S. 308

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 308, a bill to amend title 23, United States Code, to improve economic opportunity and development in rural States through highway investment, and for other purposes.

S. 309

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 309, a bill to amend title 23, United States Code, to improve highway transportation in the United States, including rural and metropolitan areas.

S. 371

At the request of Mr. THUNE, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 371, a bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State.

S. 386

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 386, a bill to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

S. 388

At the request of Ms. MIKULSKI, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Kansas (Mr. BROWNBACK) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 388, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 414

At the request of Mr. DODD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 414, a bill to amend the Consumer Credit Protection Act, to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes.

S. 416

At the request of Mrs. FEINSTEIN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 416, a bill to limit the use of cluster munitions.

S. 422

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Michigan (Mr. LEVIN) and the Senator from Texas (Mr. CORNYN) were added as cosponsors of S. 422, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diesases in women.

S. 428

At the request of Mr. DORGAN, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 428, a bill to allow travel between the United States and Cuba.

S. 450

At the request of Mr. BAUCUS, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 450, a bill to understand and comprehensively address the oral health problems associated with methamphetamine use.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself and Mr. MCCAIN):

S. 454. A bill to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes; to the Committee on Armed Services.

Mr. LEVIN. Mr. President, I am pleased to introduce the Weapon Systems Acquisition Reform Act of 2009, with Senator MCCAIN as an original cosponsor. The Department of Defense faces huge problems in its acquisition system today. Every year, the Government Accountability Office publishes a report assessing DOD's purchases of major weapon systems, and every year, the picture seems to get worse.

Since the beginning of 2006, nearly half of DOD's largest acquisition programs have exceeded the so-called ''Nunn-McCurdy'' cost growth standards established by Congress to identify seriously troubled programs. As Secretary Gates pointed out in his testimony before the Armed Services Committee last month, ''The list of big-ticket weapons systems that have experienced contract or program performance problems spans the services: the Air Force tanker, CSAR–X, VH–71, Osprey, Future Combat Systems, Armed Reconnaissance Helicopter, Littoral Combat Ship, Joint Strike Fighter, and so on.''

Overall, DOD's 95 major defense acquisition programs (known as ''MDAPs'') have exceeded their research and development budgets by an average of 40 percent, seen their acquisition costs grow by an average of 26 percent, and experienced an average schedule delay of almost two years. Last summer, GAO reported that cost overruns on DOD's MDAPs now total $295 billion over the original program estimates, even though we have cut unit quantities and reduced performance expectations on many programs in an effort to hold costs down.

These cost overruns happen because of fundamental flaws that are endemic to our acquisition system. We even know what these flaws are: DOD acquisition programs fail because the Department continues to rely on unreasonable cost and schedule estimates, establish unrealistic performance expectations, insist on the use of immature technologies, and adopt costly changes to program requirements, production quantities and funding levels in the middle of ongoing programs.

Particularly at this time, when the federal budget is under immense strain as a result of the economic crisis we simply cannot afford this kind of continued waste and inefficiency. That is why I am introducing this bill with Senator MCCAIN today and why I have scheduled an acquisition reform hearing in the Armed Services Committee next week. The problems in our acquisition system may not be easy to solve, but they are far too big for us not to take whatever steps may be necessary to correct them.

The key to successful acquisition programs is getting things right from the start with sound systems engineering, cost-estimating, and developmental testing early in the program cycle. Programs that are built on a weak initial foundation, including immature technologies, inadequate development and testing, and unrealistic requirements, are likely to have big problems in the long run.

Unfortunately, a number of previous so-called acquisition ''reforms'' have taken the system in the wrong direction by cutting out people, organizations, and processes needed to establish a sound initial foundation for major programs. For example in the mid–1990's, DOD experimented with assigning ''total system performance responsibility'' to contractors, abdicating its role in overseeing and ensuring program performance; beginning in the late 1990's, DOD eliminated organizations and capabilities responsible for providing system engineering and overseeing developmental testing on major weapon systems; beginning in 2003, DOD revised its key guidance for major acquisition programs to make the key early phases of an acquisition program optional, authorizing MDAPs to skip over the concept refinement phase, the technology development phase, and even the system development and demonstration phase of the acquisition process, effectively leaping into production before design considerations were adequately addressed. The result has been excessive cost growth in weapon systems and excessive delays in fielding major defense acquisition programs.

Congress has already taken some steps to address problems that come late in the acquisition process—for example, by establishing certification requirements to ensure that programs meet minimal requirements before they enter system development and by tightening the Nunn-McCurdy requirements that are used to identify underperforming programs.

The bill that we are introducing today is designed to identify and address major problems much earlier in program development—before a Nunn-McCurdy threshold is breached, before a program is formally initiated, and before the program's trajectory has been established. For example, our bill would require the Department of Defense to address problems with unreasonable performance requirements by requiring DOD to reestablish systems engineering organizations and developmental testing capabilities; make trade-offs between cost, schedule and performance early in the program cycle; and conduct preliminary design reviews before giving approval to new acquisition programs; address problems with unreasonable cost and schedule estimates by establishing a new, independent director of cost assessment to ensure that unbiased data is available for senior DOD managers; address problems with the use of immature technologies by requiring the Director of Defense Research and Engineering (DDR&E) to periodically review and assess the maturity of critical technologies and by directing the Department to make greater use of prototypes, including competitive prototypes, to prove that new technologies work before trying to produce them; and address problems with costly changes in the middle of a program by tightening the so-called ''Nunn-McCurdy'' requirements for underperforming programs to provide for the termination of any such program that cannot be justified after undergoing a complete reexamination and revalidation.

Taken together, these provisions will require the Department of Defense to take the steps needed to put major defense acquisition programs on a sound footing from the outset. If they are successfully implemented, they should help these programs avoid future cost overruns, schedule delays, and performance problems.

I look forward to working with Senator MCCAIN and our colleagues to enact these important reforms into law.

Mr. President, I ask unanimous consent that a bill summary be printed in the RECORD.

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

SUMMARY OF THE WEAPON SYSTEMS ACQUISITION REFORM ACT OF 2009

Report after report has indicated that the key to successful acquisition programs is getting things right from the start with sound systems engineering, cost-estimating, and developmental testing early in the program cycle. Over the last twenty years, however, DOD has eliminated acquisition organizations and cut the workforce responsible for taking these actions, and has tried to ''reform'' the acquisition process by taking shortcuts around early program phases in which these actions should be taken. The result has been excessive cost growth in weapon systems and excessive delays in fielding those systems.

TITLE 1: ACQUISITION ORGANIZATION

Section 101. Systems Engineering Capabilities. The Defense Science Board Task Force on Developmental Test and Evaluation reported in May 2008 that ''the single most important step necessary'' to address high rates of failure on defense acquisition programs is ''a viable systems engineering strategy from the beginning.'' The Government Accountability Office has reached similar conclusions. Unfortunately, the Committee on Pre-Milestone A and Early-Phase Systems Engineering of Air Force Studies Board of the National Research Council reported in February 2008 that the Air Force has systematically dismantled its systems engineering organizations and capabilities over the last twenty years. The other services have done the same. Section 101 would address this problem by requiring DOD to: (1) assess the extent to which the Department has in place the systems engineering capabilities needed to ensure that key acquisition decisions are supported by a rigorous systems analysis and systems engineering process; and (2) establish organizations and develop skilled employees needed to fill any gaps in such capabilities.

Section 102. Developmental Testing. Many weapon systems fail operational testing because of problems that should have been identified and corrected during developmental testing much earlier in the acquisition process. The Defense Science Board Task Force on Developmental Test and Evaluation reported in May 2008 that this problem is due, in significant part, to drastic reductions in organizations responsible for developmental testing. According to the Task Force, the Army has essentially eliminated its developmental testing component, while the Navy and the Air Force cut their testing workforce by up to 60 percent in some organizations. Section 102 would address this problem by: (1) requiring DOD to reestablish the position of Director of Developmental Test and Evaluation; and (2) requiring the military departments to assess their developmental testing organizations and personnel, and address any shortcomings in such organizations and personnel.

Section 103. Technological Maturity Assessments. For years now, the Government Accountability Office (GAO) has reported that successful commercial firms use a ''knowledge-based'' product development process to introduce new products. Although DOD acquisition policy embraces this concept, requiring that technologies be demonstrated in a relevant environment prior to program initiation, the Department continues to fall short of this goal. Last Spring, GAO reviewed 72 of DOD's 95 major defense acquisition programs (MDAPs) and reported that 64 of the 72 fell short of the required level of product knowledge. According to GAO, 164 of the 356 critical technologies on these programs failed to meet even the minimum requirements for technological maturity. Section 103 would address this problem by making it the responsibility of the Director of Defense Research and Engineering (DDR&E) to periodically review and assess the technological maturity of critical technologies used in MDAPs. The DDR&E's determinations would serve as a basis for determining whether a program is ready to enter the acquisition process.

Section 104. Independent Cost Assessment. In a July 2008 report, the Government Accountability Office (GAO) reported that ''DOD's inability to allocate funding effectively to programs is largely driven by the acceptance of unrealistic cost estimates and a failure to balance needs based on available resources.'' According to GAO, ''Development costs for major acquisition programs are often underestimated at program initiation—30 to 40 percent in some cases—in large part because the estimates are based on limited knowledge and optimistic assumptions about system requirements and critical technologies.'' Section 104 would address this problem by establishing a Director of Independent Cost Assessment to ensure that cost estimates for major defense acquisition programs are fair, reliable, and unbiased.

Section 105. Role of Combatant Commanders. In a February 2009 report, the Government Accountability Office (GAO) recommended that the acquisition process be modified to allow combatant commanders (COCOMs) more influence and ensure that their long-term needs are met. The GAO report states: ''a COCOM-focused requirements process could improve joint war-fighting capabilities by ensuring that the combatant commander—the customer—is provided the appropriate level of input regarding the capabilities needed to execute their missions rather than relying on the military services—the suppliers—to drive requirements.'' Section 105 would address this problem by requiring the Joint Requirements Oversight Council (JROC) to seek and consider input from the commanders of the combatant commands in identifying joint military requirements.

TITLE 2: ACQUISITION POLICY

Section 201. Trade-offs of Cost, Schedule and Performance. The January 2006 report of the Defense Acquisition Performance Assessment Project (DAPA) concluded that ''the budget, acquisition and requirements processes [of the Department of Defense] are not connected organizationally at any level below the Deputy Secretary of Defense.'' As a result, DOD officials often fail to consider the impact of requirements decisions on the acquisition and budget processes, or to make needed trade-offs between cost, schedule and requirements on major defense acquisition programs. Section 201 would address this problem by requiring consultation between the budget, requirements and acquisition stovepipes—including consultation in the joint requirements process—to ensure the consideration of trade-offs between cost, schedule, and performance early in the process of developing major weapon systems.

Section 202. Preliminary Design Review (PDR). The Government Accountability Office (GAO) has reported on numerous occasions that a knowledge-based approach is critical to the successful development of major weapon systems. In January 2006, the Defense Acquisition Performance Assessment Project (DAPA) endorsed this view, and recommended that Milestone B decisions be delayed to occur after PDR, to ensure a sufficient knowledge base to ensure the technological maturity and avoid ''a long cycle of instability, budget and requirements changes, costly delays and repeated re-baselining.'' Section 202 would address this problem by requiring the completion of a PDR and a formal post-PDR assessment before a major defense acquisition program receives Milestone B approval.

Section 203. Life-Cycle Competition. The Defense Science Board Task Force on Defense Industrial Structure for Transformation reported in July 2008 that consolidation in the defense industry has substantially reduced innovation in the defense industry and created incentives for major contractors to maximize profitability on established programs rather than seeking to improve performance. The Task Force recommended the adoption of measures—such as competitive prototyping, dual-sourcing, funding of a second source for next generation technology, utilization of open architectures to ensure competition for upgrades,

periodic competitions for subsystem upgrades, licensing of additional suppliers, government oversight of make-or-buy decisions—to maximize competition throughout the life of a program, periodic program reviews, and requirement of added competition at the subcontract level. Section 203 would require the Department of Defense to implement this recommendation.

Section 204. Nunn-McCurdy Breaches. Since the beginning of 2006, nearly half of DOD's 95 Major Defense Acquisition Programs (MDAPs) have experienced critical cost growth, as defined in the Nunn-McCurdy provision, as amended. Overall, these 95 MDAPs have exceeded their research and development budgets by an average of 40 percent, seen their acquisition costs grow by an average of 26 percent, and experienced an average schedule delay of almost two years. Such cost growth has become so pervasive that it may come to be viewed as an expected and acceptable occurrence in the life of a weapons program. Section 204 would address this problem and enhance the use of Nunn-McCurdy as a management tool by requiring MDAPs that experience critical cost growth: (1) be terminated unless the Secretary certifies (with reasons and supporting documentation) that continuing the program is essential to the national security and the program can be modified to proceed in a cost-effective manner; and (2) receive a new Milestone Approval (and associated certification) prior to the award of any new contract or contract modification extending the scope of the program. In accordance with section 104, a certification as to the reasonableness of costs would have to be supported by an independent cost estimate and a stated confidence level for that estimate.

Section 205. Organizational Conflicts of Interest. Defense Science Board Task Force on Defense Industrial Structure for Transformation reported in July 2008 that ''many of the systems engineering firms which previously provided independent assessment [of major defense acquisition programs] have been acquired by the large prime contractors.'' As a result, the Task Force reported, ''different business units of the same firm can end up with both the service and product side in the same program or market area.'' This structural conflict of interest may result in ''bias [and] impaired objectivity,'' which cannot be resolved through firewalls or other traditional mitigation mechanisms. Section 205 would address this problem, as recommended by the Task Force, by: (1) prohibiting systems engineering contractors from participating in the development or construction of the major weapon systems on which they are advising the Department of Defense; and (2) requiring tightened oversight of organizational conflicts of interests by contractors in the acquisition of major weapon systems.

Section 206. Acquisition Excellence. The Department of Defense will need an infusion of highly skilled and capable acquisition specialists to carry out the requirements of this bill and address the problems in the defense acquisition system. The Committee has already established an acquisition workforce development fund to provide the resources needed to hire and retain new workers. However, positive motivation is needed as much as money. Section 206 would address this issue by establishing an annual awards program—modeled on the Department's successful environmental awards program—to recognize individuals and teams who make significant contributions to the improved cost, schedule, and performance of defense acquisition programs.

Mr. MCCAIN. Mr. President, over the last few years, Senate Armed Services Committee Chairman LEVIN and I have developed a number of initiatives that reform various aspects of the defense procurement process. Our hope is that, in the aggregate, those initiatives, including those that help control the proliferation of non-essential requirements; have the Department of Defense move towards more fixed price-type contracts while incentivizing performance; and subject major systems to a more evolutionary, knowledge-based procurement process, will have a beneficial effect on the process—as a system. I am under no delusion that a single ''silver bullet'' will remedy a fundamentally broken defense acquisition system.

The Weapon System Acquisition Reform Act of 2009, which I am pleased to introduce with Chairman LEVIN today, is an important next step in efforts to reform the system.

Consensus has emerged that a key to defense acquisition programs' performing successfully is getting things right from the start—with sound systems engineering, cost-estimating, and developmental testing early in the program cycle. Doing so helps the DoD understand and mete out costly technology-and integration-risk out of programs early—before the DoD makes important go/no-go decisions on the program that effectively out it ''on rails''.

We have learned this lesson the hard way—at great cost to the taxpayer. Typically, major weapons have been procured with insufficient systems engineering knowledge about critical technologies. But, with those weapons programs having, by a certain point, acquired often overwhelming political momentum, Nunn-McCurdy, basically only a reporting requirement, has done very little to bring costs associated with those originally underappreciated risks under control.

We now know that when a program is predictable, that is, when decision milestones are being met; estimated costs are actual costs; and performance to contract specifications and key performance parameters are achieved, the acquisition process can be relied on as providing the joint warfighter with optimal capability at the most reasonable cost to the taxpayer.

The bill that I am introducing with Chairman LEVIN today appreciates that fact—by focusing on starting programs right. It does so by emphasizing systems engineering; more effective upfront planning and management of technology risk; and growing the acquisition workforce to meet program objectives.

A particularly important feature of the bill includes a provision that puts Nunn-McCurdy ''on dynamite.'' That provision requires, among other things, that programs currently underway, post-Milestone B, experiencing ''critical'' cost growth either be terminated or enter the new defense acquisition system, which the DoD recently and fundamentally restructured to help it manage technology and integration risk. In so doing, Chairman LEVIN and I hope to transform Nunn-McCurdy from a mere reporting requirement into a tool that can help the DoD manage out-of-control cost growth.

While I am pleased to be introducing this legislation with Chairman LEVIN, we certainly must, and will, do more. That having been said, the primary responsibility to reform the process falls on the DoD itself. No amount of legislation can substitute for a true commitment to acquisition reform within the Pentagon. I look forward to seeing the White House convey that commitment—through deeds—going forward.

By Mr. DODD (for himself, Mr. ALEXANDER, Mr. WHITEHOUSE, Mr. LAUTENBERG, and Mr. KERRY):

S. 456. A bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Food Allergy and Anaphylaxis Management Act of 2009. I want to thank Senators ALEXANDER, WHITEHOUSE, LAUTENBERG, and KERRY for joining me for this introduction.

Food allergies are an increasing food safety and public health concern in this country, especially among young children. I know first-hand just how frightening food allergies can be in a young person's life. My own family has been personally touched by this troubling condition and we continue to struggle with it each and every day. Sadly, there is no cure for food allergies.

The number of Americans with food allergies is on the rise. From 1997 to 2007 the prevalence of food allergies among children increased by 18 percent. Today, 3 million children in the United States have a food allergy. While food allergies were at one time considered relatively infrequent, they now rank third among common chronic diseases in children under 18 years of age. Peanuts are among several allergenic foods that can produce life-threatening allergic reactions in susceptible children. Peanut allergies doubled among school-age children from 1997–2002.

Clearly, food allergies are of great concern for school-age children nationwide, and yet, there are no federal guidelines concerning the management of life-threatening food allergies in our nation's schools.

I have heard from parents, teachers and school administrators that students with severe food allergies often face inconsistent food allergy management approaches when they change

schools. Too often, families are not aware of the food allergy policy at their children's school, or the policy is vastly different from the one they knew at their previous school, and they are left wondering whether their child is safe.

In 2006, Connecticut became the first State to enact school-based guidelines concerning food allergies and the prevention of life-threatening incidents in schools. I am very proud of these efforts, and I know that the parents of children who suffer from food allergies in Connecticut have confidence that their children are safe throughout the school day. I had the opportunity to visit with students and parents at Washington Elementary School in West Haven, CT, last May who shared with me their schools' comprehensive plan for its students with food allergies.

Nine other States, including Massachusetts, Tennessee, Vermont, New Jersey, Arizona, Michigan, New York, Washington, and Maryland have enacted statewide guidelines. But too many States across the country have food allergy management guidelines that are inconsistent from one school district to the next. The result is a patchwork of guidelines that not only may vary from State to State, but also from school district to school district.

In my view, this lack of consistency underscores the need for enactment of uniform, federal guidelines that school districts can choose to adopt and implement. For this reason, my colleague Senator ALEXANDER and I are introducing the Food Allergy and Anaphylaxis Management Act of 2009 today to address the growing need for uniform and consistent school-based food allergy management policy. I thank Senator Alexander for his hard work and commitment to this important legislation.

Mr. President, the bill we are introducing today closely mirrors legislation I introduced last Congress which was cosponsored by 41 of my colleagues. Last May, I, along with Senator ALEXANDER, chaired a hearing in our Children and Families Subcommittee exploring the current state of food allergies and the challenges parents of children with food allergies face.

Since that hearing, Senator ALEXANDER and I have been working with members on both sides of the aisle to address any concerns they had with the legislation. As a result, the legislation we are introducing today reflects many excellent suggestions and changes offered by my colleagues. It is my sincere hope that the Senate will move quickly on this bipartisan legislation this year.

The legislation does two things. First, it directs the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop and make available voluntary food allergy management guidelines for preventing exposure to food allergens and assuring a prompt response when a student suffers a potentially fatal anaphylactic reaction. The guidelines developed by the Secretary are voluntary, not mandatory. Under the legislation, each school district or early childhood education program across the country can voluntarily choose to implement these guidelines. The intent of the legislation is not to mandate individual school policy, but rather to provide for consistency of policies relating to school-based food allergy management by providing schools with consistent guidelines at the federal level.

Second, the bill provides for incentive grants to school districts to assist them with adoption and implementation of the federal government's allergy management guidelines in all K–12 public schools.

I would like to recognize the leadership of Congresswoman NITA LOWEY who is introducing companion legislation today in the House of Representatives. She has been a longstanding champion for children and for awareness of the devastating impact of food allergies. I also wish to acknowledge and offer my sincere appreciation to the members of the Food Allergy and Anaphylaxis Network for their commitment to this legislation and for raising public awareness, providing advocacy, and advancing research on behalf of all individuals who suffer from food allergies.

This legislation is supported by the Food Allergy and Anaphylaxis Network, the American Academy of Allergy, Asthma, and Immunology, and many others.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD.

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

S. 456

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 ''Food Allergy and Anaphylaxis Management Act of 2009''.

SEC. 2. DEFINITIONS.

In this Act:

(1) EARLY CHILDHOOD EDUCATION PROGRAM.—The term ''early childhood education program'' means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(B) a State licensed or regulated child care program or school; or

(C) a State prekindergarten program that serves children from birth through kindergarten.

(2) ESEA DEFINITIONS.—The terms ''local educational agency'', ''secondary school'', ''elementary school'', and ''parent'' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) SCHOOL.—The term ''school'' includes public—

(A) kindergartens;

(B) elementary schools; and

(C) secondary schools.

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

SEC. 3. ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT GUIDELINES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Education, shall—

(A) develop guidelines to be used on a voluntary basis to develop plans for individuals to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs; and

(B) make such guidelines available to local educational agencies, schools, early childhood education programs, and other interested entities and individuals to be implemented on a voluntary basis only.

(2) APPLICABILITY OF FERPA.—Each plan described in paragraph (1) that is developed for an individual shall be considered an education record for the purpose of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g).

(b) CONTENTS.—The voluntary guidelines developed by the Secretary under subsection (a) shall address each of the following, and may be updated as the Secretary determines necessary:

(1) Parental obligation to provide the school or early childhood education program, prior to the start of every school year, with—

(A) documentation from their child's physician or nurse—

(i) supporting a diagnosis of food allergy, and any risk of anaphylaxis, if applicable;

(ii) identifying any food to which the child is allergic;

(iii) describing, if appropriate, any prior history of anaphylaxis;

(iv) listing any medication prescribed for the child for the treatment of anaphylaxis;

(v) detailing emergency treatment procedures in the event of a reaction;

(vi) listing the signs and symptoms of a reaction; and

(vii) assessing the child's readiness for self-administration of prescription medication; and

(B) a list of substitute meals that may be offered to the child by school or early childhood education program food service personnel.

(2) The creation and maintenance of an individual plan for food allergy management, in consultation with the parent, tailored to the needs of each child with a documented risk for anaphylaxis, including any procedures for the self-administration of medication by such children in instances where—

(A) the children are capable of self-administering medication; and

(B) such administration is not prohibited by State law.

(3) Communication strategies between individual schools or early childhood education programs and providers of emergency medical services, including appropriate instructions for emergency medical response.

(4) Strategies to reduce the risk of exposure to anaphylactic causative agents in classrooms and common school or early childhood education program areas such as cafeterias.

(5) The dissemination of general information on life-threatening food allergies to school or early childhood education program staff, parents, and children.

(6) Food allergy management training of school or early childhood education program personnel who regularly come into contact with children with life-threatening food allergies.

(7) The authorization and training of school or early childhood education program personnel to administer epinephrine when the nurse is not immediately available.

(8) The timely accessibility of epinephrine by school or early childhood education program personnel when the nurse is not immediately available.

(9) The creation of a plan contained in each individual plan for food allergy management that addresses the appropriate response to an incident of anaphylaxis of a child while such child is engaged in extracurricular programs of a school or early childhood education program, such as non-academic outings and field trips, before- and after-school programs or before- and after-early child education program programs, and school-sponsored or early childhood education program-sponsored programs held on weekends.

(10) Maintenance of information for each administration of epinephrine to a child at risk for anaphylaxis and prompt notification to parents.

(11) Other elements the Secretary determines necessary for the management of food allergies and anaphylaxis in schools and early childhood education programs.

(c) RELATION TO STATE LAW.—Nothing in this Act or the guidelines developed by the Secretary under subsection (a) shall be construed to preempt State law, including any State law regarding whether students at risk for anaphylaxis may self-administer medication.

SEC. 4. SCHOOL-BASED FOOD ALLERGY MANAGEMENT GRANTS.

(a) IN GENERAL.—The Secretary may award grants to local educational agencies to assist such agencies with implementing voluntary food allergy and anaphylaxis management guidelines described in section 3.

(b) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a local educational agency shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

(A) an assurance that the local educational agency has developed plans in accordance with the food allergy and anaphylaxis management guidelines described in section 3;

(B) a description of the activities to be funded by the grant in carrying out the food allergy and anaphylaxis management guidelines, including—

(i) how the guidelines will be carried out at individual schools served by the local educational agency;

(ii) how the local educational agency will inform parents and students of the guidelines in place;

(iii) how school nurses, teachers, administrators, and other school-based staff will be made aware of, and given training on, when applicable, the guidelines in place; and

(iv) any other activities that the Secretary determines appropriate;

(C) an itemization of how grant funds received under this section will be expended;

(D) a description of how adoption of the guidelines and implementation of grant activities will be monitored; and

(E) an agreement by the local educational agency to report information required by the Secretary to conduct evaluations under this section.

(c) USE OF FUNDS.—Each local educational agency that receives a grant under this section may use the grant funds for the following:

(1) Purchase of materials and supplies, including limited medical supplies such as epinephrine and disposable wet wipes, to support carrying out the food allergy and anaphylaxis management guidelines described in section 3.

(2) In partnership with local health departments, school nurse, teacher, and personnel training for food allergy management.

(3) Programs that educate students as to the presence of, and policies and procedures in place related to, food allergies and anaphylactic shock.

(4) Outreach to parents.

(5) Any other activities consistent with the guidelines described in section 3.

(d) DURATION OF AWARDS.—The Secretary may award grants under this section for a period of not more than 2 years. In the event the Secretary conducts a program evaluation under this section, funding in the second year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

(e) LIMITATION ON GRANT FUNDING.—The Secretary may not provide grant funding to a local educational agency under this section after such local educational agency has received 2 years of grant funding under this section.

(f) MAXIMUM AMOUNT OF ANNUAL AWARDS.—A grant awarded under this section may not be made in an amount that is more than $50,000 annually.

(g) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to local educational agencies with the highest percentages of children who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(h) MATCHING FUNDS.—

(1) IN GENERAL.—The Secretary may not award a grant under this section unless the local educational agency agrees that, with respect to the costs to be incurred by such local educational agency in carrying out the grant activities, the local educational agency shall make available (directly or through donations from public or private entities) non-Federal funds toward such costs in an amount equal to not less than 25 percent of the amount of the grant.

(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal funds required under paragraph (1) may be cash or in kind, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal funds.

(i) ADMINISTRATIVE FUNDS.—A local educational agency that receives a grant under this section may use not more than 2 percent of the grant amount for administrative costs related to carrying out this section.

(j) PROGRESS AND EVALUATIONS.—At the completion of the grant period referred to in subsection (d), a local educational agency shall provide the Secretary with information on how grant funds were spent and the status of implementation of the food allergy and anaphylaxis management guidelines described in section 3.

(k) SUPPLEMENT, NOT SUPPLANT.—Grant funds received under this section shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this section.

(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for fiscal year 2010 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 5. VOLUNTARY NATURE OF GUIDELINES.

(a) IN GENERAL.—The food allergy and anaphylaxis management guidelines developed by the Secretary under section 3 are voluntary. Nothing in this Act or the guidelines developed by the Secretary under section 3 shall be construed to require a local educational agency to implement such guidelines.

(b) EXCEPTION.—Notwithstanding subsection (a), the Secretary may enforce an agreement by a local educational agency to implement food allergy and anaphylaxis management guidelines as a condition of the receipt of a grant under section 4.

FOOD ALLERGY AND
ANAPHYLAXIS NETWORK,
Washington, DC, February 18, 2009.

Senator CHRISTOPHER DODD,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DODD, on behalf of the Food Allergy and Anaphylaxis Network (FAAN), I write to express strong support for the Food Allergy and Anaphylaxis Management Act. This important piece of legislation directs the Department of Health and Human Services to develop guidelines for schools to prevent exposure to food allergens and assure a prompt response when a child suffers a potentially fatal anaphylactic reaction.

FAAN was established in 1991 to raise public awareness, provide advocacy and education, and advance research on behalf of the more than 12 million Americans affected by food allergies and anaphylaxis. FAAN has nearly 30,000 members worldwide, including families, dietitians, nurses, physicians, and school staff as well as representatives of government agencies and the food and pharmaceutical industries.

An estimated 2 million school age children suffer from food allergies, for which there is no cure. Avoiding any and all products with allergy-causing ingredients is the only way to prevent potentially life-threatening reactions for our children. Reactions often occur at school including severe anaphylaxis, which can kill within minutes unless epinephrine (adrenaline) is administered. Deaths from anaphylaxis are usually a result of delayed administration of epinephrine. Nevertheless, there are no current, standardized guidelines to help schools safely manage students with the disease.

The Food Allergy and Anaphylaxis Network applauds your effort to address the seriousness of food allergies and create a safe learning environment for those children who deal with these issues on a daily basis. We are pleased to endorse your legislation.

Sincerely,

JULIA E. BRADSHER,
Chief Executive Officer.

AMERICAN ACADEMY OF ALLERGY,
ASTHMA & IMMUNOLOGY,
Washington, DC, February 19, 2009.

Hon. CHRIS DODD,
Hon. LAMAR ALEXANDER,
U.S. Senate,
Washington, DC.

DEAR SENATORS DODD AND ALEXANDER: I am writing on behalf of the American Academy of Allergy, Asthma and Immunology (AAAAI) to express our strong support for your legislation, the Food Allergy and Anaphylaxis Management Act of 2007, which would make available to schools appropriate guidelines for the management of students with food allergy who are at risk of anaphylactic shock. The AAAAI is the largest professional medical specialty organization in the United States representing allergists, asthma specialists, clinical immunologists, allied health professionals and others dedicated to improving the treatment of allergic diseases through research and education.

The number of schoolchildren with food allergies has increased dramatically in recent years. The policy developed under your bill

would assist schools in preventing exposure to food allergens and assuring a prompt response when a child suffers a potentially fatal anaphylactic reaction.

Strict avoidance of the offending food is the only way to prevent an allergic reaction as there is no cure for food allergy. Fatalities from anaphylaxis often result from delayed administration of epinephrine. The importance of managing life-threatening food allergies in the school setting has been recognized by our own organization as well as the American Medical Association, the American Academy of Pediatrics, and the National Association of School Nurses.

The American Academy of Allergy, Asthma and Immunology applauds your efforts to address the need to assist schools with the policies and information needed to improve the management of children with food allergy and avoid life-threatening reactions. We are pleased to endorse your legislation.

Sincerely,

HUGH A. SAMPSON,
President.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 51—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. HARKIN submitted the following resolution; from the Committee on Agriculture, Nutrition, and Forestry; which was referred to the Committee on Rules and Administration:

S. RES. 51

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Agriculture, Nutrition and Forestry is authorized from March 1, 2009 through September 30, 2009; October 1, 2009, through September 30, 2010, and October 1, 2010, through February 28, 2011, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period March 1, 2009, through September 30, 2009, under this resolution shall not exceed $2,735,622 of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $40,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2009, through September 30, 2010, expenses of the committee under this resolution shall not exceed $4,809,496 of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $40,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period of October 1, 2010, through February 28, 2011, expenses of the committee under this resolution shall not exceed $2,048,172 of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $40,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2010 and February 28, 2011, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2009, through September 30, 2009; October 1, 2009, through September 30, 2010; and October 1, 2010, through February 28, 2011, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 52—DESIGNATING MARCH 2, 2009, AS ''READ ACROSS AMERICA DAY''

Mr. REED (for himself and Ms. COLLINS) submitted the following resolution; which was considered and agreed to:

S. RES. 52

Whereas reading is a basic requirement for quality education and professional success, and is a source of pleasure throughout life;

Whereas the people of the United States must be able to read if the United States is to remain competitive in the global economy;

Whereas Congress, through the No Child Left Behind Act of 2001 (Public Law 107–110) and the Reading First, Early Reading First, and Improving Literacy Through School Libraries programs, has placed great emphasis on reading intervention and providing additional resources for reading assistance; and

Whereas more than 50 national organizations concerned about reading and education have joined with the National Education Association to use March 2, the anniversary of the birth of Theodor Geisel, also known as Dr. Seuss, to celebrate reading: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 2, 2009, as ''Read Across America Day'';

(2) honors Theodor Geisel, also known as Dr. Seuss, for his success in encouraging children to discover the joy of reading;

(3) honors the 12th anniversary of Read Across America Day;

(4) encourages parents to read with their children for at least 30 minutes on Read Across America Day in honor of the commitment of the Senate to building a Nation of readers; and

(5) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, February 26, 2009 at 10 a.m. in room 628 of the Dirksen Senate Office Building to conduct an oversight hearing on Youth Suicide in Indian Country.

Those wishing additional information may contact the Indian Affairs Committee at 202–224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Principles of Integrative Health: A Path to Health Care Reform'' on Monday, February 23, 2009. The hearing will commence at 2 p.m. in room 430 of the Dirksen Senate Office Building.

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

FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel: