41.6 billion deficit spending bill for fiscal years 2009 through 2019. That is the first problem.

The second problem is that the bill is not limited to low-income families. In fact, it is extended to quite high-income families. It permits States to cover children from families earning as much as $66,150 per year. That is 300 percent of poverty. That is well above SCHIP's original intent of 200 percent of poverty. Of course, the more you increase the income level, the more likely it is that you are going to crowd out people who already have insurance.

As I mentioned, there is even an exception for New Jersey and New York which would allow families in New Jersey earning approximately $77,175 per year to qualify, and in New York, $88,200 a year or 400 percent of poverty. Let me put this in perspective. In Arizona, the Arizona KIDS Program covers families earning $44,100 per year or 200 percent of poverty. That is low-income families. But under this bill, Arizona's hard-earned taxpayer funds will be sent to cover families who earn twice that much in New York State. That is not fair. It is not right.

To make matters worse, the committee acknowledged that States may intentionally disregard tens of thousands of dollars worth of income in order to make a child eligible. They could disregard, for example, $20,000 a year in housing expenses, $10,000 a year in transportation expenses, $10,000 a year for clothing expenses. The net result is that if Congress sets this level of $88,200 for New York and then allows $40,000 worth of income disregards, children could actually come from families earning nearly $130,000 and still be eligible for SCHIP. That does not comport with what either Senator Obama said he wanted or what most of us think would be fair.

Third, I talked about the crowd-out effect, especially by extending this to higher income families. We are going to replace a lot of private insurance with Government insurance. In fact, according to the Congressional Budget Office, about 2.5 million individuals will lose their private coverage under this bill.

It is interesting that last year we raised this problem. It was considered to be a serious problem. But my amendment to try to deal with that failed. Nevertheless, when the Democratic House leaders and Democratic Senate committee members got together, they wrote a provision to deal with the crowd-out, recognizing that it was a serious problem. They passed the bill. This was written in part by the chairman of the Finance Committee. That crowd-out provision, however, was dropped from this year's version of the bill. There is no crowd-out provision. So in the committee, I offered an amendment to insert their crowd-out language, the language drafted by the chairman of the committee, passed by the House and Senate last year. That amendment failed.

Well, maybe it is premature to deal with the problem of crowd-out. We know there is going to be crowd-out. The Congressional Budget Office says there will be, and the time to deal with it is before we adopt the legislation, not after.

Finally, let me close with the immigration-related section, section 214. This eliminates the current 5-year bar allowing Federal coverage of Medicaid or SCHIP coverage for legal immigrants. These are primarily green card holders. Not even the House bill goes this far. The Senate bill actually eliminates the requirement that sponsors of immigrants reimburse the Federal Government for immigrants' coverage. This would be for the first time since actually 1882—our Federal law dates back that far—with regard to immigration.

We are a nation of immigrants. We invite immigrants to come here. My grandparents are immigrants. We want to make sure that when they come here, they don't immediately become a public charge or go on welfare. That is why, starting as far back as 1882, we said: You need to take care of yourself when you come here and not ask the Government to do it or at least have your sponsor affirm that he or she will take care of you. That was affirmed in 1996 when we updated the legislation.

This mark would eliminate that requirement, so that from now on legal immigrants, primarily green card holders, would be able to avail terms of this coverage. It is about 300,000 individuals estimated at a 5-year cost of $1.3 billion. I don't have the CBO number for the 10-year cost. That number doesn't even begin to take into account people who are here illegally but who might actually make legal under some kind of immigration reform, if that were to happen. It is also estimated that about 100,000 of these 300,000 individuals would be crowded out from either private insurance or State insurance coverage. So we continue to have the crowd-out effect here.

The problematic section is section 211. This will likely increase the number of illegal immigrants and other ineligible individuals because it eliminates the current document verification to demonstrate that you are entitled to accept the benefits of the program. What this does is to say that all you have to do is provide a Social Security number. In my State, all of the illegal immigrants—virtually all of the illegal immigrants have Social Security numbers. In fact, they have a lot of Social Security numbers sometimes, most of which are probably not valid, some of which, however, are valid. So even if they are checked through the system, which this bill does not require, you would catch them. All you have to do is to say: Here is a Social Security number. Now let me avail myself of the benefits. That is the whole point of the immigration reform legislation. That Social Security number proves nothing with regard to eligibility. That would be substituted for the requirements already in the bill.

Are the requirements already in the bill onerous? I think not. There are four different levels of documentation you can provide. The last document, tier 4, is when you can't do any of the other things, you can simply have two

individuals affirm your citizenship. You can do this by mail. You don't even have to show up in person. So it is not as if we have onerous requirements today to participate in the program.

Even with the very generous provisions we have, it is my understanding from a GAO study in 2007 that we think most of the people who are eligible are signing up and we are not getting a lot of ineligible people signing up. In other words, people are not gaming the system, and that is a good thing. But why make it easier to game the system, especially to play into the hands of those who are here illegally, who use a Social Security number for work purposes and now could use it for this purpose, signing up for SCHIP.

We will have amendments that deal with each of these subjects. The bottom line is, we should get back to dealing with this subject in a way in which both Democrats and Republicans can have input into the bill and actually solve some of the problems. I know some of my Democratic colleagues were interested in this eligibility issue because they don't want a lot of people getting benefits who aren't entitled. It will only hurt those who are entitled. We need to have strong eligibility requirements.

We don't want to begin to expand this program to people who are not citizens of the United States and who have a contract with the United States when they come here as our guests, either on a temporary basis or on a green card. They understand their obligations when they come here. One of their responsibilities is not to begin to receive benefits of this kind from the taxpaying American citizen.

For these four reasons, I hope that when this legislation comes before us, we are able to not only amend the bill, work to amend the bill, but will actually have amendments adopted and that we can improve the legislation so that we can all be proud to support it at the end of the day. If not, an awful lot of Republicans, including myself, will not be able to support the legislation.

The PRESIDING OFFICER. The Senator from Florida is recognized.

GEITHNER NOMINATION

Mr. NELSON of Florida. Madam President, we all know because of what we have seen in our various States that our people are hurting; they are losing their homes; they are losing their jobs; they are falling behind in their mortgages; They are losing their businesses; and they are losing their life savings.

Now, we clearly have the mandate that, if it is humanly possible, we need to turn this economy around. So the people of this country are expecting to see us take some real action—real action—on trying to turn this economy around. We, in this position, representing our States, are very privileged to have the public's trust and the responsibility that comes with that trust. Part of that responsibility means when there is a problem, we have to shine light on the problem and find out what it is.

Take, for example, what we have seen recently on the Wall Street greed, when you have a former Merrill Lynch executive spending almost a million and a half dollars on his office renovations while his company was forcing layoffs as well as having huge losses and while the company that was acquired—his company—was asking for billions of dollars, and receiving it, from the public moneys. Well, there is obviously a problem.

A number of us have filed legislation that is going to try to get at this issue. Even with this being put in the law, a new law saying none of this bailout money can be used for office renovations and political contributions or to go off on all these extravagant conferences or for corporate aircraft or for entertainment and holiday parties or for executive bonuses—all of these things that have come forth when the light of day is shone on them, having so enraged our people and our constituents—well, even if we get this into the law—and I hope we will be able to pass this legislation a number of us have filed—it is still going to take the administration riding herd on this issue every day, and that means primarily the Secretary of the Treasury.

We are going to be voting on the confirmation of the Secretary of the Treasury at 6 o'clock today. It is this Senator's intention to vote for Timothy Geithner. But what is it going to take to get Wall Street's attention and to restore the American family's quality of life? It is going to take real accountability. That means the next Secretary of the Treasury is going to have to ride herd and, when he appoints an accountability board, to make sure that board is meeting—like the last Secretary of the Treasury did not. They did not meet once to see how that first tranche of $350 billion of the bailout money was being spent—not once.

So I come from the sunshine State. We believe in letting the sun shine in. This means not getting ahead of ourselves when Wall Street comes crying that one of their unregulated financial schemes threatens to destroy our way of life, and then turns around and throws some party on some Caribbean island. It means putting in place regulations with the right carrots and sticks so we are not gambling with our country's future.

So as we are about to confirm the next Secretary of the Treasury, there is not a more important mandate than for him to crack the whip and make sure this Federal money, this public money, this taxpayer money, is being spent as it was intended, and holding people accountable, and reporting the results. If we do not get the accountability and the transparency, if we do not get what we expect from the banks that willingly accept this money, then we should demand the public's money back.

I have spoken personally to the nominee, and he has said—and I want to quote him—''I completely get it.'' So I am assuming he is going to be confirmed today. I will vote for him. I expect swift action to back up these words. The American people expect swift action by all of us to bring Wall Street and this economy back in line. We do not have any time to waste. There is simply too much at stake.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

ISSUES FACING AMERICA

Mr. DURBIN. Madam President, this is the first full week of our new administration, and many of us sense things have changed for the better, and we are hopeful. We can't assume anything because there is a lot of hard work ahead, and we are going to have to try everything we can to resolve some of the major issues that face our country that we can address in the Senate.

We were successful last week, in passing with 61 votes—bipartisan rollcall—the Lilly Ledbetter legislation. This was a bill which tried to cure a problem created by a Supreme Court decision that was questioned about whether women should be entitled to equal pay for equal work. Lilly Ledbetter, after 15 or 16 years working at a tire company in Alabama, discovered that within her job classification men were being paid more than she as a woman. She did not discover this until she was about to retire. So she filed a lawsuit and the Supreme Court across the street reached a conclusion which no other court had reached and said Ms. Ledbetter could not recover because she didn't report the first discriminatory paycheck paid to her in—I think it was 180 days. Her answer, which most people who work in the private sector would say, is, How am I supposed to know what the fellow next to me is getting in his paycheck? They don't publish these things. So when she did discover it and filed it, they said she was too late.

So we changed the law so, if there is discrimination, a person will have their day in court. They will have a fair hearing. The reasonable attempts to discover the information are enough. The Supreme Court standard was unreasonable. So that is the first thing we will pass, sending that to our new President, President Obama. It is a bill which we considered before under

President Bush but did not have the votes to pass before. So now a bipartisan group is sending it to the President.

This week we are on a new issue, and the new issue is another matter that has come before us in previous Congresses and is returning. It is the Children's Health Insurance Program. This was a program that was started back in 1997 under President Clinton and a Republican Congress. The object was a good one.

We know across America there are some 15 million children who are uninsured, and we need to find a way to bring them insurance. If these children are in the poorest families in America, we take care of them. The Medicaid Program for the poorest kids in America provides for these children. However, if they are not among the poorest and their parents are not lucky enough to have health insurance, they fall right in the middle.

Here are kids whose parents get up and go to work every day where the work does not provide health insurance. So we said to the States: We will give you a special deal because we think it is important for America to provide health insurance for as many kids as possible. What we will do is give you more Federal funds than usual as an incentive to bring these kids in, get them insured.

The States got involved, and it has been a success. More and more kids have been brought into the program. In my State of Illinois, about 65 percent of the cost is paid by the Federal Government, 35 percent by the State. So whenever a Governor comes up with an idea to bring more kids in, that Governor knows he has to put the money on the table, at least 35 percent of the cost, to bring in more kids.

Unfortunately, the program was expiring and many of the kids had not been reached. Currently, we have 9 million children under the age of 18 who are uninsured and 6 million of them are eligible for CHIP and a combination with Medicaid. We wanted to try to bring up this number. It costs money because we are putting Federal money into it. So we said: What is a reasonable way to pay for it? It happens to be a way I voted for consistently and that is raising the tax on tobacco products.

Some people may see this a little differently, but, by and large, I know, and our life experience proves, that when the cost of tobacco products goes up, fewer kids will buy them. If we can stop a kid from starting to smoke before the age of 18, there is a better than 50–50 chance they never will smoke. Expensive products with the taxes that are imposed discourage kids from buying them and provide the revenue for this program. So the 61-cent new Federal tax was going to be used to provide health insurance for kids.

I think it is a fair tradeoff. I will vote for that proposal. I have voted for it. We passed the bill twice and sent it to President Bush. He vetoed it both times. So now it is coming back.

We are going to consider this bill in this week's debate. I have had reports about my Republican colleagues who have come to the floor critical of this bill. It is their right to oppose it. I have opposed bills they supported in the past. That is what the Senate is all about. But I would like to address each of the arguments they are making.

First, there is no doubt in my mind this is important. How important is it for a parent to know their kids have access to a doctor? I think it is one of the most important things. If you have ever had a sick child, particularly one who needed care, it breaks your heart to know you cannot take them to the best doctor or hospital, maybe not to any doctor or hospital.

We all know that if you can reach a child with a problem such as asthma at an early age and start treating the child, it is less likely that child will have serious problems later on.

Most of us understand intuitively that providing health insurance for kids is not only compassionate, it is the smart thing to do. Those kids are more likely to be healthy. They are more likely to go to school and not be absentees. They are more likely to grow up to be healthy adults. That is a pretty good outcome for this country.

The opposite is true as well. Without health care, these kids may have little problems that grow into big problems. They will start missing school, and they may become chronically ill at a point where they become extremely expensive, not to mention compromising their quality of life.

So here we are trying to expand the Children's Health Insurance Program, and the argument on the other side is we should not do it, at least not the way we have proposed.

I think it is priority. I am glad President Obama has asked us to send him this bill as quickly as we can. I want to get these kids covered. The sooner we do, the better for them and their families and the better for our country.

We know when this policy was instituted 10 years ago, more and more kids received the basic care that people want them to receive.

There are some other considerations too. Here is how we define ''eligibility.'' We say that if you are no higher than 200 percent of what we call the poverty income, then your kids are eligible. What does that mean? It is about $42,000 a year in income. Then we say to the States: If you want to expand that to a higher level, up to 300 percent, a family income of $63,000—each State has that option, but if you expand it, you have to put State money on the table. You do not get this free.

Some of the Republicans and columnist George Will have argued we are being too generous, that we are providing health insurance to families who ought to be able to pay for it themselves. I disagree, and I think some people making this argument are out of touch with what these families face.

Imagine if you are a family making $42,000 a year, and by way of speculation, most people pay about 40 percent of their gross pay in FICA and taxes. So you are likely to see about $26,000 a year in take-home pay out of $42,000—maybe a little bit more but $26,000. That comes out to a little more than $2,000 a month to live on for everything—for your mortgage or rent, your utilities, putting gas in the car, automobile insurance, food, clothing—the list goes on. A little more than $2,000 a month.

I have a niece who is a part-time worker. She works here and there where she can. She is a mother whose child is now an adult. I asked her recently: Paula, what do you pay? What would you pay for health insurance?

She said: It is $400 a month. That is what they quote me. She said: I can't pay that. And I understand why she cannot pay it.

If we use that as a hypothetical figure, $400 a month, out of a take-home pay of $2,000 or $2,200 a month, that is a big piece of the paycheck. So to help these people with children's health insurance, at least to cover their kids, is not unreasonable. It is not like we are giving a subsidy to rich people.

Elizabeth Warren is a Harvard professor of law whom I respect. She may be one of the best speakers for consumers, particularly middle-income consumers, across America. She took a look at people making about $49,000 a year, smack dab in the middle of the middle class, and what happened to them over the last 8 years. What she found was their income did not keep pace with the cost of inflation. We know that is true. People were not getting paycheck increases to keep up with the cost of living.

She calculated that between 2000 and 2007, these people lost about $1,100 because the cost of living went up and their paychecks did not go up. Food costs were up $205; telephone bills $142; appliance costs, gas bills—the list goes on and on, including mortgage payments, gasoline, and childcare costs.

It turned out those people smack dab in the middle of the middle class, making what middle-income families made at $49,000 a year, had actually fallen behind over 7 years by $5,000.

The point I am getting to is this: I think it is hard for us as Members of the Senate who get paid pretty nicely, I might add, and have some benefits to go with it, to stand here and say, if you have $42,000 coming in, even if you have $63,000 gross pay coming in, you don't need any help in paying for health insurance. That is not true. I don't think it is accurate.

This program should be in a position where it can look at families and say: We will give you a helping hand to make sure your kids are covered. That is reasonable.

So as to needing the program, we certainly need it with 9 million uninsured kids under the age of 18. Whom it should reach: Certainly people making $42,000 a year gross income are not wealthy or not well off, even up to

$63,000, 300 percent of poverty. It is hard to imagine they have so much money that they couldn't use a helping hand with health insurance.

The final point that is made is a tougher one, and it is one we are going to be debating this week. Here is what it comes down to: Should we cover the children of people who are in the United States legally but not citizens for the first 5 years they are here? We have had this debate back and forth for 10 or 12 years. We have decided from time to time to extend food stamps to these people legally here but not citizens. The question is: Should their children receive health insurance coverage if they are legally in the United States?

There will be some who will argue: No, don't do it. I am not one of those people. I honestly believe America is not better off with sick children. I do not believe we should be naive enough to think a sick child, who happens to be an American citizen sitting in the classroom with your own child, is not going to spread the germs, is not going to have problems that could reach other kids. I guess this betrays my own personal values. I would much rather see these kids healthy and given a chance. Yes, it is going to add some costs, but they are legally here. We are not talking about undocumented people. They are legally here, and they are in the status of on the way to citizenship or at least temporarily legal in the United States.

That is an issue we will debate. This law does not require them to be covered. Each Governor has to decide. It is the State's decision. If the States don't want to cover them, that is their decision.

These folks are likely to become tomorrow's citizens. Census data shows most immigrants who enter the United States when they are children become U.S. citizens. These are the children who will grow up to be the adults we need to be in our workforce and to be productive citizens, people who will make contributions to the U.S. economy, pay their taxes, start businesses, serve in the military, and participate in America's civic life.

There are 18,000 legal immigrant children in my home State of Illinois. These are future adults who will go to school, make a career, and create families. How can we continue to support a policy that says to our future American citizens: You have to wait 5 years to see a doctor, to get your immunizations, to feel better. No child should have to wait 5 years for health care. Five years can be a lifetime to a little boy or girl.

In the 5-year waiting period, we may miss an opportunity to diagnose and treat asthma, autism, hearing impairments, or vision problems. These are conditions that may have lifelong consequences for a child's health, educational attainment, and well-being.

Our country is better than that. We will debate these amendments, as we should. That is what the Senate is about: deliberation, votes, and resolution of issues. Then I believe we will send this Children's Health Insurance Program to President Obama. Despite the two vetoes by President Bush, we are going to extend this program because our vision of America was articulated by President Obama at the beginning of his campaign. He used to talk—in fact, he spoke this way when he was a Senator from Illinois and even a candidate for the senate in Illinois—that the misfortune of a child in East St. Louis had an impact on his life in Chicago; the misfortune and lack of education of a child on the south side of Chicago affects people living in better-off suburbs.

Bottom line, in a few words, we are in this together. If we improve the quality of life for our children, give them a fighting chance to be healthy and well educated, to become participants in America, we will be a better nation. To turn our back on them, to shun and push aside millions of kids, for whatever reason, is not good for our country in the long run. It is not the value system we are all about.

We provide foreign aid, and I support that, to countries around the world to help kids who may never set foot in the United States. We do it because we are caring people. Shouldn't our care be extended first to our own children to make sure they have basic health insurance?

I am looking forward to this debate. I hope it is the beginning of a good debate and a good outcome and that this bill will be sent to President Obama, who will have a chance to sign it into law to give these kids a fighting chance for decent health care.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF TIMOTHY F. GEITHNER TO BE SECRETARY OF TREASURY

The PRESIDING OFFICER. Under the previous order, the Senate shall proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read as follows:

Department of Treasury, Timothy F. Geithner, of New York, to be Secretary of the Treasury.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I rise today to express my support for the confirmation of Timothy Geithner as President Obama's choice as Secretary of the Treasury. I am aware this nominee is not free of controversy. My office has received many calls from Utahns who are concerned about Mr. Geithner's admitted errors in initially failing to report and pay his own self-employment tax. Many of them brought up the valid point that the Secretary of the Treasury, the person who is ultimately in charge of collecting taxes from all Americans and who oversees the Internal Revenue Service, should be beyond reproach in his own tax filings. Many of our colleagues on both sides of the aisle are also uneasy about this problem. I understand and I share this concern.

The Senate has a solemn responsibility in confirming key officials in the executive branch, and the Treasury Secretary is among the very most important roles in the administration, both historically and particularly at this critical time. My guiding principle for approving the President's nominees has always been that the President, as chief executive of the Nation, should be entitled to the person he or she chooses, and that the Senate has an obligation to confirm those choices except in cases where it is obvious the nominee is either incompetent, corrupt, or unethical. While not all my colleagues share this view, I believe it is the correct one, and that it helps us stay above the petty partisanship that sometimes enters into these nomination processes and harms the effectiveness of our Government.

Upon careful examination of this nominee, it is obvious that Timothy Geithner is neither incompetent nor corrupt, and certainly not unethical, and that he should be confirmed as Secretary of the Treasury. I have reached this decision after weighing the facts of his tax situation with his impressive education, experience, and intelligence, and keeping in mind the desperate financial crisis currently facing this country.

In announcing this conclusion, I believe I owe it to the people of Utah to explain that I view Timothy Geithner's tax issue as a very serious matter. He is the top tax officer in the United States of America and, I might add, next to the President himself, is the person who bears the ultimate responsibility for collecting the revenue this Nation needs in order to operate. As such, the Treasury Secretary must be an example to all Americans in tax and financial issues, and any shortcomings in this area can be an impediment to effective tax compliance. The fact Mr. Geithner has had this issue arise, and that he admitted committing serious oversights on several of his tax returns, is indeed regrettable. It has marred an otherwise singularly outstanding nominee's record and has

given pause to some in the Senate about his fitness to serve.

At the same time, it is important to note that people make mistakes and commit oversights. Even the most intelligent and gifted—two adjectives that certainly apply to Mr. Geithner—make errors in their financial dealings. For his part, Mr. Geithner has corrected the problems by filing amended returns and paying the taxes due, with interest. I recognize he did not come forward and pay the taxes for the earlier 2 years which were not covered by the audit until shortly before his nomination was announced. This is true even though he was credited for those taxes by the International Monetary Fund, and I wish this were otherwise. But the nominee has stated that he wishes he had acted differently as well.

Mr. Geithner has admitted his errors and expressed regret for them. I believe he is sincere. I have had a number of meetings with him and I am convinced he is sincere, and that he was when he testified that these omissions were mistakes and were not intentional. I think anyone who would talk to him personally and go through this with him would come to the same conclusion. While these mistakes have, to some degree, cast a shadow on Mr. Geithner's selection, it is important that they not be allowed to overshadow his impressive credentials and the very real expertise he will bring to this job—an expertise that is sorely needed at the present time. And that is acknowledging that Mr. Paulson, our current Secretary of the Treasury, has tried to do a very good job, and has done a very good job under the very pressing conditions he has faced.

Let there be no mistake, Mr. Geithner is not merely acceptable for the job, he is highly qualified. Indeed, his portfolio, knowledge, and skills make him uniquely qualified to serve and are sorely needed by this Nation as we face the current economic crisis. He is intimately familiar with all arms of U.S. policymaking.

For instance, he is no stranger to the Treasury Department, where he served in significant positions for 8 years. That means he knows the agency, the personnel, and the tasks that will face him when he is confirmed. It means he can hit the ground running on day one and has the know-how to get the economy moving again, although that is going to be a monumental job even for Mr. Geithner.

Moreover, Mr. Geithner has already been a major player in addressing the Nation's response to the economic situation. As head of the New York Federal Reserve—actually president of the New York Federal Reserve—he has worked closely with Secretary Paulson and Federal Reserve Chairman Ben Bernanke in crafting the Government's response to the financial crisis. He knows firsthand what has worked and what has not, and is therefore best equipped to apply the remedies that will be most successful. He knows the issues and he knows the landscape and the tools available to address these problems.

Have our actions to date in responding to this economic calamity been perfect? Almost certainly not. Have mistakes been made? Yes, they undoubtedly have. Unfortunately, it is too early to assess with complete accuracy the effectiveness of our response to this complex and unprecedented situation. However, the fact that Mr. Geithner recognizes mistakes have occurred makes him more valuable, in my view, in the continuing effort to right our economic ship. I would rather have at the helm a battle-hardened veteran who knows the shoals and whirlpools than a neophyte who has to wade into these churning waters for the first time. It is imperative to the Nation to have a Treasury Secretary who won't sink or merely tread water but will swim. In my estimation, Mr. Geithner is that man.

Because of his experience at the Treasury and the Federal Reserve, and the fact that he has been working arm in arm with Secretary Paulson and Chairman Bernanke, Timothy Geithner is more aware of the complexities of the issues facing us than probably anyone else the President might have chosen. Moreover, he knows the financial markets and the counterpart officials to the Treasury Secretary around the world. That is evident from his experience in the Clinton administration as Under Secretary for International Affairs and the critical role he played in devising the successful United States response to the Asian financial crisis—not an easy thing to handle, and he did it amazingly well.

I am comfortable that despite the blemishes of his tax problem, Mr. Geithner should be confirmed to this vital position. The fact that this is an unprecedented and dangerous time makes it all the more imperative that we vote quickly on this nomination. I do not believe we have the luxury of leaving this position unfilled even another day. Rejecting this nominee would lead to a delay of weeks in getting our new executive branch economic team focused on the problems at hand. Such a delay could be hazardous to a timely turnaround to the financial and economic crisis. Moreover, rejection of Mr. Geithner brings about the very real risk that the next person the President might nominate could be less effective for the job, even if he or she had a spotless tax compliance record.

I might add for my fellow conservatives out there, who are very upset about this—some up in arms about it—you are not going to get a better person for this job than Mr. Geithner, and you better be darned happy that the President has been willing to go to somebody who is a lot less ideological than any of us ever expected in this very important position. It is one thing to raise the issues. It is one thing to decide to vote against him. It is another thing to not acknowledge that this is a man who could really help this country at this time.

Moreover, Mr. Geithner will not approach the job of Treasury Secretary from an ideological or partisan perspective. At least that is what he has told me, and I believe he is a man of honor. A less experienced and perhaps more partisan and ideological nominee could prove divisive here in the Senate, thus leading to even more delay, and, if confirmed, that person could find himself or herself engulfed in a maelstrom without the experience from which to navigate. Timothy Geithner, I am convinced, will steer clear of partisanship. I believe he will chart a course for bipartisan cooperation rather than embark on leftwing solutions that would divide the Congress and endanger our beautiful and wonderful country.

As I conclude my remarks, I feel constrained to point out what I see is a double standard, illustrated in this nomination. Having lived through the last 8 years with President Bush, I do not think there is any question that if this had been a Republican nominee with these same problems, many in the media and some on the left of this body would have reacted with such an outcry to the tax compliance issue that the President would have had no choice other than to withdraw the nomination. A Republican nominee in Mr. Geithner's position would not have even gotten a committee vote. We all have seen that. Time after time, some of the most qualified people were rejected, were not even given a chance. I do not believe that was the right thing done then, and I do not think it is the right thing now. I do think people in a principled fashion can vote one way or the other on Mr. Geithner, but I hope for the sake of our country they will vote to support him.

I believe that if Timothy Geithner is confirmed, it will largely be due to the fact that many on my side were willing to put partisanship to the side for the sake of what is best for the country at this time.

Looking forward, I see a real need for continued cooperation on a bipartisan basis. The current financial downturn affects all of us—everybody in America. I hope all Americans and their elected representatives can continue to put politics aside in our pursuit to find the best policies to help us out of this quagmire.

I expect we will be working closely with Timothy Geithner if he is confirmed today, as I expect he will be. Our expectations of him are very high. A less qualified or talented person might not have expected to survive this confirmation process. Even an equally gifted veteran might not have made it through a less turbulent and risky time.

Mr. Geithner, I just have to tell you, as you resume work on solving our thorniest financial problems, we send with you our best wishes even as we recall your pledge to give it your all because we are going to need everything you have.

Madam President, I reserve the remainder of my time.

I ask unanimous consent that a quorum call be entered and that all quorum calls during this debate on Mr. Geithner be equally charged to both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CHAMBLISS. Madam President, I rise today to speak on President Obama's nomination of Timothy Geithner to serve in his Cabinet as Secretary of the Treasury. Over the weeks since Mr. Geithner has been nominated, I followed closely the information regarding his background reviewed and discussed by members of the Senate Finance Committee. Additionally, I have been hearing from Georgians who are seriously concerned with the failure of Mr. Geithner to properly pay his taxes.

In this time—a time of such economic volatility and severe fiscal challenges the likes of which we, as a nation, have not seen in decades—there is no more important official or role in our Government other than the President himself and the Secretary of the Treasury. Furthermore, while facing these challenges, something our economy needs now is confidence in our leaders and in Government.

With the critical nature of the job, with the authority over the Internal Revenue Service, payment of necessary taxes in the required time parameters is essential.

I have listened to some of my colleagues who have indicated that but for these extraordinary economic times, they would find Mr. Geithner's mistakes disqualifying of his nomination. I believe extraordinary times call for extraordinary leaders, leaders who inspire and hold the confidence of the American people, a Secretary who must set the highest standard for the employees of the Department of Treasury and the Internal Revenue Service. For example, taken to its logical conclusion, taxpayers must know that the Internal Revenue agent with whom they are meeting has paid his or her appropriate taxes and that the agent's, ultimately, departmental superior, the Secretary, has paid his taxes fully and on time.

A week ago today, last Monday, I was coming through the Atlanta airport, and a gentleman walked up to me and introduced himself.

He said: I am a retired Internal Revenue Service employee who was going to send you an e-mail today, and you saved me from having to send you that e-mail. During my tenure at the Internal Revenue Service, I was called upon to fire three separate people who committed exactly the same offense as Mr. Geithner committed.

This is not a criminal offense, but there are certain standards that must be adhered to. I know Mr. Geithner is extremely qualified. He is bright. I don't know what kind of replacement the President may come up with in lieu of Mr. Geithner. But at this point in our history, at this point as we change administrations and the people are looking to Washington for some clear and distinct evidence that things are going to be different, here we are making an exception to the rule. I simply think it is not the time to make that exception.

Last, I would say that this weekend I spent part of my time filling out IRS documents relative to an employee on whom I have paid taxes for years and years. Every year at this time, I fill out a schedule H, and I also fill out a W–2 form for that employee. I pay the taxes on that employee. I am getting ready to pay them as soon as I file my tax return, exactly as I have done for decades. That is the law. That is what we are required to do.

When we ask the people in this country to write that check on April 15 every year, a lot of them do not like to do it, but they do it. We need for them to know that the leadership at the Department of Treasury is called upon and does act exactly the way they have to act.

Needless to say, it is troubling to me that only after Mr. Geithner was nominated to this post did he realize his failure to pay his taxes while employed at the International Monetary Fund.

I, therefore, am standing here today to say that I am going to vote against this confirmation. Whether he is confirmed or not, I hope the President looks very closely at future nominees whom he sends to the Senate and insists that all of the individuals who are nominated comply with appropriate laws that they know exist.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, let me join my colleague from Georgia for some of the same reasons and for some reasons he did not mention. I declared some time ago that I would oppose the confirmation of Timothy Geithner for the position of Secretary of the Treasury.

First, I do not believe Mr. Geithner has been remotely candid about his tax issues. I think he has been less than forthcoming about all of the facts. For example, Mr. Geithner accepted compensation from his employer to offset taxes when he had never paid those taxes to begin with. And, having been informed about his oversight from the tax years 2003 and 2004, he never bothered to check for 2001 or 2002.

Now, I can tell you I am sure he did check, but he is denying he did. I can tell you for the people in Oklahoma and across the country, very much like the people in Atlanta who were referred to by the Senator from Georgia, that small businesses or an individual who made an honest mistake on their taxes have found their Government's treatment of them slightly more aggressive than they have seen in their treatment of Mr. Geithner, a man about to lead the IRS.

It is one of those things that makes people so angry about their Government. The man who wants to be in charge of the IRS messed up with his taxes and got a pass from the Senate. Now, for as much as we talk about leveling the playing field, it sure looks as if we do not walk the walk.

I was very proud of one of our Senators in the hearing; that is, JOHN KYL. He spent a long time—he tried; I counted about 20 different ways. He was trying to ask the same question to get an answer. He never got an answer. But he did everything he could.

I emphasize my objection to Timothy Geithner's nomination to head the Treasury Department is not just about what we have been talking about—his tax problems and the tax issues. The matter which compels my coming to the floor is far more serious in my mind.

I want Senators to realize what a vote for Mr. Geithner really is. It is ratifying aggressive Federal Government intervention in the economy. It is the flippant use of billions of U.S. taxpayer dollars to prop up favored institutions and to pick winners and losers in the marketplace.

This has created a great uncertainty in the market, which is precisely what we do not want right now. I do not criticize anyone who voted in favor of the $700 billion bailout. I looked at it. I saw we were giving the largest amount of money ever—you could use the word ''authorized''—to one person, and that person being an unelected bureaucrat. There was no oversight responsibility from the Senate.

We were all criticizing Paulson. I criticized Paulson, the Secretary of the Treasury. But Geithner was there putting this thing together at the same time. Let me say not all Federal intervention during a financial crisis is created equal. The FDIC did a good job managing the biggest bank failure in U.S. history while we in Congress were all debating TARP.

What I object to is the midnight rescue packages, the ad hoc approach. I object to the ''say one thing and do another thing'' type of programs. I object to the complete lack of any policy framework, explanation of principles or coherent approach. I object to the absolute lack of any transparency whatsoever. I object to the indifference to the taxpayers' interests. Put very simply, I object to the bailout mania we have all witnessed.

I can remember when we did this matter, the $700 billion bailout. When I was opposed to it, I made some statements. I said: We start bailing people

out, if that is the new policy of Government, who is going to be next in line? I think the airline industry; they have problems. I mentioned even the auto industry. Of course, we saw what happened. People got all ecstatic, even those who voted for the $700 billion bailout. They were all upset about the fact that we were bailing out the auto industry.

That amounted to 2 percent of the $700 billion. People lose sight when they hear big numbers. What I do when I am explaining it, so that I understand it and my 20 kids and grandkids will understand it and the people of Oklahoma will understand it, I try to put it in some kind of perspective to see how it affects us personally.

If you take the total number of families in America who file tax returns and divide that into $700 billion, do your own math. It comes out to $5,000 a family. That is huge. We have to understand we are not talking about their money when we talk about Government bailouts, we are talking about our money; and Geithner is all a part of this.

It all started with Bear Stearns a year ago. The initiator of the Bear Stearns deal was not Secretary Paulson or Chairman Bernanke, though, of course, they signed off on it. It was Timothy Geithner.

After the deal was announced, Robert Novak reported in his column that an unnamed Federal official confided in him at the time that ''we may have crossed a line'' in bailing out Bear Stearns. Mr. Novak wrote that it was an understatement, and that we would not know the ramifications of this decision for a long time. Well, now we understand.

We are now trillions of dollars past that line, and we are beginning to comprehend the course on which that decision has set us. I personally believe we are trillions of dollars past that line, and we are not much better off. I would say enough; the Government has gone too far, and under Mr. Geithner all indications are that we are not going to slow down anytime soon.

We need a change of course, and we need to finally, trillions of dollars later, find the strength to let those who made poor decisions bear some of the consequences, instead of the taxpayers. Timothy Geithner may take the helm of the Treasury Department at a time, if he is confirmed, when the Government has entangled itself into the economy to an unprecedented extent.

Given his strong support, stronger than by many accounts Secretary Paulson himself, for ad hoc bailouts of big firms, I cannot support this nomination. I think those people, and I know the people I talked to in Oklahoma because I am back every weekend—I call this going back and talking to real people, and they all look at this and say: Only in Washington could something like this happen, could we start with the $700 billion bailout.

I would say this: Anyone who supported that at the time, if they want redemption, this is the time to get it because you can be redeemed by opposing Geithner in his confirmation. So, anyway, there are several reasons I hold for opposing his nomination, and I will act accordingly.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

Mr. THUNE. I thank my colleague from Oklahoma for yielding. What is the present business before the Senate?

The PRESIDING OFFICER. The nomination of the Secretary of the Treasury.

Mr. THUNE. Thank you. That is the subject on which I wish to speak. I would start by saying our country is going through some very hard economic times. When you are going through hard economic times, you need several things to get through. You need the resolve and the resilience of the American people. You need the skill, the talents, and the creativity of America's best and brightest thinkers when it comes to solutions. You need wisdom from your political leaders. You also need one other thing from your political leaders: you need the presence of character. You need leaders who will lead by example.

Unfortunately, the hard times in which we find ourselves were borne of excess. We spent too much, we borrowed too much, and we saved too little.

Corporate CEOs saw fit to pay themselves huge bonuses while running their companies into the ground. Some very clever people found ways to create new financial instruments, such as credit default swaps, making enormous amounts of money for themselves on every transaction while exposing their companies and their shareholders to trillions of dollars in liabilities.

At the same time, Fannie Mae and Freddie Mac were running amok, making risky home loans that helped cause this economic crisis in which we now find ourselves. It is because of the excesses of the few that all of the American people are left holding the bag and are being called upon to clean up the mess.

Today we vote on whether to confirm a very smart, able, and skilled business leader to help lead America out of the mess we are in. No one questions Tim Geithner's intellect, his knowledge of financial markets, or his skill in managing complex business problems. He has, as many have said, the type of experience that is necessary to navigate the turbulent waters that lie ahead. I believe he is smart. I believe he is talented. I believe he is experienced. But, as I said earlier, that is not enough.

There are lots of smart, talented, and experienced people who got us into this economic mess. It will take more than smarts, talent, and experience to get us out. It will take leaders who have the trust of the American people because they are willing to lead by example.

I don't know Mr. Geithner's state of mind when he made the mistake of not paying his payroll taxes between 2001 and 2004. He said it was ''careless mistakes, avoidable mistakes.'' Perhaps so. But the one thing I do know is he should have known better, not just because he is a highly educated businessman who had prior service as a top-ranking official at the Treasury Department but because he was notified several times of his tax liability by his employer at the time and even signed documents acknowledging that he owed the taxes. Again, he should have known better. I don't judge Mr. Geithner as a person. None of us is perfect; we all make mistakes. We all need redemption. But as a Senator, I have a responsibility to vote. I have to vote on whether I believe Tim Geithner should serve as our next Treasury Secretary. As a Senator, I am concerned about the message Mr. Geithner's confirmation will send to the people. As Treasury Secretary, he will oversee the IRS and, therefore, be tasked with enforcing our Nation's tax laws. Yet for 4 years he failed to pay his lawful taxes after being informed of his obligation to do so. If I were to support this nomination, I don't know how I would explain such a vote to my fellow South Dakotans who work hard and pay their taxes every year, on time and in full.

As many of my colleagues have pointed out, these are extraordinary times, and they call for extraordinary leadership. I couldn't agree more. But leadership is about more than smarts; it is about more than skill. By all accounts, Mr. Geithner is a good man. I respect his willingness to serve. I expect he will be confirmed. And when he is, he faces a daunting challenge in stabilizing our financial markets and strengthening our economy. Once he is confirmed, I look forward to working with him to meet this challenge. I hope he is successful and we as a country are successful. But for the reasons I have stated, I cannot add my support to his nomination.

Mr. BYRD. Mr. President, the Senate has traditionally given the President, especially a new President, great leeway in choosing his Cabinet. I like to follow this practice when I can, as a matter of grace and in the spirit of cooperation, believing that a President has an understandable desire to want trusted advisors in his Cabinet who are sympathetic to his programs. But I also take very seriously the oath I swore to support the U.S. Constitution and to faithfully discharge the responsibility entrusted to each Senator in

advising and consenting to the appointment of all officers of the United States.

Some very serious questions have been raised about the President's nominee to be Secretary of the Treasury, Timothy Geithner, and his failure to pay Social Security taxes on income he earned at the International Monetary Fund—IMF—between 2001 and 2004. According to documents released by the Senate Finance Committee, Mr. Geithner recently filed amended tax returns for the years 2001–2002, 2004–2005, and 2006, reporting additional taxes and interest totaling $31,536. In addition to adjusting his claims for certain expenses and credits, Mr. Geithner paid Social Security taxes on income he earned at the IMF from 2001 through 2002. This follows an audit by the IRS in 2006, when Mr. Geithner was required to pay Social Security taxes for income earned in 2003 and 2004, totaling an additional $16,732 in taxes and interest. At the time of the 2006 audit, Mr. Geithner chose not to pay the Social Security taxes he owed for 2001 and 2002, apparently because he had been advised that the statute of limitations had expired requiring the payment of those taxes.

I believe Mr. Geithner when he expresses regret for his failure to pay these taxes, but that doesn't explain why the failure happened. This embarrassing ''mistake'' occurred despite Mr. Geithner receiving annual and quarterly documents from the IMF and signing annual tax allowance requests that were supposed to serve as reminders about his tax obligations. He also failed to pay these taxes despite having accountants review his tax filings, and despite using software to prepare his tax returns. He only paid these taxes in full after being selected to be Treasury Secretary.

Had he been nominated to head almost any other position, perhaps this might not seem so egregious. But this matter seriously undermines Mr. Geithner's credibility to be the Nation's top tax enforcement officer. It suggests serious negligence on his part and creates the impression of someone trying to game the system. Mr. Geithner showed poor judgement in waiting so long to pay these taxes, and then doing so only because it became a political necessity. Certainly most American taxpayers do not have that luxury.

Whatever his qualifications and talents for addressing the banking problems that are plaguing our economy, I cannot in good conscience vote to confirm this nomination.

I yield the floor.

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

Mr. DODD. Madam President, I rise to speak in support of the nomination of Timothy Geithner to serve as our Nation's Treasury Secretary. I believe most Americans, regardless of political persuasion or how they voted in November, would agree that we are living in probably the worst economic crisis of their lifetime. You would have to have been alive in the 1920s to remember days that even resemble the ones we are in today. So this afternoon, in the moments before we are about to vote on this nomination, I rise to express my views.

I know Tim Geithner. I wouldn't ask my colleagues to support his nomination because I know this person, respect and admire him and think he is qualified to serve as Treasury Secretary. I am asking my colleagues to support him because he is one of the most talented people I have met in the area of financial services and in understanding the regulatory architecture that not only exists today but the one that we must create in order to get our country back on its feet again. While there are certainly issues raised, including the one raised a moment ago about back taxes—and I don't minimize that—it is also extremely important that we keep this nomination in perspective and that we understand the issues at hand. While I have served here for the last quarter of a century, I can only count on less than one hand the number of nominations I voted against in Democratic and Republican administrations. Not because I have agreed with all of them but because I happen to believe that administrations that are elected deserve to have the official family they choose, barring disqualifying concerns about a nominee's ability to serve. To be sure, a nomination to the President's Cabinet is worthy of congratulations, and I congratulate Mr. Geithner. But with our economic trouble so severe and our future so uncertain, this nomination deserves less our congratulations than our very best wishes and commitment to work in partnership.

Mr. Geithner's arrival at Treasury could not come at a more critical moment for our Nation. It comes on the heels of excessive unchecked financial practices that have brought our economy and the world's economy to its knees. Next to the President himself, no single individual will bear more of a responsibility to steer our Nation out of this crisis than the new Treasury Secretary. Charting a course of recovery requires understanding the causes of the crisis in the very first instance. As chairman of the Banking Committee, I have convened more than 80 hearings and markups in the last 24 months to help diagnose and remedy our Nation's economic troubles. It is not a responsibility I sought, nor one which I relish. Certainly, I would much rather be talking about how to grow our economy than how to save our economy, but that is where we are today.

We have an obligation, all of us, regardless of party or ideology, not only to determine how we got into this situation, but also—and more importantly, in many ways—what is needed to get us out of it.

It is by now beyond dispute that the current crisis threatening our economy started several years ago in a relatively discrete corner of the credit market known as subprime mortgage lending. Federal Reserve Chairman Bernanke, previous Treasury Secretary Hank Paulson, and many other individuals have all agreed on that fact. There is no dispute about it. Mortgage market participants from brokers to lenders to investment banks to credit rating agencies exploited millions of unsuspecting, hard-working Americans seeking to own or refinance a home. It is clear that greed and avarice overcame sound judgment and prudent lending. But what makes this crisis different from others was the abject failure of regulators to adequately police the markets. Regulators resisted the call to regulate new markets and financial instruments, even when they had the tools to do so.

The Federal Reserve, for example, ignored a power granted by Congress over 14 years ago to regulate mortgage markets, State-chartered and federally chartered lending institutions. Not a single regulation was ever promulgated under the Bush administration until the problem was well out of hand. This wasn't a matter of there not being enough laws on the books—quite the contrary—but, rather, a matter of regulators failing to enforce the ones they had been given. What resulted was a regulatory failure of historic proportions.

Of the many lessons learned from this crisis, the most revealing is that the failure to enforce consumer protections can lead to the failure of the entire financial system. For decades, ideology prevented regulators from acknowledging this fact. It takes a crisis, unfortunately, of global scale to understand the dangers of failing to protect consumers. It is now painfully clear that when American households are preyed upon in such systemic and abusive ways, our entire financial system is threatened. Never again should we allow financial regulators to treat consumer protection as a nuisance or of secondary importance to safety and soundness regulation. Never again should we permit the kind of systemic regulatory failures that allowed reckless lending practices to mushroom into a global credit crisis.

The safety and soundness of our financial system depends upon the well-being of the customers and investors who use that system every day. Unfortunately, most of the Government actions taken in recent months have largely ignored this fact and have addressed the symptoms of the credit crisis rather than its root causes. For nearly 2 years now, I have urged, along with others, forceful and definitive action to reverse the rising tide of foreclosures that began to chip away at American households in 2007. In fact, it was exactly 2 years ago next week, I had chaired the Banking Committee for only one month, when we held the

very first hearings on the mortgage credit crisis, in February of 2007. For 2 long years, we had hearings and meetings and countless efforts to try and convince the administration of the seriousness of what was happening in the residential mortgage market. Not until last summer did we finally get some recognition, but it was far too late at that point.

All of my colleagues can recount in great detail the events that cascaded since July through the fall of this past year. Noted economists and analysts from across the political spectrum have also sounded the alarm, including such distinguished individuals as former Carter and Reagan Fed Chairman Paul Volcker, Nobel Prize winners Joseph Stiglitz and Paul Krugman, former Reagan chief economic adviser Martin Feldstein, and American Enterprise Institute Resident Fellow Alex Pollack. These and other experts agreed that the key to our Nation's economic recovery is recovery of the housing market and that the key to recovery of the housing market is, of course, reducing foreclosures, of which nearly 9,000 occur every day.

Without addressing the cause of this crisis as swiftly, aggressively, and decisively as we have tackled the symptoms of the crisis, home prices will continue to fall. The value of assets based on mortgages—trillions of dollars of which are on the books of our major financial institutions—will continue to be virtually unknowable. The longer we allow foreclosures to erode family wealth, tear apart neighborhoods and freeze our markets, the longer our economy will take to recover from this crisis. However hard our regulators work, the result will be a continuation of volatility and paralysis in our economy. If ever there was a time that called for new thinking, this is that moment. As Tim Geithner takes the helm of the Treasury, he will be responsible for leading administration efforts to revitalize the credit markets and restore confidence and integrity in our financial system. It is a tall order, to be sure. No one could assume that one individual is going to solve all of this. But in my view, we can achieve these results for the American people through four key steps.

First, Mr. Geithner and the rest of the administration's economic team must develop and clearly communicate a long-term, comprehensive plan, a framework for using TARP funds to support the financial system and communicate effectively to the American people so they understand exactly where we are, how we got here, and what the intended steps are to move us out of it. The previous administration's piecemeal lurching intervention from one side to the next in the financial system contributed to the confusion and the volatility that has dragged down consumer and investor confidence. Outlining a clear direction as to how the Government will use taxpayer money going forward would provide families and businesses with the clarity and assurance they need to make important economic decisions.

Second, we must safeguard the use of taxpayer money through increased transparency and strengthened taxpayer protections. Instead of lending money to consumers and small businesses, TARP recipients have effectively been given a free pass to hoard taxpayer funds and pay lavish bonuses to senior executives and handsome dividends to shareholders. In order to provide meaningful taxpayer protection, I believe at least the following conditions are necessary: stricter limits on executive compensation, additional limits on executive compensation, including restricting the payment of bonuses to executives; strictly limit dividends, prohibit the payment of dividends to shareholders beyond de minimis amounts; establish appropriate lending targets for recipients of TARP funding and the means of monitoring them; limit acquisitions, prohibit the use of TARP funds to purchase healthy institutions; increase transparency and accountability, require that TARP recipients submit regular reports no less than quarterly specifying how they are using TARP funds or otherwise furthering the purposes of the emergency economic stabilization law and how they are complying with these TARP conditions. These reports should include information about consumer and commercial loans, details about acquisitions, and the number and type of loan modifications. We must implement measures to prevent foreclosures, which I should have listed at the top of the list, require recipients of TARP funds that service or own mortgages to take measures to mitigate preventable foreclosures and use TARP funds to establish or support foreclosure prevention programs.

The Obama administration is already committed to making these changes and is working on a more detailed strategy. I look forward to reviewing that plan and to continuing the committee's close and detailed oversight of the implementation of this program. That is why I intend to hold hearings on the TARP in the coming weeks and to ask the very questions I am raising this afternoon.

Third in this list is to apply the same sharp and urgent focus to help individual homeowners whose plight is the root cause of this crisis. Stopping foreclosures must be our top priority, putting a tourniquet on this hemorrhaging that is occurring across the country. Failing to do so will have devastating consequences for the economy.

Finally, to fix the failures in the regulatory system that led to this crisis, if we are going to regain the confidence of investors, consumers, and businesses at home and around the world, we must have assurances that our financial institutions are properly capitalized, regulated, and supervised.

The Senate Banking Committee has already begun an ambitious schedule of meetings and hearings to understand the strengths of our regulatory system and to address forcefully its weaknesses. Senator SHELBY and I welcome diverse parties and points of view. I am guided by several core principles: Regulators must be strong cops on the beat rather than turn a blind eye to reckless lending practices; regulators must stop competing against each other for bank and thrift ''clients'' by weakening regulations; regulators must be able to identify and, if necessary, take action against risks at the institutions they supervise; regulators and market participants need more transparency so they understand the risks present in the financial system and to prevent trillion-dollar markets from operating in the dark.

Each one of these steps—communicating a long-term plan for Government assistance, strengthening transparency and taxpayer protections, preventing avoidable foreclosures, and fixing regulatory failures—will help not only our economic recovery but also help restore, most importantly, the confidence of the American people. You cannot enumerate confidence, but it is critical. I can not tell you exactly the mathematical formula that will get you there, but in the absence of these steps, I do not believe confidence will be restored, and that is the intangible quality more than any other that we need to regain for investors and for the American people, who have been the driving force for our Nation's innovation and productivity.

I commend Tim Geithner for taking on this extraordinary responsibility. In many ways, you wonder why he is willing to do it, considering the incredible problems we face. But we are fortunate to have a talented individual who is willing to step up and assume this responsibility. Rather than decrying it and lambasting him, we ought to be thanking him. None of us are perfect. Every one of us has made mistakes along the way, and to suggest that Tim Geithner is unqualified for this job or should not be confirmed because of his tax issue is to fail to understand the value his nomination is to our country.

My hope is my colleagues will do what I have done over the years. I have been highly criticized by people in my party. When I voted for John Ashcroft to be the Attorney General, I was highly criticized. When I voted for John Tower to be the Secretary of Defense, I was highly criticized. But I happen to believe Presidents deserve their teams to be in place to do their job.

Tim Geithner is the kind of individual we need. He will listen to people. He will pay attention to different points of view. And he can make a difference for our country. In an hour such as this, we ought not to be divided in this Chamber, but to stand united, to give this young man a chance to get a job done for our Nation at one of the most critical periods in our history.

We have a lot of work to do, and we ought to get about the business of

doing it, not as Democrats or Republicans but as Americans. I urge my colleagues to support this nomination. At this moment, communication, cooperation, and consultation are not only preferable as we steer our country through these tough times, they are absolutely essential.

I look forward to Tim Geithner's confirmation and to working with him, as I do my colleagues, Democrats and Republicans, along with our new President. This is a defining moment in our history, and restoring our economy is our defining challenge. I believe Tim Geithner is the right person to begin this effort.

Madam President, I urge the confirmation of Tim Geithner, and I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, my good friend, the senior Senator from Iowa, has allowed me to go before him, and I appreciate it. He has been waiting here patiently on the floor. I have a few remarks I wish to make regarding Mr. Geithner.

In this time of economic crisis, I want to add my strong support for President Barack Obama's nominee for Secretary of Treasury, Timothy Geithner.

In the past month, some of our country's largest corporations have announced major layoffs numbering in the hundreds of thousands. On the news this morning, major layoffs have been announced throughout America. Today, it is hard to comprehend, but the Nevada Department of Employment reported unemployment in the State has jumped to 9.1 percent. The foreclosure crisis has not eased. The credit crunch persists. Uncertainty continues to reign on Wall Street, draining pension funds and individual investors of their savings and blocking the flow of credit for families and businesses that need it so badly.

This powerful economic storm that we have never seen before demands strong, decisive, and wise leadership. No one, in my opinion, is more qualified or prepared for the task than Tim Geithner. He has spent his entire career as a public servant. He has worked at the Treasury Department, the International Monetary Fund, and the Federal Reserve Bank of New York. With his experience and expertise, Tim Geithner could have written his own financial ticket to the private sector anytime of his choosing and made huge amounts of money. But in an age that has been tarnished by corporate greed, I think it is refreshing—and we should all feel that way—to see a man of obvious gifts choose to lead a life of public service. Has he made mistakes? He acknowledged that. Were there mistakes he made that any one of us could have made? Of course.

He was part of the core team that designed the Government's response to the Asian financial crisis in the late 1990s, as well as the current crisis. At the New York Fed, he worked with Secretary Paulson and Chairman Bernanke. He has seen the crisis unfold, as well as the initial Bush administrations's response. I think he is uniquely suited to know the difference between what has worked and what has failed. Some has worked and a lot has failed.

During his confirmation hearings and in meetings with Members in recent weeks, Tim Geithner has shown a calm temperament and an eagerness to listen and cooperate with Congress. He clearly recognizes that Congress is an equal partner and that it will take a unified effort to right our economy. Just as important, he understands that part of what we face is a crisis of confidence and that the public's confidence cannot be restored without transparency, oversight, and taxpayer protections.

There are few who envy the road ahead for the next Treasury Secretary. There will be no easy fixes or cheap answers, but no one is better prepared today than Tim Geithner to fill this critical role.

This nominee has my support, and once he is confirmed, I expect him to have the support of Congress in the difficult months and years ahead. I hope the support and I am confident the support will come from my colleagues on the other side of the aisle. There are some who may choose not to vote for him, but I would hope that after this confirmation takes place, we will all join to help this good man try to bring our country back to financial security once again.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, thank you. For at least as long as Chairman BAUCUS and I have served as the leaders of the Finance Committee, and certainly during those times I was chairman, all individuals nominated by the President who were subject to the jurisdiction of the Finance Committee have been subject to a thorough and nonpartisan vetting process. In addition to filling out a detailed committee questionnaire, all nominees submit tax returns and the committee is provided with financial disclosures. The review of these documents has nothing to do with the nominee's political affiliation or policy goals.

The Finance Committee's nomination process is there to ensure basic compliance with the law and to confirm that these individuals can be trusted with the incredible responsibilities that come with public service.

My vote on this nominee will be a vote of confidence in the Finance Committee's vetting process; it is a vote for the importance of character and integrity in those who serve; and, specifically, it is a vote for treating Presidential nominees, and all people, in a consistent manner.

This nominee is not the first nominee to run aground on the Finance Committee's vetting process. There are other individuals who, after lengthy discussions with Senator BAUCUS, me, and committee staff, decided to withdraw from consideration.

In these situations, the Finance Committee keeps details learned during the vetting process private. In cases where the nominee decides to go forward, such as that of this nominee, the committee makes details public in the interest of transparency and good government. I believe the public's business ought to be public. Sometimes when details are disclosed the nominee is confirmed and sometimes the nominee is not confirmed. In these situations, Members have to judge the seriousness of the issues at hand, and the nominees have to judge how far they are willing to go. Consequently, if the nominee decides to move ahead, the information will be released.

However, in the past, nominees who had tax issues as serious as this nominee's, and some who have had less serious issues, have not attained Senate confirmation.

I feel it is improper to judge this nominee by a different standard. I realize that economic times are tough right now, but, if anything, that should be an incentive for us to raise our standards and not lower them.

Finally, I believe we also need to treat all people in a consistent manner. The same Internal Revenue Code applies to everyone regardless of whether someone is a well-known Wall Streeter or a student earning minimum wage. Many people around the country who have not satisfied their tax obligations have been caught by the IRS, as this nominee was for tax years 2003 and 2004. Many people end up having their houses seized, bank accounts frozen, and other assets taken by the Government to pay their tax debts. Some people even go to jail.

There are many people who settle their liabilities without going to jail or having assets seized, but can this system operate with integrity if all parts of it report to someone who was unable for a long period of time to meet his own tax obligations and only did so as a condition of his nomination?

Finally, I want to mention differences of perception of different people who have been found to have unsettled tax liabilities. During last year's Presidential campaign, we read a lot about a man named Joe the Plumber who hailed from Ohio. When this man was found to have a tax lien for State taxes, some portrayed it as evidence that his opinions on national tax policy were irrelevant. However, this nominee's tax problems have been revealed to be much larger than Joe's, and this nominee's defenders still insist he is the only man for the job of Treasury Secretary.

Madam President, I ask unanimous consent that an article discussing this inconsistency by Jonah Goldberg appearing in National Review Online be printed in the RECORD.

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

[From the National Review Online, Jan. 23, 2009]

A FREE PASS FOR THE INDISPENSABLE MAN

(By Jonah Goldberg)

During the hothouse days of the presidential campaign, Joe Wurzelbacher became famous because he got Barack Obama to confess that he likes to spread the wealth around. Better known as Joe the Plumber, the Toledo, Ohio, laborer became the target of bottomless venom and scorn because he seemed like an obstacle to Obama's coronation.

One of the main talking points, particularly among left-wing bloggers, was that Wurzelbacher was a tax cheat because, it was revealed by ABC News, he had a tax lien of $1,182 for back Ohio state taxes. This fueled the argument that he was a fraud, his opinion didn't matter. Nothing to see here, folks. Move along.

Fast-forward to today. Timothy Geithner, President Obama's choice to be the next treasury secretary, quite clearly tried to defraud the government of tens of thousands in payroll taxes while working at the International Monetary Fund. The IMF does not withhold such taxes but does compensate American employees who must pay them out of pocket. Geithner took the compensation—which involves considerable paperwork—but then simply pocketed the money.

His explanations for his alleged oversight don't pass the smell test. When the IRS busted him for his mistakes in 2003 and 2004, he decided to take advantage of the statute of limitations and not pay the thousands of dollars he also failed to pay in 2001 and 2002. That is, until he was nominated to become treasury secretary.

Obama defends Geithner, saying that his was a ''common mistake,'' that it is embarrassing but happens all the time. My National Review colleague Byron York reports that, at least according to the IMF, Geithner's ''mistakes'' are actually quite rare. Indeed, it's almost impossible to believe that the man didn't know exactly what he was doing given that he would have had to sign documents, disregard warnings, and all in all turn his brain off to make the same ''mistake'' year after year. And keep in mind, Geithner is supposed to run the IRS. So maybe sloppiness isn't that great a defense anyway.

The bulk of Senate Republicans seem willing to green-light his appointment because, in the words of many, ''he's too big to fail.'' Wall Street likes this guy and so does Obama. So, who cares if he breaks and bends the rules? Who cares that he took a child-care tax credit to send his kids to summer camp? He's the right man for the job, no one else can do it, he's the financial industry's man of the moment.

This strikes me as both offensively hypocritical and absurd. Obama has made much of Wall Street greed. He and his vice president talk about paying taxes like it is a holy sacrament. They both belittled Wurzelbacher for daring to suggest that the Democratic Party isn't much concerned with how the little guy can get ahead.

Heck, Obama and pretty much the entire Democratic party insist that they speak for the little guy. But it appears they fight for the big guys.

You would think this is a perfect moment for Republicans to stand on principle, particularly since their votes aren't needed to confirm Geithner. What they will tell you is that Geithner is the indispensable man and, in the words of South Carolina Sen. Lindsey Graham, ''These are not the times to think in small political terms.''

Never mind that there's nothing small about the belief that paying taxes in an honest fashion is a minimal requirement for the job of treasury secretary. What's absurd is that Geithner, who helped regulate Wall Street as head of the New York Fed, is the indispensable man now. He may indeed be qualified to be treasury secretary, but is he really the only man who can do the job? Really? Everyone said the same thing about Hank Paulson not long ago. How'd that work out?

I thought the Democrats believed the financial implosion was caused by arrogant and greedy men who thought the rules didn't apply to them because they were so important. I guess they didn't mean it.

Mr. GRASSLEY. I don't make this decision lightly, but, as I have said, I must uphold the Finance Committee's vetting process; I must vote for the importance of character and integrity in those who serve in government; and I must vote for treating Presidential nominees, and all people, in a consistent manner. Therefore, I must vote against this nominee, Mr. Geithner.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Madam President, I ask to be notified after 5 minutes.

The PRESIDING OFFICER. The Chair will so notify you.

Mr. SESSIONS. Madam President, I don't look forward to criticizing the nominee, Mr. Geithner, for the Secretary of the Treasury. It is not something I take any pleasure in. I will vote for 98 percent of the nominees of President Obama. I believe he is entitled to select good nominees to serve, and he gets to basically choose whomever he wants.

I would say the American people are unhappy. They are unhappy about Wall Street. They are unhappy about the way this financial system has been conducted, and one of the individuals at the very center of it is Mr. Geithner, the nominee to be the Secretary of the Treasury, a position that now has incredible authority and the power to distribute $350 billion virtually any way that individual citizen wants to spend it. It was a mistake for Congress ever to give that kind of power to Mr. Paulson or to Mr. Geithner or whomever the Secretary of the Treasury would be.

Let me say quickly, as a former Federal prosecutor, I am not taken in by the idea that this tax problem is a minor matter. The Secretary of the Treasury supervises every Internal Revenue agent in America. The Treasury Department has the IRS inside it.

The International Monetary Fund, for which he worked starting in 2001, sent out this brochure about the tax allowance system that says: The Fund pays the difference between your U.S. self-employment tax, which is the Social Security tax that self-employed citizens pay. You pay the employee's share of the Social Security taxes as you would be required to do if you worked for any U.S. employer.

Then it says down here: And a tax allowance is added to help cover the income taxes you owe.

You get a special tax allowance. How do you get this tax allowance if you work for the International Monetary Fund? You make an application. The form says: Tax allowance application. You apply for it. You sign at the bottom that says you want the money. What does it say that you certify above your signature? You certify that I will pay taxes on my Fund income. I authorize the Fund of individual staff members designated by it for the purpose to ascertain from the appropriate tax authorities whether tax returns were received. I hereby certify that all the information contained herein is true to the best of my knowledge and belief and that I will pay the taxes for which I have received tax allowance payments from the Fund.

So he seeks a tax allowance application. He certified that any money he gets for this he understands is for tax purposes, and he will pay it. That is the certification form. I have blown it up on this chart. It says, again, I certify I will pay the taxes for which I have received the tax allowance.

Now, that was done four times. He personally signed it. That is his signature at the bottom, with his room number, in his hand, and his phone number, in his hand—4 different years.

I see Senator KYL, and I will yield to him because I am sorry we don't have much time. In his examination, Mr. Geithner left me with a feeling that he was not candid.

Finally, let me say this. I believe the American people want a Secretary of the Treasury who was not in the middle of the problem in New York as head of the Federal Reserve Bank when it occurred and who gave no warning to the American people whatsoever that this was about to happen. The Wall Street Journal recently had six investment experts on the front page who predicted this would occur. Where was Mr. Geithner? The same place as Mr. Paulson: asleep at the switch. Based on merit, I don't believe this is what the American people want. The American people desire to have a professional of knowledge, an economically trained person with financial experience and impeccable integrity. I am sad to say, I don't believe Mr. Geithner meets that standard.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, I thank the Senator from Iowa for allowing me to speak very briefly. I had intended to support Mr. Geithner's nomination. He

is not the only person who can do this job, but he is the President's choice and is entitled to some deference and I actually believe he will give the President some good advice.

However, there must be an element of trust between us, based on candor and forthrightness. Secretary Paulson and I trusted each other and it benefited both of us for the benefit of the American people, I believe. Unfortunately, Mr. Geithner, in his appearance before the Finance Committee, I believe did not demonstrate the requisite candor in answer to our questions. As a result, I therefore regret I cannot support his confirmation.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I regret to say I will be voting against the nomination of Timothy F. Geithner to serve as Treasury Secretary in the new Obama administration. I say ''regret'' because I believe strongly that, save extraordinary circumstances, any President should have the right to select his own team and because I believe Mr. Geithner is a person of obvious talent and experience. I certainly bear no ill will toward him on a personal basis whatsoever. Moreover, I know President Obama believes Mr. Geithner is the best person for the job, and it pains me to go against the President's wishes on this matter. However, after careful deliberation, I simply have not been able to overcome my very serious reservations about this nominee.

As Treasury Secretary, Mr. Geithner would oversee the Internal Revenue Service and would be responsible for ensuring that Americans pay their taxes as required by law. Yet it has come to light that while he was serving as a senior official at the International Monetary Fund, Mr. Geithner failed to pay Social Security and Medicare taxes. He has stated this was an innocent mistake and that there was no intent to deliberately avoid paying the required taxes.

However, the IMF informs us that in order to avoid exactly this kind of situation, its U.S. citizen employees are fully informed of their obligation to pay Social Security and Medicare taxes and must sign a form acknowledging that they understand this obligation.

Moreover, the IMF gives its U.S. citizen employees quarterly wage statements that detail their U.S. tax liabilities. The IMF pays its U.S. citizen employees an amount equal to the employer's half of the payroll taxes with the expectation that the individual will use that money to pay the IRS.

So a serious question is raised as to how a person of Mr. Geithner's financial sophistication could run the gauntlet of these many warnings and quarterly reminders and still somehow innocently overlook his obligation to pay these payroll taxes.

I am also troubled by the fact that when the IRS audited Mr. Geithner in 2006 and discovered that he had not paid his payroll taxes from 2001 to 2004, he, Mr. Geithner, repaid the taxes only for 2003 and 2004. After that audit, he chose not to repay the taxes for 2001 and 2002, years for which the statute of limitations had expired.

Surely, if the failure to pay the payroll tax was an innocent mistake and oversight, then Mr. Geithner would have been eager to make amends by willingly paying the payroll taxes for 2001 and 2002, regardless of the statute of limitations. But he chose not to do so until he learned he was going to be nominated for Treasury Secretary.

Given this record of failing to pay taxes, if confirmed as Treasury Secretary, how could Mr. Geithner speak with any credibility or authority as the Nation's chief tax enforcer? Would his admonition be: Do as I say, not as I do? That is not acceptable.

Unfortunately, on another point, Mr. Geithner has been equally unwilling to accept responsibility with regard to his role in the current financial meltdown. As president of the Federal Reserve Bank of New York, Mr. Geithner was a key regulator of the large, mostly New York-based financial institutions that have been at the center of this meltdown. Their reckless practices—reckless practices—have brought America's financial system to its knees, pitching our economy into what could be the longest, deepest recession since the Great Depression.

I am specifically concerned about Mr. Geithner's history vis-a-vis Citigroup, which has now received $52 billion in taxpayer money. As a regulator of Citigroup, Mr. Geithner made a number of troubling decisions that relaxed oversight of Citigroup, including, one, lifting a prohibition against Citigroup's acquiring new firms; second, ending the requirement that Citigroup file quarterly risk management reports; and third, allowing Citigroup to use ''hybrid capital,'' which, I might parenthetically say, was a product of the Greenspan Fed back in 1996—using hybrid capital to prop up its capital base. These decisions allowed Citigroup to increase its already sizable risks and allow Citigroup to claim that it had a healthier capital ratio.

I am troubled that instead of taking enforcement actions in the face of a weakened capital ratio, Mr. Geithner chose only to write a letter to Citigroup criticizing its risk management practices. I bet they shuddered when they got that letter.

Given this action, it is clear that Mr. Geithner was aware that Citigroup's capital base was not sufficient. Yet he did not take the appropriate steps to correct this glaring problem; he wrote a letter.

While I would be much more supportive of the nominee if he had taken responsibility for these failed decisions, he has not done so. For example, in a written response to questions from Senate Finance Committee Chairman BAUCUS, Mr. Geithner wrote:

> Citigroup's supervisors, including the Federal Reserve, failed to identify a number of their risk management shortcomings and to induce appropriate changes in behavior.

He says Citigroup's supervisors, including the Federal Reserve, failed. Why didn't he say ''I''? Why didn't he say Citigroup's supervisors, including me as the head of the New York Federal Reserve Bank, I did, I failed to identify those risk shortcomings, and I failed to induce a change in their behavior? He says it is the Fed. He was the head, he was the person making those decisions. And yet he kind of brushed his hands and said: That was the Fed. No, Mr. Geithner, it was you.

We need to know what specific failures occurred under his supervision, what he has learned from those failures, and how the nominee believes he can correct them in the future. After all, again, Mr. Geithner was the key decisionmaker in the Federal Reserve on these points.

Without the answers to these questions, I am not convinced that Mr. Geithner is the right person to lead the Treasury Department at a time when we need a strong regulator in charge, one who will act with transparency and accountability and forcefulness.

I am sure these big bankers and these Wall Street people are nice people, but they are tough and they are going to protect their turf. Yet what they don't need is a Treasury Secretary who is going to write them a letter. We need a Treasury Secretary who will start banging some heads around and will stick up for our small bankers, our independent bankers, the people in your State, Madam President, and mine who are out there loaning the money for small businesses and small business expansion, who are getting mortgages on houses that have 30-year fixed rates, they are conservative about it. We don't need to focus all of our efforts and money on the big city banks and then allowing the big city banks to get bigger by buying up other banks with taxpayer money.

I want a Treasury Secretary, as I say, who is going to start banging some heads, who is going to call in these big city bankers and say: You know what, you have had a free ride for many years. We have deregulated you. We deregulated all these financial institutions. We have allowed you to engage in what I call—this is my own term—''casino capitalism.'' But it is over. It is over. You are now going to be regulated, and I am going to lead the charge in imposing stiff new regulations. We are going to be looking over your shoulder, and we are going to make sure you are accountable to the taxpayers of this country.

The issues of responsibility and judgment are extremely important as we go forward. Two weeks ago, I voted in favor of releasing the second installment of the TARP funding, but it was after several phone calls with now-Vice President BIDEN when he assured me—and I spoke about this on the floor; he

said I could say it publicly—that President Obama will sign off personally on any significant future disbursement of TARP money and Vice President BIDEN will be consulted and be a part of it.

So now at least we know where the buck stops with President Obama. I am glad he is willing to say the buck does stop there. Yet here is what bothers me. If Mr. Geithner is confirmed, he will be the principal person making recommendations to President Obama regarding TARP expenditures. In short, President Obama will sign off on future disbursements, but he would do so on the recommendation and judgment of Mr. Geithner.

I wonder, I really wonder what that means for some of these big city banks in New York and what is going to happen with Wall Street and what is going to happen to my small banks in Iowa or independent banks all over this country. What is going to happen to our farmers who need an adequate supply of low-cost capital coming up this spring. And they are having a hard time finding it, by the way. They are in a terrible cost-price squeeze right now.

Is all that TARP money going to be focused on the big banks or are we going to start thinking about the little guy out there?

Mr. Geithner made serious errors of judgment in failing to pay his taxes. He made serious errors in his job as chief regulator of the financial institutions at the heart of our current crisis. So at this point, I cannot vote to promote Mr. Geithner to the all-important post of Treasury Secretary. I cannot do so at this time.

As I told Mr. Geithner on the phone, I bear him no ill will. I do not know him personally. I have friends who say he is a very nice person, and I am sure he is. But I wonder, again, about his approach. As I told Mr. Geithner on the phone, I hope I can come back to the floor a year from now, 2 years from now and say my vote against him was wrong. I hope I can do that, but I will have to be shown.

There is no question Mr. Geithner will be confirmed by an overwhelming vote in the Senate. As I said, I bear him no ill will personally or anything else. I wish him every success as Treasury Secretary. To repeat what I said, nothing would make me happier than for Mr. Geithner to prove me wrong by serving with distinction as Treasury Secretary and cracking down on some of this casino capitalism that is going on in this country. I will be joining those rooting for his success.

Mr. COLLINS. Madam President, I rise today to state my opposition to the confirmation of Timothy Geithner to be Treasury Secretary.

Our current economic crisis is, in part, a crisis of confidence. If we are to return to prosperity, the American people must have confidence in those who would chart our course. Mr. Geithner's professional background and experience should inspire that confidence. They are overshadowed, however, by the personal issues regarding his own tax returns.

When these issues first arose, they were cited as examples of the baffling complexity of our Tax Code and of the need for reform. They were described by the nominee himself as ''careless mistakes.'' As more details have emerged, it has become clear to me that this is not merely a matter of complexity leading to mistakes, but of inexcusable negligence.

Mr. Geithner failed to pay self-employment taxes while working for the International Monetary Fund. He failed to make these tax payments despite the fact that the IMF repeatedly reminded him of this obligation. He signed paperwork acknowledging this obligation. He received extra compensation that he acknowledged at the time was for the purpose of paying this obligation. Yet when he filed tax returns for the years he was employed at the IMF, he did not pay self-employment taxes.

After working for the IMF for 3 years, Mr. Geithner was audited by the Internal Revenue Service in 2006, which discovered that he had failed to pay his self-employment taxes. Mr. Geithner was ordered to correct his tax returns for 2003 and 2004, and he paid the amount that he owed for those years.

But Mr. Geithner had made the same omission in 2001 and 2002, years that were outside the scope of the audit. Yet, having been informed by the IRS of his omission for 2003 and 2004, Mr. Geithner took no action to correct the deficiency from 2001 and 2002—years for which the statute of limitations had already run. In fact, Mr. Geithner chose not to make the payments until he was being considered for this position at the end of 2008.

A similar failure to correct omissions when informed of them occurred when the accountant who prepared Mr. Geithner's tax returns in 2006 informed him that certain deductions Mr. Geithner had taken for 3 earlier years were not allowed. These deductions involved writing off overnight camps as childcare expenses. Mr. Geithner did not attempt to claim the deduction for 2006 but did not correct his returns for the previous years. And again, this deficiency was not addressed until late last year, when Mr. Geithner was being considered for this Cabinet position.

Madam President, throughout the State of Maine and indeed throughout the Nation, millions of hard-working Americans pay their taxes on time and in full. Our taxation system is essentially an honor system that depends on self-assessment and honesty. When taxpayers make mistakes, they are expected to correct them promptly and completely. How can we tell the taxpayers that they are expected to comply fully with our tax laws when these laws have been treated so cavalierly by the person who would lead the Treasury Department and, ultimately, the Internal Revenue Service, when he was applying them to himself?

Therefore, Madam President, I must oppose this nomination.

Mr. McCAIN. Madam President, I regret that I must oppose the nomination of Timothy Geithner to be the next Secretary of the Treasury. I assure my colleagues, I did not reach this decision lightly but, rather after much thoughtful consideration. Next to the confirmation of Supreme Court Justices, the Senate has no more important duty than the confirmation of members of the President's Cabinet. Throughout my time in this body I have held the view that elections have consequences and that—barring any extraordinary circumstance—the President should be free to pick his team and surround himself with those he feels can best assist him in attaining his goals.

Mr. Geithner's involvement in the failed policies behind the misuse of hundreds of billions of taxpayer dollars in the Troubled Asset Relief Fund, TARP, has led me to conclude that an extraordinary circumstance exists in this situation. Mr. Geithner played a critical role in the creation of the TARP and should be held accountable for the fact that it has been terribly mismanaged and has not achieved its intended results. Unfortunately, I have come to believe that Mr. Geithner lacks the critical judgment necessary to be an effective Treasury Secretary and careful steward of taxpayer dollars.

To properly weigh a potential Cabinet member's qualifications, it is important to pay close attention to the committee hearings held to consider the nomination and the views expressed by both the nominee and members of the committee. After Mr. Geithner's testimony before the Senate Finance Committee, a very well-respected member of the committee stated that ''I don't believe that the requisite candor exists for me to indicate my support for him with an affirmative vote.'' Another member of the committee stated that, ''Mr. Geithner has been involved in just about every flawed bailout action of the previous administration. He was the front-line regulator in New York when all the innovations that recently have brought our markets to their knees became widespread. . . . All those actions, or failures to act, raise questions about the nominee's judgment.'' I fully agree with my colleagues' sentiments.

I am deeply troubled by Mr. Geithner's role in the mismanagement of the TARP. He has enthusiastically supported failed policies that have cost the taxpayer hundreds of billions of dollars. Earlier this month, I voted with 41 of my colleagues in opposition to releasing the remaining $350 billion TARP funds because I had seen no evidence that the additional and substantial taxpayers' money would be used for its intended purpose. TARP was created to allow the Treasury Department to purchase up to $700 billion in ''toxic assets'' from financial institutions in order to help homeowners facing foreclosure and to stimulate the

economy. The misuse of the first $350 billion of TARP funds combined with the lack of transparency promised by the Treasury Department were reasons enough to oppose releasing additional funds. It is my strong opinion that no further TARP funds should be released until we are able to impose strict standards of accountability and ensure that the money is spent only as intended by Congress—to purchase mortgage-backed securities and other troubled assets.

Unfortunately, I have seen no evidence that Mr. Geithner shares that view. He has stated that more oversight and transparency are necessary but to date he has offered no specifics about how the remaining $350 billion in TARP money would be spent and has laid out no criteria for serious oversight and accountability of such substantial sums of taxpayer dollars.

With no regard for congressional intent, and with the support of Mr. Geithner, the Treasury Department has used TARP funds to prop up the banking industry and to guarantee securities backed by student loans and credit card debt. But most troubling to me has been the use of TARP funds to help bail out the domestic auto industry—in direct defiance of Congress. Last month, after extensive discussion and debate, the Senate rejected a plan to pump billions of Federal dollars into the domestic auto industry because we saw no evidence of serious concessions from the industry and no assurance of the domestic auto manufacturers' long-term viability. When asked about the use of TARP funds to further assist the domestic auto industry, Mr. Geithner indicated he would support further funding as long as it was accompanied by ''a comprehensive restructuring'' of the auto industry. Again—he offered no specifics.

Madam President, the American people can no longer afford ambiguous assurances of transparency, accountability, and reform. They need and want specifics and particulars—and the person leading the U.S. Treasury should be able to provide the American taxpayer with the details they seek.

Mr. FEINGOLD. Madam President, I will vote against the nomination of Timothy Geithner to be the next Secretary of the Treasury. I do so with some reluctance. President Obama, like any other President, is entitled to have the Cabinet he wants, barring a serious disqualifying issue. And Mr. Geithner is a very able nominee in many ways. Mr. Geithner is clearly a smart, capable individual, with the qualifications to be Treasury Secretary, and he has a host of distinguished individuals attesting to those facts.

While I am troubled by Mr. Geithner's track record on the issues that have contributed to the credit market crisis, I do not base my vote on what is, to a certain extent, a matter of policy disagreement. During the last year of the Clinton administration, Mr. Geithner reportedly participated in the Treasury Department's support for the elimination of the Glass-Steagall Act protections which had served to keep our banking system stable since the Great Depression, as well as the Department's opposition to the regulation of derivatives, the explosive financial instruments that helped trigger the financial market contagion. It those reports are accurate, Mr. Geithner's actions were not singular by any means. Indeed, while I opposed both moves, they each had broad bipartisan support in the House and Senate.

His more recent work as President of the New York Federal Reserve Bank also raises serious questions. At a minimum, he was one of the primary regulators of some of the largest financial institutions in the country at a time when their activities greatly contributed to the eventual meltdown of the credit markets.

As I have noted in the past, I give any President great deference with respect to his executive branch nominees, and the greatest deference regarding Cabinet appointments, even when I may have significant policy differences with the nominee. The matters surrounding the credit crisis largely fall into this category.

Mr. Geithner's tax liability is a different matter, however. I am deeply troubled by his failure to pay the payroll taxes he owed, despite repeated alerts from his employer at the time, the International Monetary Fund, that he was responsible for paying those taxes. It is especially troubling because Mr. Geithner signed documents at the IMF promising to pay taxes, including the payroll taxes, in exchange for a special ''gross-up'' of his income intended to offset the cost of those taxes. Moreover, his earlier interactions with the Internal Revenue Service over his failure to pay sufficient payroll taxes for his household employees make Mr. Geithner's explanations of his failure to pay his own payroll taxes even less satisfactory.

The failure to comply with our Nation's tax laws would be problematic for any Cabinet nominee, but it is especially disturbing when it involves the individual who will be charged with overseeing the enforcement of our tax laws. Mr. President, surely that individual must meet a higher standard than a failure to establish they deliberately evaded their tax liability.

With the condition the economy is in today, and the state of our country's financial institutions, the stakes could not be greater for the next Treasury Secretary. And despite his failure to comply with the tax laws, the seriousness of our economic challenges may be the reason Mr. Geithner is confirmed. Indeed, that seems to be likely.

If he is confirmed, Mr. Geithner will be asked to oversee not only a faltering economy but also the rehabilitation of our financial markets. No Treasury Secretary has faced bigger challenges. I hope that if he becomes our next Secretary of the Treasury Mr. Geithner will be a bit humbled by his missteps, policy, and otherwise, and will revisit the positions he took when he was in the Clinton Treasury Department in light of the subsequent damage they did to our financial markets, as well as his actions or lack of action as President of the Federal Reserve.

Given the enormous challenges he will face and the great talent he appears to have Timothy Geithner has the ability to be a truly great public servant. I hope he will live up to that potential.

Mr. LEAHY. Madam President, I rise today to speak on the nomination of Timothy Geithner to be Secretary of the Treasury.

The next Treasury Secretary will face unprecedented challenges as the United States continues to deal with the greatest economic and financial crises since the Great Depression. Not only must the new Secretary oversee an economic recovery at a time when enormous Federal deficits threaten our country's long-term economic outlook, he will have responsibility over the $700 billion Troubled Assets Rescue Program, TARP, to assist struggling homeowners and revitalize our capital markets.

While I was extremely disappointed in Mr. Geithner's failure to pay his taxes in a timely manner, I believe that first and foremost we need a Treasury Secretary who is eminently qualified to help steer the country through this difficult period. In my opinion, Mr. Geithner's background as President and chief executive officer of the Federal Reserve Bank of New York and his previous experience at the Treasury Department has prepared him for this important position.

I have many problems with the ways in which the Treasury Department under the previous administration used the TARP funding. After a series of fits and starts, it shifted the intended focus of the program from homeowner relief to financial stabilization. In addition, there have been widespread reports of companies receiving funds and continuing to pay executive bonuses and dividends. Clearly, the Treasury Department has not been as transparent as it should be in detailing how these funds have been spent.

I have reviewed Mr. Geithner's testimony before the Finance Committee carefully, and I was pleased to see that he intends to reform the TARP to be more accountable and transparent—and to be more in line with the original intent of alleviating the housing crisis. Proper administration and accounting of the TARP funds is essential for helping facilitate an economic recovery. I expect Mr. Geithner to follow through on these important policy changes on how the TARP funding is distributed in the future.

Thus, after weighing all of the various factors, I intend to vote in favor of Mr. Geithner's nomination today. And I wish him well as he undertakes this significant endeavor.

Mr. CONRAD. Madam President, I will vote to confirm Timothy Geithner as Secretary of the Treasury. I do so with reluctance because of his tax history. For me, this vote is a very close call.

Quite simply, I find his failure to pay self-employment taxes completely unacceptable. I am a former tax commissioner. I have dealt with hundreds of cases like this one. And in normal times, that alone would lead me to oppose his confirmation.

But these are not normal times. Our country faces the greatest economic and financial crisis since the Great Depression. I personally don't think we can afford a further delay in filling this critically important position. I think we are not anywhere near out of the woods, that very serious days lie ahead of us, and that it is absolutely imperative that we get a Treasury Secretary in place. And Mr. Geithner does have the background to contribute to solving this crisis. For these reasons, I will support his confirmation.

Ms. SNOWE. Madam President, I rise with respect to the nomination of Timothy Geithner for Secretary of the Treasury.

This nomination comes at a tumultuous and precarious time, as our Nation's economy remains in the throes of an accelerating downturn—financial markets have fallen precipitously and are threatening the retirement security of millions of Americans, credit markets are still failing to function normally, and the budget deficit regrettably is poised to reach record heights. And so, as Mr. Geithner well understands, this nomination could not arrive at a more consequential moment in our Nation's history.

The Department of the Treasury states its role as ''the steward of U.S. economic and financial systems.'' And undeniably, today, we face a simultaneous crisis in both of these systems on a scale most appropriately described as monumental—as this recession approaches the longest and deepest since World War II. The cascading effect of our collapsing housing markets combined with irresponsible, unregulated and unchecked instruments and investments in our financial markets has resulted in an onrush of disastrous economic repercussions—most especially for hardworking Americans, 2.6 million of whom lost their jobs last year, with millions more looking forward to this year with a sense of profound dread. This is the morass out of which a course must be charted—and this is the challenge to which the next Secretary of the Treasury must be equal—bringing a breadth of experience combined with aggressive management, oversight, and leadership.

Given Mr. Geithner's record of achievement and reservoir of experience, which includes more than 5 years as president of the New York Federal Reserve Bank and service to five Secretaries of the Treasury, spanning three administrations, it is clear Mr. Geithner brings to this crucial post a high-caliber, comprehensive, and nuanced understanding of finance, policy, and process that will also prove invaluable at this pivotal moment. At the same time, Mr. Geithner must provide leadership along with the predisposition to turn vision into action and to execute solutions. He must also simultaneously concern himself with the financial security challenges presented by this perilous period.

Which brings me to the Troubled Asset Relief Program or the so-called TARP. The Bush administration committed the first $350 billion of the $700 billion Congress authorized last October to create TARP, and, now, the second half of the money will be released. I understand people's frustrations and concerns with the TARP program thus far—because I share those concerns. Indisputably, a lack of transparency and accountability in the first half of the TARP funding fostered an environment in which taxpayer dollars were invested in banks and other financial institutions that have refused to reveal how the money was used—and this is unacceptable.

At the same time, given the information I have as a member of the Senate Finance Committee on the state of the economy and the undeniable seriousness of our circumstances, I believe exceptional measures can and must still be taken. President Obama conveyed to me personally that releasing the remaining TARP funds is essential for shoring up an economy that continues to plunge further into recession—and the President has also assured me that his administration would implement critical safeguards while addressing the foreclosure crisis that is plaguing our economy along with so many hardworking Americans.

Indisputably, it is time for TARP to cease operating in an ad hoc manner that allowed the Treasury Secretary to tell Congress funds would be used to purchase illiquid securities, before—with no congressional review—they were reprogrammed to inject capital into banks, other financial institutions, and automakers. Therefore, following the commitments articulated by the Obama administration in letters from Mr. Larry Summers delivered to Congress on January 12 and 15, I will, in the coming days be looking for Mr. Geithner to announce programs to assist credit-starved small businesses and consumers in obtaining the loans necessary to create jobs and purchase products and services. The bottom line is that Mr. Geithner must restore public confidence in TARP by explaining in detail how funds will be used and then delivering on those pledges—because what is at stake is the public's money and the public trust.

Additionally, increasing our Nation's financial security will require the infusion of TARP dollars to help forestall our foreclosure crisis that is at the root of our economic troubles. That is why I will be vigilant in making certain the Obama administration acts quickly on its pledge to use between $50 billion and $100 billion of TARP funds to help keep imperiled families in their homes. Already, we have regrettably witnessed 2.3 million foreclosure filings in 2008 or an astounding 81 percent increase from 2007, according to a January 15 report by RealtyTrac, an online real estate marketplace that publishes the Nation's largest and most comprehensive foreclosure database.

Therefore, we must redouble our efforts to prevent further erosion of our financial security in the housing market. Yet indicators tell us that this slide may only worsen. In fact, the proportion of consumers with mortgages that are 60 days or more past due will hit 7.17 percent in the fourth quarter of 2009, compared to an expected delinquency rate of 4.67 percent at the end of 2008, as stated by TransUnion LLC—a national credit reporting company. Mr. Geithner must not waste any time in establishing a program that will offer financial incentives to companies that agree to reduce monthly payments on mortgage loans.

Moreover, I am deeply concerned about the Government Accountability Office's—GAO's—December report that concluded that more oversight over the Troubled Asset Relief Program—TARP—is necessary. While Treasury and banking regulators have publicly stated that they expect institutions receiving capital injections as part of the TARP's $250 billion to promote the flow of credit and modify the terms of residential mortgages to strengthen the housing market, Treasury has not yet established policies to ensure the funds are being used as intended. Indeed, the Associated Press reported on December 22, that when it contacted 21 banks that received at least $1 billion in Government money, not one could provide specific answers on how the money is being used.

Equally disturbing, GAO found that while institutions receiving capital injections are subject to specific restrictions on dividend payments and repurchasing shares, the Department of the Treasury has no procedures in place to ensure adherence to these strictures. And while I am pleased that the Treasury Department on January 16 issued rules requiring the chief executive officer of a financial institution receiving funds to certify compliance with executive compensation rules, Treasury must review all such disclosures to assure their accuracy.

Indeed, if confirmed, Mr. Geithner must, as the Obama administration has pledged, take steps on day one to address this egregious lack of oversight, making the protection of taxpayer funds a top priority and holding healthy banks accountable for lending—not holding—the public funds they have received. Moreover, these rules should apply not only to banks receiving injections in the future, but also to those who have already obtained taxpayer dollars.

Because of the reasons just cited—in addition to deficiencies I learned about at the confirmation hearing last November of TARP inspector general Neil Barofsky—I introduced legislation on November 20, 2008, to strengthen the inspector general's authority to vouchsafe taxpayer dollars. Among other provisions, my bill would waive applicable hiring standards in order to enable the IG to swiftly acquire staff, allow the investigation of any program receiving TARP funding, and require a study of whether banks are indeed lending the taxpayer dollars they have been given. This measure represents the right course to demanding disclosure, and yet, frankly, it is patently absurd that we even have to divine such a course.

All of the provisions in my IG bill were incorporated into the Special Inspector General for the Troubled Asset Relief Program Act of which I am an original cosponsor and that the Senate unanimously passed on December 10, 2008, but regrettably that measure did not pass Congress. That is why I am joining with Senator MCCASKILL in reintroducing this measure, which must be considered in short order and be one of the first measures approved by the 111th Congress.

In taking up the gauntlet of providing both economic and financial stewardship, Mr. Geithner must, in the process, work hand in glove with Congress to see to it that we are never again forced to vote on a financial rescue package. We must renew accountability and transparency from all of our financial products that have contributed to the meltdown to which we are now responding. And we must have more effective mechanisms to understand whether firms are creating systemic risks that could undermine the foundations of our financial system. To that end, last September, I introduced the Federal Board Certification Act of 2008, legislation that would better assess the risk characteristics of the mortgage-backed securities that led to the financial crisis. This bill would establish a voluntary Federal Board of Certification to certify the risk characteristics of mortgage-backed securities. I hope Mr. Geithner will work with me to make it law.

Not only should Mr. Geithner help Congress draft a proposal to ensure our system of regulation is viable, but he must also ensure that we do not find ourselves in the situation that occurred with the fall of Lehman Brothers, which was allowed to fail sending the financial system into a downward spiral—followed by disparate explanations of why exactly that failure was permitted.

Indeed, according to a December 14, 2008, New York Times editorial, Questions for Mr. Geithner, there are conflicting accounts as to how Lehman—an institution in existence before the Civil War—was allowed to collapse. In testimony before Congress on September 24, 2008, Federal Reserve Chair Ben Bernanke said that the Federal Reserve and Treasury declined to commit public funds to support Lehman. Bernanke testified that the failure of Lehman posed risks but that the firm's troubles had been well known for some time and investors recognized bankruptcy was a possibility. Thus, Bernanke concluded, ''We judged that investors and counterparties had time to take precautionary measures.''

But the same New York Times editorial then said that Chair Bernanke changed his story and on December 1, 2008, said that ''legal constraints'' had prevented the Fed from rescuing Lehman. Additionally, the paper reports that a spokesman for the New York Fed, which Mr. Geithner led, also said that the Fed had no legal authority to intervene.

Regardless of which explanation is true, Federal Reserve Chair Bernanke, former Treasury Secretary Paulson, and Mr. Geithner should have come to Congress for any additional authority necessary to prevent a calamity if they believed Lehman's failure was likely to wreak havoc on the Nation's financial system as it appears to have done, particularly as they saw the effects of such a downfall coming. As Treasury Secretary, Mr. Geithner cannot afford to allow such a mistake to occur once again. We are counting on him to go to President Obama and Congress when conditions warrant and not to stand on the sidelines.

Regarding Mr. Geithner's tax return mistakes, they are deeply troubling. After intense scrutiny by the Senate Finance Committee, of which I am a member, Mr. Geithner acknowledged that his errors were ''careless'' and ''avoidable,'' and, frankly, should not have occurred—a sentiment I strongly share. I am confident this experience will make Mr. Geithner more sensitive to the struggles that average Americans face in dealing with the tax code, and that he will aggressively utilize his leadership position to advocate and advance tax simplification.

Looking at the totality of the record—Mr. Geithner's achievements and broad experience—and considering all of these factors within the context of the gravest economic times since the Great Depression, I believe that Mr. Geithner is well suited to serve as our next Secretary of the Treasury, and that President Obama should have his nominee confirmed. Indeed, a recent USA Today editorial echoes this sentiment, stating that ''Mr. Geithner deserves rebuke on taxes, then fast confirmation.'' Our Nation deserves the best qualified individual to take the helm of the Treasury Department during these unprecedented times and to tackle these Herculean challenges to our modern economic system.

And so, for the reasons I have outlined, I will today vote to confirm Mr. Geithner as the 75th Secretary of the Treasury. I stand ready to work with Mr. Geithner and President Obama not only to help reverse this economic downturn, but at the same time to ensure vigilant and vital congressional oversight in the process—and that American taxpayer dollars are being spent wisely, effectively, and as intended by Congress and the American people.

Mr. LEVIN. Madam President, there is no question that our Nation's next Treasury Secretary will have a heavy burden: deregulation run rampant has shaken the foundation of our financial system and reverberated through our economy with devastating impact. I will support Timothy Geithner because I believe he has the expertise to meet the enormous challenges posed by this financial crisis and years of regulatory neglect.

Last week, Mr. Geithner provided responses to detailed questions that I submitted to him as part of the confirmation process. His answers reflect some important new priorities and policy advances, including placing a priority on ending offshore tax abuses; preserving strong U.S. accounting rules; reinvigorating international anti-money laundering efforts; and imposing a 1-year cooling off period before financial regulators can take a job with a company they regulated. He also recognizes the need to overhaul our financial regulatory structure, including by strengthening regulation of hedge funds, derivative traders, and the over-the-counter derivatives markets; and strengthening capital and liquidity requirements for financial institutions.

Despite these positive indicators, I do have some reservations. Mr. Geithner is a strong nominee because of his extensive experience, but while he now indicates support for some regulation of swaps, he has been reluctant to acknowledge that prohibiting regulation of those instruments was a mistake in 2000, and has offered only tepid support for some of the strong regulatory controls needed. Mr. Geithner has also been a key decisionmaker in the flawed financial rescue effort which has failed to track the use of TARP funds and failed to mandate lending of those funds to creditworthy businesses and to addressing the foreclosure flood. He has been reluctant to support requiring TARP fund recipients to track and report on their use of taxpayer dollars and requiring those who receive more than $1 billion in taxpayer assistance to provide written viability plans on how they intend to regain financial stability and repay the funds. Still, Mr. Geithner's apparent willingness to listen to and work with Congress and his openness to compromise is promising for future progress in these and other areas.

The job that awaits Mr. Geithner pending his confirmation is an extremely tough one. I hope that he is confirmed, and that he lives up to the promise of the Obama administration, including implementing the transparent, pragmatic, and thoughtful policymaking that is a hallmark of President Obama's approach to government.

Our Nation's economic recovery requires nothing less.

Mr. BAUCUS. Madam President, a Congressman from Pennsylvania said:

> I do believe we are now on the brink of a precipice, that will be dangerous for us to step too fast upon.

The Pennsylvania Congressman spoke not today, but more than 200 years ago, in the early days of our Nation.

We often forget that our young Nation was born not just in the glory of independence and democracy, but with the throes of a financial crisis. At its founding, America was so encumbered by debt that the annual interest on its debts alone was three times its foreseeable annual income.

Finding a way out of that financial mess fell largely to one man, our Nation's first Treasury Secretary, Alexander Hamilton.

Hamilton was not popular. His task was not easy. And he received little support. But ultimately he succeeded.

Again today, our Nation finds itself on the brink of a precipice. Again today, the way out of our financial mess falls substantially on one man. Again, his task will not be easy. And again, he may not be popular with all of my colleagues. But again, he must succeed.

Today, we are considering the nomination of Timothy Geithner to be America's Treasury Secretary, in a time of unprecedented crisis. Credit markets are broken. Nearly 3 million Americans have lost their jobs in the past year. Homeowners face foreclosure. And home values continue to fall.

Financial alchemy, carelessness, excessive leverage, and greed have crippled Wall Street and America's financial institutions.

Today, America does not face imminent bankruptcy, as it did in Alexander Hamilton's time. Our Nation's creditworthiness remains solid. And our currency and Treasury bonds anchor the world economy. Today's Treasury and Federal Reserve pack financial firepower and resources unmatched by any other economy.

But in many ways, it will be far more daunting to solve today's challenges than it was in Hamilton's day. The exotic financial innovations that set off today's crisis are unprecedented. And their consequences are therefore not fully known. Today's unconventional crisis will not be solved with conventional solutions.

We face this crisis integrated in a world economy through international trade, foreign direct investment, and global financial markets. We face this crisis relying on foreign nations to finance our current account deficit. And we face this crisis at a time when nearly every economy in the world appears headed for simultaneous—and in some cases rapid—recession.

President Obama has asked the Senate to confirm Timothy Geithner without delay. Our economic crisis demands it.

The Senate Finance Committee vetted Mr. Geithner thoroughly. We questioned him for 3 hours last week in a public hearing. And we examined him behind closed doors a week before.

My colleagues and I strongly support his nomination. And I believe that Mr. Geithner is uniquely qualified for this job, at this time.

Tim Geithner is a dedicated, lifelong public servant. He has not relied on money and political influence to rise to positions of responsibility. He did it the old fashioned way—with hard work, dedication, and competence.

Mr. Geithner began his career at the U.S. Treasury Department. He rose to become Under Secretary of the Treasury for International Affairs. There, he dealt effectively with financial crises of the past decade. There, he earned the respect and trust of policymakers around the world.

As president of the Federal Reserve Bank of New York, Mr. Geithner oversaw the execution of America's monetary policy, monitored financial institutions, and advised our economic partners around the world.

More recently, Mr. Geithner worked with Treasury Secretary Paulson and Federal Reserve Chairman Ben Bernanke on the series of initiatives aimed at thawing frozen credit markets and stabilizing our financial sector.

History will judge the wisdom of how this past administration handled our crisis. But I take comfort in knowing that Mr. Geithner will enter his new job knowing the scope, motivation, and effect of what was done. He will enter his new job knowing what worked, what did not, and what more needs to be done.

Mr. Geithner will surely make mistakes. We all do. But Mr. Geithner's experience will help him to avoid repeating the same mistakes that this past administration made.

Mr. Geithner also knows what we expect of him. He knows that we expect him to be a good steward of taxpayers' money. He knows that we expect vigorous oversight of all financial recovery actions. He knows that we expect Congress to be consulted and informed on all initiatives. And he knows that the well-being of America's small businesses must be part of every decision he makes.

When Alexander Hamilton became Treasury Secretary in the face of extraordinary crisis, he said:

> I conceived myself to be under an obligation to lend my aid towards putting the machine in some regular motion.

With this vote, Mr. Geithner is under an obligation to lend his aid—every last ounce of it—to putting our economic machine in regular motion. America is counting on it.

Once again, we are on the brink of a precipice. Once again, our President calls upon one brilliant man to help to bring the Nation back.

Let us give him the person whom he has requested. And let us confirm our new President's choice for Secretary of the Treasury.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, how much time remains on each side?

The PRESIDING OFFICER. The majority has 13 minutes remaining. The minority has 1 minute remaining.

Mr. DORGAN. Madam President, I came to the Chamber and heard my colleague from Iowa speak about the nomination before us and speak about the culture of greed and other events that have resulted in the collapse of our financial system. I want to make a point that the Senator from Iowa is not alone. There are a number of us who feel very strongly about what has happened on Wall Street, what has happened since the financial collapse, and what is happening every single day. You wake up in the morning and you hear of thousands and thousands of people being laid off, with 2.6 million people losing their jobs last year and an estimated 2.5 million people expected to lose their jobs in the first 6 months of this year alone.

This is a very serious problem for our economy, which is perched on the edge of a cliff. The question is, Who is going to steer us out of this mess? My notion is that the same people who steered us into the ditch are not likely to show up with an ambulance to get us out. And my great concern is that there needs to be a culture change. I must say I am concerned as well that we have some people coming to Washington who were part of the culture that got us into this mess.

It was 10 years ago when the Financial Modernization Act was on the floor of this Senate. My colleague from Iowa voted against it, and so did I. There were eight of us who voted against it in the Senate. That is what caused these big holding companies. Citigroup, or Citicorp at that point, wanted to buy Travelers Insurance but the law wouldn't let them. So they got busy and changed the law. They got Glass-Steagall repealed—the protections put in place after the Great Depression—so that banks could get engaged in riskier enterprises, such as securities and real estate and merged it all together into a big holding company and said it would be fine.

I stood here on the floor of the Senate 10 years ago and said: Mark my words, within a decade, we are going to see massive taxpayer bailouts if we pass that bill. I have no pride in being right. But I said at the same time, if you want to gamble, go to Las Vegas.

Why on Earth should we have done in 1999 what we did to fuse banking with

inherently risky enterprises? It created an unbelievable carnival of greed. People at the top were making money hand over fist, taking it home, and putting it in their big banks. Not everyone was making money, only folks at the top. The highest income in 2007 was $3.6 billion for one person. Think of that. Incomes from outerspace.

So what do we have? Well, the fact is some of the same folks in 1999 preached the gospel of deregulation—getting rid of those old-fashioned things put in place after the Great Depression—to get what they called one-stop financial service centers. You would have one-stop financial shopping. Now you would be going to one place to do your real estate and your securities and your banking. That is what they wanted. Well, they got it. Only eight of us voted no, so they got it. Now the American people bear the brunt of this colossal, unbelievable failure.

I have to say—and I have told the President this—that I worry some folks coming into this town now were part of the chorus supporting all of that deregulation in what was called modernization—the Financial Modernization Act and a couple of other pieces of legislation that occurred thereafter. So I am going to watch like a hawk the folks who show up around here who were part of the supporters back in 1999 who have taken apart the protections that had existed since the Great Depression. I am going to watch this like a hawk.

We have to fix this, but you can't fix it by tightening a few bolts here and there. We need financial reform. We need to ask basic questions: Was it ever in the public interest to begin securitizing everything and passing risk up the line and allowing the most unbelievable mortgages to be written—no documentation of income, you don't have to pay any principal at first or you don't have to pay interest for 12 months. All this sort of thing. And by the way, if you have a bankruptcy in your background, come to us, we want to give you a loan. If you are slow in paying, have bad credit, or a bankruptcy, come to us, we will give you a loan. That is the way it was advertised. Unbelievable.

This was a carnival of greed that has now toppled the financial structure of this country. And every single day American families around this country are bearing the burden and paying the price. Somebody is coming home and saying to their spouse, their loved ones, their friends, I lost my job today. It is not because I am a bad worker. It is because there were layoffs at the plant or the office. The price for this greed is unbelievable.

Now it has stopped because it has collapsed. But now we have to rebuild it. And the question is, who will be the architects who will give us confidence to rebuild a financial system in which underwriting is really underwriting; in which we soak out some of the greed and get back to basic values; you separate banking from risk; you begin to regulate, and you get rid of the folks around here who boasted about being willfully blind in terms of their responsibility to regulate behavior that long ago should have been regulated?

So I wanted to say that the Senator from Iowa speaks for a number of us—certainly myself—in being very concerned and determined to watch like a hawk what happens from this day forward with respect to those who are charged with and asked to help us reconstruct this system—a financial system, a system of employment, a system of production in this country where we put America back on track and give it the opportunity to expand, to grow, and to allow the American people to have confidence in the future once again.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The majority whip is recognized.

Mr. DURBIN. Madam President, it is my understanding a vote is scheduled at 6 o'clock.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Madam President, I have a statement I wish to make, but if Senator BAUCUS should come to the floor, or his designee, I will yield the floor at that point if they want to close the debate. But I want to make a statement in reference to the nomination of Mr. Geithner to be the Secretary of the Treasury.

Today's press reports were staggering. The largest manufacturer in my State, Caterpillar, is cutting 20,000 jobs—18 percent of their workforce; Pfizer is laying off 8,300 workers; Sprint Nextel, 8,000; Home Depot, 7,000; Corus, 3,500 workers. That is a shortened list of announced job losses—over 47,000 in total—in just today's newspaper. Last week, Harley-Davidson, 1,000 jobs; Microsoft, 5,000; Intel, up to 6,000; United Airlines, 1,000; Bose, 1,000; Clear Channel, 1,850 workers.

It is abundantly clear that our economy is in a tailspin, and it is clear to me as well that we will need leadership in the Department of the Treasury. Mr. Geithner, who is the nominee of this administration as Secretary of Treasury, has been the subject of hearings. There have been disclosures concerning taxes that he has paid in the past. He has acknowledged his own shortcomings when it comes to some of these issues. I would say at this point, now more than ever, we need a person with his background and his skills to lead us in the Treasury Department. When you take a look at the state of the economy, I hope the Senate will respond as quickly as possible—this evening—in appointing him to this position.

Then we should move quickly. Once we have finished the Children's Health Insurance Program this week—the majority leader, Senator REID, has said we will finish it this week—then we need to move into the recovery and reinvestment plan which President Obama is going to offer to Congress. Tomorrow, in historic meeting, President Obama is coming to Capitol Hill to meet with Republican Congressmen to talk about the plan. He is doing everything in his power to work together with Democrats and Republicans to put together the right investment for our Nation's future.

We know what is at stake. It isn't just the immediate job losses, it isn't just the unemployment rate we face, which is at a record high level for the last 16 years, but it also is a question of investment in this country. There are some who want this to be a temporary program. I hear that from Senator MCCONNELL—he wants this to be temporary. But we have to acknowledge some of the investments we want to make are long-term investments to stabilize the economy. When we decide to build classrooms, laboratories, and libraries for the 21st century, it creates jobs today and over the next several years, but it also creates an asset that will pay back over long periods of time. When we invest in information technology when it comes to health care, it is an investment that will pay off in bringing down the cost of health care and reducing the medical errors that result when we don't have accurate information. When we make investments in providing energy incentives for new green businesses to lessen the dependence of America on imported oil, it creates a job today, but it may be something that pays back over the long term.

I don't think the American people expect us to do something which will disappear in 18 months and have to be repeated. They want us to invest this money as best we can in those projects that have long-term value.

Mr. Geithner, the Secretary of the Treasury, will have important responsibilities when it comes to other aspects of this—financial institutions that will be brought into this equation to find ways to stabilize our economy and move us forward—but the key issue, over and over again, is the creation of jobs—jobs. We lost over 500,000 American jobs in the month of December, we are anticipating losing 600,000 this month, with no end in sight—17,000 Americans a day losing their jobs. We have to act quickly—not with haste and not without due consideration, but we have to act quickly to respond to this economic crisis.

I think the approval of Mr. Geithner as Secretary of the Treasury is a first step, and then the recovery plan which will follow. The House will take it up this week, and we will take it up in committee. We are going to finish it

before we leave on February 14. It is a target date which all of us understand is very serious because we are facing economic circumstances we have not seen in this country in over 75 years. I want to make sure we do this and do it quickly; that we act boldly and swiftly, and at the end of the day we create the jobs that are needed in this country, we cut taxes for working families so they will have more resources to cope with the expenses they face, and we invest in long-term investments that pay off and stabilize our economy. We are talking about roads and bridges and airports and schools, and we need transparency and accountability when it comes to this recovery program.

Madam President, I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Timothy F. Geithner, of New York, to be Secretary of the Treasury?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Ohio (Mr. BROWN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Missouri (Mr. BOND).

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

The result was announced—yeas 60, nays 34, as follows:

[Rollcall Vote No. 15 Ex.]

YEAS—60

Akaka	Feinstein	Mikulski
Baucus	Graham	Murray
Bayh	Gregg	Nelson (FL)
Begich	Hagan	Nelson (NE)
Bennet	Hatch	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Burris	Kaufman	Rockefeller
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Shaheen
Carper	Kohl	Shelby
Casey	Landrieu	Snowe
Conrad	Lautenberg	Stabenow
Corker	Leahy	Tester
Cornyn	Levin	Udall (CO)
Crapo	Lieberman	Udall (NM)
Dodd	Lincoln	Voinovich
Dorgan	McCaskill	Warner
Durbin	Menendez	Webb
Ensign	Merkley	Whitehouse

NAYS—34

Alexander	Bennett	Bunning
Barrasso	Brownback	Burr
Byrd	Hutchison	Risch
Chambliss	Inhofe	Roberts
Coburn	Isakson	Sanders
Cochran	Johanns	Sessions
Collins	Kyl	Specter
DeMint	Lugar	Thune
Enzi	Martinez	Vitter
Feingold	McCain	Wicker
Grassley	McConnell	
Harkin	Murkowski	

NOT VOTING—4

Bond	Kennedy
Brown	Wyden

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid on the table.

The President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

The PRESIDING OFFICER. The Senate will now proceed to the consideration of H.R. 2, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2) to amend title XXI of the Social Security Act to extend and improve the Children's Health Insurance Program, and for other purposes.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the consideration of H.R. 2 be for debate only during today's session. There will be no amendments in order tonight.

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

Mr. BAUCUS. The author Lois McMaster Bujold wrote:

Children might or might not be a blessing, but to create them and then fail them was surely damnation.

Before 1997, we largely failed the children of the working poor. The Children's Health Insurance Program changed that. For millions of working families, the Children's Health Insurance Program has truly been a blessing.

Before 1997, kids of the working poor had nowhere to go to get health insurance—nowhere. Their parents' employers did not offer health insurance benefits, and the individual market offered only low-quality insurance options at unaffordable prices. Without health insurance, kids could not see the doctor for a checkup, they could not get a prescription for an earache, and they could not get treatment for common chronic conditions such as asthma. Unhealthy kids cannot run and play, they cannot do well in school, and they cannot grow into healthy and productive adults.

In 1997, Congress took action to address this problem. We established the Children's Health Insurance Program. Today, we finally move forward to keep the program going. The Children's Health Insurance Program has bipartisan roots, and it has achieved what we created it to do; namely, it covers low-income, uninsured kids.

Congress enacted the Children's Health Insurance Program as a bipartisan compromise. Members of Congress wanted to address the rising number of children without health insurance, and Senator ROCKEFELLER, Senator HATCH, Senator KENNEDY, and the late Senator John Chafee led the way. I am proud to have helped write and pass the Children's Health Insurance Program 12 years ago. It has been a tremendous success.

The Finance Committee reached a compromise that allowed States to set up children's health insurance programs that would meet their unique needs. States can choose whether they want to participate in the program. Within 2 years of CHIP's creation, every State decided to participate. It was a no-brainer. Every State wanted to address the health care needs of our most vulnerable children.

In its first decade, CHIP cut the number of uninsured children by more than one-third. Today, because of CHIP, nearly 7 million children get the doctors visits and medicines they need. Those healthier childhoods will enable those 7 million kids to become healthy, productive adults.

Health insurance is important. It is more than important; it is critical. Children with health coverage are more likely to get the health care they need, when they need it. Because of CHIP, 7 million kids have regular checkups, see doctors when they get sick, and get the prescription medications they need.

The task before us is to reauthorize this important program. Many will recall that we started this process back in the year 2007.

Congress worked hard, very hard to pass a bipartisan reauthorization package. I can tell my colleagues, Senators HATCH, ROCKEFELLER and myself and Senator GRASSLEY worked hours on end. I cannot tell you the number of hours we met and how hard it was, but we worked together and got that compromise. We got it passed on the floor, passed the House. But President Bush vetoed it twice. Times have changed. President Obama is looking forward to signing the Children's Health Insurance Program bill, and Congress is prepared to act.

Americans overwhelmingly support covering kids. The bill before us today will keep coverage for all children currently in the program, and we will start to reach more than 4 million additional uninsured, low-income kids. In

drafting this legislation, we relied heavily on the two vetoed bills. We keep CHIP focused on kids. That is the focus. Childless adults whom CHIP covers today will transition out of the program. This is focused on kids. This bill will not allow new waivers for CHIP coverage of childless adults. Low-income parents whom CHIP covers today will ultimately transition out of CHIP to Medicaid, with its lower match rate. This bill precludes new waivers for coverage of parents in CHIP. We cover low-income kids first. We agree that low-income kids are our first priority, but we do not limit State flexibility in designing CHIP programs. States choosing to cover kids above 300 percent of poverty will receive the lower Medicaid match for those kids. If they want to do so, they can, but they will get the lower match rate. We also included bonuses for States that meet enrollment targets for kids in Medicaid. Nearly three-quarters of uninsured kids are eligible for either Medicaid or CHIP but have not enrolled. We encourage States to improve their outreach practices to streamline enrollment procedures to keep them enrolled. We maintain State flexibility. We have given States the option to cover legal immigrant children and pregnant women during their first 5 years in the United States. States can decide whether they want to cover those children. Currently, Federal law prevents States from covering legal immigrants on Medicaid or CHIP until they have been in the country for 5 years. But some States have found this provision to be too restrictive. Those States have chosen to use their own money to meet the needs of their residents.

In 2008, for example, 18 States chose to cover legal immigrant children, and 23 States chose to cover legal immigrant pregnant women, rather than deny them the health care they need for 5 years. The Federal Government should not penalize States for trying to help needy populations who are here legally. This bill would allow States the option to cover legal immigrant children and pregnant women in Medicaid or CHIP and receive the appropriate Federal match.

More broadly, we have also created a State option that allows States to designate CHIP funds to offer premium assistance. Premium assistance can help families to afford private coverage offered by employers or other sources. We improve the quality of children's health insurance. Discussions about health insurance often get bogged down in talk about cost and coverage but we ignore quality. Discussions about quality often ignore the unique needs of children. Our CHIP bill launches a substantially new initiative to improve children's health quality. This initiative will invest $45 million a year for 5 years to develop national core measures for children's health quality, improve data collection in CHIP and Medicaid, and promote the use of electronic records. These efforts will help to improve the quality of care available in CHIP and Medicaid.

We pay for what we do. Like the vetoed bills, this legislation will increase the Federal tax on a pack of cigarettes by 61 cents. We also make proportional increases for other tobacco products. Increasing the cigarette tax will discourage smoking, particularly among teens, and that will be good for kids as well.

The bill we are considering today is a good bill. In putting together the Finance Committee's bill, we worked to cover as many low-income, uninsured kids as possible. We respected our budgetary limits, and we made compromises in good faith with our Republican colleagues. In committee, we made further compromises which I hope have strengthened this bill even more. I prefer to be standing here today with all my colleagues beside me, especially my good friends, Senators GRASSLEY and HATCH. But we could not agree on everything. I hope the remaining disagreements do not prevent Senators from doing the right thing. Let us not fail the children of the working poor. Let us get these kids to doctors visits and medications they need, and let us continue the blessing that is the Children's Health Insurance Program.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, following along on the lines of the distinguished chairman of the Finance Committee, it has been a very long journey to reach this day. A year and a half ago both Houses of Congress passed two CHIP reauthorization bills with overwhelmingly bipartisan support. As I recall, the numbers were somewhere around 69 in the Senate on each bill. These two bills would have given 4 million more uninsured children a healthy start in life. For those of us in Appalachia and for those who live almost anywhere in the country, there are parts of their inner cities and rural areas where this is absolutely crucial.

No one was more disappointed or, frankly, angry than I was when our bipartisan legislation was twice vetoed by President Bush. I could not understand it. I didn't know what the reason was. But my anger toward that pales in comparison to the heartache and the anguish felt by the millions of children and families who would have directly benefited from this legislation had it passed in either of its forms. But it did not.

So today we are here once again to debate providing health coverage to 4 million uninsured children. But this time there is a big difference. President Bush no longer stands in the way of providing health care to children. President Obama decided, very early in his campaign, this is something he cared about. This time victory for children is guaranteed. All we to have do is pass it. We should all be extremely excited that this bill will finally be signed into law, and more than 11 million children will be enrolled in CHIP each year.

Unfortunately, some of my colleagues are less than thrilled about the bill before us. I want to put the 11 million children in context. People say there are anywhere from 42 to 48 million uninsured Americans. If we do our job, about a quarter of our uninsured will disappear and will be insured. So this is a monumental task on which we are, in fact, proceeding. Some of my colleagues have tried to raise suspicion and doubt about our intentions on this most recent CHIP bill. I regret that. I want my colleagues to know there is no reason for suspicion or doubt on any account. It was called by some ''political.'' I will explain that in a moment and why it is a fallacious argument and should be understood by my colleagues as that. Our intentions are exactly the same as they were in 2007—to make sure that children in America have the health care they need and deserve.

I remember this very well, as the Presiding Officer knows, from my early days in West Virginia when I was working in coalfields of southern West Virginia where no children had any health care insurance. The legislation we are considering this week is virtually identical to the second and to the more conservative CHIP bill that we passed in the fall of 2007. However, this legislation also reflects the fact that our country is not in the same economic situation as was the case at that time. Working families at all income levels are hurting because of the economy. This bill gives the States additional Federal funding and the flexibility to cover children in need.

One important and necessary change in the legislation before us gives the States the option to eliminate the 5-year waiting period that prevents legal immigrant children and legal immigrant pregnant women from getting timely health care. Allow me to repeat myself. This legislation gives States the option to eliminate the 5-year waiting period for legal immigrants. It is not, therefore, a requirement. It also does not provide health care for illegal immigrants or their children. Anyone who says differently is incorrect. Thence rises the argument that this is playing politics, as if God had some kind of a different view about children who are here and have been here for a number of years and are trying to live out their life as best they can but they have no health insurance. What is it? Where is it written that these are not children to the equal of yours or mine? It is not written, because it is not so. All of us are equal.

In fact, our legislation has language specifically prohibiting Medicaid and CHIP coverage for illegal immigrants. I could take it out of the bill and read it to you, but that would be unnecessary.

There is no acceptable reason for this 5-year waiting period to remain in place. All lawfully present children should have timely access to health care in the United States. We are doing our best to achieve that and will achieve that through this bill. Five years later, if we kept on that requirement, is a lifetime for young children who may have bad teeth or early cases of cancer or any other life-threatening illness or disability, to make them wait 5 years because we don't think maybe they measure up. They measure up. They are kids. They are children. That is what we are fighting for.

Those who oppose removing this arbitrary waiting period will come to the floor and offer all sorts of unrelated arguments about immigration. This is not about immigration. It is about health care for kids who need it, something that a lot of us have been fighting for since the mid-1990s. These arguments are nothing more than a smokescreen. The bottom line is that both U.S. citizen children and children in this country legally should have timely access to health care, period. This legislation covers both those objectives.

In closing, I hope we will have the same bipartisan commitment in passing this legislation as we did in 2007. Those who look upon one amendment, which is highly moral, highly deserved and entirely right, will pass it with the same margins we did in 2007. Four million children are waiting for us to finish the task at hand.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

SPADE-READY PROJECTS

Mr. INHOFE. Mr. President, we have some things that are going to happen this year that are very significant. In the committee I chaired when the Republicans were in the majority—it is now chaired by Senator BOXER—we have two major pieces of legislation coming up.

We have the Transportation reauthorization bill and we have the Water Resources Development Act reauthorization bill. In the case of the Transportation reauthorization bill, we had a good reauthorization in 2005. It is scheduled to be reauthorized again, and I would suggest we use that as somewhat of a pattern of what we are going to plan to go in this coming year, in 2009.

In spite of all of the things you are hearing about the inauguration and about the various confirmations, business is going to continue. The WRDA bill, the Water Resources Development Act, is something that should be done on an annual basis or every other year. Yet the last time we passed it was 7 whole years ago. We had a lot of making up to do. There is not one State represented on this floor that is not way behind in some of the programs that are dealt with in the Water Resources Development Act.

The reason I mention this at this time is we will be dealing with some type of a stimulus bill. When they talk about $800 or so billion, I already, in my previous remarks, talked about how big $700 or $800 billion is to individual families in America.

We will be dealing with this, and I regret that of the $800 billion, only $30 billion has to do with highway construction. We have a great need in this country for bridge construction, highway construction, and, hopefully—Senator BOXER and I both cosigned a letter to try to get a much larger percentage of whatever amount we end up authorizing in a stimulus bill.

So I would hope—and I would ask each Member to look at their own States, as I have done in my State of Oklahoma—Senators look at State projects that are out there that we call spade-ready: they have had their environmental impact statement, they have had their AS statements, and they are ready to go. They would employ people immediately. For those like me who are conservative, who do not believe the ingredients in this stimulus package, or at least do not believe what they are looking at in the House is going to really stimulate very much, one thing we do know is that there is nothing that puts people back to work faster than to get something that has already passed all of the environmental prerequisites and is ready for construction to start. Then, after it is over, you have something. You have bridges that are rebuilt. You have roads that are rebuilt.

So what I would encourage the Senate to try to do is get as much as we can out of the stimulus package that actually does provide jobs and provides things that otherwise we would have to do in the reauthorization bill.

There is no way in the world we are going to take care of the real need we have with infrastructure in America unless we get a very large amount in the front end of the stimulus bill.

CELEBRATING THE CHINESE NEW YEAR

Mr. REID. Mr. President, I rise today to join with the millions of Asian Americans around the country in celebration of Chinese New Year. Last year, I was pleased to introduce a resolution honoring the historical and cultural significance of this holiday, and today, I am equally delighted to recognize all those welcoming in the Year of the Ox.

The festivities surrounding the Chinese New Year are steeped in rich cultural tradition. The 15-day-long celebrations marks one of the most important times for Chinese Americans and Asian Americans from many backgrounds and ethnicities to gather together with family and friends. Mouthwatering aromas will fill their homes as families sit down to New Year's Eve meals, and children will eagerly await receiving lucky red money envelopes. Many will watch or participate in vibrantly colored dragon dances, a symbol of prosperity and good fortune.

In our State of Nevada, the festivities held in Las Vegas, in particular, draw thousands of visitors, where many of the city's hotels feature spectacular decorations, dragon dances, and restaurants serving traditional dishes. And all across our great State, families will flock to community festivals featuring dances, crafts, food, and fireworks—the sights, sounds, and smells that make Chinese New Year such a jubilant celebration.

This year marks the 4706th year in the Chinese calendar, based on the lunar cycles. As it unfolds, I hope those observing Chinese New Year will enjoy this special time to honor traditions, spend time with their families, and eagerly anticipate what blessings the Year of the Ox may bring. To the thousands of Chinese American Nevadans and many others celebrating today, I send my best wishes for a joyous celebration and a prosperous New Year.

TRIBUTE TO DR. HAROLD C. RELYEA

Mr. BYRD. Mr. President, on January 30, 2009, after more than 37 years of service at the Library of Congress, Dr. Harold C. Relyea will retire as a specialist in American National Government at the Congressional Research Service, CRS. His service and devotion to the U.S. Congress will be greatly missed.

President Thomas Jefferson once observed that ''information is the currency of democracy.'' He also noted that ''whenever the people are well-informed, they can be trusted with their own government.'' Thanks to the fine work of Dr. Relyea and his colleagues at the Congressional Research Service, the people's representatives in Congress are well-informed—and, thus, well-armed—to preserve and defend the ideals, structure, and balance of our government as envisioned by our Founding Fathers.

As Senators and staff come and go, the best CRS specialists become repositories of institutional knowledge, deep wells of experience who offer perspective and thoughtful analysis. Such specialists tend to take a long view on issues, having seen issues and trends emerge and reemerge in varying forms.

These public servants enlighten and educate Members, and sometimes testify before congressional committees. These men and women are steeped in their field of expertise, and though some come to be recognized for their published work and analysis, most labor in anonymity, satisfied by the pure reward of helping to inform and shape the public debate.

Dr. Relyea is, and has been, reliable, authoritative, and humble—a genuine example of the true public servant over the long years of his career. A native of Oneida, NY, Dr. Relyea earned his doctorate in government in 1971 from American University—my own alma mater. He joined the Congressional Research Service that same year, shortly after the enactment of the Legislative Reorganization Act of 1970 that provided the charter for the modern Congressional Research Service. Dr. Relyea was promoted to head of the Executive Organization and Administration Section at CRS in 1976. Twenty years later, he became the head of the executive and judiciary section of the government and finance division. As a Specialist in American National Government, Dr. Relyea garnered national recognition for his research and writings on the Presidency, and executive branch powers and organization.

I came to know Dr. Relyea in 2002, as the Bush administration attempted to expand its use of emergency and wartime powers, and I increasingly sought to defend and assert the rights and privileges of the Congress as a co-equal branch of government under the U.S. Constitution. I recall sitting across the table from Dr. Relyea in the Appropriations Committee hearing room, where I had asked several CRS specialists to brief me on the creation of a new Department of Homeland Security. I remember being impressed by Dr. Relyea's depth of knowledge, and his timely and thorough responses to my requests for information. Dr. Relyea and others sacrificed their August recess that year, in order to help prepare for a long debate when the Senate returned in September.

I welcome this opportunity to thank Dr. Relyea, and to thank everyone at the Congressional Research Service for their hard work and dedication. As a source of necessary expertise for Members of Congress, CRS helps to provide a vital counterweight to a mighty and powerful Executive branch.

In a career that has spanned four decades and eight administrations, Dr. Harold C. Relyea has set a standard of superior service for the entire Congressional Research Service. It's clear that Dr. Relyea has earned the respect and appreciation of his colleagues. He is a patient and generous mentor and has assisted a full generation of CRS analysts in developing their skills. In 2008, his colleagues showered praise on Dr. Relyea as they nominated him for the prestigious Director's Award. I think their greatest tribute to him, however, would be to continue his outstanding legacy of scholarship.

I thank Dr. Relyea for his extraordinary dedication to the work and traditions of the U.S. Congress and to the country and the Constitution which we all revere.

LILLY LEDBETTER FAIR PAY ACT

LOST PAY

Mr. LEVIN. Assume that on January 1, 2007, a new employee is hired and knows that she will be paid less because she is a woman. She also knows that she is receiving less pay than a male who was hired on the same day for the same job, but she needs the job and is afraid to file suit. Two years go by and on January 15, 2009, she decides to fight the discrimination and files a complaint. Under current law, can she recover the lost 2007–2008 pay?

Ms. MIKULSKI. Under current law, as interpreted by the Supreme Court, she is not able to recover any lost pay because a claimant has 180 days to file a claim from the time that the employer first decided to discriminate, i.e. she had to file by July 1, 2007.

Mr. LEVIN. Under S. 181, would she be able to recover the 2007–2008 lost wages?

Ms. MIKULSKI. Under S. 181 she would be able to recover lost wages for the previous 2 years from her January 15, 2009, paycheck. This is because every paycheck is considered an act of discrimination and a claimant has 180 days to file a claim for that act of discrimination, and go back 2 years in determining damages.

Mr. LEVIN. Who has the burden of proof in intentional discrimination cases as to whether and when an act of discrimination occurred?

Ms. MIKULSKI. The claimant has the burden of proof.

REMEMBERING KAY YOW

Mr. BURR. Mr. President, I rise today to honor the life of Kay Yow, Head Coach of the North Carolina State University Women's Basketball Team.

I join North Carolina State University and the entire women's basketball community in mourning her passing.

My heartfelt thoughts and prayers go out to Kay's family—her sisters, Susan and Deborah and her brother Ronnie—and to the North Carolina State University community that adored her.

Coach Yow had countless accomplishments on and off the basketball court that I can't even begin to do justice to as I stand here today.

After 38 years of coaching, she had amounted many achievements that everyone in the women's basketball family will admire for generations to come.

A native of Gibsonville, NC, Coach Yow started the North Carolina State University Women's basketball team in 1975 and was the school's only head coach in its women's basketball team's 34 year history.

Compiling over 700 victories during the course of her career with a record of 737 wins and only 344 losses over 38 years, she led her teams to 20 NCAA tournaments, 11 of which made it to the ''Sweet 16,'' and in 1998 she led the Lady Wolfpack to ''Final Four.''

Coach Yow also captured 5 Atlantic Coast Conference, ACC, regular season championships and 4 ACC Tournament titles.

Off the court, Coach Yow was a friend, a mentor, and a leader. She was very active in the Kay Yow/Women's Basketball Coaches Association Cancer Fund, in partnership with the V Foundation, committed to finding cures for cancer.

She also was heavily involved in the creation of the ''Hoops 4 Hope,'' a basketball game played to raise awareness and help find a cure for breast cancer.

The North Carolina State University student body embraced Coach Yow, and her colleagues recognized her instrumental contributions to the sport in which she became and remains an icon.

Coach Yow will be deeply missed, but the inspiration and the memories that she created will live forever.

Again, I send my sincerest condolences to Coach Yow's family, her athletes, her fans, and her friends.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

Hi Mr. CRAPO,

Thanks for inviting me to drop you a line on the gasoline farce.

In 2005 I was forced from my job with Alaska Airlines at age 60 with no explanation other than ''we can do what we want without explaining to you why.'' That stopped my income—cold. Since then Donna and I have moved in with Donna's aging and widowed mother and have been able to care for her, while at the same time not having to make a house payment. Nobody but Walmart will hire a guy my age with my particular qualifications. So I still have no job. Fortunately

we have no bills. We were making it OK drawing my Social Security early and making ends meet . . . until this gas thing—that was then—this is now.

Just this Monday, I filled my tank with 81 octane rating and 16 gallons cost me $65. The net result is that I now drink water instead of milk, I no longer can afford my vitamins, we cannot afford the better whole wheat bread but buy wonder bread because it's cheaper. (I quit eating bread so I guess that's not all bad.), cut back on eggs, buy 75 percent fat free hamburger rather than the 90 percent stuff at Winco. I had to cancel a Doctor's appointment for my blood pressure check because I have no insurance and ran out of money. Should I go on?

In short this gas thing is making life difficult. I cannot figure out why the Democrats are so obtuse. We cannot drill here because of some patch of slippery grass or there because we might melt the polar ice cap out from under some bear. Who cares about that stuff in this critical time anyhow? This is all really easy to figure out: Drill here, Drill now, and to blazes with the frog lickkers and tree huggers. It is because of them and their ilk that we have not built any new refineries or opened any new drilling fields in the past 30 plus years. Gee, I wonder how much we would be paying for our own gasoline drilled from our own wells and refined in our own refineries? I am not an educated man but I think I have got a handle on this. What is the matter with all your buddies in Congress?

Why is it that everybody else on God's Green Earth is drilling wherever they need (and want to) and we continue to buy oil from people who'd just as soon kill us as look at us. You know what? We have some of the largest oil reserves on Earth and we let some team of morons who think the bears and the slippery grass are more important than me, stop us from drilling in our own back yard?—I don't think so. I haven't slipped on any endangered grass or seen a polar bear face to face except in the zoo—and I do not expect I will in what remains in my life time. But I do have grandkids who don't live close by. What is more important than me seeing my grandkids down in Poky or Ogden? Bears or grass? No siree. I would sure like to be able to afford to go see my grandkids when they say ''Gramp will you come and play with me?''—and I now cannot—because nobody with the horsepower will face down that bunch of friends of earth and the Audobon Society and stop this insanity.

I have a sweet little 3 year old granddaughter who cries because her Grandma tells her she cannot afford to come see her. Now that darn near tears my heart out.

CURTIS MAUGHAN.

We have owned and operated an electrical contracting business for 21 years and presently employ 18 people in the Treasure Valley. Like many, we feel our economy is in crisis, mostly fueled by the price of energy.

The prices of steel, copper, plastics and fuel all drive the cost of our end product up to the consumer. We believe we are reaching the tipping point where the consumer will simply have to make the choice between food/fuel or services such as we provide and that means the loss of jobs and income to families supported by businesses such as ours (for example—our employees, suppliers, other subcontractors, and other small businesses that support us). Two years ago our monthly fuel bill was $1,200.00. Today our monthly fuel bill is over $2,500.00. We can only absorb so many increases before we can no longer afford to do business.

Our society was built on free enterprise and the inaction of our government to address the energy needs of the country crushes our ability to produce and contribute to the economy. The government has too long tried to appease special interests. For our government to shackle us to dependency on foreign energy when we have everything we need right here is a disservice to the people. We can pursue our own resources with negligible impact on our environment. We must go forward with the pursuit of energy independence, both green and fossil fuels. Free up Anwar, the Atlantic shelf, the Gulf and our natural gas. The government should aggressively subsidize solar, wind and other alternative energy options for the consumer.

The statement was made by Senator Obama that there is no immediate solution for high gas prices but when do we start? If we had started eight years ago we would be closer. We must begin now. If this does not change our lives in this country will be irreversibly damaged. As Americans we are being forced to sell pieces of our country to foreign interests in order to survive. This is not the American way. The actions of our government are giving our country away. If this continues, who will we be in ten years? What will be left of our distinct way of life? We Americans are unique in how we live. We choose to pursue happiness and independence and that pursuit has been good for the world, and yet the world criticizes us for having the freedom to do this and would like nothing more than to chain us to their ideals. If our quest for the American dream is smothered by the demands of the world then Democracy dies here and all the sacrifices of the generations before us are lost.

Please do all you can at the federal level to persuade the rest of Congress to secure our energy and our economy.

ALAN and CATHLEEN LUSK.

I wish I could just limit my story to just one. I could go on for days about the way the high energy prices are affecting me and my family here in Idaho. I will cite a few for your information.

Heating costs—Just last week, Jan. 14th, we had yet another snow storm—That makes 8 months of snow here in Idaho. But with that it means my home was being heated by Off-Road Diesel again. When I bought this house I was paying $0.95 a gallon for fuel to heat my home for my wife, four kids, and police K-9. Through the last few years I have seen a very large increase in the cost to keep it very cold to just get by. I have had my home insulated and weatherized. I am the low income American. I worked hard to get off of state programs and CHIP. Now it seems that was done for no reason. I still make too much money for aid programs, but now I will have to give up these items I worked hard to get and get off of state programs. I got the American dream just to be priced back out of it. I now spend $1400+ to fill my heating oil tank. As you know natural gas is not up here in Cascade. It is cheaper than oil, but we cannot get it. So I had to make a choice, health insurance or heating my home. I chose to keep my family warm. So now I pray no one gets sick or hurt. When I say warm I mean 64 degrees. I am not sure if you know what that feels like, but it is very cold during the winter. In the summer you would say that your AC was great.

Grocery Costs—Here is another area that has seen large price hikes to deal with the cost of transporting food. We live in Cascade and well it costs more to get food to us up here than in Boise. It is nothing new to spend a few more $ on something that is cheaper in Boise. In the last two years milk has gone up over $1.50 a gallon. Eggs almost a $1.00 too. Everything that I consider a must-have item has gone up and up. Know what? My pay has gone down in the same time frame. A slow economy means less hours of work and that means less money in my paycheck. I would not presume to complain to you over the cost of steak and lobster or stuff like that. I cannot remember what a steak taste like and what color is lobster again? I am talking about the things you cannot skimp on here: Milk for my four kids.

These higher energy costs are affecting everything that we buy. Because of that, we are having to make choices about what we spend our money on. You can use any inflation score you want, I believe they were set up to have numbers say whatever you want them to say. Like the four out of five doctors line. The proof is in the pudding. The inflation where the metal meets the meat is double digit. We are making choices that people who make six figures a year would never believe. We went from middle class to no class. Every penny at the pump means another though choice at the dinner table. We have to drive to go to work to keep the lights on. There is no choice. We have no buses, no subway, and I don't own a horse. So I get up and get in my American Made truck and drive to a pump where a company who posts record profits but says they are not making any money, gouges me. They should just stand there with a gun and rob me, at least I would feel like I was treated like a man. They would be up front and in my face. No, instead they hide behind Congressmen and a president they have bought with campaign cash.

The more and more I think about this as I write it, the more and more I think the system is broke. We cry out to our elected people in Washington for help. There is a lot of good talk about how they are going to help us, but nothing ever happens. We spend too much money on nothing getting done. If we were running Washington DC like a business we would be bankrupt.

Mike, I am not attacking you, I support you. You won me over when you came to my town when Boise Cascade left. But I feel you are a working man in a land of people that believe we are here so they can serve in Congress. I believe you know you are there because we put you there. I hope and pray you can find a solution to this madness. The fix has to come now not next year. Smaller countries set the fuel price and they pick up the difference. This is how the economy in those countries is not failing. When Ma Bell got too big you all regulated them. When the cable company got too big you regulated them. When the electric company got too big you regulated them. Where is the regulation on the oil companies? They have shown time and time again that they cannot police their own activities. They will root around in your pockets while you are filling up your car just to take the last bit of cash you have. Americans have more debt now than ever. I know I was debt free three years ago. Now, I am strapped. On the edge of losing it all. I don't have a flat screen TV, no gold silverware. Nothing big and new. Just trying to get by. Putting milk on a credit card. What are we to do? People say we are going to pull out of this soon. I say we will only pull out of this when the energy prices go down. How can anyone but big oil make any more money to pay its employees more money? They cannot, so if I cannot get paid more, then the costs have to go down for me to have more.

Just my thoughts.

JASON SPEER, *Cascade*.

This may be late, however, I still think you should know my story. I am sure it is not much different from many others across our state or America.

I own a small cleanup business that services new construction job sites. I started the

business just over six years ago. I drive anywhere between 100 to 150 miles a day—most of which is miles driving to and from the Ada County landfill (2 to 3 trips a day). I am easily putting $50+ a day of fuel into my truck. I drive a Chevrolet Silverado 2500 HD pulling a dump bed trailer. Basically, I am going through a lot of fuel. The prices are up considerably from a year ago. With the continued rise of fuel, I am given two choices. 1) Ask my builders for more money to pay for the fuel, or 2) Quit my business. Both choices will have a chain reaction in how it affects my life (well-being). My builders will complain. Some will understand and be willing to pay more, others will not want my business because my prices are too high. If I quit my business, I will then have to find other means of income for my family. Six plus years of building a business is a hard thing to give up on. The housing industry in Idaho is not very good right now and with the low amount of work, it affects my income. I currently am making just enough to meet costs. With the addition of high fuel costs it hits me twice as hard.

I do not know what the right answer is to make things better. Off shore drilling for the United States will not have an effect for many years. The people of Idaho and elsewhere need help now. I do not know much about law or the principles of supply and demand—but it would sure be nice if the government could somehow make a drastic cut in fuel prices. I too would like to take vacations around the state or to Utah to see family. This past weekend it cost $110.00 for my family to make a round trip to Salt Lake City from Nampa. We have a Honda Accord. It will most likely be the only trip we take for the rest of the year.

Sorry for all the mistakes in my writing. I have so much on my mind when it comes to my family's well-being, my business, and fuel prices.

I'd be happy to share more information.

JONATHAN PLUMMER, *Nampa*.

Hello Mike, if you want the answer, here it is. I have traveled this nation throughout my life. I know that from Alaska to California there are thousands of oil wells that sit idle, not pumping at all, at current use over a 150 years of oil in the ground, already drilled no exploration needed, no problems with environmentalists, that is not to mention the millions of gallons of oil that is pumped from the Alaska pipeline directly on to tankers only to leave our country (USA) to be sold to BP or some other company. The Alaska pipeline in the 70's was promised to the American people (one-third of the oil pumped out of the ground in Alaska is pumped back into the ground because the line can't handle it). Now to talk about refineries, the American people have been told we do not have any refineries, we have them in Utah, Arizona, New Mexico, Texas, California . . . four of the major oil companies in the USA are held by one holding company, the last I heard, what they are doing is called price fixing (which is against the law, remember the breakup of Microsoft?). Our government chooses to buy our oil from terrorists, only to support further war, help to build indoor ski resorts (in the desert) and manmade islands some of the largest construction projects ever attempted, at the expense of the American people and our economy. When will we stand up for ourselves? ''Even China has.'' We need to use our own oil (reserves) say no more to the oil companies (break them up like in the 1900s) take control for our country and not let big business run it. ''Regardless of greed'' this is our country and our economy. If the economy fails, what good is money (we are on reserve note not gold standard)? Is not our government supposed to be by the people for the people? I can show a direct correlation between the down turn in the economy and fuel prices. Our soldiers are in the Middle East fighting a war we cannot win, and the Terrorists are winning the 911 war by destroying our core (economy) by controlling the cost of our energy (fuel) and we just sit idle. Our government says, in part, it is because we need to go green, but autos are less than 10 percent of the problem.

Here it is:

Use our reserves (oil in our ground).

Give the Alaska pipe line back to the people.

Take our pocket book out of it (political investors).

Tell OPEC what we will pay (not what they will have us pay).

Break up the oil companies (price fixing is against the law).

Let the Middle East take care of themselves. The only value they have is the value the world puts on them. If they are worth nothing then they are nothing.

Brazil is 100 percent self sufficient and fuel is less than $1.50 a gallon.

We need to stand up and say no, we will use our own oil, you would be amazed how fast the prices would drop, but we would still need to say no, so we can control it and keep control of it (in our country anyway).

Of the people by the people we are the U.S.A.

RICHARD STEPHENS, *Caldwell*.

ADDITIONAL STATEMENTS

TRIBUTE TO OPERATION HOMEFRONT

• Mr. ISAKSON. Mr. President, I wish today to honor in the RECORD of the Senate an organization that is doing phenomenal work on behalf of military families across Georgia.

Operation Homefront Georgia is located in Marietta, GA, and is a charter member of the Operation Homefront national organization that was founded after the horrific attacks on 9/11. The organization provides emergency assistance and morale to our troops, to the families they leave behind and to wounded warriors when they return home. For example, if a military veteran is unable to pay his or her mortgage due to injury or stress from war, Operation Homefront Georgia finds the money needed for the mortgage. If a soldier needs a wheelchair lift in his or her home, Operation Homefront Georgia finds a company that will install it for free. The individuals who are a part of this organization are truly miracle workers.

Operation Homefront Georgia is made up mostly of women, some men, but mostly ladies that leave work every day knowing that they made a difference in somebody's life. My office knows that when Operation Homefront Georgia calls, there is a dire situation on the line and we do all we can to help. They don't take no for an answer, and their insistence pays off.

Our men and women who are going off to fight should be able to know their loved ones at home are safe and sound. With Operation Homefront Georgia, they don't have to worry. This fine organization makes sure our soldiers return with dignity to a well taken care of family.

On behalf of a grateful Nation, I thank them for all they do.•

TRIBUTE TO DR. PHILLIP LEE ROBERTS

• Mr. ISAKSON. Mr. President, I wish to join with my colleague Senator CHAMBLISS to honor in the RECORD of the Senate Dr. Phillip Lee Roberts, oncologist and medical director of the Phoebe Cancer Center at Phoebe Putney Memorial Hospital in Albany, GA.

For decades, Dr. Roberts has diagnosed and treated patients in southwest Georgia with a record of care and devotion that is above and beyond the call of duty in his profession. In recognition of his remarkable work in the field of cancer treatment, Phoebe Putney Health System is dedicating its new cancer pavilion as the Phillip L. Roberts, M.D. Cancer Pavilion.

When Dr. Roberts began his practice in Albany in 1980, there were few oncologists south of Macon, GA. At that time, a diagnosis of cancer was often a death sentence. Dr. Roberts has seen the progression of cancer treatment from the earliest drugs and radiation treatment to the modern methods now used to fight the disease. Today, the progression of medicine and technology allows this remarkable doctor to deliver a message of hope rather than despair to his patients.

Through the years, as technology and cancer treatments have advanced, his steadfast dedication to his patients and his profession has remained strong. Well into his golden years, Dr. Roberts is still at the helm of one of the busiest cancer centers in the southeastern United States. He has yet to slow his pace or his professional battle against the disease he fights daily on behalf of his patients. Not only does he continue a full schedule with patients at Phoebe, he travels weekly to treat patients at clinics in outlying rural areas, where access to health care is still limited and unattainable for many due to economic and social roadblocks.

I am pleased to join Senator CHAMBLISS in acknowledging the great work that is done each day at the Phoebe Cancer Center and the efforts of Dr. Roberts over the past 36 years to provide high quality cancer care. Dr. Roberts certainly deserves this recognition, and we offer our sincerest congratulations on the dedication of the Phillip L. Roberts, M.D. Cancer Pavilion.•

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

At 2:03 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 3. Joint resolution relating to the disapproval of obligations under the Emergency Economic Stabilization Act of 2008.

MEASURES REFERRED

The following joint resolution was read the first and the second times by unanimous consent, and referred as indicated:

H.J. Res. 3. Joint resolution relating to the disapproval of obligations under the Emergency Economic Stabilization Act of 2008; to the Committee on Banking, Housing, and Urban Affairs.

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. KYL:

S. 313. A bill to resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes; to the Committee on Indian Affairs.

By Mr. HATCH:

S. 314. A bill to amend title XIX of the Social Security Act to establish programs to improve the quality, performance, and delivery of pediatric care; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. SANDERS):

S. 315. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN (for herself, Mr. CRAPO, Mr. ALEXANDER, Mr. PRYOR, Mr. CORNYN, Ms. CANTWELL, Ms. LANDRIEU, Mrs. MURRAY, and Mr. VITTER):

S. 316. A bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes; to the Committee on Finance.

By Mr. FEINGOLD:

S. 317. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

By Mr. GRASSLEY:

S. 318. A bill to amend title XVIII of the Social Security Act to improve access to health care under the Medicare program for beneficiaries residing in rural areas; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DURBIN):

S. 319. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL:

S. 320. A bill to ensure that short- and long-term investment decisions critical to economic stimulus and job creation in clean energy are supported by Federal programs and reliable tax incentives; to the Committee on Finance.

By Mr. VOINOVICH (for himself, Mr. TESTER, and Ms. KLOBUCHAR):

S. 321. A bill to require the Secretary of Homeland Security and the Secretary of State to accept passport cards at air ports of entry and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. SPECTER, Mr. CARPER, Mr. MENENDEZ, Mr. KENNEDY, Mr. DODD, Mr. WYDEN, Mr. KERRY, Mrs. BOXER, Mr. LIEBERMAN, Mr. BINGAMAN, Mr. CARDIN, and Mr. LAUTENBERG):

S. 322. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

By Mr. CONRAD (for himself, Mrs. LINCOLN, and Mr. NELSON of Nebraska):

S. 323. A bill to provide infrastructure, nutrition, and housing assistance to rural areas of the United States; to the Committee on Finance.

By Mr. MENENDEZ (for himself, Mr. DURBIN, Ms. SNOWE, Mr. LAUTENBERG, Mr. WHITEHOUSE, and Mr. BROWN):

S. 324. A bill to provide for research on, and services for individuals with, postpartum depression and psychosis; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COCHRAN:

S. 325. A bill to amend section 845 of title 18, United States Code, relating to explosives, to grant the Attorney General exemption authority; to the Committee on the Judiciary.

By Mr. McCONNELL (for himself, Mr. KYL, Mr. VITTER, Mr. CHAMBLISS, Mr. BUNNING, Mr. GREGG, Mr. COBURN, Mr. BURR, Mr. ISAKSON, Mr. GRAHAM, Mr. INHOFE, Mr. CORNYN, Mr. BROWNBACK, Mr. COCHRAN, Mr. ENSIGN, Mr. THUNE, Mr. DEMINT, Mr. BENNETT, and Mr. BARRASSO):

S. 326. A bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program through fiscal year 2013, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 327. A bill to amend the Violence Against Women Act of 1994 and the Omnibus Crime Control and Safe Streets Act of 1968 to improve assistance to domestic and sexual violence victims and provide for technical corrections; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. KERRY, Ms. KLOBUCHAR, and Mr. SCHUMER):

S. 328. A bill to postpone the DTV transition date; read twice.

By Mr. LEAHY:

S. 329. A bill to amend the Internal Revenue Code of 1986 to extend the nonbusiness energy property credit for property placed in service during 2008; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. VOINOVICH (for himself and Mr. CASEY):

S. Res. 20. A resolution celebrating the 60th anniversary of the North Atlantic Treaty Organization; to the Committee on Foreign Relations.

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

S. Res. 21. A resolution to authorize testimony in United States of America v. Vincent J. Fumo, et al; considered and agreed to.

ADDITIONAL COSPONSORS

S. 85

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 85, a bill to amend title X of the Public Health Service Act to prohibit family planning grants from being awarded to any entity that performs abortions.

S. 102

At the request of Mr. VITTER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 102, a bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress.

S. 154

At the request of Mr. ENSIGN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 154, a bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law.

S. 162

At the request of Mr. FEINGOLD, the name of the Senator from Florida (Mr. NELSON) was withdrawn as a cosponsor of S. 162, a bill to provide greater accountability of taxpayers' dollars by curtailing congressional earmarking, and for other purposes.

S. 167

At the request of Mr. KOHL, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 167, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes.

S. 197

At the request of Mr. FEINGOLD, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 197, a bill to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes and the ecosystem of cranes.

S. 244

At the request of Mr. BOND, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 244, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 249

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 249, a bill to amend the Internal Revenue Code of 1986 to qualify formerly homeless youth who are students for purposes of low income tax credit.

S. 250

At the request of Mr. SCHUMER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 250, a bill to amend the Internal Revenue Code of 1986 to provide a higher education opportunity credit in place of existing education tax incentives.

S. 292

At the request of Mr. SPECTER, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 292, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL:

S. 313. A bill to resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes; to the Committee on Indian Affairs.

Mr. KYL. Mr. President, today I am pleased to introduce the White Mountain Apache Tribe Water Rights Quantification Act of 2009. The legislation would authorize and confirm the tribe's water settlement and authorize funding for a key drinking water project on the tribe's reservation in northern Arizona—the Miner Flat Dam and Reservoir. The legislation is the product of nearly 3 years of negotiation and the tremendous work of the settlement parties.

On behalf of the tribe, the United States filed substantial claims to water in the Gila River and Little Colorado River General Stream adjudications in Arizona. The settlement of these claims would, among other things, resolve the tribe's claims to water by allocating to it a total annual water right of 52,000 acre-feet per year through a combination of surface water and Central Arizona Project water sources. Without a settlement, resolution of the tribe's claims would take many years, entail great expense, prolong uncertainty concerning the availability of water supplies, and seriously impair the long-term economic well-being of all of the parties to the settlement.

Late last year, the representatives of the non-federal water settlement parties indicated that a settlement was nearly finalized. The parties' representatives expressed their written support for the settlement and indicated that they will be submitting the settlement to their respective governing bodies for review and action. A number of the parties, including the White Mountain Apache Tribe, have already formally approved the settlement.

A major factor driving the settlement is the drinking water needs of the White Mountain Apache Tribe. Currently, a relatively small well field serves the drinking water needs of the majority of the residents on the tribe's reservation, but production from the wells has declined significantly over the last few years. As a result, the tribe has experienced summer drinking water shortages. The tribe is planning to construct a relatively small diversion project on the North Fork of the White River on its reservation this year. It indicates that when the project is completed it will replace most of the lost production from the existing well field, but will not produce enough water to meet the demand of the tribe's growing population. The Miner Flat Project would provide a longterm solution for the tribe's drinking water shortages.

A significant percentage of the water and funding for the White Mountain Apache settlement has already been set aside in legislation I sponsored, the Arizona Water Settlements Act. The Arizona Water Settlements Act, which became law in 2004, settled expensive and lengthy litigation concerning the Gila River Indian Community's rights to Gila River water and other water supplies, and the claims of the Tohono O'odham Nation for damages from groundwater pumping in southern Arizona. It also set aside 67,300 acre-feet of Central Arizona Project, CAP, water per year to resolve Indian water claims in Arizona and established a $250 million fund for future Arizona Indian water settlements.

Under the White Mountain Apache Tribe's settlement legislation, a portion of the CAP water set aside in the Arizona Water Settlements Act will be used to settle the White Mountain Apache Tribe's claims and a portion of the $250 million will be used to construct the Miner Flat Project. While a potential scoring issue exists relating to the use of these funds, I am confident that these issues will be resolved as the legislation progresses.

In sum, not only would the legislation I have introduced today provide certainty to water users in the State of Arizona regarding their future water supplies, it would provide the tribe with a long-term reliable source of drinking water. Therefore, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill and letters of support be printed int he RECORD.

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

S. 313

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 ''White Mountain Apache Tribe Water Rights Quantification Act of 2009''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) proceedings to determine the nature and extent of the water rights of the White Mountain Apache Tribe, members of the Tribe, the United States, and other claimants are pending in—

(A) the consolidated civil action in the Superior Court of the State of Arizona for the County of Maricopa styled In re the General Adjudication of All Rights To Use Water In The Gila River System and Source, W–1 (Salt), W–2 (Verde), W–3 (Upper Gila), W–4 (San Pedro); and

(B) the civil action pending in the Superior Court of the State of Arizona for the County of Apache styled In re the General Adjudication of All Rights to Use Water in the Little Colorado River System and Source and numbered CIV–6417;

(2) a final resolution of those proceedings might—

(A) take many years;

(B) entail great expense;

(C) prolong uncertainty concerning the availability of water supplies; and

(D) seriously impair the long-term economic well-being of all parties to the proceedings;

(3) the Tribe, non-Indian communities located near the reservation of the Tribe, and other Arizona water users have agreed—

(A) to permanently quantify the water rights of the Tribe, members of the Tribe, and the United States in its capacity as trustee for the Tribe and members in accordance with the Agreement; and

(B) to seek funding, in accordance with applicable law, for the implementation of the Agreement;

(4) it is the policy of the United States to quantify, to the maximum extent practicable, water rights claims of Indian tribes without lengthy and costly litigation;

(5) as of the date of enactment of this Act, the tribal water rights are unquantified vested property rights held in trust by the United States for the benefit of the Tribe; and

(6) in keeping with the trust responsibility of the United States to Indian tribes, and to promote tribal sovereignty and economic self-sufficiency, it is appropriate that the United States participate in and contribute funds for the implementation of the Agreement.

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

(1) to authorize, ratify, and confirm the Agreement;

(2) to authorize and direct the Secretary to execute the Agreement and carry out all obligations of the Secretary under the Agreement;

(3) to authorize the actions and appropriations necessary for the United States to meet the obligations of the United States under the Agreement and this Act; and

(4) to permanently resolve certain damage claims and all water rights claims among—

(A) the Tribe and its members;

(B) the United States in its capacity as trustee for the Tribe and its members;

(C) the parties to the Agreement; and

(D) all other claimants in the proceedings referred to in subsection (a)(1).

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The ''Agreement'' means—

(A) the WMAT Water Rights Quantification Agreement dated January 13, 2009; and

(B) any amendment or exhibit (including exhibit amendments) to that agreement that are—

(i) made in accordance with this Act; or

(ii) otherwise approved by the Secretary.

(2) BUREAU.—The term ''Bureau'' means the Bureau of Reclamation.

(3) CAP.—The term ''CAP'' means the reclamation project authorized and constructed by the United States in accordance with title III of the Colorado River Basin Project Act (43 U.S.C. 1521 et seq.).

(4) CAP CONTRACTOR.—The term ''CAP contractor'' means an individual or entity that has entered into a long-term contract (as that term is used in the repayment stipulation) with the United States for delivery of water through the CAP system.

(5) CAP FIXED OM&R CHARGE.—The term ''CAP fixed OM&R charge'' has the meaning given the term in the repayment stipulation.

(6) CAP M&I PRIORITY WATER.—The term ''CAP M&I priority water'' means the CAP water having a municipal and industrial delivery priority under the repayment contract.

(7) CAP SUBCONTRACTOR.—The term ''CAP subcontractor'' means an individual or entity that has entered into a long-term subcontract (as that term is used in the repayment stipulation) with the United States and the District for the delivery of water through the CAP system.

(8) CAP SYSTEM.—The term ''CAP system'' means—

(A) the Mark Wilmer Pumping Plant;

(B) the Hayden-Rhodes Aqueduct;

(C) the Fannin-McFarland Aqueduct;

(D) the Tucson Aqueduct;

(E) any pumping plant or appurtenant works of a feature described in any of subparagraphs (A) through (D); and

(F) any extension of, addition to, or replacement for a feature described in any of subparagraphs (A) through (E).

(9) CAP WATER.—The term ''CAP water'' means ''Project Water'' (as that term is defined in the repayment stipulation).

(10) CONTRACT.—The term ''Contract'' means—

(A) the contract between the Tribe and the United States attached as exhibit 7.1 to the Agreement and numbered 08–XX–30–W0529 and dated [_____]; and

(B) any amendments to that contract.

(11) DISTRICT.—The term ''District'' means the Central Arizona Water Conservation District, a political subdivision of the State that is the contractor under the repayment contract.

(12) ENFORCEABILITY DATE.—The term ''enforceability date'' means the date described in section 12(c)(1).

(13) INJURY TO WATER RIGHTS.—

(A) IN GENERAL.—The term ''injury to water rights'' means an interference with, diminution of, or deprivation of, a water right under Federal, State, or other law.

(B) INCLUSIONS.—The term ''injury to water rights'' includes—

(i) a change in the groundwater table; and

(ii) any effect of such a change.

(C) EXCLUSION.—The term ''injury to water rights'' does not include any injury to water quality.

(14) OFF-RESERVATION TRUST LAND.—The term ''off-reservation trust land'' means land—

(A) located outside the exterior boundaries of the reservation that is held in trust by the United States for the benefit of the Tribe as of the enforceability date; and

(B) depicted on the map attached to the Agreement as exhibit 2.57.

(15) OPERATING AGENCY.—The term ''Operating Agency'' means the 1 or more entities authorized to assume responsibility for the care, operation, maintenance, and replacement of the CAP system.

(16) REPAYMENT CONTRACT.—The term ''repayment contract'' means—

(A) the contract between the United States and the District for delivery of water and repayment of the costs of the CAP, numbered 14–06–W–245 (Amendment No. 1), and dated December 1, 1988; and

(B) any amendment to, or revision of, that contract.

(17) REPAYMENT STIPULATION.—The term ''repayment stipulation'' means the stipulated judgment and the stipulation for judgment (including any exhibits to those documents) entered on November 21, 2007, in the United States District Court for the District of Arizona in the consolidated civil action styled Central Arizona Water Conservation District v. United States, et al., and numbered CIV 95–625–TUC–WDB (EHC) and CIV 95–1720–PHX–EHC.

(18) RESERVATION.—

(A) IN GENERAL.—The term ''reservation'' means the land within the exterior boundary of the White Mountain Indian Reservation established by the Executive order dated November 9, 1871, as modified by subsequent Executive orders and Acts of Congress—

(i) known on the date of enactment of this Act as the ''Fort Apache Reservation'' pursuant to the Act of June 7, 1897 (30 Stat. 62, chapter 3); and

(ii) generally depicted on the map attached to the Agreement as exhibit 2.81.

(B) NO EFFECT ON DISPUTE OR AS ADMISSION.—The depiction of the reservation described in subparagraph (A)(ii) shall not—

(i) be used to affect any dispute between the Tribe and the United States concerning the legal boundary of the reservation; and

(ii) constitute an admission by the Tribe with regard to any dispute between the Tribe and the United States concerning the legal boundary of the reservation.

(19) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(20) STATE.—The term ''State'' means the State of Arizona.

(21) TRIBAL CAP WATER.—The term ''tribal CAP water'' means the CAP water to which the Tribe is entitled pursuant to the Contract.

(22) TRIBAL WATER RIGHTS.—The term ''tribal water rights'' means the water rights of the Tribe described in paragraph 4.0 of the Agreement.

(23) TRIBE.—The term ''Tribe'' means the White Mountain Apache Tribe organized under section 16 of the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act'') (25 U.S.C. 476).

(24) WATER RIGHT.—The term ''water right'' means any right in or to groundwater, surface water, or effluent under Federal, State, or other law.

(25) WMAT RURAL WATER SYSTEM.—The term ''WMAT rural water system'' means the municipal, rural, and industrial water diversion, storage, and delivery system described in section 7.

(26) YEAR.—The term ''year'' means a calendar year.

SEC. 4. APPROVAL OF AGREEMENT.

(a) APPROVAL.—

(1) IN GENERAL.—Except to the extent that any provision of the Agreement conflicts with a provision of this Act, the Agreement is authorized, ratified, and confirmed.

(2) AMENDMENTS.—Any amendment to the Agreement is authorized, ratified, and confirmed, to the extent that such an amendment is executed to make the Agreement consistent with this Act.

(b) EXECUTION OF AGREEMENT.—To the extent that the Agreement does not conflict with this Act, the Secretary shall—

(1) execute the Agreement (including signing any exhibit to the Agreement requiring the signature of the Secretary); and

(2) execute any amendment to the Agreement necessary to make the Agreement consistent with this Act.

(c) NATIONAL ENVIRONMENTAL POLICY ACT.—

(1) ENVIRONMENTAL COMPLIANCE.—In implementing the Agreement, the Secretary shall promptly comply with all applicable requirements of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(C) all other applicable Federal environmental laws; and

(D) all regulations promulgated under the laws described in subparagraphs (A) through (C).

(2) EXECUTION OF AGREEMENT.—

(A) IN GENERAL.—Execution of the Agreement by the Secretary under this section shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) ENVIRONMENTAL COMPLIANCE.—The Secretary shall carry out all necessary environmental compliance required by Federal law in implementing the Agreement.

(3) LEAD AGENCY.—The Bureau shall serve as the lead agency with respect to ensuring environmental compliance associated with the WMAT rural water system.

SEC. 5. WATER RIGHTS.

(a) RIGHTS HELD IN TRUST.—The tribal water rights shall be held in trust by the United States on behalf of Tribe.

(b) REALLOCATION.—

(1) IN GENERAL.—In accordance with this Act and the Agreement, the Secretary shall reallocate to the Tribe, and offer to enter into a contract with the Tribe for the delivery in accordance with this section of—

(A) an annual entitlement to 23,782 acre-feet per year of CAP water that has a non-Indian agricultural delivery priority (as defined in the Contract) in accordance with section 104(a)(1)(A)(iii) of the Arizona Water Settlements Act (Public Law 108–451; 118 Stat. 3488), of which—

(i) 3,750 acre-feet per year shall be firmed by the United States for the benefit of the Tribe for the 100-year period beginning on January 1, 2008, with priority equivalent to CAP M&I priority water, in accordance with section 105(b)(1)(B) of that Act (118 Stat. 3492); and

(ii) 3,750 acre-feet per year shall be firmed by the State for the benefit of the Tribe for the 100-year period beginning on January 1, 2008, with priority equivalent to CAP M&I priority water, in accordance with section 105(b)(2)(B) of that Act (118 Stat. 3492); and

(B) an annual entitlement to 1,218 acre-feet per year of the water—

(i) acquired by the Secretary through the permanent relinquishment of the Harquahala Valley Irrigation District CAP subcontract entitlement in accordance with the contract numbered 3–07–30–W0290 among the District, Harquahala Valley Irrigation District, and the United States; and

(ii) converted to CAP Indian Priority water (as defined in the Contract) pursuant to the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (Public Law 101–628; 104 Stat. 4480).

(2) AUTHORITY OF TRIBE.—Subject to approval by the Secretary under section 6(a)(1), the Tribe shall have the sole authority to lease, distribute, exchange, or allocate the tribal CAP water described in paragraph (1).

(c) WATER SERVICE CAPITAL CHARGES.—The Tribe shall not be responsible for any water service capital charge for tribal CAP water.

(d) ALLOCATION AND REPAYMENT.—For the purpose of determining the allocation and repayment of costs of any stages of the CAP constructed after November 21, 2007, the costs associated with the delivery of water described in subsection (b), regardless of whether the water is delivered for use by the Tribe or in accordance with any assignment, exchange, lease, option to lease, or other agreement for the temporary disposition of water entered into by Tribe, shall be—

(1) nonreimbursable; and

(2) excluded from the repayment obligation of the District.

(e) WATER CODE.—Not later than 18 months after the enforceability date, the Tribe shall enact a water code that—

(1) governs the tribal water rights; and

(2) includes, at a minimum—

(A) provisions requiring the measurement, calculation, and recording of all diversions and depletions of water on the reservation and on off-reservation trust land;

(B) terms of a water conservation plan, including objectives, conservation measures, and an implementation timeline;

(C) provisions requiring the approval of the Tribe for the severance and transfer of rights to the use of water from historically irrigated land identified in paragraph 11.3.2.1 of the Agreement to diversions and depletions on other non-historically irrigated land not located on the watershed of the same water source; and

(D) provisions requiring the authorization of the Tribe for all diversions of water on the reservation and on off-reservation trust land by any individual or entity other than the Tribe.

SEC. 6. CONTRACT.

(a) IN GENERAL.—The Secretary shall enter into the Contract, in accordance with the Agreement, to provide, among other things, that—

(1) the Tribe, on approval of the Secretary, may—

(A) enter into contracts or options to lease, contracts to exchange, or options to exchange tribal CAP water in Maricopa, Pinal, Pima, and Yavapai Counties in the State providing for the temporary delivery to any individual or entity of any portion of the tribal CAP water, subject to the condition that—

(i) the term of the contract or option to lease shall not be longer than 100 years;

(ii) the contracts or options to exchange shall be for the term provided in the contract or option; and

(iii) a lease or option to lease providing for the temporary delivery of tribal CAP water shall require the lessee to pay to the Operating Agency all CAP fixed OM&R charges and all CAP pumping energy charges (as defined in the repayment stipulation) associated with the leased water; and

(B) renegotiate any lease at any time during the term of the lease, subject to the condition that the term of the renegotiated lease shall not exceed 100 years;

(2) no portion of the tribal CAP water may be permanently alienated;

(3)(A) the Tribe (and not the United States in any capacity) shall be entitled to all consideration due to the Tribe under any contract or option to lease or exchange tribal CAP water entered into by the Tribe; and

(B) the United States (in any capacity) has no trust or other obligation to monitor, administer, or account for, in any manner—

(i) any funds received by the Tribe as consideration under a contract or option to lease or exchange tribal CAP water; or

(ii) the expenditure of those funds;

(4)(A) all tribal CAP water shall be delivered through the CAP system; and

(B) if the delivery capacity of the CAP system is significantly reduced or anticipated to be significantly reduced for an extended period of time, the Tribe shall have the same CAP delivery rights as a CAP contractor or CAP subcontractor that is allowed to take delivery of water other than through the CAP system;

(5) the Tribe may use tribal CAP water on or off the reservation for any purpose;

(6) as authorized by subsection (f)(2)(A) of section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543) and to the extent that funds are available in the Lower Colorado River Basin Development Fund established by subsection (a) of that section, the United States shall pay to the Operating Agency the CAP fixed OM&R charges associated with the delivery of tribal CAP water (except in the case of tribal CAP water leased by any individual or entity);

(7) the Secretary shall waive the right of the Secretary to capture all return flow from project exchange water flowing from the exterior boundary of the reservation; and

(8) no CAP water service capital charge shall be due or payable for the tribal CAP water, regardless of whether the water is delivered for use by the Tribe or pursuant to a contract or option to lease or exchange tribal CAP water entered into by the Tribe.

(b) REQUIREMENTS.—The Contract shall be—

(1) for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d)); and

(2) without limit as to term.

(c) RATIFICATION.—

(1) IN GENERAL.—Except to the extent that any provision of the Contract conflicts with a provision of this Act, the Contract is authorized, ratified, and confirmed.

(2) AMENDMENTS.—Any amendment to the Contract is authorized, ratified, and confirmed, to the extent that such an amendment is executed to make the Contract consistent with this Act.

(d) EXECUTION OF CONTRACT.—To the extent that the Contract does not conflict with this Act, the Secretary shall execute the Contract.

(e) PAYMENT OF CHARGES.—The Tribe, and any recipient of tribal CAP water through a contract or option to lease or exchange, shall not be obligated to pay a water service capital charge or any other charge, payment, or fee for CAP water, except as provided in an applicable lease or exchange agreement.

(f) PROHIBITIONS.—

(1) USE OUTSIDE STATE.—No tribal CAP water may be leased, exchanged, forborne, or otherwise transferred by the Tribe in any way for use directly or indirectly outside the State.

(2) USE OFF RESERVATION.—Except as authorized by this section and paragraph 4.7 of the Agreement, no tribal water rights under this Act may be sold, leased, transferred, or used outside the boundaries of the reservation or off-reservation trust land other than pursuant to an exchange.

(3) AGREEMENTS WITH ARIZONA WATER BANKING AUTHORITY.—Nothing in this Act or the Agreement limits the right of the Tribe to enter into an agreement with the Arizona Water Banking Authority established by section 45–2421 of the Arizona Revised Statutes (or any successor entity), in accordance with State law.

(g) LEASES.—

(1) IN GENERAL.—To the extent the leases of tribal CAP Water by the Tribe to the District and to any of the cities, attached as exhibits to the Agreement, are not in conflict with the provisions of this Act—

(A) those leases are authorized, ratified, and confirmed; and

(B) the Secretary shall execute the leases.

(2) AMENDMENTS.—To the extent that amendments are executed to make the leases described in paragraph (1) consistent with this Act, those amendments are authorized, ratified, and confirmed.

SEC. 7. AUTHORIZATION OF THE RURAL WATER SYSTEM.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary, acting through the Bureau, shall plan, design, construct, operate, maintain, replace, and rehabilitate the WMAT rural water system as generally described in the project extension report dated February 2007.

(b) COMPONENTS.—The WMAT rural water system under subsection (a) shall consist of—

(1) a dam and storage reservoir, pumping plant, and treatment facilities located along the North Fork White River near the community of Whiteriver;

(2) pipelines extending from the water treatment plants to existing water distribution systems serving the Whiteriver, Carrizo, and Cibecue areas, together with other communities along the pipeline;

(3) connections to existing distribution facilities, including public and private water systems in existence on the date of enactment of this Act;

(4) appurtenant buildings and access roads;

(5) electrical power transmission and distribution facilities necessary for services to rural water system facilities;

(6) all property and property rights necessary for the facilities described in this subsection; and

(7) such other project components as the Secretary determines to be appropriate to meet the water supply, economic, public health, and environmental needs of the portions of the reservation served by the WMAT rural water system, including water storage tanks, water lines, and other facilities for the Tribe and the villages and towns on the reservation.

(c) SERVICE AREA.—The service area of the WMAT rural water system shall be as described in the Project Extension report dated February 2007.

(d) CONSTRUCTION REQUIREMENTS.—The components of the WMAT rural water system shall be planned and constructed to a size that is sufficient to meet the municipal, rural, and industrial water supply requirements of the WMAT rural water system service area during the period beginning on the date of enactment of this Act and ending not earlier than December 31, 2040.

(e) TITLE.—Title to the WMAT rural water system shall be held in trust by the United States in its capacity as trustee for the Tribe.

(f) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as is necessary to enable the Tribe to plan, design, construct, operate, maintain, and replace the WMAT rural water system, including operation and management training.

(g) APPLICABILITY OF ISDEAA.—Planning, design, construction, operation, maintenance, rehabilitation, and replacement of the WMAT rural water system on the reservation shall be subject to the provisions (including regulations) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(h) CONDITION.—As a condition of construction of the facilities authorized by this section, the Tribe shall provide, at no cost to the Secretary, all land or interests in land, as appropriate, that the Secretary identifies as being necessary for those facilities.

SEC. 8. OUTDOOR RECREATION FACILITIES, NATIONAL FISH HATCHERIES, AND EXISTING IRRIGATION SYSTEMS.

(a) IN GENERAL.—Subject to the availability of appropriations, on request of the Tribe, the Secretary shall provide financial and technical assistance to complete the Hawley Lake, Horseshoe Lake, Reservation Lake, Sunrise Lake, and Big and Little Bear Lake reconstruction projects and facilities improvements, as generally described in the Bureau report entitled ''White Mountain Apache Tribe Recreation Planning Study—April 2003''.

(b) ALCHESAY WILLIAMS CREEK NATIONAL FISH HATCHERY COMPLEX.—

(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall operate, maintain, rehabilitate, and upgrade the Alchesay-Williams Creek National Fish Hatchery Complex on the reservation for the continued general and primary benefit of the Tribe and the White Mountain region.

(2) COMPLEX REHABILITATION.—The rehabilitation of, and upgrades to, the complex described in paragraph (1) shall include—

(A) raceway construction and rehabilitation, water quality improvements, a water recirculation system, supplemental water treatment capability, equipment acquisition, and building rehabilitation; and

(B) capital improvement and deferred maintenance facility needs identified in the reports of the United States Fish and Wildlife Service entitled ''Facilities Needs Assessment'' and ''Merrick Report'' and dated September 2000, as updated through 2008.

(c) TRIBE FISHERY CENTER.—Subject to the availability of appropriations, the Secretary shall plan, design, construct, operate, maintain, rehabilitate, and replace a fish grow-out facility, to be known as the ''WMAT Fishery Center'', on the west side of the reservation for the benefit of the Tribe, consisting of—

(1) a 10,000-square foot indoor facility;

(2) circular fiberglass tanks;

(3) plumbing and required equipment;

(4) collection and conveyance water systems; and

(5) raceways and ponds.

(d) SUNRISE SKI PARK SNOW-MAKING INFRASTRUCTURE.—Subject to the availability of appropriations, the Secretary shall plan, design, and construct snow-making capacity and infrastructure for Sunrise Ski Park, consisting of—

(1) enlargement of Ono Lake;

(2) replacement of snow-making infrastructure, as necessary; and

(3) expansion of snow-making infrastructure and capacity to all ski runs on Sunrise Peak, Apache Peak, and Cyclone Peak.

(e) EXISTING IRRIGATION SYSTEM REHABILITATION.—Subject to the availability of appropriations, the Secretary shall operate, maintain, rehabilitate, and upgrade the Canyon Day and other historic irrigation systems on the reservation for the continued general and primary benefit of the Tribe.

(f) APPLICABILITY OF ISDEAA.—Planning, design, construction, operation, maintenance, rehabilitation, replacement, and upgrade of the projects identified in this section shall be subject to the provisions (including regulations) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 9. FEASIBILITY STUDY OF NEEDED FOREST PRODUCTS IMPROVEMENTS.

(a) FEASIBILITY STUDY.—Subject to the availability of appropriations and pursuant to the provisions (including regulations) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), on receipt of a request by the Tribe, the Secretary shall conduct a feasibility study of options for—

(1) improving the manufacture and use of timber products derived from commercial forests on the reservation; and

(2) improving forest management practices, consistent with sustained yield principles for multipurpose forest uses, healthy forest initiatives, and other applicable law to supply raw materials for future manufacture and use.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary, with concurrence of the tribal council of the Tribe, shall submit to Congress a report describing the results of the feasibility study under subsection (a), including recommendations of the Secretary, if any, for the improvements described in that subsection.

(c) IMPLEMENTATION.—Subject to the availability of appropriations, the Secretary shall plan, design, and construct the improvements recommended under subsection (b).

SEC. 10. RECREATION IMPOUNDMENTS AND RELATED FACILITIES.

Subject to the availability of appropriations, on receipt of a request by the Tribe and pursuant to the provisions (including regulations) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall—

(1) conduct a feasibility study of recreation impoundments throughout the reservation;

(2) develop recommendations for the implementation, by not later than 1 year after the date of enactment of this Act, of feasible recreation impoundments; and

(3) plan, design, and construct any recommended recreation impoundments and related recreation facilities.

SEC. 11. SATISFACTION OF CLAIMS.

(a) IN GENERAL.—The benefits realized by the Tribe and its members under this Act shall be in full satisfaction of all claims of the Tribe and its members for water rights and injury to water rights, except as set forth in the Agreement, under Federal, State, or other law with respect to the reservation and off-reservation trust land.

(b) USES OF WATER.—All uses of water on lands outside of the reservation, if and when such lands are subsequently and finally determined to be part of the reservation through resolution of any dispute between the Tribe and the United States over the location of the reservation boundary, and any fee lands within the reservation put into trust and made part of the reservation, shall be subject to the maximum annual diversion amounts and the maximum annual depletion amounts specified in the Agreement.

(c) NO RECOGNITION OF WATER RIGHTS.—Notwithstanding subsection (a), nothing in this Act has the effect of recognizing or establishing any right of a member of the Tribe to water on the reservation.

SEC. 12. WAIVER AND RELEASE OF CLAIMS.

(a) IN GENERAL.——

(1) CLAIMS AGAINST THE STATE AND OTHERS.——Except as provided in subparagraph 12.6 of the Agreement, the Tribe, on behalf of itself and its members, and the United States, acting in its capacity of trustee for the Tribe and its members as part of the performance of their obligations under the Agreement, are authorized to execute a waiver and release of any claims against the State (or any agency or political subdivision of the State), or any other person, entity, corporation, or municipal corporation under Federal, State, or other law for all—

(A)(i) past, present, and future claims for water rights for the reservation and off-reservation trust land arising from time immemorial and, thereafter, forever; and

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based upon aboriginal occupancy of land by the Tribe, its members, or their predecessors;

(B)(i) past and present claims for injury to water rights for the reservation and off-reservation trust land arising from time immemorial through the enforceability date;

(ii) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based upon aboriginal occupancy of land by the Tribe and its members, or their predecessors; and

(iii) claims for injury to water rights arising after the enforceability date for the reservation and off-reservation trust land resulting from off-reservation diversion or use of water in a manner not in violation of the Agreement or State law; and

(C) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Agreement or the negotiation or enactment of this Act.

(2) CLAIMS AGAINST TRIBE.—Except as provided in subparagraph 12.8 of the Agreement, the United States, in all its capacities (except as trustee for an Indian tribe other than the Tribe), as part of the performance of its obligations under the Agreement, is authorized to execute a waiver and release of any and all claims against the Tribe, its members, or any agency, official, or employee of the Tribe, under Federal, State, or any other law for all—

(A) past and present claims for injury to water rights resulting from the diversion or use of water on the reservation and on off-reservation trust land arising from time immemorial through the enforceability date;

(B) claims for injury to water rights arising after the enforceability date resulting from the diversion or use of water on the reservation and on off-reservation trust land in a manner not in violation of the Agreement; and

(C) past, present, and future claims arising out of or related in any manner to the negotiation or execution of the Agreement or the negotiation or enactment of this Act.

(3) CLAIMS AGAINST THE UNITED STATES.—Except as provided in subparagraph 12.7 of the Agreement, the Tribe, on behalf of itself and its members, as part of the performance of its obligations under the Agreement, is authorized to execute a waiver and release of any claim against the United States, including agencies, officials, or employees thereof (except in the United States capacity as trustee for other tribes), under Federal, State, or other law for any and all—

(A)(i) past, present, and future claims for water rights for the reservation and off-reservation trust land arising from time immemorial and, thereafter, forever; and

(ii) past, present, and future claims for water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Tribe and its members, or their predecessors;

(B)(i) past and present claims relating in any manner to damages, losses, or injuries to water, water rights, land, or other resources due to loss of water or water rights (including but not limited to damages, losses or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights; claims relating to interference with, diversion or taking of water; or claims relating to failure to protect, acquire, or develop water, water rights or water infrastructure) within the reservation and off-reservation trust land that first accrued at any time prior to the enforceability date;

(ii) past, present, and future claims for injury to water rights arising from time immemorial and, thereafter, forever, that are based on aboriginal occupancy of land by the Tribe and its members, or their predecessors; and

(iii) claims for injury to water rights arising after the enforceability date for the reservation and off-reservation trust land resulting from the off-reservation diversion or use of water in a manner not in violation of the Agreement or applicable law;

(C) past, present, and future claims arising out of or relating in any manner to the negotiation, execution, or adoption of the Agreement, an applicable settlement judgment or decree, or this Act;

(D) past and present claims relating in any manner to pending litigation of claims relating to the Tribe's water rights for the reservation and off-reservation trust land;

(E) past and present claims relating to the operation, maintenance, and replacement of existing irrigation systems on the reservation constructed prior to the enforceability date that first accrued at any time prior to the enforceability date, which waiver shall only become effective upon the full appropriation and payment of such funds authorized by section 16(c)(4) to the Tribe;

(F) future claims relating to operation, maintenance, and replacement of the WMAT rural water system, which waiver shall only become effective upon the full appropriation of funds authorized by section 16(b) and their deposit into the Rural Water System OM&R Fund; and

(G) past, present, and future breach of trust and negligence claims for damage to the natural resources of the Tribe caused by riparian and other vegetative manipulation, including over-cutting of forest resources by the United States for the purpose of increasing water runoff from the reservation.

(4) NO WAIVER OF CLAIMS.—Nothing in this subsection waives any claim of the Tribe against the United States for future takings by the United States of reservation land or off-reservation trust land or property rights appurtenant to those lands, including any water rights set forth in paragraph 4.0 of the Agreement.

(b) EFFECTIVENESS OF WAIVER AND RELEASES.—Except where otherwise specifically provided in subparagraphs (E) and (F) of subsection (a)(3), the waivers and releases under subsection (a) shall become effective on the enforceability date.

(c) ENFORCEABILITY DATE.—

(1) IN GENERAL.—This section takes effect on the date on which the Secretary publishes in the Federal Register a statement of findings that—

(A) to the extent the Agreement conflicts with this Act, the Agreement has been revised through an amendment to eliminate the conflict and the Agreement, so revised, has been executed by the Secretary, the Tribe and the Governor of the State;

(B) the Secretary has fulfilled the requirements of sections 5 and 6;

(C)(i) the funds authorized in sections 13 and 16(a), have been appropriated and deposited in the Rural Water System Construction Fund; and

(ii) if applicable, the funds described in section 16(i) have been deposited in the Rural Water System Construction Fund;

(D) the State funds described in subparagraph 13.3 of the Agreement have been deposited in the Rural Water System Construction Fund;

(E) the Secretary has issued a record of decision approving the construction of the WMAT rural water system in a configuration substantially similar to that described in section 7; and

(F) the judgments and decrees substantially in the form of those attached to the Agreement as exhibits 12.9.6.1 and 12.9.6.2 have been approved by the respective trial courts.

(2) FAILURE OF ENFORCEABILITY DATE TO OCCUR.—If, because of the failure of the enforceability date to occur by October 31, 2013, this section does not become effective, the Tribe and its members, and the United States, acting in the capacity of trustee for the Tribe and its members, shall retain the right to assert past, present, and future water rights claims and claims for injury to water rights for the reservation and off-reservation trust land.

(3) NO RIGHTS TO WATER.—Upon the occurrence of the enforceability date, all land held by the United States in trust for the Tribe and its members shall have no rights to water other than those specifically quantified for the Tribe and the United States, acting in the capacity of trustee for the Tribe and its members for the reservation and off-reservation trust land pursuant to paragraph 4.0 of the Agreement.

(d) UNITED STATES ENFORCEMENT AUTHORITY.—Nothing in this Act or the Agreement affects any right of the United States to take any action, including environmental actions, under any laws (including regulations and the common law) relating to human health, safety, or the environment.

SEC. 13. USE OF LOWER COLORADO RIVER BASIN DEVELOPMENT FUND.

(a) USE OF AMOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2), up to $100,000,000 of amounts in the Lower Colorado River Basin Development Fund made available under section 403(f)(2)(D)(vi) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(vi)) may be used, without further appropriation, for the planning, engineering, design, and construction of the WMAT rural water system.

(2) REQUIREMENT.—If a loan is made to the Tribe pursuant to the White Mountain Apache Tribe Rural Water System Loan Authorization Act (Public Law 110–390; 122 Stat. 4191), the Tribe shall use such amounts made available under paragraph (1) as are necessary to repay that loan.

(b) OFFSET.—To the extent necessary, the Secretary shall offset amounts expended pursuant to subsection (a) using such additional amounts as may be made available to the Secretary for the applicable fiscal year.

SEC. 14. TRUST FUNDS.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States—

(1) a fund to be known as the ''Rural Water System Construction Fund'', consisting of—

(A) the funds made available under section 13;

(B) the amounts appropriated to the fund pursuant to subsections (a) and (i) of section 16, as applicable; and

(C) the funds provided in subparagraph 13.3 of the Agreement; and

(2) a fund to be known as the ''Rural Water System OM&R Fund'', consisting of amounts appropriated to the fund pursuant to section 16(b).

(b) MANAGEMENT.—The Secretary shall manage the Rural Water System Construction Fund and the Rural Water System OM&R Fund, including by—

(1) making investments from the funds; and

(2) distributing amounts from the funds to the Tribe, in accordance with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(c) INVESTMENT OF FUNDS.—The Secretary shall invest amounts in the funds in accordance with—

(1) the Act of April 1, 1880 (25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (25 U.S.C. 162a);

(3) subsection (b);

(4) the obligations of Federal corporations and Federal Government-sponsored entities the charter documents of which provide that the obligations of the entities are lawful investments for federally managed funds, including—

(A) the obligations of the United States Postal Service described in section 2005 of title 39, United States Code;

(B) bonds and other obligations of the Tennessee Valley Authority described in section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4);

(C) mortgages, obligations, and other securities of the Federal Home Loan Mortgage Corporation described in section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452); and

(D) bonds, notes, and debentures of the Commodity Credit Corporation described in section 4 of the Act of March 8, 1938 (15 U.S.C. 713a–4); and

(5) the obligations referred to in section 201 of the Social Security Act (42 U.S.C. 401).

(d) EXPENDITURES AND WITHDRAWALS.—

(1) TRIBAL MANAGEMENT PLANS.—

(A) IN GENERAL.—The Tribe may withdraw any portion of the Rural Water System Construction Fund or the Rural Water System OM&R Fund on approval by the Secretary of a tribal management plan under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(B) REQUIREMENTS.—In addition to the requirements under that Act (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Tribe shall—

(i) use amounts in the Rural Water System Construction Fund only for the planning, design, and construction of the rural water system, including such sums as are necessary—

(I) for the Bureau to carry out oversight of the planning, design, and construction of the rural water system; and

(II) to carry out all required environmental compliance activities associated with the planning, design, and construction of the rural water system; and

(ii) use amounts in the Rural Water System OM&R Fund only for the operation, maintenance, and replacement costs associated with the delivery of water through the rural water system.

(2) ENFORCEMENT.—The Secretary may pursue such judicial remedies and carry out such administrative actions as are necessary to enforce the tribal management plan to ensure that amounts in the Rural Water System Construction Fund and the Rural Water System OM&R Fund are used in accordance with this section.

(3) LIABILITY.—On withdrawal by the Tribe of amounts in the Rural Water System Construction Fund or the Rural Water System OM&R Fund, the Secretary and the Secretary of the Treasury shall not retain liability for the expenditure or investment of those amounts.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the amounts in the funds under this section that the Tribe does not withdraw pursuant to this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, the amounts remaining in the funds will be used.

(C) APPROVAL.—The Secretary shall approve an expenditure plan under this paragraph if the Secretary determines that the plan is—

(i) reasonable; and

(ii) consistent with this Act.

(5) ANNUAL REPORTS.—The Tribe shall submit to the Secretary an annual report that describes each expenditure from the Rural Water System Construction Fund and the Rural Water System OM&R Fund during the year covered by the report.

(e) PROHIBITION ON PER CAPITA DISTRIBUTIONS.—No amount of the principal, or the

interest or income accruing on the principal, of the Rural Water System Construction Fund or the Rural Water System OM&R Fund shall be distributed to any member of the Tribe on a per capita basis.

(f) FUNDS NOT AVAILABLE UNTIL ENFORCEABILITY DATE.—Amounts in the Rural Water System Construction Fund and the Rural Water System OM&R Fund shall not be available for expenditure or withdrawal by the Tribe until the enforceability date.

SEC. 15. MISCELLANEOUS PROVISIONS.

(a) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—

(1) IN GENERAL.—In the case of a civil action described in paragraph (2)—

(A) the United States or the Tribe, or both, may be joined in the civil action; and

(B) any claim by the United States or the Tribe to sovereign immunity from the civil action is waived for the sole purpose of resolving any issue regarding the interpretation or enforcement of this Act or the Agreement.

(2) DESCRIPTION OF CIVIL ACTION.—A civil action referred to in paragraph (1) is a civil action filed—

(A) by any party to the Agreement or signatory to an exhibit to the Agreement in a United States or State court that—

(i) relates solely and directly to the interpretation or enforcement of this Act or the Agreement; and

(ii) names as a party the United States or the Tribe; or

(B) by a landowner or water user in the Gila River basin or Little Colorado River basin in the State that—

(i) relates solely and directly to the interpretation or enforcement of paragraph 12.0 of the Agreement; and

(ii) names as a party the United States or the Tribe.

(b) EFFECT OF ACT.—Nothing in this Act quantifies or otherwise affects any water right or claim or entitlement to water of any Indian tribe, band, or community other than the Tribe.

(c) LIMITATION ON LIABILITY OF UNITED STATES.—

(1) IN GENERAL.—The United States shall have no trust or other obligation—

(A) to monitor, administer, or account for, in any manner, any amount paid to the Tribe by any party to the Agreement other than the United States; or

(B) to review or approve the expenditure of those funds.

(2) INDEMNIFICATION.—The Tribe shall indemnify the United States, and hold the United States harmless, with respect to any claim (including claims for takings or breach of trust) arising out of the receipt or expenditure of funds described in paragraph (1)(A).

(d) APPLICABILITY OF RECLAMATION REFORM ACT.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) and any other acreage limitation or full-cost pricing provision under Federal law shall not apply to any individual, entity, or land solely on the basis of—

(1) receipt of any benefit under this Act;

(2) the execution of this Act; or

(3) the use, storage, delivery, lease, or exchange of CAP water.

(e) TREATMENT OF TRIBAL WATER RIGHTS.—The tribal water rights—

(1) shall be held in trust by the United States in perpetuity; and

(2) shall not be subject to forfeiture or abandonment.

(f) SECRETARIAL POWER SITES.—The portions of the following named secretarial power site reserves that are located on the reservation shall be transferred and restored into the name of the Tribe:

(1) Lower Black River (T. 3 N., R. 26 E.; T. 3 N., R. 27 E.).

(2) Black River Pumps (T. 2 N., R. 25 E.; T. 2 N., R. 26 E.; T. 3 N., R. 26 E.).

(3) Carrizo (T. 4 N., R. 20 E.; T. 4 N., R. 21 E.; T. 4½ N., R. 19 E.; T. 4½ N., R. 20 E.; T. 4½ N., R. 21 E.; T. 5 N., R. 19 E.).

(4) Knob (T. 5 N., R. 18 E.; T. 5 N., R. 19 E.).

(5) Walnut Canyon (T. 5 N., R. 17 E.; T. 5 N., R. 18 E.).

(6) Gleason Flat (T. 4½ N., R. 16 E.; T. 5 N., R. 16 E.).

(g) NO EFFECT ON FUTURE ALLOCATIONS.—Water received under a lease or exchange of tribal CAP water under this Act shall not affect any future allocation or reallocation of CAP water by the Secretary.

(h) AFTER-ACQUIRED TRUST LANDS.—

(1) REQUIREMENT OF ACT OF CONGRESS.—

(A) LEGAL TITLE.—After the enforceability date, if the Tribe seeks to have legal title to additional land in the State of Arizona located outside the exterior boundaries of the reservation taken into trust by the United States for its benefit, the Tribe may do so only pursuant to an Act of Congress specifically authorizing the transfer for the benefit of the Tribe.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

(i) restoration of land to the reservation subsequently and finally determined to be part of the reservation through resolution of any dispute between the Tribe and the United States over the location of the reservation boundary unless required by Federal law; or

(ii) off-reservation trust land acquired prior to January 1, 2008.

(2) WATER RIGHTS.—

(A) IN GENERAL.—Under this section, after-acquired trust land outside the reservation shall not include federally reserved rights to surface water or groundwater.

(B) RESTORED LAND.—Land restored to the reservation as the result of resolution of any reservation boundary dispute between the Tribe and the United States, or any fee simple land within the reservation that are placed into trust, shall have water rights pursuant to section 11(b).

(3) ACCEPTANCE OF LAND IN TRUST STATUS.—

(A) IN GENERAL.—If the Tribe acquires legal fee title to land that is located within the exterior boundaries of the reservation, the Secretary shall accept the land in trust status for the benefit of the Tribe in accordance with applicable Federal law (including regulations) for such real estate acquisitions.

(B) RESERVATION STATUS.—Land taken or held in trust by the Secretary under paragraph (3), or restored to the reservation as a result of resolution of a boundary dispute between the Tribe and the United States, shall be deemed to be part of the reservation.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) RURAL WATER SYSTEM.—

(1) PLANNING, ENGINEERING, DESIGN, AND CONSTRUCTION.—

(A) IN GENERAL.—There is authorized to be appropriated for the planning, engineering, design, and construction of the WMAT rural water system $126,193,000, as adjusted in accordance with subparagraph (B), less—

(i) the amount of funding applied toward the planning, engineering, design, and construction of the WMAT rural water system under section 13; and

(ii) the funds to be provided under subparagraph 13.3 of the Agreement.

(B) ADJUSTMENTS AND INCLUSIONS.—The amount authorized to be appropriated under subparagraph (A) shall—

(i) be adjusted as may be required due to changes in construction costs of the rural water system, as indicated by engineering cost indices applicable to the types of planning, engineering, design, and construction occurring after October 1, 2007; and

(ii) include such sums as are necessary for the Bureau to carry out oversight of activities for planning, design, and construction of the rural water system.

(2) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out all required Federal environmental compliance activities associated with the planning, engineering, design, and construction of the rural water system.

(b) RURAL WATER SYSTEM OM&R.—There is authorized to be appropriated $50,000,000 for the operation, maintenance, and replacement costs of the rural water system.

(c) REHABILITATION OF RECREATION FACILITIES, NATIONAL FISH HATCHERIES, AND EXISTING IRRIGATION SYSTEMS.—There are authorized to be appropriated, for use in accordance with section 8—

(1) $23,675,000 to complete the Hawley Lake, Horseshoe Lake, Reservation Lake, Sunrise Lake, and Big and Little Bear Lake reconstruction projects and facilities improvements;

(2) $7,472,000 to the United States Fish and Wildlife Service for the rehabilitation and improvement of the Alchesay-Williams Creek National Fish Hatchery Complex;

(3) $5,000,000 to the Bureau of Indian Affairs for the planning, design, and construction of the WMAT Fishery Center; and

(4) for the rehabilitation of existing irrigation systems—

(A) $950,000 for the Canyon Day irrigation system; and

(B) $4,000,000 for the Historic irrigation system.

(d) FEASIBILITY STUDY OF NEEDED FOREST PRODUCTS IMPROVEMENTS.—There are authorized to be appropriated—

(1) to the Bureau of Indian Affairs $1,000,000 to conduct a feasibility study of the rehabilitation and improvement of forest products manufacturing and forest management on the reservation in accordance with section 9; and

(2) $24,000,000 to implement the recommendations developed under the study.

(e) SUNRISE SKI PARK SNOW-MAKING INFRASTRUCTURE.—There is authorized to be appropriated $25,000,000 for the planning, design, and construction of snow-making infrastructure, repairs, and expansion at Sunrise Ski Park in accordance with section 8.

(f) RECREATION IMPOUNDMENTS AND RELATED FACILITIES.—There is authorized to be appropriated $25,000,000 to carry out section 10.

(g) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out all required environmental compliance activities associated with the Agreement and this Act.

(h) COST INDEXING.—The amounts authorized to be appropriated under this section shall be adjusted as appropriate, based on ordinary fluctuations in engineering cost indices applicable for the relevant types of construction, if any, during the period beginning on October 1, 2007, and ending on the date on which the amounts are made available.

(i) EMERGENCY FUND FOR INDIAN SAFETY AND HEALTH.—Effective beginning on January 1, 2010, if the Secretary determines that, on an annual basis, the deadline described in section 12(c)(2) is not likely to be met because the funds authorized in sections 13 and 16(a) have not been appropriated and deposited in the Rural Water System Construction Fund, not more than $100,000,000 of the amounts in the Emergency Fund for Indian Safety and Health established by section 601(a) of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (22 U.S.C. 7601 et seq.)

shall be transferred to the Rural Water System Construction Fund, as necessary to complete the WMAT rural water system project.

SEC. 17. ANTIDEFICIENCY.

The United States shall not be liable for failure to carry out any obligation or activity authorized to be carried out, subject to appropriations, under this Act (including any such obligation or activity under the Agreement) if adequate appropriations for that purpose are not provided by Congress.

SEC. 18. REPEAL ON FAILURE OF ENFORCEABILITY DATE.

If the Secretary fails to publish in the Federal Register a statement of findings as required under section 12(c) by not later than October 31, 2013—

(1) effective beginning on November 1, 2013—

(A) this Act is repealed; and

(B) any action carried out by the Secretary, and any contract entered into, pursuant to this Act shall be void;

(2) any amounts appropriated under sections 13 and subsections (a) and (b) of section 16, together with any interest accrued on those amounts, shall immediately revert to the general fund of the Treasury; and

(3) any amounts paid by the State in accordance with the Agreement, together with any interest accrued on those amounts, shall immediately be returned to the State.

SEC. 19. COMPLIANCE WITH ENVIRONMENTAL LAWS.

In carrying out this Act, the Secretary shall promptly comply with all applicable requirements of—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(3) all other applicable Federal environmental laws; and

(4) all regulations promulgated under the laws described in paragraphs (1) through (3).

AUGUST 29, 2008.

Senator JON KYL,
Phoenix, AZ.

DEAR SENATOR KYL: We the undersigned representatives of parties to the White Mountain Apache Tribe Quantification Agreement have reviewed the attached Quantification Agreement, Exhibits, and accompanying draft legislation (''Settlement Documents''). Based upon our participation in the negotiations and/or our review of the attached Settlement Documents, we, at this time, intend to express our support for the Settlement Documents and plan to submit them for our governing bodies' review and action. As of the date of this letter, we are not aware of any reason why our governing bodies would not support the Settlement Documents. The governing bodies, however, must conduct a final review of the Settlement Documents and make a decision.

The Settlement Documents may be revised as agreed upon by the parties. We understand that authorizations for appropriations included within the draft legislation are still subject to agreement between you and the White Mountain Apache Tribe.

Robert Brauchli, White Mountain Apache Tribe; John Weldon, Salt River Project; Frederic Beeson, Salt River Project; Lauren Caster, Arizona Water Company; David Brown, City of Show Low; Michael J. Pearce, Buckeye Irrigation Company/Buckeye Water Conservation and Drainage District; William Staudenmaier, Roosevelt Water Conservation District; Eric Kamienski, City of Tempe; Stephen Burg, City of Peoria; Elizabeth Miller, City of Scottsdale; Doug Toy, City of Chandler; Kathy Rall, Town Gilbert; Kathryn Sorensen, City of Mesa; Robin Stinnett, City of Avondale; Tom Buschatzke, City of Phoenix; Stephen Rot, City of Glendale; Gregg Houtz, Arizona Department of Water Resources.

CENTRAL ARIZONA PROJECT,
Phoenix, AZ, September 4, 2008.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL: I am writing as counsel for the Central Arizona Water Conservation District regarding legislation to authorize a settlement of the water rights claims of the White Mountain Apache Tribe. As you know, my staff and I have been personally involved in the negotiations to settle the water rights claims of the Tribe. My staff and I have had the opportunity to review the most recent drafts of the authorizing legislation and the settlement agreement and we intend to recommend approval of the settlement to our governing Board. In our judgment, the proposed settlement is consistent with the Arizona Water Settlements Act and represents an important step forward in Arizona's efforts to resolve outstanding Indian water rights claims. We look forward to continuing to work with you and the other members of the Arizona congressional delegation in bringing this important settlement to fruition.

Sincerely,

DOUGLAS K. MILLER,
General Counsel, CAWCD.

By Mr. FEINGOLD (for himself and Mr. SANDERS):

S. 315. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, Senator SANDERS and I are introducing the Veterans Outreach Improvement Act which will help to ensure that all of our veterans know about Federal benefits to which they may be entitled by improving outreach programs. I introduced similar legislation in the 108, 109, and 110 Congresses. I am also pleased to note that there is a companion bill in the House, H.R. 32, sponsored by Representative MCINTYRE. Last year, the House Veterans' Affairs Subcommittee on Disability Assistance and Memorial Affairs approved the bill by a voice vote.

I would like to thank the junior Senator from Hawaii for working with me to improve outreach to veterans. This year, he has introduced an omnibus veterans health care bill, S. 252, which includes a provision creating a grant program for organizations that, among other things, perform outreach to veterans. At my request, this grant program was extended to include State and local agencies that conduct outreach to veterans, consistent with provisions of my outreach bill. I greatly appreciate the Chairman's willingness to consider the key role these agencies play in ensuring that veterans receive the benefits they have more than earned. I would also like to thank Senator SANDERS for working with me to expand the scope of this grant program.

Based on Senator AKAKA's recommendations, I have made a few changes to my outreach bill this year. He has informed me of the special need to increase outreach to veterans in rural areas. I have modified my outreach bill to reflect this important need.

I was extremely troubled by revelations of gaps in care as servicemembers transition to the VA that emerged as a result of investigations of the Walter Reed Army Medical Center. I appreciate the Department of Defense and Department of Veterans Affairs' attempts to remedy these gaps, but more work remains to be done. It can be extremely difficult for veterans to navigate the VA's health care and benefits systems. This bill will increase congressional oversight of the VA's outreach activities and authorize the Secretary of Veterans Affairs to work with State, local and community-based organizations to perform outreach.

Several years ago, the Wisconsin Department of Veterans Affairs, WDVA, launched a statewide program called ''I Owe You.'' The program encourages veterans to apply, or to re-apply, for benefits that they earned from their service in the U.S. military.

As part of this program, WDVA has sponsored several events around Wisconsin called ''Supermarkets of Veterans Benefits'' at which veterans can begin the process of learning whether they qualify for Federal benefits from the Department of Veterans Affairs, VA. These events, which are based on a similar program in Georgia, supplement the work of Wisconsin's County Veterans Service Officers and veterans service organizations by helping our veterans to reconnect with the VA and to learn more about services and benefits for which they may be eligible. More than 11,000 veterans and their families have attended the supermarkets, which include information booths with representatives from WDVA, VA, and veterans service organizations, as well as a variety of Federal, State, and local agencies. I was proud to have members of my staff speak with veterans and their families at a number of these events. These events have helped veterans and their families to learn about numerous topics, including health care, how to file a disability claim, and preregistration for internment in veterans cemeteries.

The Institute for Government Innovation at Harvard University's Kennedy School of Government recognized the ''I Owe You'' program by naming it a semi-finalist for the 2002 Innovations in American Government Award. The program was also featured in the March/April 2003 issue of Disabled American Veterans Magazine.

In order to help to facilitate consistent implementation of VA's outreach responsibilities around the country, my bill would help to improve outreach activities performed by the VA in three ways. First, it would create separate funding line items for outreach activities within the budgets of

the VA and its agencies, the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration to ensure oversight of the VA's outreach activities. Secondly, the bill would create an intra-agency structure to require the Office of the Secretary, the Office of Public Affairs, the VBA, the VHA, and the NCA to coordinate outreach activities. By working more closely together, the VA components would be able to consolidate their efforts, share proven outreach mechanisms, and avoid duplication of effort that could waste scarce funding. Finally, the bill would give the VA grantmaking authority to award funds to State, local and community-based organizations to conduct outreach activities such as the WDVA's ''I Owe You Program.''

I look forward to working with Chairman AKAKA and the members of the Senate Veteran Affairs Committee to make the veteran outreach grant program a success. As we continue to deploy members of the Armed Services overseas at a staggering pace, it is essential that we ensure a smooth transition into the VA for all veterans in need of care. It is the least we can do.

By Mrs. LINCOLN (for herself, Mr. CRAPO, Mr. ALEXANDER, Mr. PRYOR, Mr. CORNYN, Ms. CANTWELL, Ms. LANDRIEU, Mrs. MURRAY, and Mr. VITTER):

S. 316. A bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes; to the Committee on Finance.

Mrs. LINCOLN. Mr. President, I am very pleased to rise today to introduce the Timber Revitalization and Economic Enhancement Act II of 2009 with my good friend, Senator CRAPO of Idaho. I also want to say a special thanks to our cosponsors, Senators ALEXANDER, PRYOR, CORNYN, CANTWELL, LANDRIEU, MURRAY, and VITTER.

This legislation has commonly been referred to as the TREE Act. I appreciate that Congress understood the importance of the TREE Act with its inclusion and enactment in the Farm Bill last year. But, unfortunately, this tax policy is already set to expire in May. So today, my colleagues and I introduce the TREE Act II to make this important forest policy permanent.

In my home State of Arkansas, the forest products industry is a foundation of our economy and culture. More than 50 percent of Arkansas land is forested. Much of this is sustainably managed to create products we use every day. In addition, there are jobs associated with the growing of these forests and manufacture of these great products. More than 32,000 Arkansas men and women work in our woods, at our sawmills and in our paper mills. These are good jobs located in our small rural towns.

However, these jobs and this industry continue to face many challenges. During this economic crisis, the forest products industry has suffered greater dislocation than many others, and since 2006 has lost more than 181,000 jobs or roughly 14 percent of our workforce. The wood products industry has been particularly hard hit with 20 percent drops in employment. In Arkansas the impact is even greater, with a predicted 24 percent job loss in the wood products industry.

The TREE Act II helps address these challenges. Just as it is important to have diversity in our forests, it is also important to maintain diversity in our forestry industry, and we must ensure that all business forms have the necessary tools so they can be successful in the global marketplace. Timber companies that are organized as corporations continue to be under intensifying pressure to reorganize. In that case, a corporation that owns substantial manufacturing facilities would be forced to sell some of those facilities and to make other structural changes in order to comply with the relevant tax rules that it would newly become subject to. This would likely cause disruptions in many of these communities and would also make it harder for U.S. companies to compete internationally.

In Arkansas, like so many other States across our Nation, a strong forest product industry is essential to having a strong economy. A permanent solution to the TREE Act II is imperative for this industry and supporting the jobs it provides. I look forward to working with my colleagues on the Senate Finance Committee to ensure this important tax policy is made permanent.

By Mr. FEINGOLD.

S. 317. A bill to repeal the provision of law that provides automatic pay adjustments for Members of Congress; to the Committee on Homeland Security and Governmental Affairs.

Mr. FEINGOLD. Mr. President, I am pleased to reintroduce legislation that would put an end to automatic pay raises for Members of Congress.

As I have noted when I raised this issue in past years, because Congress has the authority to raise its own pay, something that most of our constituents cannot do, it ought to exercise that authority openly, and subject to regular procedures including debate, amendment, and a vote on the record.

Regrettably, current law allows Congress to avoid that open debate and public vote. All that is necessary for Congress to get a pay raise is that nothing be done to stop it. The annual pay raise takes effect unless Congress acts to prevent it.

This stealth system of pay raises began with a change Congress enacted in the Ethics Reform Act of 1989. On occasion, Congress has voted to deny itself the raise, and the traditional vehicle for the pay raise vote is the Treasury or more recently the Financial Services Appropriations bill. But as I have noted before, that vehicle is not always made available to those who want a public debate and vote on the matter. Last year, for example, Congress enacted a consolidated appropriations bill in which all but three appropriations bills were included. The traditional vehicle for the pay raise vote, the Financial Services Appropriations bill, was included in the massive consolidated appropriations bill, along with funding for eight other appropriations bills. Amendments to that consolidated appropriations bill were effectively shut off, thus, in particular, preventing any amendment that would have stopped the automatic pay raise from going into effect three months later in January of 2009. I voted against the consolidated appropriations bill in part because it did not permit an up or down vote on the Member pay raise.

Sadly this is not an uncommon situation. As I have noted in the past, getting a vote on the annual congressional pay raise is a haphazard affair at best, and it should not be that way. The burden should not be on those who seek a public debate and recorded vote on the Member pay raise. On the contrary, Congress should have to act if it decides to award itself a hike in pay. This process of pay raises without accountability must end.

This issue is not a new question. It was something that our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. On September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the States.

Although the amendment on pay raises languished for 2 centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin State Senate, I was proud to help ratify the amendment. Its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by ¾ of the States.

The 27th Amendment to the Constitution now states: ''No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.''

I honor that limitation. Throughout my 6-year term, I accept only the rate of pay that Senators receive on the date on which I was sworn in as a Senator. And I return to the Treasury any additional income Senators get, whether from a cost-of-living adjustment or a pay raise we vote for ourselves. I don't take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th Amendment. At the very least, the stealth pay raises like the one that Congress allowed for 2009 certainly violate the spirit of that amendment.

This practice must end and this bill will end it. Senators and Congressmen should have to vote up-or-down to raise their pay, and my bill would require just that. We owe our constituents nothing less.

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. 317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF AUTOMATIC PAY ADJUSTMENTS FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

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

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ''as adjusted by paragraph (2) of this subsection'' and inserting ''adjusted as provided by law''.

(c) EFFECTIVE DATE.—This section shall take effect on February 1, 2011.

By Mr. GRASSLEY:

S. 318. A bill to amend title XVIII of the Social Security Act to improve access to health care under the Medicare program for beneficiaries residing in rural areas; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to introduce the Medicare Rural Health Access Improvement Act of 2009.

The purpose of this legislation is to continue ongoing efforts to ensure that Americans in rural areas have access to health care services. Much has been done in the past to improve access to rural providers such as hospitals and doctors. Much more still needs to be done. And it is even more important in light of the economic challenges we face.

I hold town meetings in each of the 99 counties in the great state of Iowa every year. As many know, Iowa is largely a rural state, and a significant concern that I consistently hear during these meetings is the difficulty my constituents experience in accessing health care services. As the former Chairman and currently the Ranking Member of the Finance Committee, it has therefore been a priority for me to improve the availability of health care in rural areas.

In Iowa, as in many rural areas across the country, hospitals are often not only the sole provider of health care in rural areas, but also employers and purchasers in the community. Moreover, the presence of a hospital is essential for purposes of economic development because businesses check to see if a hospital is in the community in which they might set up shop. As you can see, it is vital that these institutions are able to keep their doors open.

In previous legislation, Congress has been able to improve the financial viability of rural hospitals. For instance, the creation and subsequent improvements to the Critical Access Hospital designation have greatly improved the financial health of certain small rural hospitals and ensured that community residents have access to health care.

However, there are still a group of rural hospitals that need help. I am referring to what are known as ''tweener'' hospitals, which are too large to be Critical Access Hospitals, but too small to be financially viable under the Medicare hospital prospective payment systems. These facilities are struggling to stay afloat despite their tireless efforts. Like in many communities in across the country, the staff of tweener hospitals and their community residents take great pride in the quality of care at these facilities. I have heard countless stories of the exemplary work tweener hospitals in Iowa perform not only as providers of essential health care, but also as responsible members of their communities. It is for this reason that many provisions in this bill are intended to improve the financial health of tweener hospitals and ensure that people have access to health care.

Most tweener hospitals are currently designated as Medicare Dependent Hospitals and Sole Community Hospitals under the Medicare program. There are provisions, both temporary and permanent, included in this bill that would improve Medicare payments for both types of hospitals. This includes improvements to the payment methodologies so that inpatient payments to Medicare Dependent Hospitals would better reflect the costs they incur in providing care. Improvements are also proposed in this bill to Medicare hospital outpatient payments for both Medicare Dependent Hospitals and Sole Community Hospitals so they would both share the benefit of hold harmless payments and add-on payments.

Also, a major driver of the financial difficulties that tweener hospitals face is the fact that many have relatively low volumes of inpatient admissions. This bill would improve the existing low-volume add-on payment for hospitals so that more rural facilities with low volumes would receive the assistance they desperately need.

Over the years, many have commented that it is simply unfair for many rural hospitals to receive only a limited amount of Medicare Disproportionate Share Hospital, or DSH, payments while many urban hospitals are not subject to such a cap. This bill would eliminate the cap for DSH payments for those rural hospitals for a two-year period.

There are also other provisions that would continue to help rural hospitals. The rural flexibility program would be extended for an additional year. This essential program provides valuable resources for rural hospitals.

This legislation also seeks to improve incentives for physicians located in rural areas and increase beneficiaries' access to rural health care providers. It includes provisions designed to reduce inequitable disparities in physician payment resulting from the Geographic Practice Cost Indices, or adjusters, known as GPCIs. Medicare payment for physician services varies from one area to another based on the geographic adjustments for a particular area. Geographic adjustments are intended to reflect cost differences in a given area compared to a national average of 1.0 so that an area with costs above the national average would have an index greater than 1.0, and an area below the national average would have an index less than 1.0. There are currently three geographic adjustments: for physician work, practice expense, and malpractice expense.

Unfortunately, the existing geographic adjusters result in significant disparities in physician reimbursement which penalize, rather than equalize, physician payment in Iowa and other rural States. These geographic disparities in payment lead to rural states experiencing significant difficulties in recruiting and retaining physicians and other health care professionals due to their significantly lower reimbursement rates.

These disparities have perverse effects when it comes to realigning Medicare payment to reward quality of care. Let me put that into context. Iowa is widely recognized as providing some of the highest quality health care in the country yet Iowa physicians receive some of the lowest Medicare reimbursement due to these inequitable geographic adjustments. Medicare reimbursement for some procedures is at least 30 percent lower in Iowa than payment for those very procedures in other parts of the country. That is a significant disincentive for Iowa physicians who are providing some of the best quality care in the country, and it is fundamentally unfair. Congress needs to reduce these disparities in payment and focus on rewarding physicians who provide high quality care.

The inequitable geographic payment formulas have also exacerbated the problems that rural areas face in terms of access to health care. Rural America today has far fewer physicians per capita than urban areas. The GPCI formulas are a dismal failure in promoting an adequate supply of physicians in states like Iowa, and more severe physician shortages in rural areas are predicted in the future.

The legislation I am introducing today makes changes in the GPCI formulas for work and practice expense to reverse this trend. It recognizes the equality of physician work in all geographic areas and establishes a national value of 1.0 for the physician work adjustment. It establishes a practice expense floor of 1.0 floor and revises the calculation of the practice expense formula to reduce payment differences and more accurately compensate physicians in rural areas for

their true practice costs. These changes are needed to help rural states recruit and retain more physicians so that beneficiaries will continue to have access to needed health care.

Last year Congress enacted a number of other provisions to improve Medicare payment for health care professionals and providers in rural areas that will expire at the end of 2009. This bill extends the existing payment arrangements which allow independent laboratories to bill Medicare directly for certain physician pathology services through 2010. It extends and improves the rural ambulance payments enacted in the Medicare Improvements for Providers and Patients Act of 2008 by increasing payments from three to five percent and extending them an additional year, through 2010. The bill also includes several new provisions to improve beneficiary access to health care services. It permanently increases the payment limits for rural health clinics. It also allows physician assistants to order post-hospital extended care services and to serve hospice patients.

Finally, the bill would protect rural areas from being adversely affected by the new Medicare competitive bidding program for durable medical equipment. It would ensure that home medical equipment suppliers who provide equipment and services in rural areas and small metropolitan statistical areas, MSAs, with a population of 600,000 or less can continue to serve the Medicare program by exempting these areas from competitive bidding. We must ensure that rural areas continue to have medical equipment suppliers available to serve beneficiaries in these areas.

As you can see, we still have much to do when it comes to ensuring access to health care in rural America. I look forward to working with my colleagues on this important matter.

By Mr. BINGAMAN (for himself and Mr. DURBIN):

S. 319. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today, entitled the Community Health Workers Act of 2009, will help improve access to health education and outreach services to women and children in medically underserved areas, including the U.S. border region along New Mexico.

Lack of access to adequate health care and health education is a significant problem on the southern New Mexico border. While the problem of access is in part due to a lack of insurance, it is also attributable to non-financial barriers such as a shortage of physicians, hospitals, and other health professionals; inadequate transportation; a lack of bilingual health information and health providers; and a culturally insensitive system of care.

This legislation would help overcome these impediments by providing $15 million in grants annually for a 3 year period to State, local, and tribal organizations, including community health centers and public health departments, for the purpose of hiring community health workers to provide health education, outreach, and referrals to women and families who otherwise would have little or no contact with health care services.

Factors such as poverty, language, and cultural differences impede access to health care in medically underserved populations; hence, community health workers are in a unique position to improve health outcomes and quality of care for groups that have traditionally lacked access to adequate services. They often serve as ''community specialists'' and are members of the communities in which they work. As such they can effectively serve hard-to-reach populations.

In a shining example of how community health workers serve their communities, a group of so-called ''Promotoras'', community health workers, in Dona Ana County were quickly mobilized during a recent flood emergency in rural New Mexico. These community health workers assisted in the disaster recovery efforts by partnering with the Federal Emergency Management Agency, FEMA, to find, inform and register flood victims for Federal disaster assistance. Their personal networks and knowledge of the local culture, language, needs, assets, and barriers greatly enhanced FEMA's community outreach efforts. The Promotoras of Dona Ana County demonstrate the important role community health workers could play in communities across the Nation, including increasing the effectiveness of new initiatives in homeland security and emergency preparedness, and in implementing risk communication strategies.

The positive benefits of the community health worker model also have been documented in research studies. Research has shown that community health workers have been effective in increasing the utilization of health preventive services such as cancer screenings and medical follow up for elevated blood pressure and improving enrollment in publicly funded health insurance programs. In the case of uninsured children, a study by Dr. Glenn Flores, ''Community-Based Case Management in Insuring Uninsured Latino Children,'' published in the December 2005 issue of Pediatrics found that uninsured children who received community-based case management were eight times more likely to obtain health insurance coverage than other children involved in the study because case workers were employed to address typical barriers to access, including insufficient knowledge about application processes and eligibility criteria, language barriers and family mobility issues, among others. This study confirms that community health workers could be highly effective in reducing the numbers of uninsured children, especially those who are at greatest risk for being uninsured. Preliminary investigation of a community health workers project in New Mexico similarly suggests that community health workers could be useful in improving enrollment in Medicaid and the State Children's Health Insurance Program.

According to a 2003 Institute of Medicine, IOM, report entitled, ''Unequal Treatment: Confronting Racial and Ethnic Disparities in Healthcare,'' community health workers offer promise as a community-based resource to increase racial and ethnic minorities' access to health care and to serve as a liaison between healthcare providers and the communities they serve.

Although the community health worker model is valued in the New Mexico border region as well as other parts of the country that encounter challenges of meeting the health care needs of medically underserved populations, these programs often have difficulty securing adequate financial resources to maintain and expand upon their services. As a result, many of these programs are significantly limited in their ability to meet the ongoing and emerging health demands of their communities.

The IOM report also noted that ''programs to support the use of community health workers . . . especially among medically underserved and racial and ethnic minority populations, should be expanded, evaluated, and replicated.''

I am introducing this legislation to increase resources for a model that has shown significant promise for increasing access to quality health care and health education for families in medically underserved communities.

Mr. President, I ask unanimous consent that this statement and 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. 319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community Health Workers Act of 2009''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Chronic diseases, defined as any condition that requires regular medical attention or medication, are the leading cause of death and disability for women in the United States across racial and ethnic groups.

(2) According to the National Vital Statistics Report of 2001, the 5 leading causes of death among Hispanic, American Indian, and African-American women are heart disease, cancer, diabetes, cerebrovascular disease, and unintentional injuries.

(3) Unhealthy behaviors alone lead to more than 50 percent of premature deaths in the United States.

(4) Poor diet, physical inactivity, tobacco use, and alcohol and drug abuse are the health risk behaviors that most often lead to disease, premature death, and disability, and

are particularly prevalent among many groups of minority women.

(5) Over 60 percent of Hispanic and African-American women are classified as overweight and over 30 percent are classified as obese. Over 60 percent of American Indian women are classified as obese.

(6) American Indian women have the highest mortality rates related to alcohol and drug use of all women in the United States.

(7) High poverty rates coupled with barriers to health preventive services and medical care contribute to racial and ethnic disparities in health factors, including premature death, life expectancy, risk factors associated with major diseases, and the extent and severity of illnesses.

(8) There is increasing evidence that early life experiences are associated with adult chronic disease and that prevention and intervention services provided within the community and the home may lessen the impact of chronic outcomes, while strengthening families and communities.

(9) Community health workers, who are primarily women, can be a critical component in conducting health promotion and disease prevention efforts in medically underserved populations.

(10) Recognizing the difficult barriers confronting medically underserved communities (poverty, geographic isolation, language and cultural differences, lack of transportation, low literacy, and lack of access to services), community health workers are in a unique position to reduce preventable morbidity and mortality, improve the quality of life, and increase the utilization of available preventive health services for community members.

(11) Research has shown that community health workers have been effective in significantly increasing health insurance coverage, screening and medical follow-up visits among residents with limited access or underutilization of health care services.

(12) States on the United States-Mexico border have high percentages of impoverished and ethnic minority populations: border States accommodate 60 percent of the total Hispanic population and 23 percent of the total population below 200 percent poverty in the United States.

SEC. 3. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended—

(1) by redesignating the second section 399R (relating to the amyotrophic lateral sclerosis registry (42 U.S.C. 280g-7)) and the third section 399R (relating to support for patients receiving a positive diagnosis of down syndrome or other prenatally or postnatally diagnosed conditions (42 U.S.C. 280g-8)) as sections 399S and 399T respectively; and

(2) by adding at the end the following:

"SEC. 399U. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.

''(a) GRANTS AUTHORIZED.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal officials determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors for women and children in target populations, especially racial and ethnic minority women and children in medically underserved communities.

''(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used to support community health workers—

''(1) to educate, guide, and provide outreach in a community setting regarding health problems prevalent among women and children and especially among racial and ethnic minority women and children;

''(2) to educate, guide, and provide experiential learning opportunities that target behavioral risk factors including—

''(A) poor nutrition;

''(B) physical inactivity;

''(C) being overweight or obese;

''(D) tobacco use;

''(E) alcohol and substance use;

''(F) injury and violence;

''(G) risky sexual behavior; and

''(H) mental health problems;

''(3) to educate and guide regarding effective strategies to promote positive health behaviors within the family;

''(4) to educate and provide outreach regarding enrollment in health insurance including the State Children's Health Insurance Program under title XXI of the Social Security Act, Medicare under title XVIII of such Act and Medicaid under title XIX of such Act;

''(5) to promote community wellness and awareness; and

''(6) to educate and refer target populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services.

''(c) APPLICATION.—

''(1) IN GENERAL.—Each State or local or tribal unit (including federally recognized tribes and Alaska native villages) that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

''(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

''(A) describe the activities for which assistance under this section is sought;

''(B) contain an assurance that with respect to each community health worker program receiving funds under the grant awarded, such program provides training and supervision to community health workers to enable such workers to provide authorized program services;

''(C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

''(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program;

''(E) contain a plan to document and disseminate project description and results to other States and organizations as identified by the Secretary; and

''(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

''(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

''(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services.

''(d) PRIORITY.—In awarding grants under subsection (a), the Secretary shall give priority to those applicants—

''(1) who propose to target geographic areas—

''(A) with a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;

''(B) with a high percentage of families for whom English is not their primary language; and

''(C) that encompass the United States-Mexico border region;

''(2) with experience in providing health or health-related social services to individuals who are underserved with respect to such services; and

''(3) with documented community activity and experience with community health workers.

''(e) COLLABORATION WITH ACADEMIC INSTITUTIONS.—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions. Nothing in this section shall be construed to require such collaboration.

''(f) QUALITY ASSURANCE AND COST-EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

''(g) MONITORING.—The Secretary shall monitor community health worker programs identified in approved applications and shall determine whether such programs are in compliance with the guidelines established under subsection (f).

''(h) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications with respect to planning, developing, and operating programs under the grant.

''(i) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report regarding the grant project.

''(2) CONTENTS.—The report required under paragraph (1) shall include the following:

''(A) A description of the programs for which grant funds were used.

''(B) The number of individuals served.

''(C) An evaluation of—

''(i) the effectiveness of these programs;

''(ii) the cost of these programs; and

''(iii) the impact of the project on the health outcomes of the community residents.

''(D) Recommendations for sustaining the community health worker programs developed or assisted under this section.

''(E) Recommendations regarding training to enhance career opportunities for community health workers.

''(j) DEFINITIONS.—In this section:

''(1) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(2) COMMUNITY SETTING.—The term 'community setting' means a home or a community organization located in the neighborhood in which a participant resides.

''(3) MEDICALLY UNDERSERVED COMMUNITY.—The term 'medically underserved community' means a community identified by a State—

''(A) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and

''(B) a significant portion of which is a health professional shortage area as designated under section 332.

''(4) SUPPORT.—The term 'support' means the provision of training, supervision, and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

''(5) TARGET POPULATION.—The term 'target population' means women of reproductive age, regardless of their current childbearing status and children under 21 years of age.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2010, 2011, and 2012.''.

By Mr. VOINOVICH (for himself and Mr. TESTER, and Ms. KLOBUCHAR):

S. 321. A bill to require the Secretary of Homeland Security and the Secretary of State to accept passport cards at air ports of entry and for other purposes; to the Committee on the Judiciary.

Mr. VOINOVICH. Mr. President, I rise today with Senators TESTER and KLOBUCHAR to introduce the Passport Card Travel Enhancement Act of 2009 in order to allow United States citizens to use passport cards for air travel between the United States and Canada, Mexico, Bermuda and the Caribbean.

Over the past several years, the Departments of State, State, and Homeland Security, DHS, have worked hard to implement the Western Hemisphere Travel Initiative, WHTI, as recommended by the National Commission on Terrorist Attacks Upon the United States. As part of those efforts, State has developed the United States passport card as a cheaper, more portable alternative to a United States passport book. The passport card is adjudicated to the exact same standards as the passport book and allows United States citizens to enter United States land and sea ports-of-entry from Canada, Mexico, the Caribbean and Bermuda, but the card does not allow for any air travel. In my mind, this discrepancy makes no sense, and the passport card should allow for air travel between the United States and Canada, Mexico, Bermuda and the Caribbean for several reasons.

First, prior to 2007, United States citizens rarely needed a passport to enter the United States by air from Canada, Mexico, Bermuda or the Caribbean. Rather, United States citizens were only required to satisfy inspecting officers of their identities and citizenship. This practice changed in 2007, when WHTI went into effect for air travel. I think we all recall the events that occurred following WHTI air implementation, when State was deluged with passport applications, the time necessary to get a passport expanded from the typical four to six weeks to several months, and some Americans were forced to cancel trips. We need to avoid problems like that in the future by providing United States citizens with more documents that comply with WHTI.

Further, State's ''Card Format Passport; Changes to Passport Fee Schedule'' final rule states that the passport card ''is not intended to be a globally interoperable travel document,'' and ''will not be designed to meet the International Civil Aviation Organization, ICAO, standards and recommendations for globally interoperable passports,'' but I do not believe that these facts mean that the passport card cannot be used for limited, western hemisphere air travel. In fact, I question whether globally interoperable passport standards and recommendations need be met in order to use passport cards for the limited flights allowed by the Passport Card Travel Enhancement Act of 2009 because DHS's NEXUS card, which does not meet ICAO standards, is currently accepted as an alternative to a passport for some air travel between the United States and Canada.

Lastly, in today's current economic climate, I believe we must foster secure, legitimate trade and tourism between the United States and our allies. Providing additional, less expensive ways for our constituents to comply with WHTI is good government and makes sense for our Nation's security and economic 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. 321

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 ''Passport Card Travel Enhancement Act of 2009''.

SEC. 2. PASSPORT CARD DEFINED.

In this Act, the term ''passport card'' means the document—

(1) known as a passport card that is issued to a national of the United States on the same basis as a regular passport; and

(2) that the Secretary of State began issuing during 2008.

SEC. 3. PASSPORT CARDS FOR AIR TRAVEL.

(a) REQUIREMENT TO ACCEPT PASSPORT CARDS FOR AIR TRAVEL.—Notwithstanding any regulation issued by the Secretary of Homeland Security or the Secretary of State, the Secretary of Homeland Security and the Secretary of State shall permit a passport card issued to a citizen of the United States to serve as proof of identify and citizenship of such citizen if such citizen is departing from or entering the United States through an air port of entry for travel that terminates or originates in—

(1) Bermuda;

(2) Canada;

(3) a foreign country located in the Caribbean; or

(4) Mexico.

(b) FEES FOR PASSPORT CARDS.—Neither the Secretary of State or the Secretary of Homeland Security may increase, or propose an increase to, the fee for issuance of a passport card as a result of the requirements of subsection (a).

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Homeland shall issue final regulations to implement this Act.

By Mr. MCCONNELL (for himself, Mr. KYL, Mr. VITTER, Mr. CHAMBLISS, Mr. BUNNING, Mr. GREGG, Mr. COBURN, Mr. BURR, Mr. ISAKSON, Mr. GRAHAM, Mr. INHOFE, Mr. CORNYN, Mr. BROWNBACK, Mr. COCHRAN, Mr. ENSIGN, Mr. THUNE, Mr. DEMINT, Mr. BENNETT, and Mr. BARRASSO):

S. 326. A bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program through fiscal year 2013, and for other purposes; to the Committee on Finance.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 326

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 ''Kids First Act''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Reauthorization through fiscal year 2013.
Sec. 3. Allotments for the 50 States and the District of Columbia based on expenditures and numbers of low-income children.
Sec. 4. Limitations on matching rates for populations other than low-income children or pregnant women covered through a section 1115 waiver.
Sec. 5. Prohibition on new section 1115 waivers for coverage of adults other than pregnant women.
Sec. 6. Standardization of determination of family income for targeted low-income children under title XXI and optional targeted low-income children under title XIX.
Sec. 7. Grants for outreach and enrollment.
Sec. 8. Improved State option for offering premium assistance for coverage of children through private plans under SCHIP and Medicaid.
Sec. 9. Treatment of unborn children.
Sec. 10. 50 percent matching rate for all Medicaid administrative costs.
Sec. 11. Reduction in payments for Medicaid administrative costs to prevent duplication of such payments under TANF.
Sec. 12. Elimination of waiver of certain Medicaid provider tax provisions.
Sec. 13. Elimination of special payments for certain public hospitals.
Sec. 14. Effective date; coordination of funding for fiscal year 2009.

SEC. 2. REAUTHORIZATION THROUGH FISCAL YEAR 2013.

(a) INCREASE IN NATIONAL ALLOTMENT.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in subsection (a)—

(A) by striking ''and'' at the end of paragraph (10);

(B) in paragraph (11)—

(i) by striking ''each of fiscal years 2008 and 2009'' and inserting ''fiscal year 2008''; and

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

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

''(12) for fiscal year 2009, $7,780,000,000;

''(13) for fiscal year 2010, $8,044,000,000;

''(14) for fiscal year 2011, $8,568,000,000;

''(15) for fiscal year 2012, $9,032,000,000; and

''(16) for fiscal year 2013, $9,505,000,000.''; and

(2) in subsection (c)(4)(B), by striking ''2009'' and inserting ''2008, $62,000,000 for fiscal year 2009, $64,000,000 for fiscal year 2010, $68,000,000 for fiscal year 2011, $72,000,000 for fiscal year 2012, and $75,000,000 for fiscal year 2013''.

(b) REPEAL OF LIMITATION ON AVAILABILITY OF FUNDING FOR FISCAL YEARS 2008 AND 2009.—Section 201 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

(1) in subsection (a), by striking paragraph (2) and redesignating paragraphs (3) and (4), as paragraphs (2) and (3) respectively; and

(2) in subsection (b), by striking paragraph (2).

SEC. 3. ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA BASED ON EXPENDITURES AND NUMBERS OF LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(m) DETERMINATION OF ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL YEARS 2009 THROUGH 2013.—

''(1) IN GENERAL.—Notwithstanding the preceding provisions of this subsection and subject to paragraph (3), the Secretary shall allot to each subsection (b) State for each of fiscal years 2009 through 2013, the amount determined for the fiscal year that is equal to the product of—

''(A) the amount available for allotment under subsection (a) for the fiscal year, reduced by the amount of allotments made under subsection (c) (determined without regard to paragraph (4) thereof) for the fiscal year; and

''(B) the sum of the State allotment factors determined under paragraph (2) with respect to the State and weighted in accordance with subparagraph (B) of that paragraph for the fiscal year.

''(2) STATE ALLOTMENT FACTORS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the State allotment factors are the following:

''(i) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the fiscal year to the sum of such projected expenditures for all States for the fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(ii) The ratio of the number of low-income children who have not attained age 19 with no health insurance coverage in the State, as determined by the Secretary on the basis of the arithmetic average of the number of such children for the 3 most recent Annual Social and Economic Supplements to the Current Population Survey of the Bureau of the Census available before the beginning of the calendar year before such fiscal year begins, to the sum of the number of such children determined for all States for such fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iii) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the preceding fiscal year to the sum of such projected expenditures for all States for such preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iv) The ratio of the actual expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the second preceding fiscal year to the sum of such actual expenditures for all States for such second preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(B) ASSIGNMENT OF WEIGHTS.—For each of fiscal years 2009 through 2013, the following percentage weights shall be applied to the ratios determined under subparagraph (A) for each such fiscal year:

''(i) 40 percent for the ratio determined under subparagraph (A)(i).

''(ii) 5 percent for the ratio determined under subparagraph (A)(ii).

''(iii) 50 percent for the ratio determined under subparagraph (A)(iii).

''(iv) 5 percent for the ratio determined under subparagraph (A)(iv).

''(C) DETERMINATION OF PROJECTED AND ACTUAL EXPENDITURES.—For purposes of subparagraph (A):

''(i) PROJECTED EXPENDITURES.—The projected expenditures described in clauses (i) and (iii) of such subparagraph with respect to a fiscal year shall be determined on the basis of amounts reported by States to the Secretary on the May 15th submission of Form CMS–37 and Form CMS–21B submitted not later than June 30th of the fiscal year preceding such year.

''(ii) ACTUAL EXPENDITURES.—The actual expenditures described in clause (iv) of such subparagraph with respect to a second preceding fiscal year shall be determined on the basis of amounts reported by States to the Secretary on Form CMS–64 and Form CMS–21 submitted not later than November 30 of the preceding fiscal year.''.

(b) 2-YEAR AVAILABILITY OF ALLOTMENTS; EXPENDITURES COUNTED AGAINST OLDEST ALLOTMENTS.—Section 2104(e) of the Social Security Act (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in the succeeding paragraphs of this subsection, amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for each of fiscal years 2009 through 2013, shall remain available for expenditure by the State only through the end of the fiscal year succeeding the fiscal year for which such amounts are allotted.

''(2) ELIMINATION OF REDISTRIBUTION OF ALLOTMENTS NOT EXPENDED WITHIN 3 YEARS.—Notwithstanding subsection (f), amounts allotted to a State under this section for fiscal years beginning with fiscal year 2009 that remain unexpended as of the end of the fiscal year succeeding the fiscal year for which the amounts are allotted shall not be redistributed to other States and shall revert to the Treasury on October 1 of the third succeeding fiscal year.

''(3) RULE FOR COUNTING EXPENDITURES AGAINST FISCAL YEAR ALLOTMENTS.—Expenditures under the State child health plan made on or after April 1, 2009, shall be counted against allotments for the earliest fiscal year for which funds are available for expenditure under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2104(b)(1) of the Social Security Act (42 U.S.C. 1397dd(b)(1)) is amended by striking ''subsection (d)'' and inserting ''the succeeding subsections of this section''.

(2) Section 2104(f) of such Act (42 U.S.C. 1397dd(f)) is amended by striking ''The'' and inserting ''Subject to subsection (e)(2), the''.

SEC. 4. LIMITATIONS ON MATCHING RATES FOR POPULATIONS OTHER THAN LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.

(a) LIMITATION ON PAYMENTS.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATIONS ON MATCHING RATE FOR POPULATIONS OTHER THAN TARGETED LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.—For child health assistance or health benefits coverage furnished in any fiscal year beginning with fiscal year 2010:

''(A) FMAP APPLIED TO PAYMENTS FOR COVERAGE OF CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER ENROLLED IN THE STATE CHILD HEALTH PLAN ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT AND WHOSE GROSS FAMILY INCOME IS DETERMINED TO EXCEED THE INCOME ELIGIBILITY LEVEL SPECIFIED FOR A TARGETED LOW-INCOME CHILD.—Notwithstanding subsections (b)(1)(B) and (d) of section 2110, in the case of any individual described in subsection (c) of section 105 of the Kids First Act who the State elects to continue to provide child health assistance for under the State child health plan in accordance with the requirements of such subsection, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to such assistance.

''(B) FMAP APPLIED TO PAYMENTS ONLY FOR NONPREGNANT CHILDLESS ADULTS AND PARENTS AND CARETAKER RELATIVES ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—The Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to payments for child health assistance or health benefits coverage provided under the State child health plan for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES ENROLLED UNDER A WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(ii) NONPREGNANT CHILDLESS ADULTS ENROLLED UNDER A WAIVER ON SUCH DATE.—A nonpregnant childless adult enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project described in section 6102(c)(3) of the Deficit Reduction Act of 2005 (42 U.S.C. 1397gg note) on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(iii) NO REPLACEMENT ENROLLEES.—Nothing in clauses (i) or (ii) shall be construed as authorizing a State to provide child health assistance or health benefits coverage under a waiver described in either such clause to a nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income

child, or a nonpregnant childless adult, who is not enrolled under the waiver on the date of enactment of the Kids First Act.

''(C) NO FEDERAL PAYMENT FOR ANY NEW NONPREGNANT ADULT ENROLLEES OR FOR SUCH ENROLLEES WHO NO LONGER SATISFY INCOME ELIGIBILITY REQUIREMENTS.—Payment shall not be made under this section for child health assistance or other health benefits coverage provided under the State child health plan or under a waiver under section 1115 for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES UNDER A SECTION 1115 WAIVER APPROVED AFTER THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child under a waiver, experimental, pilot, or demonstration project that is approved on or after the date of enactment of the Kids First Act.

''(ii) PARENTS, CARETAKER RELATIVES, AND NONPREGNANT CHILDLESS ADULTS WHOSE FAMILY INCOME EXCEEDS THE INCOME ELIGIBILITY LEVEL SPECIFIED UNDER A SECTION 1115 WAIVER APPROVED PRIOR TO THE KIDS FIRST ACT.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child whose family income exceeds the income eligibility level referred to in subparagraph (B)(i), and any nonpregnant childless adult whose family income exceeds the income eligibility level referred to in subparagraph (B)(ii).

''(iii) NONPREGNANT CHILDLESS ADULTS, PARENTS, OR CARETAKER RELATIVES NOT ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(i) on the date of enactment of the Kids First Act, and any nonpregnant childless adult who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(ii)(I) on such date.

''(D) DEFINITION OF CARETAKER RELATIVE.—In this subparagraph, the term 'caretaker relative' has the meaning given that term for purposes of carrying out section 1931.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as implying that payments for coverage of populations for which the Federal medical assistance percentage (as so determined) is to be substituted for the enhanced FMAP under subsection (a)(1) in accordance with this paragraph are to be made from funds other than the allotments determined for a State under section 2104.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) of the Social Security Act (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

SEC. 5. PROHIBITION ON NEW SECTION 1115 WAIVERS FOR COVERAGE OF ADULTS OTHER THAN PREGNANT WOMEN.

(a) IN GENERAL.—Section 2107(f) of the Social Security Act (42 U.S.C. 1397gg(f)) is amended—

(1) by striking '', the Secretary'' and inserting '':

''(1) The Secretary''; and

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

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage for any other adult other than a pregnant woman whose family income does not exceed the income eligibility level specified for a targeted low-income child in that State under a waiver or project approved as of such date.

''(3) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2105(c)(8).''.

(b) CLARIFICATION OF AUTHORITY FOR COVERAGE OF PREGNANT WOMEN.—Section 2106 of the Social Security Act (42 U.S.C. 1397ff) is amended by adding at the end the following new subsection:

''(f) NO AUTHORITY TO COVER PREGNANT WOMEN THROUGH STATE PLAN.—For purposes of this title, a State may provide assistance to a pregnant woman under the State child health plan only—

''(1) by virtue of a waiver under section 1115; or

''(2) through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect on the date of enactment of the Kids First Act).''.

(c) ASSURANCE OF NOTICE TO AFFECTED ENROLLEES.—The Secretary of Health and Human Services shall establish procedures to ensure that States provide adequate public notice for parents, caretaker relatives, and nonpregnant childless adults whose eligibility for child health assistance or health benefits coverage under a waiver under section 1115 of the Social Security Act will be terminated as a result of the amendments made by subsection (a), and that States otherwise adhere to regulations of the Secretary relating to procedures for terminating waivers under section 1115 of the Social Security Act.

SEC. 6. STANDARDIZATION OF DETERMINATION OF FAMILY INCOME FOR TARGETED LOW-INCOME CHILDREN UNDER TITLE XXI AND OPTIONAL TARGETED LOW-INCOME CHILDREN UNDER TITLE XIX.

(a) ELIGIBILITY BASED ON GROSS INCOME.—

(1) IN GENERAL.—Section 2110 of the Social Security Act (42 U.S.C. 1397jj) is amended—

(A) in subsection (b)(1)(A), by inserting ''in accordance with subsection (d)'' after ''State plan''; and

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

''(d) STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.—A State shall determine family income for purposes of determining income eligibility for child health assistance or other health benefits coverage under the State child health plan (or under a waiver of such plan under section 1115) solely on the basis of the gross income (as defined by the Secretary) of the family.''.

(2) PROHIBITION ON WAIVER OF REQUIREMENTS.—Section 2107(f) (42 U.S.C. 1397gg(f)), as amended by section 5(a), is amended by adding at the end the following new paragraph:

''(4) The Secretary may not approve a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2110(d) (relating to determining income eligibility on the basis of gross income) and regulations promulgated to carry out such requirements.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate interim final regulations defining gross income for purposes of section 2110(d) of the Social Security Act, as added by subsection (a).

(c) APPLICATION TO CURRENT ENROLLEES.—The interim final regulations promulgated under subsection (b) shall not be used to determine the income eligibility of any individual enrolled in a State child health plan under title XXI of the Social Security Act on the date of enactment of this Act before the date on which such eligibility of the individual is required to be redetermined under the plan as in effect on such date. In the case of any individual enrolled in such plan on such date who, solely as a result of the application of subsection (d) of section 2110 of the Social Security Act (as added by subsection (a)) and the regulations promulgated under subsection (b), is determined to be ineligible for child health assistance under the State child health plan, a State may elect, subject to substitution of the Federal medical assistance percentage for the enhanced FMAP under section 2105(c)(8)(A) of the Social Security Act (as added by section 4(a)), to continue to provide the individual with such assistance for so long as the individual otherwise would be eligible for such assistance and the individual's family income, if determined under the income and resource standards and methodologies applicable under the State child health plan on September 30, 2008, would not exceed the income eligibility level applicable to the individual under the State child health plan.

SEC. 7. GRANTS FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated for a fiscal year under subsection (f), subject to paragraph (2), the Secretary shall award grants to eligible entities to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) 10 PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts for the fiscal year shall be used by the Secretary for expenditures during the fiscal year to carry out a national enrollment campaign in accordance with subsection (g).

''(b) AWARD OF GRANTS.—

''(1) PRIORITY FOR AWARDING.—

''(A) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(i) propose to target geographic areas with high rates of—

''(I) eligible but unenrolled children, including such children who reside in rural areas; or

''(II) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(ii) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(B) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (f) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(2) 2-YEAR AVAILABILITY.—A grant awarded under this section for a fiscal year shall remain available for expenditure through the end of the succeeding fiscal year.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments;

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

''(e) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A State, national, local, or community-based public or nonprofit private organization.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(G) An elementary or secondary school.

''(H) A national, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(f) APPROPRIATION.—

''(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of awarding grants under this section—

''(A) $100,000,000 for each of fiscal years 2009 and 2010;

''(B) $75,000,000 for each of fiscal years 2011 and 2012; and

''(C) $50,000,000 for fiscal year 2013.

''(2) GRANTS IN ADDITION TO OTHER AMOUNTS PAID.—Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(g) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2) for a fiscal year, the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO EXPENDITURES FOR OUTREACH AND ENROLLMENT.—The limitation under subparagraph (A) shall not apply with respect to expenditures for outreach activities under section 2102(c)(1), or for enrollment activities, for children eligible for child health assistance under the State child health plan or medical assistance under the State plan under title XIX.''.

SEC. 8. IMPROVED STATE OPTION FOR OFFERING PREMIUM ASSISTANCE FOR COVERAGE OF CHILDREN THROUGH PRIVATE PLANS UNDER SCHIP AND MEDICAID.

(a) IN GENERAL.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)), as amended by section 4(a) is amended by adding at the end the following:

''(9) ADDITIONAL STATE OPTION FOR OFFERING PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED COVERAGE.—In this paragraph, the term 'qualified coverage' means the following:

''(i) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(I) IN GENERAL.—A group health plan or health insurance coverage offered through an employer that is—

''(aa) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(bb) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(cc) cost-effective, as determined under subclause (II).

''(II) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(aa) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(bb) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(ii) QUALIFIED NON-GROUP COVERAGE.—Health insurance coverage offered to individuals in the non-group health insurance market that is substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2).

''(iii) HIGH DEDUCTIBLE HEALTH PLAN.—A high deductible health plan (as defined in

section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON-APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on February 1, 2009.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 of the Social Security Act (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(9) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SEC. 9. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) of the Social Security Act (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

SEC. 10. 50 PERCENT MATCHING RATE FOR ALL MEDICAID ADMINISTRATIVE COSTS.

Section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3)(E) as paragraph (2) and re-locating and indenting it appropriately;

(3) in paragraph (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), and indenting them appropriately;

(4) by striking paragraphs (3) and (4);

(5) in paragraph (5), by striking ''which are attributable to the offering, arranging, and furnishing'' and inserting ''which are for the medical assistance costs of furnishing'';

(6) by striking paragraph (6);

(7) in paragraph (7), by striking ''subject to section 1919(g)(3)(B),''; and

(8) by redesignating paragraphs (5) and (7) as paragraphs (3) and (4), respectively.

SEC. 11. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing April 1, 2009, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 12. ELIMINATION OF WAIVER OF CERTAIN MEDICAID PROVIDER TAX PROVISIONS.

Effective October 1, 2009, subsection (c) of section 4722 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 515) is repealed.

SEC. 13. ELIMINATION OF SPECIAL PAYMENTS FOR CERTAIN PUBLIC HOSPITALS.

Effective October 1, 2009, subsection (d) of section 701 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554 (42 U.S.C. 1396r–4 note), is repealed.

SEC. 14. EFFECTIVE DATE; COORDINATION OF FUNDING FOR FISCAL YEAR 2009.

(a) IN GENERAL.—Unless otherwise specified, subject to subsection (b), the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) DELAY IF STATE LEGISLATION REQUIRED.—In the case of a State child health plan under title XXI of the Social Security Act or a waiver of such plan under section 1115 of such Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan or waiver to meet the additional requirements imposed by the amendments made by this Act, the State child health plan or waiver shall not be regarded as failing to comply with the requirements of such title XXI solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) COORDINATION OF FUNDING FOR FISCAL YEAR 2009.—Notwithstanding any other provision of law, insofar as funds have been appropriated under section 2104(a)(11) of the Social Security Act, as amended by section 201(a) of Public Law 110–173 and in effect on January 1, 2009, to provide allotments to States under title XXI of the Social Security Act for fiscal year 2009—

(1) any amounts that are so appropriated that are not so allotted and obligated before the date of the enactment of this Act are rescinded; and

(2) any amount provided for allotments under title XXI of such Act to a State under the amendments made by this Act for such fiscal year shall be reduced by the amount of such appropriations so allotted and obligated before such date.

By Mr. LEAHY:

S. 327. A bill to amend the Violence Against Women Act of 1994 and the Omnibus Crime Control and Safe Streets Act of 1968 to improve assistance to domestic and sexual violence victims and provide for technical corrections; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce the Improving Assistance to Domestic and Sexual Violence Victims Act of 2009 to make urgently needed improvements to the Violence Against Women Act, VAWA. The bill makes corrections and improvements so that this law, a law that has helped so many, can continue to serve as a powerful tool to combat domestic violence and other crimes perpetrated against women and families.

In introducing this measure, I recognize the leadership shown on these issues by Senator JOE BIDEN who now serves as our Vice President. Since 1994, the Violence Against Women Act has been the centerpiece of the Federal government's commitment to combating domestic violence and other violent crimes against women. Its passage and reauthorization made a strong statement in support of the rights of women in America. This landmark law filled a void in Federal law that had left too many victims of domestic violence and sexual assault without the help they needed.

Since the bill's passage, there has been a 27 to 51 percent increase in domestic violence reporting rates by women and a 37 percent increase in reporting rates by men. The number of individuals killed by an intimate partner has decreased by 24 percent for women and 48 percent for men. I have been proud to work with then-Senator BIDEN on these matters for the more than 15 years. I look forward to working with the Obama-Biden administration to ensure that this law remains a vital resource for prosecutors, social workers, and all of those committed to ending crimes against women and alleviating the terrible harms that result from these crimes.

I crafted the legislation I introduce today with the assistance of advocates and those in the field who work with the Violence Against Women Act every day. It contains changes to VAWA that will improve the law's operation and implementation. I want to thank the National Network to End Domestic Violence, Legal Momentum, and the National Center for Victims of Crime for their assistance with and support for this legislation, and for their tireless work on behalf of women and families in the United States. These groups and others across the country play a crucial role in fulfilling the promise that Congress made with the enactment of the Violence Against Women Act.

Among several other fixes, the bill strengthens privacy protections for victims of domestic violence. It contains provisions to ease the burden on victims of domestic violence to obtain public housing benefits. It eliminates an existing loophole that often results in the inappropriate administration of polygraph examinations to victims of terrible crimes. The legislation also contains provisions to strengthen protections in existing law for battered immigrant women. With these important changes to the Violence Against Women Act, Congress will ensure that the law is as effective and strong as it was intended to be and that it can meet the needs of those it seeks to protect as we move forward. I hope all Senators will join in support of this effort.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

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

S. 327

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 ''Improving Assistance to Domestic and Sexual Violence Victims Act of 2009''.

SEC. 2. DEFINITIONS AND UNIVERSAL GRANT CONDITIONS UNDER VAWA.

(a) YOUTH DEFINITION.—Section 40002(a)(37) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)(37)) is amended to read as follows:

''(37) YOUTH.—The term 'youth' means individuals who are between the ages of 12 and 24.''.

(b) EXPERTISE REQUIREMENT.—Section 40002(b)(11) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(b)(11)) is amended by adding at the end the following: ''The Director of the Office on Violence Against Women shall ensure that training or technical assistance will be developed and provided by entities having demonstrated expertise in the purposes, uses of funds, and other aspects of the grant program for which such training or technical assistance is provided.''.

(c) MATCHING REQUIREMENT.—Section 40002(b)(1) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(b)(1)) is amended to read as follows:

''(1) MATCH.—No matching funds shall be required for a grant or subgrant made under this title for—

''(A) any tribe, territory, or victim service provider; or

''(B) any other entity, including a State, that the Attorney General determines has adequately demonstrated financial need.''.

(d) TREATMENT OF CONFIDENTIAL INFORMATION.—Section 40002(b)(2) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(b)(2)) is amended—

(1) in subparagraph (A), by inserting ''privacy and'' before ''safety'';

(2) in subparagraph (B)—

(A) by striking ''and (D)'' and inserting '', (D), (E), (F), (G), and (H)'';

(B) in clause (i)—

(i) by inserting '', reveal, or release'' after ''disclose''; and

(ii) by inserting '', regardless of whether the information is encoded, encrypted, hashed, or otherwise protected,'' after ''individual information''; and

(C) in clause (ii)—

(i) by striking ''reveal'' and inserting ''disclose, reveal, or release'';

(ii) by striking each place it appears ''consent'' and inserting ''consent or authorization'';

(iii) by striking ''persons with disabilities'' and inserting ''a person with a court-appointed guardian''; and

(iv) by striking ''person with disabilities'' and inserting ''person with a court-appointed guardian'';

(3) in subparagraph (C)—

(A) by inserting ''disclosure, revelation, or'' after ''If'';

(B) in clause (i), by inserting '', revelation, or release'' after ''disclosure''; and

(C) in clause (ii), by inserting ''disclosure, revelation, or'' after ''affected by the''; and

(4) by designating subparagraph (E) as subparagraph (H) and inserting after subparagraph (D) the following:

''(E) STATUTORILY PERMITTED REPORTS OF ABUSE OR NEGLECT.—Nothing in this paragraph shall prohibit a grantee or subgrantee from reporting abuse and neglect, as those terms are defined by law, and where mandated or expressly permitted by the State, tribe, or territory involved.

''(F) PREEMPTION.—The provisions of this paragraph shall not supersede any other provision of Federal, State, tribal, territorial, or local law relating to the privacy or confidentiality of information to the extent to which such other provision provides greater

privacy or confidentiality protection than this paragraph for victims of domestic violence, dating violence, sexual assault, or stalking.

''(G) CERTAIN MINORS AND PERSONS WITH GUARDIANS.—If a minor or a person with a court-appointed guardian is permitted by law to receive services without the parent's or guardian's consent or authorization, the minor or person with a court-appointed guardian may consent to a disclosure, revelation, or release of information. In no case may consent or authorization for release of information be given by the abuser of the minor, or person with a court-appointed guardian, or the abuser of the other parent of the minor.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to grants awarded for periods beginning on or after October 1, 2009.

SEC. 3. CRIMINAL JUSTICE.

(a) APPLICATION REQUIREMENTS.—

(1) IN GENERAL.—Section 2007(d) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(d)) is amended—

(A) in paragraph (3) by striking ''and'' after the semicolon;

(B) in paragraph (4), by striking the period and inserting ''and''; and

(C) by inserting at the end the following:

''(5) proof of compliance with the requirements prohibiting the publication of protection order information on the Internet provided in section 2013A.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to grants awarded for periods beginning on or after October 1, 2009.

(b) STATE AND FEDERAL OBLIGATIONS.—Section 2007(f) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(f)) is amended to read as follows:

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of a grant made under this subtitle may not exceed 75 percent of the total costs of the projects described in the application submitted.

''(2) EXEMPTION FROM MATCHING FUNDS.—No matching funds shall be required for that portion of a grant that is subgranted to any tribe or for victims services.''.

(c) LIMITS ON INTERNET PUBLICATION OF PROTECTION ORDER INFORMATION.—Section 2265(d) of title 18, United States Code, is amended by striking paragraph (3).

(d) STATE CERTIFICATION.—Part T of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended by inserting after section 2013 the following:

''SEC. 2013A. LIMITS ON INTERNET PUBLICATION OF PROTECTION ORDER INFORMATION.

''(a) IN GENERAL.—A State, Indian tribal government, or unit of local government shall not be eligible to receive funds under this part unless the State, Indian tribal government, or unit of local government certifies that it does not make available publicly on the Internet any information regarding the filing for or issuance, modification, registration, extension, or enforcement of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal, or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under such order.

''(b) EXCEPTION.—A State, Indian tribe, or territory may share court-generated and law enforcement-generated information about an order or injunction described in subsection (a) if such information is contained in secure, governmental registries for purposes of enforcing orders and injunctions described in subsection (a).

''(c) EFFECTIVE DATE.—A State, Indian tribal government, or unit of local government must meet the requirements of subsection (a) and (b) by the later of—

''(1) 2 years from the date of enactment of the Improving Assistance to Domestic and Sexual Violence Victims Act of 2009; or

''(2) the period ending on the date on which the next session of the State legislature ends.''.

(e) HEALTH CARE PROFESSIONALS.—Section 2010(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–4) is amended by striking ''trained examiners for'' and inserting ''health care professionals for adult and youth''.

(f) RURAL STATE.—Section 40002 (a)(22) of the Violence Against Women Act of 1994 (42 U.S.C. 13925 (a)(22)) is amended by striking ''150,000 people, based on the most recent decennial census'' and inserting ''200,000 people, based on the decennial census of 2000''.

(g) COSTS FOR CRIMINAL CHARGES AND PROTECTION ORDERS.—Section 2011(a)(1) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–5 (a)(1)) is amended by inserting ''dating violence,'' before ''stalking''.

(h) GRANTS TO ENCOURAGE ARREST POLICIES AND ENFORCEMENT OF PROTECTION ORDERS.—Section 2101(c)(4) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(c)(4)) is amended by inserting ''dating violence,'' before ''stalking''.

SEC. 4. FAMILIES.

(a) IN GENERAL.—Section 41304 of the Violence Against Women Act of 1994 (42 U.S.C. 14043d–3) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''Attorney General, acting through the Director of the Office on Violence Against Women, and in collaboration with the Department of Health and Human Services'' and inserting ''Secretary of Health and Human Services (in this section referred to as the 'Secretary'), through the Administration for Children, Youth and Families'';

(B) in paragraph (2), by striking ''Director'' and inserting ''Secretary''; and

(C) in paragraph (3), by striking ''Director'' and inserting ''Secretary''; and

(2) in subsection (d)(1), by striking both places it appears ''Director'' and inserting ''Secretary''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to grants issued on or after October 1, 2009.

SEC. 5. HOUSING.

(a) SECTION 6.—Section 6(u)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by inserting '', as described in subparagraph (C),'' after ''HUD approved certification form''.

(b) SECTION 8.—Section 8(ee)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by inserting '', as described in subparagraph (C),'' after ''HUD approved certification form''.

SEC. 6. ECONOMIC SECURITY.

(a) AUTHORITY.—Section 41501(a) of the Violence Against Women Act of 1994 (42 U.S.C. 14043f(a)) is amended—

(1) by striking ''The Attorney General'' and inserting the following:

''(1) IN GENERAL.—The Attorney General''; and

(2) by striking the last sentence and inserting the following:

''(2) INFORMATION AND ASSISTANCE.—The resource center shall provide information and assistance to—

''(A) employers and labor organizations to aid in their efforts to develop and implement responses to such violence; and

''(B) victim service providers, including community-based organizations, State domestic violence coalitions, State sexual assault coalitions, and tribal coalitions, to enable to them to provide resource materials or other assistance to employers, labor organizations, or employees.''.

(b) ENTITIES PROVIDING ASSISTANCE.—Section 41501 (c)(1) of the Violence Against Women Act of 1994 (42 U.S.C. 14043f(c)(1)) is amended by striking ''and labor organizations'' and inserting '', labor organizations, victim service providers, community-based organizations, State domestic violence coalitions, State sexual assault coalitions, and tribal coalitions''.

SEC. 7. TRIBAL ISSUES.

(a) CONSULTATION.—Section 903 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 is amended by inserting at the end the following:

''(c) REPORTS TO CONGRESS.—Not later than 3 months after the date of each of the annual consultations, beginning with the first consultation following the date of the enactment of this subsection, the Attorney General shall submit to the Committee on Indian Affairs and the Committee on the Judiciary of the Senate and the Committee on the Judiciary and the Committee on Natural Resources of the House of Representatives a report summarizing the annual consultations involved, any request of Indian tribes made pursuant to such consultations for enhancing the safety of Indian women, and the investigative efforts of the Federal Bureau of Investigation and prosecutorial efforts of the United States Attorneys on cases of domestic violence, sexual assault, dating violence, and stalking, involving adult Indian women. The first of such reports shall include the total number of investigations, indictments, declinations, and convictions of cases described in the previous sentence for the 3 years preceding the annual consultation involved and each subsequent report shall include the total number of investigations, indictments, declination, and convictions of such cases for the year preceding the annual consultation involved.''.

(b) GRANTS TO INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Section 2015 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–10) is amended by adding at the end the following:

''(c) AVAILABILITY.—Funds appropriated under this section shall remain available until expended and may only be used for the activities described in this section.

''(d) DURATION.—Grants made under this section shall be for a period of 24 months. Upon request of a grantee, the tribal deputy director may extend the grant period involved for purposes of enabling the grantee to complete the activities agreed to under the terms of the grant provided that no additional funds may be provided under this section pursuant to such extension.

''(e) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—Not later than 6 months after the date of receipt of funding for this program, the Director of the Office on Violence Against Women shall set aside and disperse not less than 6 percent of the total amount of the funds made available under this section for the purpose of entering into cooperative agreements with qualified tribal organizations to provide technical assistance and training to Indian tribes to address violence against Indian women. Such training and technical experience shall be specifically designed to address the unique legal status and geographic circumstances of the Indian tribes receiving funds under this section.

''(2) QUALIFIED TRIBAL ORGANIZATION.—For purposes of paragraph (1), a qualified tribal organization is a tribal organization with

demonstrated experience in providing training and technical experience to Indian tribes in addressing violence against Indian women.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to grants made on or after October 1, 2009.

SEC. 8. POLYGRAPH PROCEDURES.

(a) STOP GRANTS.—Section 2013(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–8(a)) is amended by striking ''as a condition for proceeding with the investigation of such an offense''.

(b) GRANTS TO ENCOURAGE ARREST.—Section 2101(c)(5)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(c)(5)(A)) is amended by striking ''as a condition for proceeding with the investigation of such an offense''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to grants made on or after the latter of the following dates:

(1) The date that is 2 years after the date of the enactment of this Act.

(2) The date on which the next session of the State legislature of the State involved ends.

SEC. 9. SEXUAL ASSAULT NURSE EXAMINERS.

Section 2101(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)) is amended by adding at the end the following new paragraph:

''(14) To provide for sexual assault forensic medical personnel examiners in the collection and preservation of evidence, expert testimony, and treatment of trauma related to sexual assault.''.

SEC. 10. SEXUALLY TRANSMITTED INFECTION TESTING AND TREATMENT.

Section 2101 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh) is amended—

(1) in subsection (b), as amended by section 9, by adding at the end the following new paragraph:

''(15) To develop human immunodeficiency virus (HIV), Hepatitis B, Hepatitis C, and sexually transmitted infection testing and treatment programs for sexual assault victims that include notification, treatment, counseling, and confidentiality protocols.''; and

(2) in subsection (d)—

(A) by inserting ''OR TREATMENT'' after ''NOTICE''; and

(B) by striking paragraph (2) and inserting the following:

''(2) certifies it has a law that requires the State or unit of local government, respectively, to provide at the request of a victim or the parent or guardian of a victim—

''(A) anonymous and confidential free testing for the victim for the human immunodeficiency virus (HIV), Hepatitis B, Hepatitis C, and other sexually transmitted infections as medically appropriate;

''(B) as soon as practicable, notification to the victim, or parent or guardian of a victim, of the testing results;

''(C) anonymous and confidential free follow-up testing for the victim as medically appropriate;

''(D) free prophylaxis and treatment as necessary for the victim;

''(E) free counseling and support to the victim regarding any health care concerns of the victim with respect to the human immunodeficiency virus (HIV), Hepatitis B, Hepatitis C, and other sexually transmitted infections; and

''(F) assurances that the test results of the victim shall remain confidential unless otherwise provided by law; and

''(3) provides assurances to the satisfaction of the Attorney General that its laws will be in compliance with the requirements of paragraph (1) or (2) by a date that is not later than the latter of the following dates:

''(A) The date that is 2 years after the date of the enactment of the Improving Assistance to Domestic and Sexual Violence Victims Act of 2009.

''(B) The date on which the next session of the State legislature ends.''.

SEC. 11. CLARIFICATION OF THE TERM CULTURALLY AND LINGUISTICALLY SPECIFIC.

(a) DEFINITIONS.—Section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)) is amended—

(1) by striking paragraph (17) and redesignating the subsequent paragraphs accordingly; and

(2) by inserting after paragraph (5) the following new paragraphs and redesignating the subsequent paragraphs (as redesignated by paragraph (1)) accordingly:

''(6) CULTURALLY SPECIFIC.—The terms 'culturally specific' and 'culturally and linguistically specific' mean specific to racial and ethnic minority groups (as defined in section 1707(g) of the Public Health Service Act (42 U.S.C. 300u–6(g))).

''(7) CULTURALLY AND LINGUISTICALLY SPECIFIC SERVICES.—The terms 'culturally and linguistically specific services' and 'culturally specific services' mean community-based services that offer full linguistic access and culturally specific services and resources, including outreach, collaboration, and support mechanisms primarily directed toward culturally specific communities.''.

(b) COLLABORATIVE GRANTS TO INCREASE THE LONG-TERM STABILITY OF VICTIMS.—Section 41404 of the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) is amended in subsection (f)(1) by striking ''linguistically and culturally'' and inserting ''culturally and linguistically''.

(c) GRANTS TO COMBAT VIOLENCE AGAINST WOMEN IN PUBLIC AND ASSISTED HOUSING.—Section 41405 of the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) is amended in subsection (c)(2)(D) by striking ''linguistically and culturally'' and inserting ''culturally and linguistically''.

(d) STATE GRANTS.—Section 2007(e)(2)(D) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(e)(2)(D)) is amended by striking ''linguistically and culturally'' and inserting ''culturally and linguistically''.

(e) SEXUAL ASSAULT SERVICES.—Section 2014 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 14043g) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and other programs and projects'';

(B) in paragraph (2)(B)—

(i) by striking ''and other nonprofit, nongovernmental organizations for programs and activities''; and

(ii) by inserting ''to sexual assault victims'' after ''that provide direct intervention and related assistance''; and

(C) in paragraph (2)(C)(v), by striking ''linguistically and culturally'' and inserting ''culturally and linguistically'';

(2) in subsection (c)(2)(A) by striking ''that focuses primarily on'' and inserting ''whose primary mission is to address one or more'';

(3) in subsection (c)(2)(C) by striking ''linguistically and culturally'' and inserting ''culturally and linguistically''; and

(4) in subsection (c)(4)(B) by deleting ''underserved''.

(f) ENHANCING CULTURALLY AND LINGUISTICALLY SPECIFIC SERVICES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING.—Section 121 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 14045a) is amended—

(1) in subsection (b)(1)(A) by inserting ''for culturally and linguistically specific populations'' after ''resources'';

(2) in subsection (b)(1)(B) by inserting ''culturally and linguistically specific'' before ''resources for''; and

(3) in subsection (g) by striking ''linguistic and culturally'' and inserting ''culturally and linguistically''.

SEC. 12. NATIONAL RESOURCE CENTER GRANTS TECHNICAL AMENDMENT.

Section 41501(b)(3) of the Violence Against Women Act of 1994 (42 U.S.C. 14043f(b)(3)) is amended by striking ''for materials''.

SEC. 13. ANALYSIS AND RESEARCH ON VIOLENCE AGAINST INDIAN WOMEN.

Section 904(a)(1) of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (42 U.S.C. 3796gg–10(a)(1) note) is amended by striking ''in Indian country'' and inserting ''on land owned or held in trust for the benefit of an Indian tribe included on the list published under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1)''.

SEC. 14. MOTIONS TO REOPEN.

(a) IN GENERAL.—Section 240(c)(7)(C)(iv)(I) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(7)(C)(iv)(I)) is amended to read as follows:

''(I) if the basis for the motion is to apply for relief under subparagraph (T) or (U) of section 101(a)(15), clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), section 240A(b)(2), section 244(a)(3) (as in effect on March 31, 1997), or subsection (l) or (m) of section 245;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 15. EXTENSION OF T NONIMMIGRANT STATUS.

(a) IN GENERAL.—Section 214(o)(7) of the Immigration and Nationality Act (8 U.S.C. 1184(o)(7)) is amended by adding at the end the following:

''(D) An alien may apply for extension of status under subparagraph (B) retroactively after the expiration of nonimmigrant status under subparagraph 101(a)(15)(T).''.

(b) EFFECTIVE DATE.—The amendments made by under subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 16. T AND U NONIMMIGRANT PROTECTIONS.

(a) IN GENERAL.—Section 107(b)(1)(E)(i)(II)(aa) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7105(b)(1)(E)(i)(II)(aa)) is amended by striking ''bona fide'' and inserting ''prima facie''.

(b) CONFORMING AMENDMENT.—Section 214(p)(6) of the Immigration and Nationality Act (8 U.S.C. 1184(p)(6)) is amended by striking ''bona fide'' and inserting ''prima facie''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 17. U NONIMMIGRANT ADJUSTMENT OF STATUS.

(a) IN GENERAL.—Section 245(m)(3) of the Immigration and Nationality Act (8 U.S.C. 1255(m)(3)) is amended by inserting ''or an unmarried sibling under 18 years of age on the date of such application for adjustment of status under paragraph (1),'' after ''a parent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

SEC. 18. CONFORMING AMENDMENT CONFIRMING HOUSING ASSISTANCE FOR QUALIFIED ALIENS.

(a) IN GENERAL.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''or'' at the end;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

''(7) a qualified alien described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641); or''; and

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking ''(6)'' and inserting ''(7)''; and

(B) in paragraph (2)(A), in the matter preceding clause (i), by inserting ''(other than a qualified alien described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641)'' after ''any alien''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications for public benefits and public benefits provided on or after the date of the enactment of this Act without regard to whether regulations to carry out such amendments have been implemented.

SEC. 19. PROCESSING OF CERTAIN VISAS.

(a) IN GENERAL.—Section 238(b)(5) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110–457; 122 Stat 5085) is amended to read as follows:

''(5) Measures taken to ensure that—

''(A) the Office of Policy and Strategy at United States Citizenship and Immigration Services leads policy and program development with regard to Violence Against Women Act confidentiality-protected victims and their derivative family members; and

''(B) there is routine consultation with the Office on Policy and Strategy during the development of any other Department of Homeland Security regulation or operational policy that impacts Violence Against Women Act confidentiality-protected victims and their derivative family members.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date.

By Mr. LEAHY.

S. 329. A bill to amend the Internal Revenue Code of 1986 to extend the nonbusiness energy property credit for property placed in service during 2008; to the Committee on Finance.

Mr. LEAHY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD,.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF NONBUSINESS ENERGY PROPERTY CREDIT FOR PROPERTY PLACED IN SERVICE DURING 2008.

(a) IN GENERAL.—Subsection (g) of section 25C of the Internal Revenue Code of 1986 is amended to read as follows:

''(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2009.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 20—CELEBRATING THE 60TH ANNIVERSARY OF THE NORTH ATLANTIC TREATY ORGANIZATION

Mr. VOINOVICH (for himself and Mr. CASEY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 20

Whereas the North Atlantic Treaty Organization (NATO) will celebrate its 60th anniversary at a summit to be held on April 4, 2009, in Kehl, Germany, and Strasbourg, France;

Whereas this summit will be held along the border of France and Germany to commemorate the historic post-war reconciliation in Europe that NATO has done so much to facilitate;

Whereas for 60 years, NATO has served as the preeminent organization to defend the territory of its member states against all external security threats;

Whereas the security of the United States is inseparably linked to the peace and stability of the European continent by the participation of the United States in NATO;

Whereas the security of the United States has been significantly enhanced by the integration of security and military structures in the United States and Europe achieved by NATO;

Whereas NATO continues to promote a Europe that is whole, undivided, free, and at peace;

Whereas NATO continues to support an open–door policy of admitting states that can contribute to the promotion and protection of freedom, democracy, stability, and peace throughout Europe;

Whereas, since the end of the Cold War, NATO has continued to redefine and transform itself and to take on new missions, in order to ensure that each NATO member state can defend itself against emerging threats such as terrorism, the spread of weapons of mass destruction, instability caused by failed states, cyber attacks, piracy, and threats to global energy security;

Whereas NATO continues to help stabilize the Balkans through the deployment of troops to Kosovo;

Whereas NATO has deployed naval assets to the Gulf of Aden to address the growing threat of piracy in the region and to help protect the delivery of United Nations food assistance to Somalia;

Whereas after the 2001 terrorist attacks on the United States, Article 5 of the North Atlantic Treaty, signed at Washington April 4, 1949 (TIAS 1964), was invoked for the first time in the history of the organization, and NATO deployed 50,000 troops from all 26 NATO member states to Afghanistan to respond to a dangerous insurgency and terrorist threat and to help re-build a shattered country;

Whereas the challenges that continue to be posed by the resurgence of the Taliban and the illicit drug trade in Afghanistan highlight the need for a sustained and strengthened NATO presence in Afghanistan;

Whereas NATO continues to enhance the security of Europe and the world by strengthening partnerships with countries around the world; and

Whereas Congress continues to support NATO, the leadership role of the United States Government in European security affairs, and the continued enlargement of NATO: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the 60th anniversary of the North Atlantic Treaty Organization;

(2) reaffirms that the North Atlantic Treaty Organization is strong, enduring, and oriented for the challenges of the future; and

(3) expresses appreciation for—

(A) the steadfast partnership between the North Atlantic Treaty Organization and the United States Government; and

(B) the work of the North Atlantic Treaty Organization to ensure peace, security, and stability in Europe and throughout the world.

SENATE RESOLUTION 21—TO AUTHORIZE TESTIMONY IN UNITED STATES OF AMERICA V. VINCENT J. FUMO, ET AL

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 21

Whereas, in the case of United States of America v. Vincent J. Fumo, et al, Cr. No. 06–319, pending in the United States District Court for the Eastern District of Pennsylvania, testimony has been subpoenaed from David Urban, a former employee of the office of Senator Arlen Specter;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it *Resolved* that David Urban is authorized to testify in United States of America v. Vincent J. Fumo, et al., except concerning matters for which a privilege should be asserted.

AMENDMENTS SUBMITTED AND PROPOSED

SA 38. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. KERRY, Ms. KLOBUCHAR, Mr. PRYOR, Mr. SCHUMER, Mr. HARKIN, Mr. KOHL, Mr. CASEY, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 328, to postpone the DTV transition date.

TEXT OF AMENDMENTS

SA 38. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. KERRY, Ms. KLOBUCHAR, Mr. PRYOR, Mr. SCHUMER, Mr. HARKIN, Mr. KOHL, Mr. CASEY, and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 328, to postpone the DTV transition date; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Delay Act''.

SEC. 2. POSTPONEMENT OF DTV TRANSITION DATE.

(a) IN GENERAL.—Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended—

(1) by striking ''February 18, 2009;'' in paragraph (1) and inserting ''June 13, 2009;''; and

(2) by striking ''February 18, 2009,'' in paragraph (2) and inserting ''that date''.

(b) EXTENSION OF COUPON PROGRAM.—Section 3005(c)(1)(A) of that Act (47 U.S.C. 309 note) is amended by striking ''March 31, 2009,'' and inserting ''July 31, 2009,''.

(c) CONFORMING AMENDMENTS.—

(1) Section 3008(a)(1) of that Act (47 U.S.C. 309 note) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(2) Section 309(j)(14)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(A)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(3) Section 337(e)(1) of the Communications Act of 1934 (47 U.S.C. 337(e)(1)) is amended by striking ''February 17, 2009,'' and inserting ''June 12, 2009,''.

(d) LICENSE TERMS.—

(1) EXTENSION.—The Federal Communications Commission shall extend the terms of the licenses for the recovered spectrum, including the license period and construction requirements associated with those licenses, for a 116-day period.

(2) DEFINITION.—In this subsection, the term ''recovered spectrum'' means—

(A) the recovered analog spectrum, as such term is defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934; and

(B) the spectrum excluded from the definition of recovered analog spectrum by subclauses (I) and (II) of such section.

SEC. 3. MODIFICATION OF DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) TREATMENT OF EXPIRED COUPONS.—Section 3005(c)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by adding at the end the following:

''(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.''.

(b) CONFORMING AMENDMENT.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''receives, via the United States Postal Service,'' and inserting ''redeems''.

SEC. 4. IMPLEMENTATION.

(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007).

(b) PUBLIC SAFETY RADIO SERVICES.—

(1) USE ON CLEARED SPECTRUM.—Notwithstanding the amendments made by section 2, if—

(A) a television broadcast station ceases the broadcasting of such station's analog television service under subsection (a) of this section prior to June 12, 2009, and

(B) as a consequence of such cessation, spectrum between frequencies 768 and 776 megahertz, inclusive, and 798 and 806 megahertz, inclusive, becomes available for non-television broadcast use prior to June 12, 2009,

the Federal Communications Commission shall permit the use of such spectrum for authorized public safety radio services if the Commission determines that such use is in the public interest and does not cause harmful interference to full-power television stations in the analog or digital television service.

(2) EXPEDITED PROCEDURES.—The Federal Communications Commission may use expedited procedures, and may waive such rules as may be necessary, to make a determination on an application made under paragraph (1) to begin such use of such spectrum by a public safety agency (as such term is defined in section 3006(d)(1) of the Digital Television Transition and Public Safety Act of 2005) in not less than 2 weeks after the date of submission of such application.

(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications Information Administration shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.

SEC. 5. EXTENSION OF COMMISSION AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2011.'' and inserting ''2012.''.

SEC. 6. EMERGENCY DESIGNATION.

Each amount made available under section 3005 of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) as a result of the amendments made by this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

PRIVILEGES OF THE FLOOR

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following Finance Committee detailees, fellows, and interns be allowed floor privileges during the consideration of H.R. 2: Mary Baker, Lauren Bishop, Pete Harvey, Laura Hoffmeister, Matt Kazan, Bridget Mallon, Toni Miles, Kelcy Poulson, Aris Prasetiyo, Daniel Stein, and Kelley Whitener.

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

DTV DELAY ACT

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 328, introduced earlier today by Senator ROCKEFELLER.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 328) to postpone the DTV transition date.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROCKEFELLER. Mr. President, on February 17, 2009—less than 1 month from today—our Nation is scheduled to make the transition to digital television, or DTV. On this day, full-power television stations across the country will stop broadcasting in analog and switch to digital signals.

The way I see it, right now we have a choice. We can do the DTV transition right or we can do it wrong. Doing it right would mean that as many as 21 million households across this country do not lose access to news, information and emergency alerts. Doing it right would mean that every consumer who relies on over the-air television is aware of the steps they need to take to ensure continued reception and receive the assistance they need to prepare for the transition in their home. And doing it right means that no one across this land wakes up on February 18 to find that their television set has gone dark.

But the shameful truth is that we are not poised to do this transition right. We are only weeks away from doing it dreadfully wrong—and leaving consumers with the consequences. It is no secret that the outgoing administration grossly mismanaged the digital television transition. The coupon program that was designed to help consumers defray the cost of converter boxes to ensure the continued functioning of their analog television sets has a waiting list of over 2 million. This number will multiply to millions more in the weeks ahead. Making a difficult situation even worse, we also face the frightful specter of converter box shortages.

On top of this, consumers are aware of the transition, but confused about its consequences. One study suggests that while recognition of the transition is widespread, an alarming 63 percent have major misconceptions about just what steps they need to take to prepare. Calling centers at the Department of Commerce and Federal Communications Commission are ill-equipped to deal with the avalanche of calls that are expected on February 17 and in the days and weeks after. Consumers will be on their own, forced to navigate through the messy rubble of a botched transition.

I believe we can and should do better. Doing better means more than cobbling together the failed efforts of the last administration. Doing better requires more attention and more resources. But above all, it will require more time—to get the DTV transition right.

This is why last week I introduced the DTV Delay Act. I asked the Senate to delay the date of the transition from February 17 to June 12, 2009. This will give us the time we need to develop an approach that puts consumers first and provides them with the assistance they need.

In the interim, I have been working with the distinguished ranking member of the Senate Commerce, Science and Transportation Committee, Senator HUTCHISON, to modify and improve

the language of my earlier bill in an effort to broaden support and speed its passage.

I rise again today to introduce, now with my good friend Senator HUTCHISON, an amended version of the DTV Delay Act. This version incorporates adjustments to help manage the transition in affected communities, including a provision that makes clear that despite this date change the transition needs of broadcasters and public safety officials will be respected.

Let me be clear. This legislation is not perfect. But it represents a turning point—a start. The record will reflect that I have spent years advocating a different course. I voted against the Deficit Reduction Act of 2005, which set this hard date for the transition deep in the winter. I voted against this bill in both the Commerce Committee and during its consideration by the full Senate because it fell short of a real plan for minimizing consumer disruption. I voted against this bill because it failed to spend any resources building a national interoperable public safety communications network in the spectrum vacated by analog broadcasting. Voting no was by no means a popular thing to do. In fact, I was one of only three ''no'' votes in the Commerce Committee.

Last year, I introduced and the Congress passed the SAFER Act. This legislation provided the Federal Communications Commission with authority to extend analog television broadcasting so that essential public safety announcements and DTV transition could be viewed in the days following the February 17 transition. I now believe that this is not enough. It is a meaningful bandage, but the situation we face requires more intensive care.

The DTV Delay Act will not fix all of the problems associated with the transition. More work needs to be done to ensure that consumers are aware of the transition and get the help they need. But it gives us all the time to do the transition right. Time to develop a new plan, time to implement a new set of ideas to manage the transition, and time to make sure that in the switch to digital signals no American is left behind. Senator HUTCHISON and I are committed to making sure every American is able to manage the DTV transition without undue hardship. We are working on initiatives to be included in the economic recovery package. If we are able to make substantial progress on the administration of the transition this should be the last delay we have to seek. Barring unforeseen emergencies, we should not have another delay. I know the Obama administration shares our commitment to getting this right so that we can avoid any further delays.

So we have a choice, we can proceed with the DTV Delay Act or weeks from today we can survey the wreckage of a failed effort to transition to digital broadcasting, complete with angry consumers, converter box troubles, and calling centers overwhelmed with consumer complaints. Worse, should a tragedy strike, we face the prospect of millions of consumers without access to television, without a lifeline for news and information that may be necessary to protect them from harm.

Again, we have a choice. And I know what I choose. I choose that we delay this transition because I believe we owe the American people a successful migration to digital television. Today will be the second time that the majority leader has sought consent on the DTV Delay Act. We simply can't keep coming back again and again to delay as time is running out. We must act now because we will not have the ability to address consumer needs if we wait much longer.

I ask my colleagues to do the same. I warn those who would stand in the way, who dismiss my sense of urgency, that should they force us to keep to our current course, it is the American public who will bear the brunt of their opposition. We owe our citizens so much more than this. So I ask my colleagues to join me and support the DTV Delay Act.

Mr. KERRY. Mr. President, I support the incoming chairman of the Commerce Committee as well as the President in the effort to delay the digital television transition date because I believe that the Federal Government's first responsibility in administering this transition is to the consumers who stand to lose television reception in just 22 days. On January 4, the National Telecommunications and Information Administration, NTIA, announced that the program designated to distribute coupons to consumers in need of digital converter boxes did not have sufficient resources to meet program demand. Just over 2 weeks later, more than 2.6 million requests for coupons, representing nearly 1.5 million American households, have been placed on a waiting list. Without an infusion of additional funds for this program, these coupons will not be delivered.

Senator ROCKEFELLER is advocating legislation to postpone the upcoming DTV transition date from February 17, 2009, until June 12, 2009. I am a cosponsor of the Rockefeller bill. The legislation is a response to a January 8 letter sent by President Obama's transition team co-chairman, John Podesta, which clearly stated the President's belief that the DTV transition should be delayed.

A high percentage of Americans who rely on over the air broadcast television are low-income or elderly and do not have the financial means to purchase a converter box without a coupon. If these households do not have a converter box when the statutorily mandated switch to digital television takes place, they will be left without access to critical news, information and emergency broadcasts.

To ensure that every request for a coupon is met, Congress will need to appropriate additional funds for the coupon program. I support efforts to provide additional funding necessary to cover each and every coupon request. I also support making additional funds available for the outreach and education efforts that will be necessary to ensure as smooth a transition as possible. In the coming weeks, the Senate will consider economic stimulus legislation, and I hope this additional funding will be included in this bill. Before we reach that point however, it is imperative that Congress delays the transition date so consumers currently on the waiting list have sufficient time to receive and redeem their coupons.

There is no question that delaying the date will come with considerable cost to some parties. The Nation's broadcasters and cable operators have made considerable efforts to educate the public as to the current date, and these efforts should be commended. A delayed transition date will undoubtedly result in some increased cost to those responsible for facilitating the transition. I am also aware that licenses have been granted to operate in this spectrum after the transition date. These licenses were issued to the winning bidders in last year's 700 MHz spectrum auction, which resulted in nearly $20 billion in Federal revenues. Additionally, public safety organizations across the country have been issued licenses to operate in portions of the spectrum following the February 17 statutory transition date. Congress, NTIA, and the Federal Communications Commission, FCC, should work to mitigate economic injury wherever possible for all parties involved in the ongoing effort to execute a smooth transition.

I also agree with Ranking Member HUTCHISON's proposed changes to the chairman's legislation, which would permit the NTIA to reissue expired coupons that go unused, extend the term of auctioned licenses by 116 days, and clarify broadcasters' ability to transition to digital-only transmission early, as well as the ability for public safety entities to have access to narrowband channels prior to the new deadline. These are important changes that will help to make the transition go smoothly.

I urge all of my colleagues to support the DTV Delay Act.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that a Rockefeller-Hutchison substitute 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 to the bill be printed in the RECORD.

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

The amendment (No. 38) was agreed to, as follows:

(Purpose: To postpone the DTV transition date)

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''DTV Delay Act''.

SEC. 2. POSTPONEMENT OF DTV TRANSITION DATE.

(a) IN GENERAL.—Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended—

(1) by striking ''February 18, 2009;'' in paragraph (1) and inserting ''June 13, 2009;''; and

(2) by striking ''February 18, 2009,'' in paragraph (2) and inserting ''that date''.

(b) EXTENSION OF COUPON PROGRAM.—Section 3005(c)(1)(A) of that Act (47 U.S.C. 309 note) is amended by striking ''March 31, 2009,'' and inserting ''July 31, 2009,''.

(c) CONFORMING AMENDMENTS.—

(1) Section 3008(a)(1) of that Act (47 U.S.C. 309 note) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(2) Section 309(j)(14)(A) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(A)) is amended by striking ''February 17, 2009.'' and inserting ''June 12, 2009.''.

(3) Section 337(e)(1) of the Communications Act of 1934 (47 U.S.C. 337(e)(1)) is amended by striking ''February 17, 2009,'' and inserting ''June 12, 2009,''.

(d) LICENSE TERMS.—

(1) EXTENSION.—The Federal Communications Commission shall extend the terms of the licenses for the recovered spectrum, including the license period and construction requirements associated with those licenses, for a 116-day period.

(2) DEFINITION.—In this subsection, the term ''recovered spectrum'' means—

(A) the recovered analog spectrum, as such term is defined in section 309(j)(15)(C)(vi) of the Communications Act of 1934; and

(B) the spectrum excluded from the definition of recovered analog spectrum by subclauses (I) and (II) of such section.

SEC. 3. MODIFICATION OF DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM.

(a) TREATMENT OF EXPIRED COUPONS.—Section 3005(c)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by adding at the end the following:

''(D) EXPIRED COUPONS.—The Assistant Secretary may issue to a household, upon request by the household, one replacement coupon for each coupon that was issued to such household and that expired without being redeemed.''.

(b) CONFORMING AMENDMENT.—Section 3005(c)(1)(A) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) is amended by striking ''receives, via the United States Postal Service,'' and inserting ''redeems''.

SEC. 4. IMPLEMENTATION.

(a) PERMISSIVE EARLY TERMINATION UNDER EXISTING REQUIREMENTS.—Nothing in this Act is intended to prevent a licensee of a television broadcast station from terminating the broadcasting of such station's analog television signal (and continuing to broadcast exclusively in the digital television service) prior to the date established by law under section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 for termination of all licenses for full-power television stations in the analog television service (as amended by section 2 of this Act) so long as such prior termination is conducted in accordance with the Federal Communications Commission's requirements in effect on the date of enactment of this Act, including the flexible procedures established in the Matter of Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (FCC 07–228, MB Docket No. 07–91, released December 31, 2007).

(b) PUBLIC SAFETY RADIO SERVICES.—

(1) USE ON CLEARED SPECTRUM.—Notwithstanding the amendments made by section 2, if—

(A) a television broadcast station ceases the broadcasting of such station's analog television service under subsection (a) of this section prior to June 12, 2009, and

(B) as a consequence of such cessation, spectrum between frequencies 768 and 776 megahertz, inclusive, and 798 and 806 megahertz, inclusive, becomes available for non-television broadcast use prior to June 12, 2009, the Federal Communications Commission shall permit the use of such spectrum for authorized public safety radio services if the Commission determines that such use is in the public interest and does not cause harmful interference to full-power television stations in the analog or digital television service.

(2) EXPEDITED PROCEDURES.—The Federal Communications Commission may use expedited procedures, and may waive such rules as may be necessary, to make a determination on an application made under paragraph (1) to begin such use of such spectrum by a public safety agency (as such term is defined in section 3006(d)(1) of the Digital Television Transition and Public Safety Act of 2005) in not less than 2 weeks after the date of submission of such application.

(c) EXPEDITED RULEMAKING.—Notwithstanding any other provision of law, the Federal Communications Commission and the National Telecommunications Information Administration shall, not later than 30 days after the date of enactment of this Act, each adopt or revise its rules, regulations, or orders or take such other actions as may be necessary or appropriate to implement the provisions, and carry out the purposes, of this Act and the amendments made by this Act.

SEC. 5. EXTENSION OF COMMISSION AUCTION AUTHORITY.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2011.'' and inserting ''2012.''.

SEC. 6. EMERGENCY DESIGNATION.

Each amount made available under section 3005 of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note) as a result of the amendments made by this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

The bill (S. 328), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

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

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

EXECUTIVE SESSION

NOMINATION OF MARY L. SCHAPIRO

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Mary L. Schapiro to fill an unexpired term, received today; that the Senate then proceed to the consideration of the nomination; that the nomination be confirmed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD; that no further motions be in order; that the President be immediately notified of the Senate's action; and the Senate return to legislative session.

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

The nomination considered and confirmed is as follows:

SECURITIES AND EXCHANGE COMMISSION

Mary L. Schapiro, of the District of Columbia, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2009.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

AUTHORIZATION OF TESTIMONY

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 21 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 21) to authorize testimony in the United States of America v. Vincent J. Fumo, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a subpoena for testimony in a criminal case against former Pennsylvania State Senator Vincent J. Fumo in the United States District Court for the Eastern District of Pennsylvania. In this case, Mr. Fumo and two others are charged with multiple counts of conspiracy, fraud, obstruction of justice, and filing false tax returns. Among the charges is that Mr. Fumo, as chairman of the Senate Democratic Appropriations Committee, arranged for a friend, referred to as ''Senate Contractor No. 5'' in the indictment, to obtain a contract under which he was paid $150,000 over 5 years, but performed little or no work. To rebut the allegation that no work was performed under the contract, the defense has subpoenaed Senator SPECTER's former chief of staff, David Urban, to testify as a fact witness at trial as to contracts about and a meeting he had with Senate Contractor No. 5 during that 5-year contract. During that meeting, which was a typical meeting for a United States Senate office, Senate Contractor No. 5 explored possible federal funding for a low-income housing project in South Philadelphia. Neither the meeting nor the

project itself are the subject of the criminal complaint. Senator SPECTER has no objection to allowing the testimony.

The enclosed resolution would authorize Mr. Urban to testify in this matter.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 21) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 21

Whereas, in the case of United States of America v. Vincent J. Fumo, et al, Cr. No. 06–319, pending in the United States District Court for the Eastern District of Pennsylvania, testimony has been subpoenaed from David Urban, a former employee of the office of Senator Arlen Specter;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it *Resolved* that David Urban is authorized to testify in United States of America v. Vincent J. Fumo, et al., except concerning matters for which a privilege should be asserted.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 96–114, as amended, appoints the following individual to the Congressional Award Board: Rodney Slater of the District of Columbia.

ORDERS FOR TUESDAY, JANUARY 27, 2009

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow, Tuesday, January 27; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 2, the Children's Health Insurance Program Reauthorization; further, that the Senate recess following the swearing in of Senate appointee-GILLIBRAND until 2:15 p.m. to allow for the weekly caucus luncheons to meet.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROCKEFELLER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:57 p.m, adjourned until Tuesday, January 27, 2009, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

SECURITIES AND EXCHANGE COMMISSION

MARY L. SCHAPIRO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 5, 2009, VICE CHRISTOPHER COX, RESIGNED.

DEPARTMENT OF JUSTICE

ELENA KAGAN, OF MASSACHUSETTS, TO BE SOLICITOR GENERAL OF THE UNITED STATES, VICE GREGORY G. GARRE, RESIGNED.

DAVID W. OGDEN, OF VIRGINIA, TO BE DEPUTY ATTORNEY GENERAL, VICE MARK R. FILIP.

CONFIRMATIONS

Executive nominations confirmed by the Senate Monday, January 26, 2009:

DEPARTMENT OF THE TREASURY

TIMOTHY F. GEITHNER, OF NEW YORK, TO BE SECRETARY OF THE TREASURY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

SECURITIES AND EXCHANGE COMMISSION

MARY L. SCHAPIRO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 5, 2009.