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No. 68

## House of Representatives

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. SALAZAR).

### DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,  
May 5, 2009.

I hereby appoint the Honorable JOHN T. SALAZAR to act as Speaker pro tempore on this day.

NANCY PELOSI,  
*Speaker of the House of Representatives.*

### MORNING-HOUR DEBATE

The SPEAKER pro tempore. Pursuant to the order of the House of January 6, 2009, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member, other than the majority and minority leaders and the minority whip, limited to 5 minutes.

### PORTLAND'S STREETCAR EXTENSION

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

Mr. BLUMENAUER. Mr. Speaker, last week's decision by the Secretary of Transportation Ray LaHood to authorize \$75 million in Federal funds to extend Portland's streetcar was not just important news for our community, although it was welcome. Indeed, it's going to create over 1,200 new jobs, construction starting almost immediately.

It's going to help serve as a magnet for development for a broad swath of

our community. But it is important for what it symbolizes as the potential for a new partnership with the Federal Government for the reintroduction of the modern streetcar into our communities across the country.

One hundred and twenty years ago, streetcars were very much in evidence here in Washington, DC and, indeed, from coast to coast. You could travel from Boston, Massachusetts, to Chicago, all but about 13 miles, uninterrupted, on streetcars and interurban electric systems. These streetcars shaped our modern communities with an efficient mechanism for transportation. People liked them, and it was something that helped develop housing and downtown density.

Over the course of this last decade, I am proud of the role our community has played helping to launch the first modern streetcar in the United States that is serving as a model for what can happen across the country. Our first line has already been extended three times. It has attracted over \$3.5 billion of new development, millions of passengers and, very important, the trips that aren't being taken by automobile, saving carbon pollution, fighting congestion, saving people money.

The decision by the Department of Transportation to administer the small starts legislation that I authored in the last reauthorization means that we can spread these benefits all across the country. There are dozens of cities, Boise, Idaho; Washington, DC; Tucson; Fort Lauderdale; Charlotte; Cincinnati; Des Moines; Miami; Providence, Rhode Island; New Haven, Connecticut; Seattle, Salt Lake.

The list is extensive of communities that are poised and ready to go with a modest amount of investment. The streetcar costs a fraction of what a light rail system would do. Our initial streetcar costs less than 1 mile of urban freeway.

But it's important to think about the ripple effects across the country. Not

only can you think multiplication of the 1,200 construction jobs that we have in Portland that could be visited in these communities, just on laying the tracks, reshaping the landscape, relocating the utilities, but it also is going to be a magnet for the development on the adjacent property. This is something that is a signal to developers large and small about a transportation alternative.

Then there is the opportunity for the first time in 58 years to have a modern American streetcar manufactured in the United States. We have developed in the City of Portland a prototype car that is being manufactured locally that's being delivered to this new project. Each streetcar results in 15 additional manufacturing jobs in our community, but also another 15 jobs per car for subcontractors across America. I have a list of subcontractors from coast-to-coast, particularly in the hard-hit manufacturing areas of the upper Midwest where machine shops are going to be providing parts for this modern American streetcar.

Mr. Speaker, this is an opportunity for this Congress and the new administration to build on the promise, not just to have a streetcar line extended in the City of Portland, but to start a modern industry of rail transport, taking us back to the future, with the tram, with the trolley, with the streetcar, whatever one wants to call it, that will have a transformational effect on our communities while it helps revitalize our economy.

### UYGHURS

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

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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Mr. WOLF. Mr. Speaker, I was the author of legislation in 1998 that created the National Commission on Terrorism, whose report and recommendations were, unfortunately, ignored by both the Clinton and the Bush administration prior to 9/11.

Fast forward to today, and you can understand my concern when I hear that Attorney General Eric Holder is preparing to release trained terrorists into the United States. Several media outlets have been reporting that a decision is imminent on the release of Uyghurs presently detained at Guantanamo Bay. These detainees have been held at Guantanamo Bay since 2002 after being captured at terrorist training camps affiliated with al Qaeda.

Information I have received indicates these detainees may be far more dangerous than this administration has led the American people to believe. These detainees have been taught how to kill and terrorize by the same terrorist networks affiliated with the attacks on September 11, the USS Cole, U.S. embassies in Africa and the brutal beheading of Wall Street Journal reporter Daniel Pearl. Yet Eric Holder is considering releasing them into the United States.

Both the FBI and the Department of Homeland Security have reportedly raised concerns about the release of these detainees, who are members of the Eastern Turkistan Islamic Movement, a terrorist organization affiliated with al Qaeda. But yet Eric Holder will not release the information.

Let me be clear, we are not talking about transferring these people to prisons in the United States. They would be released free and clear to roam through your neighborhood, shop in your shopping malls and go wherever they want to.

And yet the Congress has not been briefed on this. We have called for briefings from numerous agencies but have been told by the agencies that the Attorney General's office will not allow them to come to the Hill.

This is, in some respects, basically a cover-up. That's right, the Justice Department will not allow career FBI and other government officials, who understand the issue, to come to the Congress to tell the Congress who these people are and what information has been prepared.

During his appearance before the Commerce-Justice-Science Appropriations Subcommittee, the Attorney General promised he would not play "hide and seek." Now he is hiding. He is hiding and keeping information from the Congress, and, more importantly, because the Congress doesn't appear to be doing anything about this, keeping the information from the American people.

All information, Mr. Speaker, about the capture and the detention of the detainees should be declassified, including a threat assessment for each detainee who would be released into the U.S. The American people need to

see this information, all of it should be released.

Eric Holder cannot just pick and choose what classified information he wants to release, only that which justifies his case, and cover up and keep quiet the others. These people should not be released into the United States.

Would you want to have trained terrorists living in your neighborhood? The answer is no, and I believe that Congress also is shirking its responsibility for not getting this information before a decision has been made.

#### MOVING IN A NEW DIRECTION

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from California (Ms. RICHARDSON) for 5 minutes.

Ms. RICHARDSON. Mr. Speaker, the 111th Congress is moving in a new direction, a new direction with our clean energy jobs plan. Americans all over this country, whether you are from my home State of California or all the way over in Ohio, whether you are an ironworker or a teacher, whether you are retired or temporarily unemployed, Americans all know that we are facing a crisis, a crisis in our economic plan, a crisis with energy and a crisis with our climate.

The Democrats in this Congress have a solution that's a jobs generator and a money saver that will properly address each of these problems. The Democratic solution is our clean energy plan. The Democratic plan invests in clean energy jobs that can't be shipped overseas, in saving money for families and businesses through efficiency, and ending, finally, our addiction to foreign oil.

Republican opponents simply refuse to acknowledge the cause and the magnitude of this problem, and Republicans fail to acknowledge the change required today for the opportunity of growing jobs in this new economy. The U.S. has lost and is currently losing clean energy jobs and market share to China, Germany and Korea.

The U.S. consumers continue to spend \$400 billion, that's billion with a B, a year in the Middle East and Venezuela every time we fill up our gas tanks. Fortunately, Democrats in this Congress are working to fix this decade-old problem.

President Obama and the House Democrats have a plan that gets the economy moving again, retooling manufacturing plants, building wind turbine solar panels and clean cars and creating a smart grid, finally investing in energy-efficient jobs that can't be shipped overseas.

The Democratic plan is simple. It makes polluters pay and helps clean companies prosper so that they can hire more workers and we all know that that's what we need. It's the same American solution we put in place to successfully fight the acid rain in 1990, after which time electricity rates fell 10 percent and the U.S. economy added 16 million new jobs.

It's important to point out that the acid-rain solution was a bipartisan solution. My constituents in Los Angeles County don't want more rhetoric, they want solutions and specifics.

Consider what the Democratic energy plan will accomplish for this economy: Clean energy jobs provisions will create nearly 300,000 new jobs. The efficiency savings measures will create 222,000 new jobs by 2020. The clean energy jobs provisions will result in nearly \$100 billion in savings for consumers and businesses by 2030. The efficiency savings measures alone will result in nearly \$170 billion in utility bill savings by 2020.

□ 1045

The Democratic plan in this Congress will impact every facet of the lives of Americans. We must take care and craft a bill that will promote new job growth around this Nation, a bill that will have energy infrastructure to keep these jobs and industries alive in the United States for generations to come—we have learned that—and a bill that will promote our national and economic security.

The Democratic energy plan is a blueprint for legislation that the American people have called for, a change in a new direction. I look forward to working with my colleagues to moving America in that right direction and finally to true energy independence.

#### WHY IS NUCLEAR NOT INCLUDED?

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

Mr. STEARNS. Mr. Speaker, presently the majority is developing their own energy legislation through the Energy and Commerce Committee. I serve on the Subcommittee on Energy. We have had several hearings and many, many witnesses, including Vice President Gore. This legislation is entitled the American Clean Energy and Security Act of 2009. But, my colleagues, it imposes a massive national energy tax on every single American, especially those who are low income and elderly individuals.

Now, if reducing carbon dioxide, creating jobs and promoting domestic energy sources were truly their objective, then nuclear energy should be a central component, you would think, of this legislation. But it is not.

Nuclear power already provides the United States with over 20 percent of its electricity, and 73 percent of its CO<sub>2</sub>-free electricity. When it comes to affordable, near-term reductions of CO<sub>2</sub> and other atmospheric emissions, the importance of nuclear energy cannot be overstated.

Like wind and solar energy, nuclear energy is emission free, which means CO<sub>2</sub> free. However, unlike wind and solar, nuclear energy can provide vast amounts of power on a constant basis. Wind and solar certainly have a role to

play in America's energy mix, but in order to obtain clean, CO<sub>2</sub>-free energy, it seems that such a major piece of legislation should address the regulatory and policy issues that obstruct new nuclear energy power from being developed in the United States.

But what makes nuclear energy potentially transformational is its simple versatility. Today, the Nation primarily uses nuclear energy for electricity generation. Electric power production amounts for roughly 40 percent of America's total energy production. Nuclear accounts for 20 percent of electricity here in the United States. But clean, affordable nuclear power can also be used to produce energy for industrial applications, and even for transportation, which accounts for 21 percent and 29 percent of U.S. energy consumption, respectively.

For example, some reactor types could be used in the chemical industry for plastics production and for refinery operations, all of which use vast amounts of carbon-based energy to produce heat which is necessary for their industrial activities. Nuclear energy could also be used to produce synthetic fuels that could run America's cars. While these technologies are not commercially viable today, they are the types of things that could be possible, if the Federal Government would develop a regulatory and policy structure that was more conducive to growth in the nuclear energy industry.

Nuclear energy is also a jobs creator. According to The Nuclear Energy Institute, the nuclear industry has created more than 15,000 jobs in recent years, all without even beginning construction on a new nuclear power plant. These include jobs in the sciences, manufacturing and construction sectors that private investors have created as they prepare to meet future construction demand. Once construction begins, up to 2,000 workers will be required to build each new plant and approximately 600 will be needed to operate it.

The energy bill being developed focuses too much on the process of energy production, rather than on the product itself. For example, it creates a renewable energy standard that mandates only certain types of limited energy production, such as wind and solar. This approach artificially eliminates energy sources, including those that have not even yet been invented.

If CO<sub>2</sub> reduction is truly the objective, then maximizing America's nuclear resources should be a top priority. In fact, as Secretary of Energy Chu testified at one of our hearings, nuclear energy should be part of this legislation. France uses nuclear energy to produce almost 80 percent of the electricity they have, and also they have developed methods to reprocess the waste. In fact, they have been so successful that almost all of the waste product has been reprocessed. Japan and Canada have also successfully developed nuclear energy.

So, my colleagues, the priorities we need to establish require a major restructuring effort from Congress and the administration that emphasizes market-based reforms that ensure long-term regulatory stability and policy predictability. Most importantly, these reforms can be done without additional cost to the taxpayers.

Without such an effort, the billions of dollars of private capital needed to expand America's nuclear capacity will simply not be invested. These private investments will ultimately be what is needed for the Nation to achieve real reductions in CO<sub>2</sub> emissions and create a new, clean energy economy.

#### STRICTER OVERSIGHT OF CREDIT CARD ISSUERS

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. MAFFEI) for 5 minutes.

Mr. MAFFEI. Mr. Speaker, last week, the House passed the Credit Cardholders' Bill of Rights with an overwhelming bipartisan vote. This week the House will take up anti-predatory lending and mortgage fraud legislation. These bills are the next step as we work to rebuild our economy in a way that is fair and consistent with our values.

The Mortgage Reform and Anti-Predatory Lending Act of 2009 will curb abuse in predatory lending, a major factor in the Nation's highest home foreclosure rate in 25 years. The bill would outlaw many of the most egregious industry practices that have marked the subprime lending boom, and it would prevent borrowers from deliberately misstating their incomes to qualify for a loan.

But I would also like to get back to the Credit Cardholders' Bill of Rights, because that is such an important piece of legislation. As I mentioned, it passed 357-70 in this body, and I do urge that the other body take up this legislation as rapidly as possible.

The Credit Cardholders' Bill of Rights has had such broad bipartisan support because these credit card issuers and companies have benefited from an uneven playing field for so long. Regular people across the country and across my district have been victimized by these unfair and abusive practices, and Congress has now finally heard their stories. One of their stories was featured today in an editorial in the Syracuse Post-Standard, my hometown newspaper.

"Temple Baptist Church in Baldwinsville is the kind of customer that credit card companies used to reward with lower interest rates, not higher ones. The church paid its credit card bill on time and always paid at least the minimum due.

"But without explanation, Advanta Bank raised the church's interest rate from 18 percent to a whopping 36.9 percent. The higher rate had already been applied to \$8,000 in new purchases, according to the Reverend Aaron

Overton. He was shocked, just like thousands of citizens who have found themselves in similar positions.

"Fortunately for Overton and other consumers, their outcry was loud enough for Congress to pay attention. Last week, the House of Representatives approved the Credit Cardholders' Bill of Rights, which would prohibit sudden and retroactive rate hikes."

Then the editorial goes on to say later that this bill is good, we need to do more, and that "Congress needs to carefully examine how credit card companies conduct business, the kinds of interest rates they charge and what other schemes are being practiced that hurt customers. Overton says he probably could have gotten a better deal from the Mafia than from his credit card company. It does appear that some companies are shaking down customers as the economy worsens."

Mr. Speaker, I will include the full editorial for the RECORD.

The point is this: We cannot any longer allow these kind of practices to occur. The model that makes this occur is the fact that at one point in our country, all lending, including credit card lending, was based on the fair principle that a bank or other institution would lend out money and then would make money on the interest and then the principal would be paid back.

But these credit card companies have now targeted people that cannot afford to pay back that principal and instead continue to get higher and higher fees. Yet they are too responsible, like Reverend Overton, to run away. He is not going to go anywhere. That church is not going to go anywhere. So there is no excuse to raise those rates and to have those fees, except that the company wants to make more money.

My concern, the concern of my newspaper at home and the concern of many of us, is that these credit card companies, before this bill fully takes effect, before the Senate is able to pass it, will take advantage of this all the more. But to them, Mr. Speaker, to them I have a clear message, and that is we have got our eyes on you and you shouldn't try it, because if you do, we are going to put this into effect much, much earlier, as our Chairman BARNEY FRANK has said.

I do not believe that you should have a lawyer to get a credit card. We have lawyers to get a new house, often when you have a house closing. But when it comes time to get a credit card, you shouldn't need a lawyer. These 30 page contracts, frankly, that people don't read, but I tell you, if you did read them, there is only a couple of sentences that matter. Those are the sentences that say the credit card issuer can do everything and the consumer can do nothing. This has to end. This practice has to end. We must assure fairness, and that means getting the Senate to pass a strong credit cardholders' bill of rights, and in both Houses and down the street at the

White House we have to keep an eye on this industry and make sure they don't take advantage of the customers further during this recession.

Mr. Speaker, I include the editorial from the Syracuse Post-Standard for the RECORD.

#### BAD CREDIT

Temple Baptist Church in Baldwinsville is the kind of customer that credit card companies used to reward with lower interest rates not higher ones. The church paid its credit card bill on time and always paid at least the minimum due.

But without explanation, Advanta Bank raised the church's interest rate from 18 percent to a whopping 36.9 percent. The higher rate had already been applied to \$8,000 in new purchases, according to the Rev. Aaron Overton.

He was shocked just like thousands of citizens who have found themselves in similar positions.

Fortunately for Overton and other consumers, their outcry was loud enough for Congress to pay attention. Last week, the House of Representatives approved the "Credit Card Holders' Bill of Rights," which would prohibit sudden and retroactive rate hikes.

The Senate is expected to pass similar legislation, according to Sen. Charles Schumer, D-N.Y., who said the Senate bill would contain "important protections for consumers and is a giant step forward for anyone who uses a credit card."

Let's hope so.

The credit card companies have been allowed to ride roughshod over their customers, employing jaw-dropping practices in a nation that supposedly operates by fair and transparent financial rules.

In fact, Congress needs to go farther than the House did in its bill.

As Rev. Overton pointed out, credit card companies should be made to refund the money they received from the outrageous fees.

State Attorney General Andrew Cuomo was able to work out such a deal recently with JP Morgan Chase & Co. It refunded \$4.4 million to 184,000 cardholders Cuomo said were wrongly charged a monthly \$10 fee.

Most of the regulations in the Credit Card Holders' Bill of Rights will not take effect until next year. But Rep. Dan Maffei, D-DeWitt, and Rep. Carolyn Maloney, D-Manhattan, sponsored an amendment that would ensure that one crucial provision takes effect within 90 days of signing that companies give customers 45 days notice before raising rates.

Maffei says the House bill is just the beginning of stricter oversight of credit card issuers. As a member of the House Financial Services Committee, he says he has heard complaints about credit company practices throughout his district. He plans to hold hearings in Syracuse this summer.

That's good. Congress needs to carefully examine how credit card companies conduct business, the kinds of interest rates they charge and what other schemes are being practiced that hurt consumers.

Overton says he probably could have gotten a better deal from the Mafia than from his credit card company. It does appear that some companies are shaking down customers as the economy worsens.

Lawmakers must put an end to such practices immediately.

#### TRIBUTE TO JACK KEMP

The SPEAKER pro tempore. The Chair recognizes the gentleman from

California (Mr. DANIEL E. LUNGREN) for 5 minutes.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise today in tribute to a good and great friend who was also a great American leader that we lost this last weekend, Jack Kemp.

Jack Kemp was not only an inspiration to many, but he is a model for those of us who serve in this House. Through the years, his searching intellect, his impressive leadership ability, his buoyant personality, and, yes, his dedication to his family, was something to inspire all of us who had the opportunity to know him and those of us who were able to call him friend.

I remember that he told me one time that as busy as he was, he always used to take the time to try and give some inspiration to his children, and at times he would write a little note to them and put it under their pillow, and oftentimes it would say these simple words: "Be a leader." I copied that from Jack, and I would remind my children before they would go to bed to think of themselves as leaders, not just followers.

Jack had that kind of effect on people. I was speaking to another Member of Congress recently and I said, when you think of Jack Kemp, you immediately have a smile on your lips because of that buoyant personality, that ultimate sense of fairness.

Today, we talk about athletes having a swagger. Jack didn't walk with a swagger. He walked with the grace of an athlete. And there was a certain graciousness about him as he approached anybody on this floor. Democrat, Republican; liberal, conservative; white, black, Hispanic, it didn't matter. Jack treated you all the same.

Jack genuinely believed that there was goodness in everybody, and even when disappointed he would still come back to that fundamental thought of his that if you could reach just a little bit deeper, if you talked to someone just a little bit longer, if you fought a little bit harder, maybe you could find agreement and maybe we could move this country forward.

It was a great experience being one of Jack's friends. I often thought that there might be someone out there who doesn't like Jack Kemp, but I don't think there was a single person that Jack disliked. And that could be irritating at times when he was an ally of yours and you were dealing with a difficult issue, and you would say, Jack, don't you hear what they are saying? Doesn't it get you irritated? And he would give you that half crooked smile and have that raspy chuckle, and he would just keep on going.

I remember when I was with him, as were several other Members in the House, I believe it was over in the Cannon Caucus Room, when Jack announced his candidacy for President in 1988. At the end he said something to this effect. He said, "While I am leaving the House, I will always be a man of the House." And I believe he was, until the day he died.

Today, as we deal with difficult issues, it would do us good to remember Jack; not as someone of the past, not as someone who made great contributions to this country in his life, but someone whose spirit remains and whose example should be an example to us all.

We dealt with difficult issues when he was here in the House; the Contras, Soviet Jewry, the Cold War, the march of communism, high taxes, difficult inflation, questions about where we were going. And Jack dealt with all of those issues. But he dealt with those issues not only with a smile, but with a clarity of vision and an approach that invited people to sit down and debate with emotion, but with civility.

□ 1100

There could be no better example for us today. The incandescence of his personality, the generosity of his spirit, the genuineness of his friendship, I thank God for all of those things. And I think today as we deal with these difficult issues, rather than just to have a tip of the hat to people like Jack Kemp, we ought to say, your inspiration, your leadership and your example will continue to burn brightly in the hearts of Members of this body and we shall always remember your belief in the goodness of America and the goodness of its people.

God bless you, friend.

#### AMERICAN RECOVERY AND REINVESTMENT ACT PLAYS CRITICAL ROLE IN VIRGINIA'S 11TH DISTRICT

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

Mr. CONNOLLY of Virginia. Thank you, Mr. Speaker.

And before I begin my remarks on a different subject, I want to thank my colleague from California for his remarks about our departed colleague, Mr. Kemp. I think it is important that all of us remember his sense of decency, civility and collegiality, something we need to remind ourselves of in this body today.

Mr. Speaker, we know that the Recovery Act will save or create 3.5 million jobs across the country, but today I rise to highlight one of many important instances where the American Recovery and Reinvestment Act of 2009 plays a direct and critical role in my own district, the 11th District of Virginia.

It is important every so often to take a step back from the macro view and look at the Recovery Act's positive impact on the local economy. I want to point out the Act's impact on the Greater Prince William Community Health Center and the thousands of people the center employs and serves in northern Virginia. This nonprofit facility provides a wide variety of affordable health care services to the uninsured and the underinsured on a sliding

fee-based scale as well as those with health insurance. The health center is the primary caregiver for over 4,000 patients annually, with nearly 32,000 patient visits each year. It provides school physicals, internal and family medicine, physical exams, disease screening, laboratory work and pharmaceutical assistance. It treats diabetes, hypertension, asthma, respiratory infections and so many other medical conditions. Without this health center in Prince William County, many of the facility's patients would be forced to use hospital emergency rooms for their primary care which cost all of us about \$6 billion a year, or they receive no care at all.

Mr. Speaker, in the weeks before the \$1.1 million grant for the Greater Prince William Community Health Center which was announced on March 2 as part of the stimulus funding, the center's management was actually preparing for an orderly and permanent shutdown of this vital facility. The economic crisis increased demand for health care services and local funding sources had frankly dried up. Nonetheless, the dedicated staff of health care professionals continued to do their jobs and continued to provide quality health care to the center's patients, even though they were not always certain they would ever receive a paycheck. The health center management desperately sought private and public funding to keep the center going, but the same economic crisis that was driving more patients to the health center was also taking its toll on this non-profit provider. At a time when the health center was anticipating a doubling of patients in need of its services, the future looked bleak. It's hard to describe the sense of relief I heard when I contacted the center's management to inform them that the Recovery Act had provided a new lease on life. Thanks to the Recovery Act, this outstanding community resource will not become another unfortunate casualty of the recession but instead will continue to provide much-needed cost-efficient health care to low- and moderate-income individuals and families. And because of this vote of confidence and this investment, they've been able to attract additional investment as well, ensuring their future.

I recently toured the Greater Prince William Community Health Center and had the opportunity to spend time with care providers and several patients. I met with William, a construction worker recently laid off due to the economic downturn. He injured his back on the job but after being laid off had no insurance to seek treatment for his constant, chronic pain. Thanks to the health center in Prince William County, he was able to see a doctor, received initial care, and was referred to the University of Virginia Medical Center for back surgery. In time, thanks to the center, William will recover, be able to return to work, and live a productive and hopefully pain-free life. I

also met Connie, who told me about her father's debilitating diabetes and how financial constraints placed his life in jeopardy. Connie heard about the center, brought her father there, and today he is on insulin with a much improved quality of life.

Thanks to the Recovery and Reinvestment Act, the hardworking staff at the Greater Prince William Community Health Center will continue to fill a critical need in my district in Virginia. This is only one of thousands of examples around our country of the Recovery Act at work, saving jobs and frankly saving lives.

Mr. Speaker, the Greater Prince William Community Health Center is not unique. Throughout America, the Recovery Act is having a positive impact on the lives of millions of Americans. While no one solution will cure the recession overnight, the Recovery and Reinvestment Act is one piece of the mosaic of actions this Congress has undertaken to restore our Nation's economic health, protect the well-being of the American people, and make sure that our economy gets moving again.

#### RECESS

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

Accordingly (at 11 o'clock and 5 minutes a.m.), the House stood in recess until noon.

□ 1200

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BLUMENAUER) at noon.

#### PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer: Good and gracious, Lord our God, today across this Nation, many celebrate Cinco de Mayo, marking the struggle of the Mexican people for freedom and independence.

We bless You and praise You, Lord, because these various devotions and festivities remind all of us of the large part immigration has played in the formation of this great country with diverse cultural and ethnic backgrounds.

Mexican Americans, as so many before them, Lord, have shared their rich heritage with others while they have sought health, safety, and education for their children as well as political and cultural recognition.

Bless their deeply felt family values and religious convictions. We pray always for a greater integration into American life where all live free from fear, segregation and prejudice.

We ask Our Lady of Guadalupe to join us in our prayer for Your blessing upon all Hispanic Americans and especially upon our neighboring country of

Mexico. Grant peace and security both now and forever. Amen.

#### THE JOURNAL

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

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

#### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Arizona (Mrs. KIRKPATRICK) come forward and lead the House in the Pledge of Allegiance.

Mrs. KIRKPATRICK of Arizona 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.

#### THE MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT OF 2009

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, this week I am proud that the House of Representatives will be voting on H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act of 2009.

This legislation will make critical reforms to end the abusive and predatory lending practices that have left so many Americans facing foreclosure.

In my district in Orange County, California, we have seen the results of abusive and predatory lending too frequently as foreclosures have weakened our neighborhoods and our communities, and it has forced many of our people out of their homes. Most of these foreclosures are the result of "toxic loans" that were issued by several subprime lenders in Orange County, California.

For that reason, I am particularly pleased that H.R. 1728 will ensure that lenders make loans that benefit the consumer and prohibit lenders from steering borrowers into higher-cost loans.

In addition, the legislation will establish a simple standard that all institutions offering home loans must ensure so that borrowers can actually repay the loans they receive.

I am very pleased that we will be considering this bill, which addresses the reckless lending and lack of oversight, and I urge my colleagues to support it.

#### CALIFORNIA WATER

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

Mr. CALVERT. Mr. Speaker, I rise today because California is in the middle of a water crisis. California's current drought is not like other droughts

because California is suffering from a devastating combination of a natural dry spell and a federally imposed dry spell.

In December 2007, a Federal judge ordered restrictions on water project operations in the delta to help protect threatened species, the delta smelt. The negative impact has been extraordinary. The restrictions have resulted in the loss of nearly one-third of the supply that 25 million Californians depend on from delta operations. Farmland throughout California's Central Valley is going fallow while farmers struggle to find work. In Southern California economic growth is being thwarted because any new construction is jeopardized by a lack of proven water supply.

There is no evidence that the federally imposed pumping restrictions have benefited the delta smelt. If this Congress is going to continue to give Federal agencies the authority to take actions that kill jobs and harm our economy for the benefit of a species, then the American people deserve clear evidence that these actions benefit the species.

#### RECOGNIZING AND CONGRATULATING THE PINAL COUNTY SHERIFF'S DEPARTMENT FOR FIGHTING BACK AGAINST THE DRUG CARTELS

(Mrs. KIRKPATRICK of Arizona asked and was given permission to address the House for 1 minute.)

Mrs. KIRKPATRICK of Arizona. Mr. Speaker, several weeks ago a deputy with the Pinal County Sheriff's Office noted a speeding van and observed likely packages of marijuana through the window. After a brief car chase, the deputy was able to secure the van and found 476 pounds of marijuana. This successful bust is yet more evidence that our local law enforcement is playing a vital role in fighting back against the drug cartels.

I congratulate Sheriff Babeu and the entire Pinal County Sheriff's Department for this seizure, which will keep drugs out of our community.

Our local law enforcement in Arizona deserve recognition for a job well done. With more resources, they do even more to protect our borders and keep our communities safe.

#### RECOGNIZING MR. JEFF JACKSON

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

Mr. PRICE of Georgia. Mr. Speaker, it's with great pride that I rise to recognize Mr. Jeffrey Walter Jackson of the Sixth District of Georgia upon his retirement as Head of School for the Mount Vernon Presbyterian School in Sandy Springs, Georgia.

Jeff Jackson has been a dedicated and visionary leader. He challenges himself and all around him to dream big dreams, work diligently on positive goals, and inspires a servant's heart.

During his tenure, since 2002, at Mt. Vernon, Mr. Jackson introduced honors and advanced placement courses, expanded the sports program to 31 teams, and fostered varied activities including a debate team and the Fellowship for Christian Athletes. He oversaw the establishment of a new Upper School to serve 9th through 12th grade students and a 30-acre expansion of the campus.

In his faithful commitment to the values of Christian education, Mr. Jackson has been a role model for teachers, administrators, community leaders, but especially students. And now he will further his positive influence as the executive director of the Georgia Independent School Association.

Mr. Speaker, our community and this Congress commend Jeff Jackson for his continuing and exemplary service and extend to him our very best wishes in his new role.

#### PREDATORY LENDING

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

Mr. KAGEN. Mr. Speaker, to put our Nation on the road to recovery, we have to do several things: First, we have to begin to clean up the economic mess that we have inherited after the past 8 years. Secondly, we have to rewrite our laws to guarantee that everyone has a fair shake and a fair opportunity to make it in today's economy. And together we will.

Last week I was very proud to stand here and vote for the Credit Cardholder's Bill of Rights, and today I rise in favor of the Mortgage and Anti-Predatory Lending Act. This bill would help end the predatory lending that is a major factor in the many, far too many, home foreclosures now taking place.

The bill would prohibit lenders from steering their customers into higher-cost loans, would ensure that borrowers actually have the ability to pay back the money that they are taking out, and would establish a simple standard for all home loans.

I believe we have to work hard for people everywhere to guarantee that they can make it and keep their heads above water. Let's pass the Mortgage and Anti-Predatory Lending Act and build a better future for everyone.

#### MAKE R&D TAX CREDIT PERMANENT

(Mr. LEE of New York asked and was given permission to address the House for 1 minute.)

Mr. LEE of New York. Mr. Speaker, yesterday the President announced tax reforms that would pave the way for making the research and development tax credit permanent.

R&D is the lifeblood of our economy, and this tax credit provides companies with an incentive to invest in tech-

nology and expand their operations. In 2005, more than 70 percent of R&D tax credit dollars nationwide went toward wages for highly skilled jobs.

Since 1981, however, Congress has extended the credit 12 times with extensions as short as just 6 months. Retroactive extensions leave companies in uncertain circumstances for long periods of time beyond the expiration date.

This is why I have introduced bipartisan legislation with Mr. BOCCIERI of Ohio that would make the R&D tax credit permanent. Unlike other proposals to make the R&D tax credit permanent, H.R. 1545 would also offer a bonus tax credit for companies who manufacture their products in the United States.

We shouldn't wait to make the R&D tax credit permanent. We should act now to sustain the manufacturing base that is so critical to this country's future.

#### ENERGY

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

Mr. COSTA. Mr. Speaker, I rise today in support of the American Conservation and Clean Energy Independence Act of 2009, a bipartisan piece of legislation that extends our efforts from last Congress, the 110th Congress, with Congressmembers MURPHY, WALZ, CAPITO, WILSON, ABERCROMBIE, myself, and many others.

This legislation is to develop a new policy that is comprehensive in nature that will, one, reduce our dependency on foreign sources of energy and, two, develop the robust renewable portfolio that Americans want to see. This effort is common sense. It's PAYGO neutral. It would enhance our path toward energy reduction of our dependency on foreign sources and improve our national security.

I'm a firm believer that we have to use all the energy tools in our energy toolbox. This legislation does just that. In the near term, 1 to 10 years, choosing oil and gas and nuclear. In the intermediate, 10 to 20 years, building a robust, renewable portfolio that will give Americans an energy policy that we believe our Nation deserves.

#### CAP-AND-TRADE EXEMPTIONS

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

Mr. PITTS. Mr. Speaker, in the past, my colleagues on the other side of the aisle railed against the Bush administration for an energy policy they say was written by energy lobbyists and rewarded oil and gas industry companies. Now that they control both the Congress and the White House, that type of behavior which they railed against now seems to be acceptable.

The cap-and-trade legislation being considered in the Energy and Commerce Committee is based on a blueprint of a plan put forward by a coalition of outside groups called USCAP. USCAP claims to favor government regulation of greenhouse gasses; yet, one of the leading members of the group will receive a generous exemption in the legislation to build new coal power plants without the onerous restrictions that will prevent others from building.

The majority are allowing industry members to write legislation that benefits them in exchange for supporting their cap-and-tax plan that will raise energy prices for all Americans. That is hypocritical and it's unethical.

#### ENERGY/BUDGET

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

Mr. HIMES. Mr. Speaker, the passage of the American Recovery Act made a down payment on a new clean energy economy, with \$39 billion worth of investment in smart grid technology, energy efficiency, and our renewable energy sector, all of which will lower energy costs and create good-paying, permanent American jobs.

Congress must match this reform and this investment with meaningful investments in our fiscal year 2010 budget.

To my friends on the other side of the aisle, let me say that I fiercely defend the power of the free market. But for decades the energy markets have increased our reliance on foreign oil, quashed American innovation, and eroded our national security. It is time, way past time, for us as elected representatives to lead and take those steps necessary in this budget to finally move our energy sector to a clean American sustainable economy.

□ 1215

#### CAPTAIN FRANCES GREENE—LADY WARRIOR

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

Mr. POE of Texas. Mr. Speaker, Frances Greene, charter member of the Greatest Generation from Beaumont, Texas, joined the United States Army in 1941, even before Pearl Harbor.

When World War II started, it saw the Army Nurse Corps on the front lines of battle. Captain Greene was stationed overseas in the hot South Pacific. And she clearly remembers her unit being bombed daily by Japanese planes.

The 23-year-old nurse faced the war head on, and nurses like her were responsible for saving the lives of American soldiers and marines that caught the brunt end of battle. Because of these special saviors of soldiers, World War II had a record low post-injury

mortality rate. Many of the injured are alive today because of Captain Greene and the other 59,000 wonderful women that volunteered to face the enemy in faraway lands.

Mr. Speaker, at 91, Captain Greene still talks about her service to our country with deep patriotism and fervor. She is an amazing lady warrior.

Today I am proud to know Captain Frances Greene. We should honor her and all the women that served in the great World War II. They defended our country with their valor and helped bring our wounded home to America when it was over, over there.

And that's just the way it is.

#### MORTGAGE REFORM IS NEEDED

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

Ms. HIRONO. Mr. Speaker, Hawaii has some of the least-affordable housing in the country. Many of my constituents have more than one job just to make enough to put food on the table and pay their bills. Others have lost jobs due to the bad economy and the downturn in tourism.

Families are struggling to stay in their homes. In Hawaii, foreclosures are up 500 percent from a year ago, and one in 29 homes with high-cost loans are likely to go into foreclosure.

Foreclosing foreclosure is often an exercise in frustration for homeowners. Some people in Hawaii are 2 or 3 months behind in their mortgages and are spending hours trying to reach out-of-state lenders in a different time zone to get their loans modified. To make matters worse, lenders tell them that their paperwork is lost and slap them with fees and penalties.

We recently passed H.R. 1106 to help families like these restructure or refinance their mortgages. We also need to pass H.R. 1728 to support counseling efforts, provide foreclosure prevention assistance and strengthen loan standards.

#### MEDIA IGNORES GOOD NEWS FOR GOP

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

Mr. SMITH of Texas. Mr. Speaker, with a newly elected Democratic President, and a Senator recently switching to become a Democrat, the national media have tried to imply that Americans have moved away from the Republican Party's values and priorities.

But the facts tell a different story. A new poll by the Pew Research Center shows Americans are, in fact, taking a conservative turn on issues like abortion and second amendment rights. The number of people who support legalized abortion has dropped to its lowest point ever, and the number of people who say it is important to protect gun owners' rights increased to its highest point ever.

These numbers indicate a shift toward, not away from, some of the core principles of the Republican Party. But you won't see much in the media about Pew's survey. It doesn't support their liberal leanings.

#### CURB ABUSIVE AND PREDATORY LENDING

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

Mr. ELLISON. Mr. Speaker, I rise today in support of long overdue legislation to crack down on predatory mortgage lending. This week the House will consider legislation to curb abusive and predatory lending, a major factor in the Nation's highest home foreclosure rate in 25 years and the precursor to the greatest economic downturn since the Great Depression.

The Mortgage Reform and Anti-Predatory Lending Act of 2009 prohibits lenders from steering borrowers to higher-cost loans and protects tenants who rent homes that go into foreclosure.

Mr. Speaker, the situation we find ourselves in did not happen overnight, but there is a new day dawning in America with this new President and this new Congress. By passing this legislation, we will mark one more step toward restoring economic prosperity to all Americans by protecting consumers, as we did last week with the credit card bill, and from the many vile and unscrupulous practices that have directly contributed to the mortgage crisis.

#### OPPOSE RELEASE OF UYGHURS

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

Mr. WOLF. Mr. Speaker, I rise in firm opposition to any decision by the Attorney General to release the trained terrorists known as Uyghurs from Guantanamo Bay into the neighborhoods, that's right, in American neighborhoods. I believe this would be a terrible decision that can needlessly endanger American citizens.

If Eric Holder proceeds down this dangerous road, he has an obligation, an obligation, to the American people to release all of the information about the capture, detention, and threat posed by each detainee. If the Attorney General believes these trained terrorists pose no threat, then why not release all of this information to the Congress and, more importantly than even to the Congress, to the American people.

Also, Mr. Speaker, why will the Attorney General not allow career people in the FBI, DHS and CIA to come up and brief the Congress? It's time for Eric Holder to make a decision to release this information. These trained terrorists should not be released into American neighborhoods.



## HONORING MARK HEBERT

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

Mr. YARMUTH. Mr. Speaker, I rise to pay tribute to an old-fashioned newsman who delivered critical information to the viewers of WHAS-TV in Louisville for the last 22 years. This weekend he retired his microphone and camera to work for the University of Louisville, and his reporting will be greatly missed.

As a former journalist who moved on to another field myself, I can hardly begrudge him the change, but I can't help but mourn the void it leaves. At a time when news is adapted to sound bites palatable to texters and twitterers, Mark was never content with what he found on the surface. Time and again, he peeled that proverbial onion until someone cried.

I am proud to call Mark my friend and proud, too, that my former newspaper, LEO Weekly, has named him Louisville's best journalist. But if the accolades and friendship had an effect on him personally, you would never have known it professionally. I found myself the subject of his scrutiny on more than one occasion. We would call the stories positive at times and negative at others, but the words that always showed up were thorough, intelligent, and fair.

The loss for WHAS and local media is the university's gain, but our entire community is better for his 22 years of reporting and the high standard of journalism set by Mark Hebert.

## PREDATORY LENDING

(Ms. EDWARDS of Maryland asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDWARDS of Maryland. Mr. Speaker, I rise today to address the staggering rate of mortgage fraud and predatory lending in this Nation.

As our country reels from the continued impact of the recession, it's time to take action that will rebuild our economy in a way that's fair and consistent with our values.

Mr. Speaker, this week we will consider H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act. This bill is an important step toward preventing the abusive and predatory lending practices that have contributed to the highest home foreclosure rate in 25 years.

The bill will outlaw many of the egregious energy practices that mark the subprime lending boom and bust. It sets a Federal floor, enabling States like my home State of Maryland to better protect consumers.

Now, as we pick up the pieces in this recession, we must learn from our mistakes, by strengthening regulations of our financial system. It means that we must ensure that all consumers are treated fairly and that the mortgage

lending industry must be transparent and accountable to our seniors, minority borrowers, and all consumers.

Mr. Speaker, I urge my colleagues to support H.R. 1728 and additional reforms to stop mortgage fraud and predatory lending.

## EDUCATION FOR 21ST-CENTURY VETERANS

(Mrs. DAHLKEMPER asked and was given permission to address the House for 1 minute.)

Mrs. DAHLKEMPER. Mr. Speaker, I rise today on behalf of the brave men and women who have served their country in uniform, many of them in Iraq and Afghanistan.

We owe our veterans a debt of gratitude for putting their lives on the line for our country. However, I believe that we must show our gratitude, not only with our words, but with our actions.

That is why I am pleased that all eligible veterans can now take advantage of the 21st-Century GI Bill. Any member of the military who has served on active duty since September 11, 2001, can receive up to 4 years of college tuition, including money for housing and books. Eligible veterans include activated Reservist and members of the National Guard. And as of last Friday, they can apply online at the VA's Web site.

This new GI Bill will open up doors for thousands of veterans throughout western Pennsylvania and across the country, and I encourage all our veterans to go online immediately to take advantage of the benefits they have earned.

I offer my sincere gratitude to all who have served our Nation, both our soldiers and their families.

## BRINGING COMMONSENSE REFORM AND CONSUMER PROTECTION TO OUR FINANCIAL SYSTEM

(Ms. WATSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WATSON. Mr. Speaker, this week the House takes up the anti-predatory lending and mortgage fraud legislation. These bills are the next step as we work to rebuild our economy in a way that is fair and consistent with our values.

The Mortgage Reform and Anti-Predatory Lending Act of 2009 will curb abusive and predatory lending, a major factor in the Nation's highest home foreclosure rate in 25 years. The bill would outlaw many of the egregious industry practices that marked the subprime lending boom and would prevent borrowers from deliberately misstating their income to qualify for a loan. The bill will ensure that mortgage lenders make loans that benefit the consumer and prohibit them from steering borrowers into higher-cost loans.

This week Congress will also vote on legislation to create an outside commission to investigate the causes of the current financial and economic crises in the United States.

## LOOK INTO CAUSES OF ECONOMIC MORASS

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

Mr. COHEN. Mr. Speaker, as Congresswoman WATSON was saying, we will vote this week on the Fraud Enforcement and Recovery Act. That act will do several things, one of which will set up a commission to look into the causes of the economic morass that we are presently experiencing.

Congress did that in the Great Depression, and it led to the reforms that kept this country safe for a long time. Then we fell to the arguments that were made, starting with the Reagan administration, about the free market and the free market which took us where we are today.

The free market, unfettered, has caused this problem. But a study needs to be taken by the Congress, and that's what that bill would do.

It would also expand the abilities of several State governments and non-profits to look into fraud and extend Federal fraud statutes to the TARP and to the Recovery and Reinvestment Act. People who fraudulently steal from the government or steal these funds are engaging in as un-American an activity as anybody could do short of espionage.

I endorse the Fraud Enforcement and Recovery Act and hope that we could have a commission to get to the bottom of what's happened. This past week, Mr. Speaker, I watched "Wall Street," the movie. It's shameful and it's today's world.

## INSULATION

(Mrs. HALVORSON asked and was given permission to address the House for 1 minute.)

Mrs. HALVORSON. Mr. Speaker, I rise today to bring light to a very important but often overlooked industry that can play a huge role in improving energy efficiency, both in our buildings and through greenhouse reductions on a wide-reaching scale: it's mechanical insulation.

Buildings are responsible for 40 percent of U.S. energy demand and 40 percent of all greenhouse gas emissions. Mechanical insulation, as it is used in mechanical piping and equipment for heating and air conditioning in industrial, commercial and other types of buildings, can reduce over 37 million metric tons of greenhouse gas emissions. It can also generate more than \$3.6 billion in industrial energy efficiency, saving and creating more than 27,000 jobs annually.

Savings and benefits are swift and can last for many years when properly



implemented. As an advocate of energy efficiency measures, I encourage others to become more aware and utilize this industry in making new and existing buildings and facilities more efficient.

ANNOUNCEMENT BY THE SPEAKER  
PRO TEMPORE

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

Record votes on postponed questions will be taken later.

GERALDINE FERRARO POST  
OFFICE BUILDING

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 774) to designate the facility of the United States Postal Service located at 46-02 21st Street in Long Island City, New York, as the "Geraldine Ferraro Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 774

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. GERALDINE FERRARO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 46-02 21st Street in Long Island City, New York, shall be known and designated as the "Geraldine Ferraro Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Geraldine Ferraro Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as chairman of the House subcommittee with jurisdiction over the United States Postal Service, and as we commend the dedicated service of our Nation's public servants during Public Service Recognition Week, I am pleased to present H.R. 774 for consideration.

This legislation would designate the United States postal facility located at 46-02 21st Street in Long Island City,

New York, as the Geraldine Ferraro Post Office Building in honor of an exceptional public servant who has dedicated over 30 years of life to serving our country.

□ 1230

Introduced by my colleague, Representative CAROLYN MALONEY of New York, on January 28, 2009, and reported out of the Oversight Committee on March 18, 2009, by unanimous consent, H.R. 774 enjoys the strong support of the New York House delegation.

Born in the city of Newburgh, New York, to her father Dominick, an Italian immigrant restaurant owner, and her mother Antonetta, a first-generation Italian American seamstress, Geraldine Ferraro stands as a living testament to an often-cited passage from her historic address to the 1984 Democratic convention: "America's history is about doors being opened, doors of opportunity for everyone, no matter who you are, as long as you are willing to earn it." Ms. Ferraro spoke these words upon her introduction as the first female and Italian American major party candidate for the Vice Presidency of the United States.

Ms. Ferraro graduated from the Marymount High School in Manhattan in 1952. She was awarded a scholarship to Marymount Manhattan College, and in 1956 earned her bachelor of arts degree, becoming the first woman in her family to receive a college education.

In her subsequent service as a public elementary school teacher in Astoria, Queens, Ms. Ferraro attended Fordham University School of Law at night. She courageously ignored an admission officer's admonition that she would be taking "a man's place" in the class. In 1960, she received her juris doctorate as one of only two women in her graduating class of 179 students.

Following her admission to the New York State bar in 1961, Ms. Ferraro practiced law part time in the private sector while raising her family. In 1974, she was appointed to serve as an assistant district attorney for Queens County. In 1977, she was chosen to head the recently established Queens County Special Victims Bureau, where she specialized in cases involving abused women and children.

Ms. Ferraro was elected to the United States Congress in 1978, and honorably represented New York State's Ninth Congressional District in the U.S. House of Representatives from 1979 to 1985. Throughout her tenure in Congress, Ms. Ferraro devoted much of her legislative attention to women's rights and human rights advocacy. To this end, she admirably sought passage of measures such as the Equal Rights Amendment and the Women's Economic Equity Act.

In 1984, Ms. Ferraro became the first woman and the first Italian American to be nominated to the Vice Presidency of the United States by a major American political party when she was chosen by Democratic Presidential can-

didate Walter Mondale to join the 1984 national ticket. Her historic nomination continues to stand as evidence that, as Ms. Ferraro proclaimed in her acceptance address, "America is the land where dreams can come true for all of us."

Following her remarkable Vice Presidential run, Ms. Ferraro remained active in public and community service. In 1993, she was appointed by President Bill Clinton as Ambassador to the United Nations Commission on Human Rights. As noted by President Clinton, Ms. Ferraro's appointment came in recognition of her longstanding dedication to international women's rights issues. Ms. Ferraro continues to serve the Nation through a variety of public and private sector efforts, specifically as a widely regarded author and political commentator. She keeps the American public well informed regarding issues of public policy.

Through her nonprofit organizational work, she continues her commitment to creating educational and professional opportunities for women, as well as addressing wage and training disparities in the workplace. Furthermore, as a cancer survivor, Ms. Ferraro admirably and successfully advocates in support of increasing much needed funding for cancer research.

Mr. Speaker, let us honor a dedicated public servant through the passage of H.R. 774, and by designating the 21st Street postal facility in Long Island City in honor of Geraldine Ferraro. I urge my colleagues to support H.R. 774.

I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 774, to designate the facility of the United States Postal Service located at 4602 21st Street in Long Island City, New York, as the Geraldine Ferraro Post Office Building.

Geraldine Ferraro has spent her life advocating and achieving on behalf of women across the globe. She was born on August 26, 1935, in Newburgh, New York, the daughter of a first-generation Italian American mother and an Italian immigrant father. After high school, she worked her way through Marymount Manhattan College, at times holding three jobs simultaneously. She was the first woman in her family to attain a college degree, and she subsequently became a licensed New York City school teacher.

While still teaching the second grade, Congresswoman Ferraro earned her law degree, attending Fordham law school at night. She was one of only two women in her graduating class of 179, and was admitted to the New York State bar in 1961. She managed to raise three children while working part time as an attorney in her husband's real estate firm. In 1970, she was elected president of the Queens County Women's Bar Association, and in 1974 she was appointed Assistant District Attorney for Queens County, New York, at a time when female prosecutors were rare in

New York City. During her time in the district attorney's office, she became a strong advocate for abused children, and rose through the ranks to head the Special Victims Bureau, which prosecuted rape, and child and domestic abuse cases.

In 1978, she won election to the United States House of Representatives from New York's Ninth Congressional District in Queens. She labeled herself a "tough Democrat" and ran on law and order issues.

Upon entering Congress, Congresswoman Ferraro made an immediate impression on her party's leadership and quickly rose through the leadership ranks. She established a reputation in Congress as an advocate for women's rights and gender equality. Then, in the 1984 Presidential election, Walter Mondale chose her as his running mate, making her the first ever female to run on a major party national ticket. Her historical nomination was the culmination of a lifetime of firsts for this lawyer from Queens.

Her accomplishments also include her appointment by President Clinton to the U.N. Commission on Human Rights. President Clinton eventually chose her to be the United States Ambassador to the Commission, stating that she was "a highly effective voice for the human rights of women around the world." She has spent a lifetime breaking barriers and shattering glass ceilings. I urge my colleagues to support this bill to honor the many achievements and tireless advocacy of Geraldine Ferraro.

I reserve the balance of my time.

Mr. LYNCH. Mr. Speaker, I yield 5 minutes to the lead sponsor of this resolution, the gentlelady from New York (Mrs. MALONEY).

Mrs. MALONEY. I thank the gentleman for yielding and for his leadership on this and so many other things.

Mr. Speaker, I rise in strong support of H.R. 774, legislation to name the Long Island City Main Post Office after former Congresswoman Geraldine Ferraro. The main post office is located at 4602 21st Street in Long Island City, Queens, in the district Ferraro represented with distinction in the U.S. House of Representatives for 6 years. It is also located in the district that I am honored to represent. It is a grand building and a fitting building for an extraordinary woman.

A trailblazer, role model, leader, Ferraro has been a pivotal figure in American history. When Walter Mondale selected her in 1984 to be the first female Vice Presidential candidate on a national party ticket, she became an icon. The night she was nominated—and I was there with great excitement to see the first woman on a national party ticket—she took to the microphone and told the crowd, "American history is about doors being opened, doors of opportunity for everyone, no matter who you are, as long as you are willing to earn it."

And although doors have continued to open for women, the marble ceiling

remains intact. It took more than two decades for another woman to be given a similar opportunity, and none have won. Geraldine Ferraro continues to symbolize the hope and expectation that one day a woman will be elected to the White House. Ferraro has spent her entire career opening doors, breaking down barriers, and helping others to follow her. She was one of only two women in her law school class. She was appointed assistant district attorney for Queens County, New York, at a time when women prosecutors were extremely rare.

When she entered Congress in 1979, she was one of only 13 women in the House. Nonetheless, she quickly earned the respect of her colleagues and was elected to the secretary of the House Democratic Caucus for the 97th and 98th Congresses. Granting her a seat on the influential Steering and Policy Committee, Ferraro served on the Post Office and Civil Services Committee, the Public Works and Transportation Committee, the Select Committee on Aging, and in 1983 was appointed to the Budget Committee.

In her work on the Post Office and Civil Services Committee, the newly elected Ferraro helped enact a widely demanded local ZIP Code that gave the Queens neighborhoods of Ridgewood and Glendale a Queens-based code, 11385. Previously, Glendale and parts of Ridgewood were serviced under 11227, Bushwick's ZIP Code in Brooklyn. But when the 1977 blackout plunged Bushwick into riots, her constituents noticed that insurance companies and banks were raising premiums and rates in the entire ZIP Code even though Queens remained largely balanced and unscathed by the violence and looting. Although the Postmaster General told Ferraro that a ZIP Code change like this had never been done before, he would go forward if the Congresswoman could collect some 50,000 signatures. And that is what she did.

In January of 1993, President Clinton appointed Ferraro as a member of the U.S. delegation to the United Nations Commission on Human Rights. She attended the June 1993 World Conference on Human Rights in Vienna as the alternate U.S. delegate. In October of 1993, Clinton promoted her to be head of the U.N. Commission on Human Rights Delegation, with the rank of United States Ambassador. She was vice-Chair of the U.S. delegation to the landmark September 1995 Fourth World Conference on Women in Beijing, and I accompanied her as a representative for this body at that historic conference.

Ferraro has written three books, cohosted a political talk show, cofounded a consulting management company to help corporations train women leaders, and worked on the boards of dozens of organizations. Today, she is of counsel at the law firm of Blank Rome, where she advises clients on a wide range of public policy issues. And whatever her many accom-

plishments have been in the area of Queens that Ferraro once represented, people remember her as their good friend, their neighbor, and their Congresswoman, a tenacious fighter who represented them and their interests. She never forgot them and they have never forgotten her. Thousands of her former constituents use the Main Post Office every week, and they will be delighted to have this important neighborhood institution named in her honor.

So I am thrilled to be the sponsor of this important legislation.

Mr. DUNCAN. Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. I thank the gentleman for the time.

Mr. Speaker, I rise in support of this resolution to name the U.S. Post Office located on 21st Street in Long Island, New York, as the Geraldine Ferraro Post Office Building.

I served in this body with Geraldine Ferraro, a former Queens County district attorney, and I join my colleagues in congratulating her and her family in a well-deserved honor and wish her well.

As we deal with this issue, though, Mr. Speaker, I feel there is a pressing matter of national security which directly affects the welfare of the American people which is not being addressed, and the American people deserve to know what is happening.

□ 1245

Geraldine Ferraro represented the people of New York City, a city which was forever changed on a sunny September morning when two planes slammed into the World Trade Center killing thousands and awakening our country to the murderous aims of the terrorist network globally. Thirty people from my congressional district lost their lives that day.

Countless books have been written since, which highlight miscalculations and missed opportunities on the part of the policymakers in the intelligence community who failed to recognize the severity of the threat our country is facing leading up to 9/11. We can no longer say we do not know the threat, and yet this administration is on the precipice of making a decision which, given what we know, is unthinkable.

Press reports and other information I receive indicates that President Obama's decision regarding the release into the United States of a number of Uyghur detainees held at Guantanamo Bay since 2002 is imminent. The detainees are trained terrorists. They were held at a facility which was home to Khalid Sheik Mohammed, the mastermind of 9/11 who took pleasure in beheading Wall Street Journal reporter Daniel Pearl.

There have been published reports that these detainees were members of the Eastern Turkistan Islamic Movement, a designated terrorist organization affiliated with al Qaeda.

Now, just this April, the U.S. Treasury froze the assets of Abdul Haq, the leader of this group, the Eastern Turkistan Islamic Party, known as ETIM. This is the same group that the detainees are reportedly affiliated with. The Treasury Department targeted Haq as part of their efforts to shut down the al Qaeda support network. Upon making the designation, Treasury Under Secretary for Terrorism and Financial Intelligence said, and I quote what our Treasury Department said: "Abdul Haq commands a terror group that sought to sow violence and fracture international unity at the 2008 Olympic Games in China."

Few have been more critical of the Chinese Government than I have. But terrorism is terrorism. American citizens were present at the Olympic Games. Terrorism knows no boundaries. It must not be tolerated anywhere. American career government officials risked their lives to capture these people. What if they had not been captured? Would they have then left this terrorist training camp and gone off to wreak terrorism somewhere in China killing innocent men, women and children of China?

Yet the U.S. Congress and the American people are left utterly, and I'm increasingly concerned, in the dark. The administration will not allow any career person from the FBI, from the CIA, or from the Department of Homeland Security to come up and tell the Congress about these detainees. The American people, Mr. Speaker, the American people deserve more. After learning that this decision was imminent, I requested briefings from a number of relevant agencies. But all have told me that Eric Holder, our Attorney General of the Department of Justice, is preventing them from speaking out, speaking to me or other Members, if you will, on this issue.

Why, Mr. Speaker, is the Department of Justice withholding this information from the American people? Why is proper congressional oversight, which American people expect of their elected representatives, now being thwarted? This is not the time to play games. The stakes are too high, not just with regard to this specific group of detainees; but speaking more broadly, our enemy is empowered by perceived weakness. What message are we sending when one branch of government stonewalls another on a matter with undeniable national security implications?

Again, I call on the Justice Department to declassify and release all information regarding the capture, detention and threats posed by these detainees or others that they may consider releasing into the U.S. Any intelligence assessment of these Uyghurs must take into account not only their previous training at terrorist training camps, but their potential subsequent exposure and radicalization while they were at Guantanamo Bay.

Andrew McCarthy, a former Federal prosecutor who led the 1995 prosecution against Sheik Omar Abdel Rahman who was found guilty of planning the

1993 World Trade Center bombing, wrote just today that the administration is playing "fast and loose with the declassification of information."

Mr. Speaker, this information ought to be released to the American people before any decision is made. And with that I thank the Chair.

Mr. LYNCH. Mr. Speaker, I appreciate the gentleman's support for the naming of this Post Office Building on behalf of Geraldine Ferraro.

At this point, I would like to yield 5 minutes to the gentlewoman from New York (Mrs. LOWEY) who is also in her own right a champion of women's rights. So it is appropriate that she speak on this bill as well.

Mrs. LOWEY. Thank you, Mr. Chairman.

Mr. Speaker, it is a pleasure for me to rise and associate myself with the remarks of my friend, CAROLYN MALONEY, in support of naming a post office after former Congresswoman Geraldine Ferraro.

Geraldine Ferraro was a great role model to thousands of women across this country. Not only is she a mother, not only is she a grandmother, not only is she a wife, but she is telling all of those little girls who are going to school that you can be a great Congresswoman. You can run for Vice President of the United States of America. One day, we will have a woman as President of the United States of America, and Geraldine Ferraro played an important role in preparing the people for that event.

Geraldine Ferraro is a fighter. She stands up for what is right. There are some people who see a problem and just walk on. And I know that my friend, Geraldine Ferraro, whether it was an issue that she had to address in her congressional district or whether she saw a wrong in this great country of ours, she is the kind of person that says, I have got to do something about it. So I'm very proud to have Geraldine Ferraro as a friend.

I know that after the naming of this post office, there are many people who will look at that post office and say, This is a good woman. I am going to lead my life consistent with the principles that Geraldine Ferraro has shared with all of us.

So I thank you all for taking this step to name the post office. And I look forward to working together to ensure that all the principles, all the values, all the commitments that Geraldine Ferraro has made will be enshrined, and certainly she will continue to be a role model for all those young people who come after her.

Mr. KING of New York. Mr. Speaker, today I rise in strong support of naming the United States Postal Service building located at 46-02 21st Street in Long Island City, New York, the "Geraldine Ferraro Post Office Building," after former United States Representative Geraldine Ferraro.

It is with great pleasure that I support this designation, which commemorates the life of one of New York's most remarkable women. Geraldine Ferraro has had a distinguished career marked with many achievements. She began her career as a New York public school

teacher, while simultaneously earning her law degree from Fordham University at night. She worked as an attorney the Queens New York District Attorney's office, where she helped establish the Special Victims Bureau. In 1978 she ran a successful campaign to represent New York's Ninth District in the United States House of Representatives. Throughout her six years in Congress, she rose quickly through the ranks to become a notable leader in her party. As a result of her success, it is no surprise that in 1984 Walter Mondale selected her as his running mate on the Democratic ticket, making her the first female vice presidential candidate.

Although she did not win the election, she undoubtedly reshaped politics as we know it and paved the way for future women leaders. She has since authored several books and has overcome a battle with multiple myeloma, a dangerous form of blood cancer. She now remains active in politics, weighing in on the issues and candidates that influence and shape our country.

A daughter of Italian immigrants, Geraldine Ferraro has been a trailblazer and role model, not just for women, but for all Americans in search of living the American dream. From congresswoman to vice presidential candidate to author to cancer survivor, Geraldine Ferraro is a true inspiration and deserves to be honored for her achievements through this designation.

Mr. DUNCAN. At this time, I will urge my colleagues to support this legislation. I yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I ask all Members to support both Member CAROLYN MALONEY, the lead sponsor of this measure, and Mrs. LOWEY, who also spoke on behalf of this measure, in naming this post office after Geraldine Ferraro.

I yield back the balance of our time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 774.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### CAROLINE O'DAY POST OFFICE BUILDING

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1397) to designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the "Caroline O'Day Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1397

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. CAROLINE O'DAY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, shall be known and designated as the "Caroline O'Day Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other

record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Caroline O'Day Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask that all Members may have 5 legislative days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, at this time, I would like to yield 5 minutes to the gentleman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise today in support of H.R. 1397, which would rename the U.S. post office located in Rye, New York, after former Congresswoman Caroline O'Day. And I would like to thank Chairman TOWNS and the entire New York delegation for their support of this measure. Born in 1875 on a plantation near the rural town of Perry, Georgia, Caroline O'Day's experiences growing up in the post-Civil War South instilled in her a lifelong commitment to world peace and social welfare. The energy and passion with which she gave voice to those in need was the hallmark of her career in Congress.

Caroline O'Day's interest in politics was piqued when during a suffrage parade her husband, Daniel O'Day, reportedly asked his wife why she was not marching herself. Soon, she joined the West Chester League of Women Voters and in 1917 worked with Jeannette Rankin to advance the enfranchisement of New York women 3 years before passage of the 19th amendment.

Together with her close friend, Eleanor Roosevelt, O'Day helped found the Women's Division of the New York State Democratic Committee and was elected chairwoman of the New York delegation to the 1924 Democratic National Convention, becoming the first woman from either major party to hold the position.

In 1934, Caroline O'Day was elected to one of New York's two at-large congressional seats. The second woman in the history of this body to chair a major committee, she quickly became known as a skilled legislator unwilling to compromise her principles for the sake of political expediency.

During her four terms in the House, Representative O'Day was a leading voice for avoiding unnecessary armed conflict and fought to improve the quality of life of underrepresented minorities in the inner city and migrant agricultural workers. In particular, she was deeply troubled by the effects of poverty on at-risk children and tire-

lessly advocated a dramatic expansion, or "national investment," of Federal programs to protect them.

Mr. Speaker, Congresswoman O'Day not only faithfully represented the myriad interests of her constituents from Buffalo to Brooklyn, she put one of the first cracks in the glass ceiling as one of only six women in the House.

As you know, Mr. Speaker, the number of women serving in the House has since risen to 76. And while this does not reflect the percentage of women in the American electorate, through common interests and coordinated effort, this relatively small group has had a significant effect on Federal policy. We women currently serving in this esteemed body stand on the shoulders of pioneering women like Caroline O'Day, whose grit and determination helped them not only overcome gender bias, but lead this Nation through depression and war.

Mr. Speaker, I am proud to bring this legislation, which honors the life and service of Congresswoman Caroline O'Day, to the House floor today. And I urge my colleagues to support it.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

I rise today, Mr. Speaker, to join my fellow Members of Congress in recognizing a former New York Congresswoman and women's rights advocate by designating the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the "Caroline O'Day Post Office Building" for her extraordinary contributions to the State of New York and to American public life.

Born Caroline Love Goodwin in 1869 on a plantation in Perry, Georgia, she was one of four daughters of a socially important family in Georgia. Despite the economic hardships that were widespread during the Reconstruction period, her father's success allowed her and her sisters to attend the prestigious secondary school called the Lucy Cobb Institute.

□ 1300

After graduation in 1886, she briefly studied art in New York at Cooper Union before sailing to Paris, France, where she enjoyed a stimulating life among the great artists of the time.

An independent-minded woman, she supported herself as a freelance artist for the next 8 years. While living in Europe, she met Daniel O'Day, an oil businessman, who persuaded her to abandon her artistic career and return with him to New York in 1901. Although past the age of 30 and beyond the age when most women married in that era, she married Daniel O'Day and moved to Rye, New York.

It was in Rye, New York, where Congresswoman O'Day would start her successful career as a civic activist and politician. Her power of persuasion was so great that although her husband was not politically active, he did become an enthusiastic advocate of women's suffrage and in 1916, after his sudden

death, Congresswoman O'Day began working on issues of social welfare and female suffrage in New York. She became active with the New York Consumer's League, the Women's Trade Union, and the Democratic Party. Through these and other organizations, she became close friends with other prominent social activists, including Eleanor Roosevelt.

After spending many years with a well-known activist working for women's suffrage and multiple organizations, she was urged to run for public office. Congresswoman O'Day first ran and won a seat in Congress in 1934 with the public support of her good friend Eleanor Roosevelt.

As a well-regarded Member of Congress, Congresswoman O'Day worked on a number of labor reforms, particularly for the child labor protections of the Walsh-Healey Government Contracts Act and the Fair Labor Standards Act. She had a lifelong concern for protecting the rights of disadvantaged people.

As an extension of that concern, Congresswoman O'Day sponsored legislation which stayed the deportation of 7,000 illegal aliens. She strongly supported the Federal anti-lynching law, was instrumental in arranging the memorable concert of Marian Anderson in 1939 scheduled for DAR Constitution Hall, and supported expanding the quota for Jewish refugees from Nazi Germany.

In 1940, despite her sickness, Caroline O'Day won a fourth congressional term. Because of declining health, she did not return to Washington, although she did handle some of her House duties from her home. Sadly, on January 4, 1943, the gentlewoman from New York died at her home.

Congresswoman Caroline O'Day may have been best described after her death by Eleanor Roosevelt who wrote, "Her high ideals and integrity were an inspiration to all who knew her or felt her influence, and her generosity touched many people and many causes in which she believed. Her passing is a loss not only to her family but to the world."

It is with great respect and pleasure that I support H.R. 1397.

I reserve the balance of my time.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present for consideration this legislation that will designate the United States postal facility located at 41 Purdy Avenue in Rye, New York, as the Caroline O'Day Post Office Building in honor of a wonderful and dedicated public servant.

Caroline Love Goodwin O'Day was born in the city of Perry in Houston County, Georgia, on June 22, 1875. Ms. O'Day completed her academic studies at the Lucy Cobb Institute in Athens, Georgia, in 1886, and initially chose to pursue a career as an artist, spending 8 years as an art student and painter in Paris, Holland and Munich.

In 1902, Ms. O'Day relocated to what would become her lifelong hometown of

Rye, New York, where she would embark on an admirable and dedicated career devoted to public service. Following her husband's sudden death in 1916, Ms. O'Day became actively involved in the women's suffrage movement as well as a number of other social welfare groups, including the New York affiliate of the National Consumer's League and the Women's Trade Union League, dedicated to improving wages and workplace conditions for both women and children.

In furtherance of her social and community causes, Ms. O'Day also served on the Rye school board and played an integral role in the establishment of the women's division of the Democratic State Committee. In 1923, she was elected by State party leaders to head the women's division as well as serve as chairman of the Democratic State Committee. Then First Lady of the United States, Eleanor Roosevelt, described Ms. O'Day's election to one of the State party leadership positions as "breaking down a major barrier against women in the Democratic Party."

That same year, Governor Al Smith appointed Ms. O'Day to serve on the State Board of Social Welfare, a position that she held for over a decade. In 1924, Ms. O'Day was elected as a delegate to the Democratic National Convention and was elected as chairman of the New York State delegation, marking the first time that a woman had received such an honor from either major political party.

Ms. O'Day proceeded to serve as a delegate for the party's next three national conventions. In 1934, at the age of 65, Ms. O'Day was elected to Congress as a Representative at Large in the 74th Congress. As noted by the author, Paul DeForest Hicks, in his profile of Ms. O'Day that appeared in the New York Historical Association Magazine, Ms. O'Day's 1934 campaign materials "evidenced a commitment for higher standards for wage earners, adequate relief to taxpayers, a sound and enlightened fiscal policy, friendly foreign relations, and advanced opportunities for women in government."

In addition, as recently noted by Rye City Councilman Mack Cunningham, Ms. O'Day's tenure in Congress was marked by a strong interest in social welfare measures. It is noteworthy that she was only the second congresswoman to chair a major committee, the Committee on Election of President, Vice President and Representatives.

On a final note, I would like to mention that, as a New York Representative at Large, Ms. O'Day played a vital role in facilitating the construction of the Rye Post Office that is now the subject of this legislation. In fact, she presided over the post office's ribbon-cutting ceremony on September 5, 1936, and now we stand here some years later seeking to name this post office after Ms. O'Day.

Mr. Speaker, let us honor this dedicated public servant with the passage

of H.R. 1397, and let us follow the leadership of the gentlewoman from New York (Mrs. LOWEY) by designating the Rye Post Office in honor of Caroline O'Day. I urge my colleagues to support H.R. 1397.

I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mr. LYNCH. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 1397.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### PUBLIC SERVICE RECOGNITION WEEK

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 299) expressing the sense of the House of Representatives that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 4 through 10, 2009, and throughout the year.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 299

Whereas Public Service Recognition Week provides an opportunity to recognize and promote the important contributions of public servants and to honor the diverse men and women who meet the needs of the Nation through work at all levels of government;

Whereas millions of individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas public service is a noble calling, involving a variety of challenging and rewarding professions;

Whereas Federal, State, and local governments are responsive, innovative, and effective because of the outstanding work of public servants;

Whereas the United States is a great and prosperous Nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) defend our freedom and advance the interests of the United States around the world;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fires;

(4) ensure equal access to secure, efficient, and affordable mail service;

(5) deliver Social Security and Medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) enforce laws guaranteeing equal employment opportunity and healthy working conditions;

(9) defend and secure critical infrastructure;

(10) help the Nation recover from natural disasters and terrorist attacks;

(11) teach and work in our schools and libraries;

(12) develop new technologies and explore the earth, moon, and space to help improve our understanding of how our world changes;

(13) improve and secure our transportation systems;

(14) promote economic growth; and

(15) assist active duty service members and veterans;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, are committed to doing their jobs regardless of the circumstances, and contribute greatly to the security of the Nation and the world;

Whereas public servants have bravely fought in armed conflict in defense of this Nation and its ideals, and deserve the care and benefits they have earned through their honorable service;

Whereas government workers have much to offer, as demonstrated by their expertise and innovative ideas, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 4 through 10, 2009, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees; and

Whereas Public Service Recognition Week is celebrating its 25th anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends public servants for their outstanding contributions to this great Nation during Public Service Recognition Week and throughout the year;

(2) salutes government employees for their unyielding dedication and spirit of public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon a new generation to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, this week marks the 25th anniversary of Public Service Recognition Week. From May 4 through May 10, 2009, Public Service Recognition Week is designed to commemorate the hard work, dedication and sacrifice made by our Nation's Federal, State, and local government employees.

As chairman of the House Subcommittee on the Federal Workforce, Postal Service and the District of Columbia, I am proud to have introduced H. Res. 299 as it sends a strong message to public workers everywhere that their work and effort on behalf of this country is valued and their services appreciated.

I introduced H. Res. 299 on March 30, 2009, and I am pleased to report that the measure has been considered and reported from the Oversight Committee as of April 23, 2009.

While this measure has the support of only 60 Members of Congress, it affords each and every one of us a chance to celebrate and pay tribute to the thousands of civilian and military personnel that commit themselves daily to the greatness and prosperity of our country. To all of the public servants that touch our lives, our great teachers, our mail carriers, our firefighters, we say "thank you." From the soldiers in the field to the agents on the border, the service rendered by public service workers may be the key to our basic functionality, but yet it is so often overlooked.

While Public Service Week lasts only 7 days, I believe that the contributions and sacrifices of public servants should be recognized and appreciated throughout the entire year. As chairman of the Subcommittee on the Federal Workforce, my highest priority is to improve the working conditions, benefits and opportunities afforded to our civil servants. They deserve our highest recognition and praise, but all too often they are criticized and undervalued. During this session, I have introduced or supported legislation that would provide paid leave to Federal employees that are new parents, that would protect postal workers' jobs from being contracted out to the private sector, and that would allow Federal employees a credit for their unused sick leave when computing their retirement annuities.

Commemoration of Public Service Recognition Week runs from the first Monday through the first Sunday of May and will involve job fairs, student activities and agency exhibits, all designed to highlight the significance of public service and to encourage young people to consider public service. This week offers all Americans the opportunity to both recognize and learn more about the significant contributions that public sector employees make on a daily basis to our local communities, States and our Nation.

The theme for this year's celebration is "Government Goes Green." This will

give government agencies an opportunity to showcase how they are working to have a positive impact on the globe through environmentally friendly practices and energy-efficient initiatives.

Whether it is the Environmental Protection Agency keeping our air and water safe, the Department of Interior preserving and managing our Nation's parks, or the Department of Energy developing cleaner fuel alternatives, public servants have been on the forefront of protecting our Earth.

Also, Public Service Recognition Week offers a chance for Americans, especially young Americans, to learn more about various careers in the public service. By showing younger generations that hard work, dedication and passion in serving the common good leads to a productive and successful career, we will inspire our young people to seriously consider entering the field of public service.

In our busy daily lives, we often take for granted the hard work and services provided by government employees. These people are what make our country move, and they make it the greatest country in the world. Therefore, we have an obligation to recognize and honor the contributions made by those who put their love of country above personal motivations.

In short, they are all American heroes and the subject of today's measure, H. Res. 299, the commemoration of Public Service Recognition Week.

Mr. Speaker, I would also like to ask a letter from the Office of Personnel Management Director, John Berry, praising our Nation's public employees to be entered into the RECORD. I know that Director Berry and the President alike share my commitment in making the Federal Government a better place to work. Therefore, it is with a warm sense of appreciation and deep gratitude that I stand to urge support for this measure.

OFFICE OF PERSONNEL MANAGEMENT,  
Washington, DC, May 5, 2009.

Hon. STEPHEN F. LYNCH,  
Chairman, Subcommittee on the Federal Service,  
Postal Service, and District of Columbia,  
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to thank you for your sponsorship of H. Res. 299, a resolution expressing the sense of the House of Representatives that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 4 through 10, 2009, and throughout the year.

As you know, Public Service Recognition Week, celebrated the first Monday through Sunday in May since 1985, is a time set aside each year to honor the men and women who serve America as Federal, State and local government employees. Throughout the Nation and around the world, public employees use the week to educate citizens about the many ways in which government serves the people and how government services make life better for all of us.

As the Director of the Office of Personnel Management (OPM), Public Service Recognition Week is the perfect time to spread President Obama's call to public service and to recognize public employees. I am com-

mitted to making the Federal Government a better place to work by speeding up the hiring process, increasing opportunities for veterans, and implementing programs that help employees balance work and family life.

Thank you for your continued leadership in recognizing the hard work of our public servants during Public Service Recognition Week and I look forward to working with you to make the Federal Government a better place to work.

Sincerely,

JOHN BERRY,  
Director.

I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am extremely proud to rise today in support of H. Res. 299 honoring the millions of dedicated public employees who steadfastly serve our Nation. These highly competent and well-trained public service employees who work at all levels of government, Federal, State and local, are a great example of an excellent workforce both here and abroad. They exhibit their professionalism and expertise as they handle the enormous amount of work that flows through all levels of government on a daily basis. Their sense of dedication and innovation are at the very core of this country's successes. Keeping our Nation running and safe are the emergency responders, the educators and medical personnel, and all others who are part of a larger group that we proudly call public service employees. Without them, our country simply could not function.

When speaking of public sector employees, we must particularly note the brave men and women who serve in the Armed Forces who continue to make all Americans proud as they dedicate their life and limb to keeping us all safe throughout the world. Those on the front lines deserve special recognition for their public service which is truly above and beyond the ordinary call of duty. These soldiers are provided vital strategic support from fellow public service employees both at home and abroad.

When natural disasters hit communities around the country and the world, it is our public service employees who provide support at every level. For this, they should also be commended. It is an honor for me to congratulate these fine citizens for performing challenging and many times thankless jobs with dedication every day. Because of our public service employees, we have a country that is safe and secure for all of us.

□ 1315

For these reasons, I express my strong support of Public Service Recognition Week.

Mr. VAN HOLLEN. Mr. Speaker, I rise today to salute the millions of men and women, in and out of uniform, who devote themselves daily to doing the public's work.

Without the service of these dedicated and selfless individuals, the country could not function. Public servants are on the front lines in Iraq and on the front lines fighting the Swine



Flu. They are the first to come to our aid in a crisis and the last to leave a burning building. They teach our children, pass our laws and bind our wounds. Without them, our lives would come to a halt. For their dedicated and continued service to the nation, I encourage my colleagues to join me in support of public servants everywhere and in support of Public Service Recognition Week.

Mr. DUNCAN. Mr. Speaker, I urge support for this resolution, and I yield back the balance of my time.

Mr. LYNCH. I thank the gentleman for supporting this measure. I appreciate his support.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and agree to the resolution, H. Res. 299.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### ELIJAH PAT LARKINS POST OFFICE BUILDING

Mr. LYNCH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1271) to designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the "Elijah Pat Larkins Post Office Building".

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1271

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. ELIJAH PAT LARKINS POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, shall be known and designated as the "Elijah Pat Larkins Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Elijah Pat Larkins Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts (Mr. LYNCH) and the gentleman from Delaware (Mr. CASTLE) will each control 20 minutes.

The Chair recognizes the gentleman from Massachusetts.

#### GENERAL LEAVE

Mr. LYNCH. Mr. Speaker, I ask unanimous consent that all Members may have 5 days within which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LYNCH. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to present H.R. 1271 for consideration. This legislation will designate the United States postal facility located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the "Elijah Pat Larkins Post Office Building," in honor of a man who dedicated over 25 years of his life to public service.

Born to farm worker parents in the then-segregated city of Pompano Beach, Florida, on April 29, 1942, Elijah Pat Larkins graduated from Blanche Ely High School in 1960, and subsequently attended Tennessee State University.

In 1962, Mr. Larkins embarked on a career as a community housing activist, first serving as a housing director with a Pompano community action agency. In 1969, Mr. Larkins was one of the two honorees in the State of Florida to receive the prestigious Ford Foundation Fellowship, which afforded him the opportunity to attend the National Housing Institute in Washington, D.C., and become a federally-certified housing development specialist.

In 1972, Mr. Larkins brought his new expertise back to his community by creating the Broward County Minority Building Coalition, an organization dedicated to ensuring the participation of minority-owned companies in south Florida's construction sector.

In 1982, Mr. Larkins first won elected office, becoming only the second African American elected to the Pompano Beach City Commission, and only the eighth African American local elected official in Broward County. He proceeded to serve 19 consecutive years.

Notably, Mr. Larkins served an unprecedented seven terms as the first African American mayor of Pompano Beach. He also served three terms as vice mayor, elected by his fellow city commissioners.

Under Mr. Larkins' leadership, the city of Pompano Beach initiated a variety of successful efforts to advance modern affordable home development and promote the growth of small and minority-owned businesses.

In addition to elected service, Mr. Larkins played an active role in a variety of social and religious organizations, including the National Association for the Advancement of Colored People, the Broward County Boys and Girls Club, the United Way, and the Urban League.

Regrettably, illness forced him to retire from public service in May of 2008. In February of 2009, he passed away at the age of 66, after a 16-month battle with brain cancer.

As noted by Mr. Larkins himself, he always had a great affinity and love for the city of Pompano Beach, and it was his hope that he would be remembered for giving all that he had to public service.

Mr. Speaker, let us honor this dedicated public servant through the pas-

sage of this legislation by dedicating the Pompano Beach Postal Facility in honor of Elijah Pat Larkins. I urge my colleagues to do the same.

I reserve the balance of my time.

Mr. CASTLE. I yield myself such time as I may consume.

I rise today in support of H.R. 1271, designating the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the "Elijah Pat Larkins Post Office Building."

Elijah Pat Larkins dedicated his entire life to public service, and the citizens of Pompano Beach, Florida, are better off today because of his tireless service. In 2008, the Florida League of Cities recognized him for 25 years of public service.

Mayor Larkins was the first of 10 children born to a farmer and homemaker in Pompano on April 29, 1942. Nicknamed "Prez," and voted class president every year from 5th to 12th grade, he graduated from what is now Blanche Ely High School.

He grew up in a segregated society, but spent a lifetime in public service fighting for equal rights, and was elected Pompano Beach's first African American mayor in 1985, and subsequently served a record seven terms. Prior to that, he served 19 consecutive years as City Commissioner.

A Ford Foundation Fellow, Mayor Larkins was a federally-certified housing development specialist who created the Broward County Minority Builders Coalition, and was a director of his own, not-for-profit, Malar Construction, Inc., in Fort Lauderdale.

In fact, throughout his career in public service, he made significant contributions in housing, working tirelessly to ensure that safe and adequate housing was available to all. While mayor, he also helped transform the city's economy from agricultural to urban, all while mentoring local civic-minded residents and minority activists.

In addition to his many professional achievements, he took an active role in countless public service, social, and religious organizations, including the National Association for the Advancement of Colored People, Broward County Boys and Girls Club, the Juvenile Justice Intensive Halfway House, and Hopewell Missionary Baptist Church. In fact, he was affiliated with more than a dozen national, State, and local political and service groups.

Mayor Larkins was twice married to retired schoolteacher Bettye Lamar Larkins, with whom he had a son, Gerald Todd. He also had another son, Tory Larkins, from a prior relationship. He is also survived by his nine younger siblings and his mother, Alberta Griffin.

In recognition of Mayor Larkins' commitment to public service and tireless efforts on behalf of the citizens of Pompano Beach, I urge all members to join me in supporting H.R. 1271, which will designate the United States Postal



Service Facility located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, in his honor.

I yield back the balance of my time.

Mr. LYNCH. I just want to note that the lead sponsor of this resolution to name this post office after Elijah Pat Larkins is our friend and great Congressman from Florida, Mr. HASTINGS. I just want to recognize his leadership in bringing this to the floor. I thank him for his energy and his leadership.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and pass the bill, H.R. 1271.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### SUPPORTING NATIONAL CHARTER SCHOOLS WEEK

Mr. POLIS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 382) supporting the goals and ideals of National Charter Schools Week, to be held May 3 through May 9, 2009.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 382

Whereas charter schools deliver high-quality education and challenge our students to reach their potential;

Whereas charter schools provide thousands of families with diverse and innovative educational options for their children;

Whereas charter schools are public schools authorized by a designated public entity that are responding to the needs of our communities, families, and students and promoting the principles of quality, choice, and innovation;

Whereas in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 40 States, the District of Columbia, and Guam have passed laws authorizing charter schools;

Whereas approximately 4,700 charter schools are now serving approximately 1,400,000 children;

Whereas over the last 15 years, Congress has provided substantial support to the charter school movement through startup financing assistance and grants for planning, implementation, and dissemination;

Whereas over 365,000 children are on charter school waiting lists nationally;

Whereas charter schools improve their students' achievement and can stimulate improvement in traditional public schools;

Whereas charter schools must meet the student achievement accountability requirements under the Elementary and Secondary Education Act of 1965 in the same manner as traditional public schools, and often set higher and additional individual goals to ensure that they are of high quality and truly accountable to the public;

Whereas charter schools must continually demonstrate their ongoing success to par-

ents, policymakers, and their communities, some charter schools routinely measure parental satisfaction levels, and all give parents new freedom to choose their public school;

Whereas charter schools nationwide serve a higher percentage of low-income and minority students than the traditional public system;

Whereas charter schools have enjoyed broad bipartisan support from the Administration, Congress, State Governors and legislatures, educators, and parents across the United States; and

Whereas the 10th annual National Charter Schools Week, to be held May 3 through May 9, 2009, is an event sponsored by charter schools and grassroots charter school organizations across the United States to recognize the significant impacts, achievements, and innovations of charter schools: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of the 10th annual National Charter Schools Week;

(2) acknowledges and commends charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education and improving and strengthening our public school system; and

(3) calls on the people of the United States to conduct appropriate programs, ceremonies, and activities to demonstrate support for charter schools during this weeklong celebration in communities throughout the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. POLIS) and the gentleman from Delaware (Mr. CASTLE) will each control 20 minutes.

The Chair recognizes the gentleman from Colorado.

##### GENERAL LEAVE

Mr. POLIS. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 382 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. I yield myself such time as I may consume.

Mr. Speaker, I rise today to support the designation of May 3–May 9, 2009, as “National Charter Schools Week,” and to recognize the growing charter school movement in our Nation.

The charter school movement is grounded in the concepts of community empowerment and parental involvement. The core idea behind charter schools is simple, yet powerful; seeking to serve the unique needs of all children, local communities, parents and educators come together to design, create, and manage schools that provide a high quality education through innovation, flexibility, autonomy, and a focus on results.

Sometimes people ask me, what is a charter school? A charter school is simply a governance model. It is site-based government, where the decisions of who runs the school and the curriculum are left up to the folks most directly involved with the outcome.

Charter schools date back to 1991, when Minnesota enacted the first char-

ter school legislation. California followed suit in 1992. My home State of Colorado soon joined the growing movement in 1993.

Since their inception, charter schools have grown by leaps and bounds to address the various needs of our Nation's public school students. Diverse charter schools across the country offer innovative instruction. With site-based control and flexibility, charter schools can make timely decisions about how to structure the school day, which curriculum best suits the needs of their students, and what type of staff and staff development will enrich their school community. Additionally, charter schools form important community partnerships with parents and businesses.

This week, charter schools across the country will celebrate the 10th annual National Charter Schools Week. This year's theme, “Promoting Innovation and Excellence,” was inspired by President Obama. It celebrates and encourages charter schools to continue to share their successes as part of the effort to reform public education in our country.

As a former chairman of the Colorado State Board of Education and the founder and superintendent of a system of charter schools that empower new immigrants and English language learners to succeed and live the American Dream, I have seen firsthand how innovation in the education system can achieve remarkable results. I also cofounded a charter school serving youths who are homeless or in unstable living conditions, the Academy of Urban Learning.

I know how the power of educational opportunity can transform lives and serve the most at-risk youth. All of the entrepreneurial creativity around charter schools has been an important part of serving all Americans across our country.

Today, there are almost 4,700 charter schools operating in 40 States that have charter school legislation, as well as the District of Columbia. Their combined force serves over 1.4 million students, and 61 percent of charter schools report waiting lists. These waiting lists of nearly 365,000 students nationally are enough to fill over 1,100 new charter schools. To answer this growing need, between 300 and 400 new public charter schools open each year, and nearly 150,000 new students enroll in charter schools annually.

The growing charter school movement is providing opportunities for many historically underserved communities. Nationally, charter schools disproportionately serve minority and low-income students. In fact, 58 percent of charter school students are minorities and 52 percent qualify for free and reduced lunch. Many charter schools are able to achieve impressive academic results.

In the charter school that I ran, 85 percent of the students are English language learners. In Colorado, 78 percent

of our charters made Adequate Yearly Progress, or AYP, last year, and 55 percent of charters were rated excellent or high.

In the Second Congressional District of Colorado that I represent, over 14,000 students attend one of our 26 charter schools, and almost 8 out of 10 made Adequate Yearly Progress.

Peak-to-Peak Charter School in Lafayette was named by Newsweek the 40th best high school in the Nation, out of 27,000 public high schools—quite a distinction. It is the only school in Colorado to rank in the top 100. This follows Peak to Peak High School's recognition by U.S. News and World Report as a 2008 Gold Medal School, ranking 47th in the Nation, and one of only two Colorado schools to rank in the top 100.

□ 1330

Mr. Speaker, once again, I express my heartfelt support for National Charter Schools Week and encourage all social entrepreneurs and activists across the country to include charter schools in their efforts to improve the quality of education for young people and recognize the charter school's movement, a 17-year history of providing a quality public education option based on innovation, flexibility, and community partnerships.

I urge my colleagues to pass this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 382, congratulating charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education.

This week has been designated as the 10th Annual Charter Schools Week. And it is entirely appropriate that we take a few minutes to recognize the contributions charter schools make every day in the lives of millions of children.

Charter schools are innovative public schools with a simple interest in providing a quality education to children in their community. They explore new educational approaches, such as longer school days or an extended school year, and are free from most rules and regulations governing conventional public schools.

Every day, however, charter schools face the unarguable facts of free market pressures. Unlike traditional public schools, charter schools must demonstrate the success of their students' academic achievements to parents, policymakers, and their communities or face closure. From the time the first charter school opened its door, they have risen to the challenge. For example, charter schools made an important contribution to rebuilding and strengthening Louisiana after Hurricanes Rita and Katrina, particularly in New Orleans.

More often than not, charter schools meet the student achievement and accountability requirements under No Child Left Behind and in the same manner as traditional public schools, but often set higher individual goals to ensure that they are of high quality and truly accountable to the public. Yet, despite these innovative approaches and promising reports of parental satisfaction, charter schools across the country have struggled through a myriad of obstacles to create such successful schools.

One such obstacle is State caps that limit growth. Twenty-six States and the District of Columbia have some type of limit or cap on charter school growth. Most caps restrict the number of charter schools allowed, while others restrict the number of students that a single school can serve. Caps on charter schools are often the consequence of political tradeoffs and not the result of agreement on sound education policy.

I am pleased that Congress has continued to support the public charter school programs authorized under No Child Left Behind. These programs provide support at key points in the development of charter schools, helping cover the extraordinary costs of launching successful charters, disseminating their successful innovations to other public schools, and providing financial incentives to State governments and private lenders that help enable schools to build and renovate facilities.

These programs have been a tremendous success, helping to create public charter schools all across the country that work to improve academic achievement for low-income students. It is my hope that the charter community will continue to build on its 16-year history of providing a high-quality option in public education that is based on innovation, freedom from red tape, and partnership between parents and educators, an option that is giving new hope to disadvantaged and minority families across the country.

I urge my colleagues to support this resolution, and I would like to thank Congressman BISHOP, the sponsor of the legislation who is not able to be here today, for his sponsorship.

Mr. Speaker, I yield back the balance of my time.

Mr. POLIS. We need to call upon all the innovation of the American people to help meet the learning needs of all children. Charter schools provide one important avenue to do that. And it is with great pride that I ask my colleagues to join me in supporting National Charter School Week.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I stand before you today in support of H. Res. 382, "Supporting the goals and ideals of National Charter Schools Week, to be held May 3 through May 9, 2009". I would like to begin by thanking my colleague Representative BISHOP for introducing this resolution in the House, as quality education should be at the top of our priorities list. I urge my colleagues

to support and acknowledge charter schools and their students, parents, teachers, and administrators across the United States for their ongoing contributions to education and improving and strengthening our public school system.

Charter schools deliver high-quality education, challenge our students to reach their potential throughout the United States, and provide thousands of families with diverse and innovative educational options for their children. Charter schools improve their students' achievement and can stimulate improvement in traditional public schools as well. These unique, public schools are authorized by a designated public entity that are responding to the needs of our communities, families, and students and promoting the principles of quality, choice, and innovation.

Charter schools take a revolutionary approach in educating our nation's students. Today, roughly 4,700 charter schools are now serving approximately 1,400,000 children in 40 states plus the District of Columbia and Puerto Rico this year. Charter schools continually demonstrate their ongoing success to parents, policymakers, and their communities. Some charter schools even routinely measure parental satisfaction levels while all give parents new freedom to choose their public school.

Charter schools nationwide serve a higher percentage of low-income and minority students than the traditional public system and deliver higher quality education. Chartering is a radical educational innovation that is moving states beyond reforming existing schools to creating something entirely new. Chartering is at the center of a growing movement to challenge traditional notions of what public education means.

Charter schools have demonstrated their commitment to high academic standards, small class sizes, innovative approaches and educational philosophies. Many parents choose charter schools for their small size and associated safety as charter schools serve an average of 250 students.

I am pleased that over the last 15 years, Congress has provided substantial support to the charter school movement through startup financing assistance and grants for planning, implementation, and dissemination. In addition, these schools have enjoyed broad bipartisan support from the Administration, Congress, State Governors and legislatures, educators, and parents across the United States.

The intention of most charter school legislation is to: increase opportunities for learning and access to quality education for all students, create choice for parents and students within the public school system, provide a system of accountability for results in public education, encourage innovative teaching practices, create new professional opportunities for teachers, encourage community and parent involvement in public education, and leverage improved public education broadly. I believe Charter Schools and the Nations Public Schools can work side by side to educate the Nations Children!

Competition from charter schools has been shown to increase composite test scores in traditional district schools. Furthermore, twice as many registered voters favor charter schools as oppose I, them. The more people learn about charter schools, the more they like

them. Congress must lend its support to these schools and their goals, especially since on average, the funding gap between charter schools and traditional schools is 22 percent, or \$1,800 per pupil. The average charter school ends up with a total funding shortfall of nearly half a million dollars. Yet, twelve studies find that overall gains in charter schools are larger than other public schools; four find charter schools' gains higher in certain significant categories of schools and six find comparable gains to traditional schools. I ask my colleagues for their continued support of Charter schools and urge them to support this resolution.

Mr. POLIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. POLIS) that the House suspend the rules and agree to the resolution, H. Res. 382.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### SUPPORTING NATIONAL COMMUNITY COLLEGE MONTH

Mr. POLIS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 338) supporting the goals and ideals of National Community College Month.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

##### H. RES. 338

Whereas there are more than 1,100 community colleges in the United States;

Whereas there are more than 11,000,000 students enrolled in for-credit and not-for-credit programs at community colleges nationwide;

Whereas in 2009, community colleges in the United States will award more than 500,000 associate's degrees and 270,000 associate's certificates;

Whereas community colleges have educated more than 100,000,000 people in the United States since the first community college was founded in 1901;

Whereas community college students are a more diverse group in terms of age, income, race, and ethnicity than students attending traditional colleges and universities, making community colleges essential to providing access to postsecondary education;

Whereas community colleges enrich and enhance communities across the country, socially, culturally, and politically;

Whereas community colleges are affordable and close to home for most people in the United States;

Whereas community colleges allow many older students to take courses part-time while working full-time, creating opportunities that otherwise would not be available;

Whereas community colleges provide job training for workers who have lost their jobs or are hoping to find better jobs, helping millions of people in the United States support themselves and their families;

Whereas community colleges contribute more than \$31,000,000,000 annually to the Nation's economic growth and, by helping to provide a skilled workforce, are critical to

our Nation's continued success and prosperity in the global economy of the 21st century; and

Whereas the American Association of Community Colleges, the Association of Community College Trustees, and more than 1,100 community colleges nationwide recognize April as National Community College Month: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of National Community College Month; and

(2) congratulates the Nation's community colleges, and their students, governing boards, faculty, and staff, for their contributions to education and workforce development, and for their vital role in ensuring a brighter, stronger future for the Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. POLIS) and the gentleman from Delaware (Mr. CASTLE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado.

##### GENERAL LEAVE

Mr. POLIS. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 338 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. I yield myself such time as I may consume.

I rise today in support of House Resolution 338, which supports the goals and ideals of National Community College Month. This resolution recognizes community colleges all across the country for their enormous contribution to educational outcomes and to workforce development.

Since the first community college, Joliet Junior College in Joliet, Illinois, was founded in 1901, community colleges have educated more than 100 million students in the United States. Community colleges provide a variety of roles for students. It is a place to receive an associate's degree, to begin a bachelor's degree, or for workplace training.

With more than 1,100 community colleges in the United States and over 11 million students currently enrolled in these schools, community colleges provide a high-quality education and resources to students coming from widely diverse backgrounds.

Community colleges enroll a diverse student body. In 2000, the United States Department of Education reported that 31 percent of community college students were minorities, and 61 percent of community college students received Pell Grants and met the income thresholds to qualify.

Community colleges offer a number of advantages for students. The schools maintain affordable tuition at a time of increasing tuition costs. And for a majority of Americans, community colleges are located conveniently close to their homes. The close proximity allows working students to take courses part-time while keeping their employ-

ment. One community college in my district, Colorado Mountain College, has five campuses spread across the mountain areas to help ensure that they have presence close to the places of work and where people live.

More students are enrolled part-time in community colleges than full-time. Additionally, community colleges provide excellent job training to millions of Americans who have lost their jobs or who desire more lucrative opportunities. This is particularly critical in these tough economic times. It costs almost \$2,500 per year to attend a community college, while it costs over \$6,500 a year to attend a 4-year in-state college, on average.

It is vital that community colleges remain affordable to the millions of students who attend every year. Furthermore, community colleges are at the forefront of innovation. With more than \$100 billion included in the economic stimulus package for green job opportunities, community colleges are prepared to provide the type of training necessary to implement our new green investment and help make sure that the renewable energy sector is a strong growing sector with a workforce that is ready to take on the positions.

This year, community colleges in our country will award more than 500,000 associate degrees and 270 associate certificates. Countless other students in community colleges will continue their education and transfer to 4-year colleges and universities.

Community colleges help spur the economy and provide a skilled workforce to contribute more than \$31 billion to the Nation's economy each year. In Colorado's Second Congressional District that I have the honor to represent, Front Range Community College and the Colorado Mountain College are effectively addressing the needs of both students and families and employers, and represent an essential component for ongoing economic development as well as our community pride.

The American Association of Community Colleges, the American Association of Community College Trustees, and community colleges across the country support this bill and this month. I urge my colleagues to support the bill as well and would like to thank Representative LATHAM for bringing this resolution forward, for community colleges are instrumental to our Nation's economy.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 338, supporting the goals and ideals of National Community College Month, and congratulating the community colleges for their role in educating the Nation.

As a co-chairman of the Congressional Community College Caucus and a member of the House Education and Labor Committee, I have witnessed the

benefits community colleges have to offer.

Community colleges serve a diverse body of students by providing them with a unique flexibility. Most community colleges offer evening courses that allow students to work towards earning their degree while working full-time to support themselves and their families. This flexibility allows many older working adults to further their education and advance their careers. In fact, the average age of a student attending community college is 29, and 50 percent of full-time students are employed part-time and 50 percent of part-time students are employed full-time.

Community colleges' flexibility also enables students whose cultural traditions may encourage them to fulfill more traditional familial roles and may not encourage them to take 4 years to attend a traditional college or university to pursue higher education or job training while fulfilling familial duties. The flexibility of most community colleges helps to draw in a diverse student body, and the relatively low cost of most community colleges provides an educational opportunity to many students who otherwise could not afford to further their education or careers.

The average cost of attendance at a community colleges is \$2,402 per year. This is significantly less than the average annual cost of attending a 4-year public or private university or college at \$6,585 for in-state, and \$17,452 for out-of-state tuition and fees at a public institution, and \$25,143, for tuition and fees at a private institution.

Community colleges provide a diverse body of students from various income levels with an opportunity for education. Students may be working toward a 2- or 4-year degree, a professional certification, or furthering their careers through job training, learning a second language, or attending employer-recommended classes in order to receive a promotion. Community colleges award approximately 555,000 associates degrees and approximately 295,000 professional certificates annually. In addition, many community colleges work closely with their community's one-stop employment center to provide skills, training, and other services to unemployed or dislocated workers, which is especially important in these difficult economic times.

Community colleges provide innumerable education opportunities to people of all ages, professions, cultures, and stages of life. These institutions enroll an estimated 11.5 million people annually, and open the door to education for people who would otherwise be unable to pursue it.

This is why I stand in support of this resolution, and I ask for my colleagues' support.

Mr. Speaker, I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I would like to yield 4 minutes to the gentleman from North Carolina (Mr. MILLER).

Mr. MILLER of North Carolina. Mr. Speaker, like Mr. CASTLE, I am one of the co-Chairs of the House Community College Caucus. And I am also pleased to join today in honoring our Nation's community colleges.

Community colleges provide an affordable close-to-home education to between 11 and 12 million Americans every year. Community colleges create opportunities for Americans that they just otherwise would not have available to them.

GEDs: for those students who do not complete high school in the regular time, in my State at least, the great, great majority of students who go back to get a GED go back to community colleges to get it. Sometimes the training is done on campus; sometimes it is done at work sites. But the great majority of students who do get their GED—which is an absolute requirement to having any prospect of getting highly skilled, well-paid jobs, they get that training through GEDs.

A great many students spend their first 2 years in college at community colleges before going on to baccalaureate degree-granting institutions.

Community colleges train for jobs in a way that really makes jobs available to students. They are important for employers, and they are important for workers. No employer is going to move into a city, is going to expand operations or begin new operations in a community that does not offer the kind of job training that a community college offers.

All manner of job skills are taught at community colleges and really do the bulk of the Nation's work in providing training for those skills: health care professionals, nurses, phlebotomists, x-ray technicians, on and on. The bulk of those students—in North Carolina, at least, and I suspect in much of the Nation—are at community colleges.

Building trades: all of the skills in building trades are taught at community colleges. Law enforcement, fire fighting, other first responders go to community colleges for the skills they need. And in North Carolina, at least, where we are blessed with one of the first and best community college systems, there are programs, curricula in communities that are precisely tailored to specific needs of that community.

Let me give just a couple of examples. In the county I live in, Wake County, North Carolina, which includes Raleigh, the eastern end of the county, the towns of Zebulon, Knightdale and Wendell, is an area that includes—along with counties just east of there—a cluster of 30 or 40 employers that use extrusion technology for various reasons. Extrusion is pulling on plastics like taffy to shape it. And Wake Technical Community College established a campus in that part of the county specifically to train skills used in the extrusion industries.

In Alamance County, which for 100 years has been dominated by the tex-

tile industry, but the textile industry has taken one hit after another, a small company has grown up now, LabCorp, to become the Nation's second largest medical testing firm. Samples are sent from all over the country to be tested at LabCorp in Burlington, Alamance County. One of the leading programs or curricula at the Alamance Community College is a biotech program. And they have a standing understanding, agreement with LabCorp, that LabCorp will hire everybody who comes out of that program who wants to work for LabCorp.

□ 1345

The list goes on and on. Community colleges really are where our workers are going to need to go to improve their job skills to make sure that our Nation remains the most productive nation on Earth. And if we are going to have the most prosperous economy in the world, we need to have the most productive workers in the world, and community colleges are making that happen.

Mr. CASTLE. Mr. Speaker, I yield back the balance of my time.

Mr. POLIS. Mr. Speaker, again I would like to express my appreciation for the work done by community colleges across our country and urge my colleagues to support this bill.

Mr. LATHAM. Mr. Speaker, I rise in support of House Resolution 338.

America's community colleges continue to provide a silver lining to accompany the dark clouds of economic uncertainty.

Community colleges are uniquely positioned to retrain displaced workers so they can get back into the workforce and start earning a paycheck, even as unemployment figures across the country continue to climb. They help breathe life into local economies by giving workers the expertise they need to excel in the job market.

At this very moment, our future nurses, technicians and manufacturers are gaining the experience and expertise they need to compete in the marketplace through programs offered by community colleges.

These jobs are the backbone of our economy and a central support for millions of American families. They pay well and they come with reliable benefits. And they become even more important during a time of economic uncertainty.

In Iowa—my home state—community colleges have partnered with government agencies to organize job fairs that put workers in contact with potential employers and boost the profile of local businesses. Iowa's community colleges are strengthening the state's business climate. They're laying a foundation that will meet the needs of an increasingly competitive and high-tech workforce well into the future.

Community colleges have also taken great strides in renewable energy through groundbreaking programs that provide students with hands-on experience with the latest equipment. Graduates of these programs go to work on high-tech windmills and other innovative technology.

These are truly the jobs of the future, and I'm proud that several community colleges in

Iowa are leading the way. These programs are laying the foundation for a new era of energy efficiency and environmental responsibility that will benefit everyone in America.

Community colleges provide a wealth of benefits to the people they serve. They improve the quality of life in their communities. They prepare workers for the job market, and they are often laboratories of innovation. Our communities rely on the economic spark they provide—especially in the midst of hard times.

It's imperative that we provide these institutions the resources they need to continue their mission. Community colleges have proven that they get results. They improve lives. They strengthen communities.

I have the utmost confidence in the hard work and resiliency of the American people. Without doubt, we will recover from this economic downturn. And I'm just as certain that our community colleges will help us get there.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 338, "Supporting the goals and ideals of National Community College Month". I would like to thank my colleague Representative TOM LATHAM for introducing this resolution, as well as the co-sponsors.

The American Association of Community Colleges, the Association of Community College Trustees, and hundreds of community colleges nationwide recognize April as National Community College Month. They have many achievements to celebrate.

There are over 1100 community colleges in our nation, enrolling over 11 million students nationwide. Since the first community college was founded in the United States, over a century ago, community colleges have educated more than 100 million American minds, making incalculable contributions to our country and population. To this day, they contribute more than \$31 billion annually to the Nation's economic growth and, by helping to provide a skilled workforce, are critical to our Nation's continued success and prosperity in the global economy of the 21st century.

I know about this from the achievements of my district, and the work done by among the finest of academic institutions—Houston Community College. Founded in 1971, under the wing of the Houston Independent School District—for example, initially using the district's campuses to teach night classes. In 1997 they began to transfer operations to community college district-operated campuses throughout the college's service area.

Today, they offer students a wide array of academic and work programs, from accounting to fine arts, as well as stimulating programs such as the Spring Branch Business Plan Competition—learning and career opportunities found across the city of Houston and the surrounding area, in six different colleges.

Perhaps, most notably, the Houston Community College System operates a television channel called HCCTV, which stands for Houston Community College Television, which began in 1994. It is aired on a number of local cable channels and streamed on the Internet, operating with a studio complex, which has one large studio unit, five edit suites, and a digital master control system, all of which are located at the HCC headquarters. Just this past Saturday, I attended HCC's graduation in Houston. It was a tribute to how community colleges can change lives.

This is only one community college. In 2009, community colleges in the United States

will award, to these young minds, more than 500,000 associate's degrees and 270,000 associate's certificates. The students are a more diverse group in terms of age, income, race, and ethnicity than students attending traditional colleges and universities, making community colleges essential to providing access to postsecondary education.

They allow many older students to take courses part-time while working full-time, creating opportunities that otherwise would not be available and are affordable and close to home for most people in the United States. Community colleges provide job training for workers who have lost their jobs or are hoping to find better jobs, helping millions of people in the United States support themselves and their families.

I am here before you today supporting the goals and ideals of National Community College Month, and urging my fellow members to do the same. Let us, as a Congress, and as a country, congratulate the Nation's community colleges, and their students, governing boards, faculty, and staff, for their contributions to education and workforce development, and for their vital role in ensuring a brighter, stronger future for the Nation.

Mr. SIRES. Mr. Speaker, first, I would like to thank Congressman LATHAM and my colleagues, for introducing H. Res. 338 honoring community colleges. I have long supported these institutions for the professional education they provide their students and I am happy to honor them today.

Community colleges in New Jersey serve over 150,000 students at 19 campuses.

They offer their students a broad array of certificate and associate degree programs—from business management to nursing, and engineering to philosophy.

That is why, as Assembly Speaker in New Jersey, I created the STARS program that allowed star high school students to attend any community college in New Jersey for free. Now that program has been expanded to allow these students to attend a four-year college after two high-performing years at their community college. I recognized the great education these institutions provide to students and I wanted to ensure that they remained a viable option for future students.

Community colleges play a vital role in our communities and for the students who attend them. I am proud to show my support for these fine institutions and H. Res. 338.

Ms. GIFFORDS. Mr. Speaker, I am honored today to celebrate April as National Community College Month with my support of H. Res. 338, "Supporting the Goals and Ideals of National Community College."

As the largest rural college district in the state, Cochise College has served the area of Southeastern Arizona since 1964. With multiple campuses and learning centers in Douglas, Sierra Vista, Benson, Willcox, Fort Huachuca, and Nogales, Cochise educates about 14,000 students a year.

Community colleges are essential to expanding access to postsecondary education to those who might not normally benefit from traditional colleges and universities. As a member of the Servicemembers Opportunity Colleges consortium, Cochise College offers tailored learning to active-duty or retired servicemembers and their families.

Furthermore, community colleges contribute over \$31 billion annually to the Nation's eco-

nomie growth. In Cochise County, the College is the 10th largest employer in the county.

Cochise College strives to educate students with transferable degrees and direct-employment training, which are important tools in a competitive job market such as this. As Southeastern Arizona continues to grow, the College's role becomes ever so important to our community's development.

I am proud to celebrate National Community College Month by recognizing the integral role community colleges play in our evolving society.

Ms. GIFFORDS. Mr. Speaker, I am honored today to celebrate April as National Community College Month with my support of H. Res. 338, "Supporting the Goals and Ideals of National Community College Month."

More than 11 million students are enrolled in for-credit and not-for-credit programs at community colleges nationwide, and in my district alone, over 73,000 students attend Pima Community College in Tucson, Arizona.

Community colleges are essential to expanding access to postsecondary education to a more diverse population than traditional colleges and universities. Pima Community College exemplifies that mission with a student profile compiled of 56% women and 42% ethnic minorities.

Since 1969, Pima Community College has provided an affordable and convenient education by offering child care, job placement assistance, financial aid, and other support services. As University fees continue to rise and more people return to school in an increasingly competitive job market, the College's role becomes ever so important to our community's development.

I am proud to celebrate National Community College Month by recognizing the integral role community colleges play in our evolving society.

Mr. POLIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. POLIS) that the House suspend the rules and agree to the resolution, H. Res. 338.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### CONGRATULATING THE NATIONAL CHAMPION UNIVERSITY OF NORTH CAROLINA MEN'S BASKETBALL TEAM

Mr. POLIS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 348) congratulating the University of North Carolina men's basketball team for winning the 2009 NCAA Division I Men's Basketball National Championship.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 348

Whereas, on April 6, 2009, the University of North Carolina Tar Heels defeated the Michigan State University Spartans 89–72 in the finals of the National Collegiate Athletic Association (NCAA) Division I Men's Basketball Tournament in Detroit, Michigan;

Whereas the Tar Heels now hold 6 men's basketball national titles, including 5 NCAA tournament titles, tied for the third most in NCAA history;

Whereas the Tar Heels have won men's basketball national championships in 1924, 1957, 1982, 1993, 2005, and 2009 and have played in a record 18 "Final Fours";

Whereas Tar Heels head coach and Asheville, North Carolina, native Roy Williams won his second NCAA title in his sixth year coaching the team, improving to 594–138 in 21 seasons as a head coach, and has the highest winning percentage of any active coach in men's basketball;

Whereas Coach Williams and his coaching staff, including Assistant Coaches Joe Holladay, Steve Robinson, and C.B. McGrath, as well as each trainer, manager, and staff member, deserve praise and credit for their outstanding dedication to helping the North Carolina Tar Heels reach the summit of college basketball;

Whereas Tar Heel seniors Tyler Hansbrough, Danny Green, Mike Copeland, Bobby Frasier, Marcus Ginyard, Patrick Moody, J.B. Tanner, and Jack Wooten celebrated 4 years at North Carolina with a National Championship, and became the winningest class in the 99-year history of the University of North Carolina men's basketball program;

Whereas Tar Heel junior Wayne Ellington was named Most Outstanding Player of the tournament, averaging 19.2 points per game;

Whereas Tar Heel junior Ty Lawson and senior Tyler Hansbrough joined Wayne Ellington on the all-tournament team, along with Spartans players Kalin Lucas and Goran Suton;

Whereas the roster of the North Carolina Tar Heels also included juniors Marc Campbell and Deon Thompson; sophomore Will Graves; and freshmen Ed Davis, Larry Drew II, Justin Watts, and Tyler Zeller;

Whereas the Tar Heels set a record for the most points in one half of a Championship game with 55, and Tar Heel point guard Ty Lawson set a record for the most steals in a Championship game with 8;

Whereas the North Carolina Tar Heels finished the 2008–2009 season with 34 wins and 4 losses, completing their third consecutive 30 win season;

Whereas the Tar Heels won their second National Championship in 5 years;

Whereas the Tar Heel players, coaches, and staff are outstanding representatives of the University of North Carolina, the oldest public university in the country and a distinguished leader in higher education that is consistently ranked among the Nation's top universities in academic performance;

Whereas the Tar Heels showed tremendous dedication to their team, appreciation to their fans, sportsmanship toward their opponents, and respect for the game of basketball throughout the 2009 season, maintaining the tradition of excellence established by legendary coach Dean Smith; and

Whereas residents of the Old North State and North Carolina fans worldwide are to be congratulated for their long-standing support, perseverance, and pride in the team: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) congratulates the national champion North Carolina Tar Heels for their historic win in the 2009 National Collegiate Athletic Association Division I Men's Basketball Championship;

(2) recognizes the achievements of the players, coaches, students, and support staff who were instrumental in helping the University of North Carolina Tar Heels win the tournament; and

(3) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to University of North Carolina Chancellor Holden Thorp, Athletic Director Dick Baddour, and Head Coach Roy Williams for appropriate display.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. POLIS) and the gentleman from Delaware (Mr. CASTLE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado.

GENERAL LEAVE

Mr. POLIS. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 348 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. Mr. Speaker, I yield the balance of my time to the sponsor of the bill, the gentleman from North Carolina (Mr. PRICE), and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Without objection, the gentleman from North Carolina (Mr. PRICE) is recognized.

There was no objection.

Mr. PRICE of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of House Resolution 348, congratulating the University of North Carolina men's basketball team for winning the 2009 NCAA Division I National Championship. I am pleased to have the support of the entire North Carolina delegation as original cosponsors of this resolution.

The University of North Carolina at Chapel Hill is a special place to the entire State of North Carolina and, as the Nation's first public university, has long been a beacon of light and liberty in the South. The academic tradition of excellence and unyielding commitment to public service is what drew me across the mountains from Tennessee to Chapel Hill 50 years ago and largely shaped my life's further course.

This year's success caps a remarkable history. UNC has played in a record 18 Final Fours and won the NCAA National Championship in 1957, 1982, 1993, 2005, and 2009.

While Head Coach Roy Williams inherited a first-class program, he deserves special credit for the exceptional success and character of his teams. Coach Williams, who is a native of the mountains of North Carolina, has the highest winning percentage of any active coach in men's basketball, and unquestionably sits at the top of

his profession. Since he came to Carolina as head coach in 2003, the Tar Heels have won two NCAA championships, four Atlantic Coast Conference regular season championships, and two ACC tournament championships. The 2008–2009 season marks their third consecutive 30-win season.

Like the whole community of Carolina basketball fans, I'm exceedingly proud of this entire team—the players, the coaches, and the staff—for their outstanding performance in the Nation's most competitive and most watched college athletics tournament. In addition to their on-court success, the team has consistently shown academic commitment, appreciation to their fans, good sportsmanship toward their opponents, and respect for the game of basketball. I'm particularly proud that Inside Higher Education also crowned UNC its national champion in its annual academic NCAA tournament, signifying that UNC has the single best academic performance rate of any NCAA tournament team. These coaches and players have ably upheld the tradition of excellence—both on the court and in the classroom—established by legendary coaches Dean Smith and Bill Guthridge and now continued by Roy Williams.

As an alumnus and Chapel Hill resident, this program and most recent championship make me very proud. These are my friends and neighbors—Joan Ewing, my dear friend and former district director, is Dean Smith's sister—and it is my honor to represent all of them in Congress.

But this year other alumni and I were not the only fans in Washington cheering the Tar Heels from afar. President Obama himself picked Carolina to bring home the title and played a pickup game with the team last spring before the North Carolina primary election. It's important to note that he did so while employing a former Duke basketball player as his closest personal aide. As the Member of this institution who represents both institutions and a Carolina alumnus who teaches at Duke, I can only salute such a feat of athletic bipartisanship with great admiration! It's very reassuring to have this display coming from our new President.

So, colleagues, I urge the House to join President Obama and the North Carolina delegation in celebrating the Tar Heels. This is an institution and team who are worthy of our praise; not only because they found success, but because they did it the right way, the Carolina way.

Hark the sound and go Heels.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

I would like to congratulate the University of North Carolina Tar Heels. I don't have the same level of connection with North Carolina as does Mr. PRICE, but I did pick them in my basketball pool, which I didn't win, by the way, but at least I won on that aspect of it; so I congratulate them for that.



Mr. Speaker, I yield such time as he may consume to Mr. LATHAM. He, too, will congratulate North Carolina, but he wants to comment on the previous bill, which, unfortunately, he couldn't quite get here for, on community colleges.

(Mr. LATHAM asked and was given permission to revise and extend his remarks.)

Mr. LATHAM. I thank the gentleman for yielding.

I want to commend the gentleman from North Carolina on his resolution and congratulate the Tar Heels, and I rise in support of his resolution.

I was detained a few moments ago on the previous resolution here. I had a group of very bright, young eighth graders from Garner-Hayfield, Iowa, on the east steps out here. But the previously discussed resolution was mine, honoring the National Community College Month, and I just want to make sure in the RECORD that it reflects how important I believe our community colleges are as far as economic growth and prosperity for the future and how important a role that they play as far as giving individuals in this difficult economy the opportunity to be successful, to have real careers.

The community colleges today are where the rubber meets the road. I'm very proud to be co-chairman of the Community College Caucus, and I just want to introduce my formal statement into the RECORD. But I did want to come to the floor to congratulate my good friend from North Carolina but also to speak to the National Community College Month.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman.

I am now pleased to yield such time as he may consume to my friend and colleague, another UNC alumnus, BRAD MILLER of the 13th District of North Carolina.

Mr. MILLER of North Carolina. Mr. Speaker, I am pleased to join my colleague DAVID PRICE to speak in favor, to take the pro side of this debate.

I am a graduate of the University of North Carolina at Chapel Hill. I spoke a moment ago about the importance of community colleges in creating opportunities for people who otherwise would not have them. That is emphatically true for me and, for the University of North Carolina, the role it has played in my life. I could not be a Member of this body if it were not for the opportunities that the University of North Carolina, my State university, created for me and creates for thousands of middle class kids from North Carolina, kids from the middle class, people who are from families that are struggling to get into the middle class.

I do trust my friend and colleague of longstanding from North Carolina, DAVID PRICE, also a graduate of the University of North Carolina. I know that he also has been a professor at a nearby institution of lesser reputation, so I wanted to make sure there was

someone here with absolutely unmixed loyalties who could speak in favor of this resolution.

The men's basketball team this year was an exceptional group of athletes. The starting five, Tyler Hansbrough, Deon Thompson, Ty Lawson, Wayne Ellington, Danny Green, others coming off the bench, Bobby Frasier, Ed Davis, Tyler Zeller, others, was an extraordinary group of athletes. There was no doubt that they would be at the Final Four in the mix for the title throughout the season.

Mr. PRICE has already mentioned the frequency with which my university has won the national championship, but it bears repeating: 1957, 1982, 1993, 2005, and 2009 the University of North Carolina has won the championship. But beyond just that accomplishment, that athletic accomplishment, we have done it with a basketball program that we can be proud of. Our academic standards have remained high. Our graduation rate for our basketball players, for our athletes is exceptionally high. Dean Smith, a revered figure in college athletics, in addition to being the coach of the men's basketball team for many years, in the 1960s when it was not such an easy thing to do, led with one of the leaders of the fight for racial justice in North Carolina, something that I think all North Carolina graduates can be proud of.

I am proud that we have those banners hanging in the rafters that I mentioned, 1957, 1992, 1993, 2005, and 2009, but I'm even more proud of knowing that we will never have to take those banners down. We will never hear from the NCAA that we have violated the rules so flagrantly that we have to give our banners back.

I am proud of this year's team. I'm proud of our men's basketball program. I'm proud of my university. And I urge all Members to vote for this resolution.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

I thought somebody who's not from North Carolina should say something nice about North Carolina basketball in North Carolina, and I have a full statement, which I will submit.

But I just want to congratulate the team and the university. And it's happened a lot before. We all know the excellence of North Carolina basketball. This is their sixth national title. Roy Williams has won twice now in his 6th year in coaching the team, improving to 594 wins and 138 losses in 21 seasons as a head coach, which gives him the highest winning percentage of any active coach in men's basketball. The individual players who are graduating this year excelled, obviously, and they deserve a tremendous amount of credit. Junior Wayne Ellington was the Most Outstanding Player. He, too, deserves a great deal of credit.

And to our friends from North Carolina, I also recognize the academics of the institution and the great work which they have done not only for the State of North Carolina but other

States such as my State of Delaware and other places that the North Carolina graduates have gone. North Carolina is in its third century. It has 71 bachelor's, 107 master's, 74 doctorate, and four professional degree programs, and they're all very important for the future of North Carolina and for America.

So we offer our congratulations to the entire University of North Carolina, to their athletic department as well as the basketball team, and obviously the academic school for all the great work which they have done. They are a shining example for the rest of us in this country.

Mr. Speaker, I yield back the balance of my time.

□ 1400

Mr. PRICE of North Carolina. Mr. Speaker, I yield 3 minutes to my colleague from the Seventh District of North Carolina and yet another UNC alumnus, MIKE MCINTYRE.

(Mr. MCINTYRE asked and was given permission to revise and extend his remarks.)

Mr. MCINTYRE. Mr. Speaker, I rise today in strong support of House Resolution 348, a resolution congratulating my alma mater, University of North Carolina, men's basketball team for winning the 2009 NCAA Division I Men's Basketball National Championship.

I can tell you as an undergraduate, who was in the class of Phil Ford, as many of our friends will remember, who had the famous four-corners offense under Coach Dean Smith and as one who also went to law school at University of North Carolina when Sam Perkins and several other fellows, James Worthy and Matt Doherty, were all involved in the program, we saw some great years of basketball and Final Fours. And throughout, I know my life and the lives of many of us who have gone to the University of North Carolina, folks from all over—not just the State—but the Nation indeed, we take great pride in the winning tradition that we all have personally witnessed throughout the years by the University of North Carolina basketball team.

In fact, both of my sons, Stephen and Joshua McIntyre, are now in law school at Carolina and were undergraduates when Carolina won its first title under Roy Williams just a few years ago in St. Louis, when we were there to watch the March to the Arch. And I had the great pleasure to be in Detroit for the Final Four to witness Carolina win this championship by our great coach, Roy Williams, his wonderful assistants and, of course, the great players for the Carolina team.

The precedent that has been set by Dean Smith, the great tradition that he had, the wonderful work that Coach Roy Williams clearly has done, sends a strong message that success can be found through dedication and hard work. In fact, I would say that they



have shown that despite all difficulties this team faced when they were chosen as preseason number one, and everybody expected them to win the championship—but then they went through difficult times—but then they came back and proved that, indeed, they were the national champions. It showed that the three Ds in the real world, dreams, dedication and determination, lead to success such as this Tar Heel team found in winning the national championship.

Having a dream, being dedicated to it as those players worked and worked, despite the difficulty, the coaching staff worked, the managers that supported the team, and then they came together through that dedication to that dream, they were determined to prove they, indeed, were the number one team in the Nation. That they did in Detroit.

I cannot say enough about the great program that this is in terms of what it exemplifies in terms of the values of teamwork, commitment, loyalty, courage and being able to stand up against adversity. It sends a strong message of success that others can emulate in other programs around this country; and it speaks to young people everywhere. Five NCAA championships for the University of North Carolina, plus the championship, a national championship prior to when the NCAA was formed. So, really, six national championships have been won now by the men's basketball team.

On behalf of the United States Congress, let me join my colleagues in saying, and as a proud fellow alumnus of the University of North Carolina and as one who has family members attending the University of North Carolina now, we are very proud of our Tar Heels. The citizens of North Carolina and the United States Congress are proud of the exemplary role that they have played in college sports and the example they have set for our Nation.

God bless the Tar Heel boys.

Mr. CASTLE. Madam Speaker, I had yielded back the balance of my time, but the distinguished gentleman from Kentucky has arrived and would like 2 minutes.

I ask unanimous consent to yield him 2 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CASTLE. Before he starts, I am just surprised that the gentleman from North Carolina didn't object to somebody representing Kentucky basketball speaking, but Mr. ROGERS is a distinguished gentleman.

I yield 2 minutes to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS of Kentucky. Thank you, Mr. CASTLE, for yielding me this time.

I couldn't let this opportunity pass without congratulating the University of North Carolina, the Tar Heels, and my friend and colleague, Mr. PRICE, for

offering this resolution, and I strongly support it.

As an alumnus of the University of Kentucky, a frequent rival of the Tar Heels on the basketball court and a frequent national champion itself, we recognize that excellence of the North Carolina basketball program and its great coach, who has distinguished himself in so many different ways.

So from the SEC, we want to congratulate the ACC and particularly the University of North Carolina for the great season and the great seasons that that school has had.

I resided in Franklin, North Carolina, back in 1957, 1958, working at a radio station in Franklin, and that was the time when the State was developing the Research Triangle, which has been a sterling program for the Nation and the home of these great universities that populate that part of North Carolina and what a great amount of progress the State has made in those years.

So I count myself a great admirer of the State of North Carolina and especially of this basketball program, which has meant so much to the young people going through that great university. It exemplifies, I think, the excellence of that system, that school.

So I stand here, from the University of Kentucky, and we have had our knocks the past few years; but watch out, we're coming back.

I want to congratulate DAVID and all the Carolinians who are supporting this resolution and add one more voice, this time from the SEC, in congratulations to UNC.

Mr. PRICE of North Carolina. Madam Speaker, I want to thank my colleague from Kentucky, knowing him and how much he knows and cares about basketball and knowing about that Kentucky tradition. Those words really mean a great deal coming from him. I think we are all grateful.

Now I yield 3 minutes to yet another Carolina Representative from the Second Congressional District, BOB ETHERIDGE.

Mr. ETHERIDGE. I thank my colleague from the Fourth District for yielding. He has the great privilege, my colleague from Kentucky, he has the great privilege of representing an outstanding university in academics and research and now a school that has added to their joy with another national championship. But as my colleague from Kentucky said, I think all of us need to keep it in perspective.

We are awful proud of the Tar Heels because they showed what, really, athletics are about: tenacity, having a commitment for excellence and strong academics. UNC is one of those institutions that anchors the corner through the Research Triangle, one of the fine research universities in this country and one of the regions that employs an awful lot of our people.

So we are awful proud of the young men who come to North Carolina, who have added to the reputation of that

great UNC institution in bringing home a national championship.

I think for people who have played basketball, you can really appreciate what it takes, the pressures that are on those young men anywhere from 18 to 21 years of age, tremendous pressure over a full season and in several weeks leading to a championship where every game is a championship game. All you have to do is lose one game and you are out.

I don't know of any greater pressure that a young person can have, and yet they showed the kind of class, the kind of strength, tremendous will. A lot of congratulations go to the coach, to the university and especially to those young men.

Let me thank my colleague for bringing this resolution forward. I encourage all of my colleagues to join in supporting this resolution and congratulating an outstanding group of young men from all over the country who came to North Carolina to go to school, to get an education and play a sport that allowed them to get an education.

I think folks begin to forget sometimes what we are talking about are student athletes. They are students first and then athletes. I thank you for doing this resolution. I am proud to have an opportunity to join him in congratulating these young men and the alums for that.

I would close by saying that my daughter had our first grandson, she was a graduate, undergraduate, graduate school and law school, and the first thing she taught him to say was "Go Heels." She didn't even get him to say, "I am glad to see you, Granddaddy." It was "Go Heels."

Mr. CASTLE. Madam Speaker, I urge everybody to support this resolution, and I yield back the balance of our time.

Mr. PRICE of North Carolina. Madam Speaker, I appreciate the comments of my colleague. As you might guess, from what he said and the way he looks, he knows whereof he speaks when he talks about playing basketball at the collegiate level.

So we are grateful for these words of support and commend this resolution to all of our colleagues.

I yield back the balance of our time.

The SPEAKER pro tempore (Ms. BALDWIN). The question is on the motion offered by the gentleman from Colorado (Mr. POLIS) that the House suspend the rules and agree to the resolution, H. Res. 348.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. PRICE of North Carolina. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

### SUPPORTING GLOBAL YOUTH SERVICE DAYS

Mr. POLIS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 353) supporting the goals and ideals of Global Youth Service Days.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 353

Whereas Global Youth Service Days is an annual public awareness and education campaign that highlights the valuable contributions that young people make to their communities year-round;

Whereas the goals of Global Youth Service Days are to—

(1) mobilize the youth of the United States to identify and address the needs of their communities through community service and service-learning opportunities;

(2) support young people in embarking on a lifelong path of volunteer service and civic engagement; and

(3) educate the public, the media, and policymakers about contributions made by young people as community leaders throughout the year;

Whereas Global Youth Service Days, a program of Youth Service America, is the largest service event in the world and in 2009 is being observed for the 21st consecutive year in the United States and for the 10th year in more than 100 countries;

Whereas young people in the United States and in many other countries are providing more volunteer service to their communities than in any other generation in history, thereby demonstrating that children and youth not only represent the future of the world, but are also leaders and assets today;

Whereas recent research shows that high quality, semester-long service-learning, when used as a teaching and learning strategy that integrates meaningful community service with academic curriculum, increases students' cognitive engagement, motivation to learn, school attendance, and academic achievement scores;

Whereas a fundamental and conclusive correlation exists between youth service, character development, lifelong adult volunteering, philanthropy, and other forms of civic engagement;

Whereas community service and service-learning provide opportunities for youth to apply their knowledge, idealism, energy, creativity, and unique perspectives to improve local communities by addressing critical issues such as poverty, hunger, illiteracy, education, natural disasters, climate change, and many others;

Whereas a growing number of Global Youth Service Days projects involve youth working collaboratively across national boundaries to address global issues, to increase intercultural understanding, and to promote the sense that they are global citizens;

Whereas Global Youth Service Day engages millions of young people worldwide with the support of 50 International Coordinating Committee member organizations, over 150 U.S. National Partners, 75 local and statewide Global Youth Services Days lead agencies, and thousands of local organizers; and

Whereas both young people and their communities will benefit greatly from expanded opportunities for youth to engage in volun-

teer community service and service-learning: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes and commends the significant contributions of youth of the United States and encourages the cultivation of a civic bond between young people dedicated to serving their neighbors, their communities, and the Nation;

(2) supports the goals and ideals of Global Youth Service Days 2009; and

(3) calls on the citizens of the United States to—

(A) observe the day by encouraging youth to participate community service and service-learning projects and by joining them in such projects;

(B) recognize the volunteer efforts of the young people of the United States throughout the year; and

(C) support the volunteer efforts of young people and engage them in meaningful community service, service-learning, and decision-making opportunities today as an investment in the future of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. POLIS) and the gentleman from Delaware (Mr. CASTLE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado.

#### GENERAL LEAVE

Mr. POLIS. Madam Speaker, I request 5 legislative days during which Members may revise and insert extraneous materials on H. Res. 353 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I rise today in support of House Resolution 353, a resolution to support the goals and ideals of Global Youth Service Days.

Global Youth Service Days is an annual global event that highlights and celebrates the ongoing contributions of youth to their communities through volunteer service and service learning. Just last month, President Obama signed the Edward M. Kennedy Serve America Act, which reauthorized programs that support national and community service, including the goal of tripling the number of youth volunteers in our communities.

Service learning extends the classroom into the community. It provides young people with the opportunity to give back locally, as well as offer real-life applications to prepare them for their lives.

Global Youth Service Days takes that one step further by promoting projects that encourage youth to work collaboratively across national boundaries to address global issues, to increase intercultural understanding and to promote the sense that they are global citizens.

Global Youth Service Days is the largest service event in the world, and in 2009 it's being observed for the 21st consecutive year in the United States, as well as for the 10th year in more

than 100 countries. Over the past 21 years, Global Youth Service Days has brought together more than 40 million people in thousands of communities worldwide.

The benefits of service for young people are countless. High quality semester-long service learning, when used as a teaching and learning strategy that integrates meaningful community service with academic curriculum, increases students' cognitive engagement, motivation to learn, school attendance and academic achievement.

Opportunities like Global Youth Service Day provide avenues for youth to apply their knowledge, idealism, energy, creativity and unique perspectives to improve local communities by addressing critical issues such as poverty, hunger, illiteracy, education, natural disasters, climate change and more. Past Global Youth Service Days have taken place in the United States as well as around the world.

In Colorado's Second Congressional District that I have the honor to represent, the weekend before last I celebrated Global Youth Service Days with Project YES in Lafayette, which hosted one of 75 major worldwide events and joined over 600 volunteers, who helped out Boulder County organizations such as the Emergency Family Assistance Association, Kids' Park in Lafayette, Sister Carmen Community Center and several local schools. I was thrilled to see the motivation and excitement that these young people had for improving our communities.

Young people and teachers in Tarija, Bolivia, addressed the public health issues surrounding unsanitary drinking water. Young people and teachers in Kuchinarai, Thailand, engaged 55 children who were orphaned by AIDS in a week-long summer camp focused on education, life skills, leadership, and self-esteem.

Both young people and their communities benefit greatly from expanded opportunities for youth to engage in community service and service learning.

Madam Speaker, this resolution serves to recognize and commend the significant contributions of the youth of the United States and to support the goals and ideals of Global Youth Service Days 2009 internationally.

I would like to thank Representative DELAURO for introducing this legislation, and I urge my colleagues to support the bill.

I reserve the balance of my time.

□ 1415

Mr. CASTLE. I yield myself such time as I may consume.

I rise in support of House Resolution 353, a Resolution Supporting the Goals and Ideals of Global Youth Service Days. Organized by Youth Service America, the National Youth Leadership Council, and Global Youth Action Network, and sponsored in the United States by the State Farm Companies Foundation, Global Youth Services

Day provides young people with an important opportunity to serve their local communities around the world.

Held every year during one weekend in April, over 100 countries participate in Global Youth Service Days. This year, young people from around the world rolled up their sleeves and partnered with various nonprofits and faith-based organizations to dedicate their time during the weekend of April 24 through April 26. Some past events include the following projects:

In Corona, California, youth studied and delivered reports on local areas' disaster preparedness. These reports led to an event dedicated to raising public awareness about homelessness and natural disasters.

Here in Washington, D.C., youth from various faith-based communities partnered with Habitat for Humanity to help with housing needs in Northeast D.C. and worked on a shoreline cleanup along the Anacostia River.

In Bolivia, with the help of a Disney Minnie Grant, youth were trained as public health educators to facilitate workshops to educate the community on public health issues surrounding unsanitary drinking water.

In Zimbabwe, youth volunteers refurbished 35 rural schools, worked to clean up parts of one of the cities in the country, and conducted an HIV/AIDS awareness campaign.

Introducing our young people to true volunteerism will help build a sense of civic duty early in their lives, which will lead them to become more civic-minded citizens, citizens who will continue to donate their time and skills to their local communities in the future as they get older. For that reason, I rise in support of House Resolution 353 and urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. POLIS. Madam Speaker, I am pleased to recognize the gentlewoman from Connecticut (Ms. DELAURO) for 4 minutes.

Ms. DELAURO. Madam Speaker, I rise in support of this Resolution Honoring and Supporting the Goals and Ideals of Global Youth Service Days, held earlier this spring from April 24 through 26. With this resolution, we recognize the contributions that young people make to their communities and our Nation and across the globe.

For generations, during times of great crisis and need throughout our Nation, Americans have stepped up and served their country and their communities. Today, with soaring unemployment, stagnant wages, rising health care costs, and the financial market in crisis, this is one of those moments. To confront its dire challenges, we have an urgent responsibility to act, but no one person or single solution will fix this crisis alone. If we are serious about getting our Nation back on track, we must give everyone the opportunity to do their part, especially young people, our next generation of leaders.

Global Youth Service Day is a public awareness and education campaign led

by Youth Service America, with the National Youth Leadership Council and the Global Youth Action Network, highlighting the valuable contributions that young people make to their communities all year long.

The goals of Global Youth Service Day are to mobilize youth as leaders in identifying and addressing the needs of their communities, to support youth in community service and civic engagement, and to educate the public, the media, and the policymakers about the year-round contributions of young people to their communities.

On the weekend of April 24–26, young people across the United States and around the world designed and carried out community service and service learning projects in areas ranging from literacy and mentoring, to the environment and energy conservation, to hunger and homelessness; 75 local and statewide Lead Agencies, 150 national partners, 50 international organizations crossing old boundaries, building new partnerships.

In addition to the tangible and positive results these projects have on our communities, research shows that sustained participation in community service and service learning leads to increased levels of academic achievement and increased civic engagement among our youth.

Last month, President Obama signed the Edward M. Kennedy Serve America Act, expanded AmeriCorps, changing the face of national service as we know it. I am proud that a number of the initiatives I introduced to engage middle school students in service were included in the bill and enacted into law.

Ultimately, it is all about the asking. People want to be asked to serve, and it is already paying off at a time when more Americans than ever are ready to help those left vulnerable by this devastating economic downturn. In the past 5 months, the Corporation for National Service has received 48,000 online applications, up 234 percent over the 14,000 applications it received during the same 5-month period a year ago.

Shirley Chisholm said that, "Service is the rent that you pay for room on this Earth," and that is true no matter what your age or place in this world.

This is a transformational moment in our history. And so today, with efforts like Global Youth Service Day and amazing opportunities like it every day around the world, we hope to mark a new beginning, ready to meet the responsibility again to the greater good and to our shared community.

Mr. CASTLE. Madam Speaker, I would encourage everyone to support the resolution.

I yield back the balance of my time.

Mr. POLIS. I would like to encourage my colleagues to support the resolution.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr.

POLIS) that the House suspend the rules and agree to the resolution, H. Res. 353.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. POLIS. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Evans, one of his secretaries.

#### HONORING UNIVERSITY OF CALIFORNIA AT MERCED GRADUATING CLASS

Mr. POLIS. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 396) honoring the graduating Class of 2009 at the University of California, Merced, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 396

Whereas the University of California system has become one of the largest and most highly acclaimed institutions of higher learning in the world;

Whereas Founding Chancellor Carol Tomlinson-Keasey, countless individuals, numerous elected officials, and an exceptional team of talented academic and administrative professionals shared a vision and drive to carry forward the University of California's historic mission of excellence in teaching, research, and public service by assembling to build the Nation's first major public research university of the 21st century in Merced, California;

Whereas half of UC Merced's students are the first in their families to attend college;

Whereas UC Merced celebrates having one of the most ethnically diverse research campuses in the Nation;

Whereas UC Merced increases educational access and opportunities for San Joaquin Valley students and will contribute to enhanced job opportunities, new business development, and economic growth throughout Central California;

Whereas 518 students will comprise the first-ever graduating class from UC Merced on May 16, 2009;

Whereas First Lady Michelle Obama will honor UC Merced's first graduating class by delivering the commencement speech; and

Whereas the class of 2009 helped establish a thriving campus and leave UC Merced highly qualified and ready to make deep and lasting marks in their communities as leaders of the 21st century: Now, therefore, be it

*Resolved*, That the House of Representatives commends the students comprising the first graduating class at the University of California, Merced, the class of 2009, for their

pioneering spirit, dedication, efforts, and desire to help establish an institution that puts Merced on the road to opportunity and promises to inspire the educational dreams of young people in this underserved region for generations to come.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. POLIS) and the gentleman from Delaware (Mr. CASTLE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado.

GENERAL LEAVE

Mr. POLIS. Madam Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on House Resolution 396 into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 396, which commends the students of the very first graduating class of the University of California, Merced. UC Merced represents the newest school in the flagship California university school system.

University of California, Merced was authorized by the California legislature in 1988 to address the higher education needs of the State's fastest growing region, the San Joaquin Valley, a population of over 3.5 million people. It provides adequate capacity for the UC system as a whole and ensures the students from the San Joaquin Valley have expanded options for higher education. High school graduates from the Valley have historically enrolled in the UC system at about half the rate of graduates from other major parts of the State.

The University of California, Merced opened September 5, 2005, as the 10th campus in the UC system. There are three schools, nearly 20 undergraduate majors, nine graduate programs, over 100 full-time faculty members, and dozens of lecturers now teaching hundreds of courses on campus. UC Merced is a thriving campus community of over 2,700 who actively participate in close to 100 clubs and assist the faculty in groundbreaking research opportunities.

In addition to its education mission, UC Merced is an important strategic investment in California's future. The new campus serves as an engine of economic growth throughout the San Joaquin Valley where unemployment and poverty rates exceed California averages.

The University also is helping first-generation college students receive a college education. Accessing a college education has never been more important in light of the current weak economy and job loss.

The Class of 2009 is a class of true pioneers, creating a student government to shape campus policy, campus clubs to enhance social interaction,

and cultivating a culture of social responsibility and civic engagement. These students demonstrated their passion and spirit in a letter-writing campaign to First Lady Michelle Obama. The First Lady acknowledged their zeal by agreeing to deliver the commencement speech this May to the Class of 2009.

Madam Speaker, once again I express my support for the UC Merced resolution, and I would like to thank my colleague, Mr. CARDOZA, for bringing this resolution forward, and I urge my colleagues to support this resolution.

I reserve the balance of my time.

Mr. CASTLE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of House Resolution 396, the resolution honoring the first graduating class of the University of California, Merced.

Opening on September 5, 2005, the University of California, Merced became the 10th campus in the University of California system and was founded with a mission to increase college-going rates among students in the San Joaquin Valley. San Joaquin Valley was California's largest and most populous region without a UC campus before the founding of UCM. With a total of just over 2,500 students currently, UCM is expected to grow to about 25,000 students within the next 30 years.

UCM charges just over \$8,000 in tuition and fees; 75 percent of UCM's students receive financial aid; 42 percent of the student population are eligible for Pell Grants. UCM offers 18 undergraduate majors and nine areas of emphasis for graduate students through their three schools, the School of Engineering, the School of Natural Sciences, and the School of Social Sciences, Humanities, and Arts. It also has plans to open a School of Medicine and a School of Management in upcoming years.

I offer my heartfelt congratulations to the 518 students who have persisted over the past 4 years and will walk across the stage to receive their degree, in acknowledgement of all their hard work, next week.

I would also like to take this opportunity to congratulate all of the young individuals who are graduating with their degrees from all of our country's institutions of higher learning. For all these reasons, I encourage my colleagues to vote in favor of this resolution.

I reserve the balance of my time.

Mr. POLIS. Madam Speaker, I am pleased to recognize the gentleman from California (Mr. CARDOZA) for 5 minutes.

(Mr. CARDOZA asked and was given permission to revise and extend his remarks.)

Mr. CARDOZA. Madam Speaker, I would like to thank my good friend, the gentleman from Colorado, for yielding me the time.

Madam Speaker, it is with the greatest pleasure and absolute tremendous pride that I rise today to recognize the first full senior class to graduate from the University of California at Merced.

Throughout my career in the legislature in California, and today as a Member of Congress, UC Merced has remained a top priority of mine. In fact, the entire community embraced this project and worked tirelessly for its creation.

Unemployment and poverty rates in the San Joaquin Valley continue to substantially exceed California averages, and high school graduates from the Valley have historically enrolled in the University of California system at about half the rate of graduates from other parts of California. Building the first UC campus in the San Joaquin Valley in Merced increases educational access and opportunity for the Valley's students and enhances job opportunities, new business development, and economic growth throughout Central California and, in fact, our State.

When my dear friend and founding chancellor, Carol Tomlinson-Keasey, was given the daunting task of building UC Merced, she rose to the occasion and she began to plan for a campus that would be infused with her personal strengths of unwavering commitment, innovation, and academic leadership. I believe Carol is watching today, and I wish her my best.

Carol worked collaboratively with government officials, the private sector, nonprofit organizations, and the UC Board of Regents to develop support for the campus and to secure needed funding and authority to develop the campus. Carol often said UC Merced would transform the lives of students in the San Joaquin Valley. Today is a testament to her vision and evidence to this transformation.

UC Merced has built its reputation as the most ethnically diverse institution in the UC system, as well as being the Nation's first major public research university built in the 21st century.

The class of 2009 has played an integral role in UC Merced's success. Whether they were building a student government from scratch or creating numerous clubs or assisting in groundbreaking research, every one of these students has demonstrated a commitment to excellence in academics and a passion to lead the community in the 21st century. At UC Merced, we call them the pioneers.

The best example of the spirit of these students is in their recent campaign to have First Lady Michelle Obama deliver their commencement speech.

□ 1430

Through their own determined efforts and with steadfast perseverance, the student body flooded the First Lady's office with valentines and letters asking her to come to Merced. And their hard work paid off when the First Lady recently announced that she

would attend the May 16 graduation to give that commencement speech. These passionate students have helped put Merced on the road to opportunity and promise to inspire the educational dreams of young people throughout the Central Valley for generations to come.

I urge my colleagues to join me in celebrating and honoring the historic achievement of UC Merced's first full graduating class, the Class of 2009.

I would also like to take a moment to thank the chairman of the Education and Labor Committee, Mr. MILLER, as well as his staff, for their hard work, which has made the dream of college a reality for so many students across the country.

I ask my colleagues to join me in support.

Mr. CASTLE. Madam Speaker, we have no further speakers at this time. I encouraging everybody to support the resolution, and I yield back the balance of our time.

Mr. POLIS. Madam Speaker, once again, I call upon my colleagues to support this resolution honoring UC Merced in supporting its students, faculty and the families served, and with that I would like to yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. POLIS) that the House suspend the rules and agree to the resolution, H. Res. 396, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

#### SUPPORTING NATIONAL PUBLIC WORKS WEEK

Ms. CORRINE BROWN of Florida. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 313) supporting the goals and ideals of National Public Works Week, and for other purposes.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 313

Whereas public works infrastructure, facilities, and services have far-reaching effects on the United States economy and the Nation's competitiveness in the world marketplace;

Whereas public works infrastructure, facilities, and services play a pivotal role in the health, safety, and quality of life of communities throughout the United States;

Whereas public works infrastructure, facilities, and services could not be provided without the skill and dedication of public works professionals, including engineers and administrators, representing State and local governments throughout the United States;

Whereas public works professionals design, build, operate, maintain, and protect the transportation systems, water supply infrastructure, sewage and refuse disposal systems, public buildings, and other structures and facilities that are vital to the citizens,

communities, and commerce of the United States;

Whereas the Corps of Engineers, in partnership with public port authorities, provides navigational improvements that link United States producers and customers with national and international markets;

Whereas the public waterways, including locks and dams constructed, operated, and maintained by the Corps of Engineers, provide a safe, energy efficient, and cost effective means of transporting goods and services;

Whereas the Corps of Engineers, in partnership with local public entities, provides levees, reservoirs, and other structural and nonstructural flood damage reduction measures that protect millions of families, homes, and businesses;

Whereas a recent analysis of the state of the United States infrastructure garnered an overall grade of "D";

Whereas every \$1 invested in public transportation generates as much as \$6 in economic returns to the Nation's economy;

Whereas the Nation's public transportation systems experienced record ridership levels in 2008 with 10,680,000,000 passenger trips taken;

Whereas infrastructure investment from all levels of government and the private sector is currently \$85,000,000,000 annually;

Whereas the capital asset program of the General Services Administration is authorized annually to provide Federal employees with necessary office space, courts of law, and other special purpose facilities;

Whereas since 1972 the Nation has invested more than \$250,000,000,000 in wastewater infrastructure facilities to establish a system that includes 16,000 publicly owned wastewater treatment plants, 100,000 major pumping stations, 600,000 miles of sanitary sewers, and 200,000 miles of storm sewers;

Whereas the Pipelines and Hazardous Materials Safety Administration is charged with the safe and secure movement of almost 1,200,000 daily shipments of hazardous materials by all modes of transportation and oversees the safety and security of 2,300,000 miles of gas and hazardous liquid pipelines, which account for 64 percent of the energy commodities consumed in the United States;

Whereas the National Railroad Passenger Corporation annually provides more than 28,000,000 people with intercity rail service;

Whereas 15 new runways, 2 end-around taxiways, and 1 reconfigured runway have opened at the Nation's busiest airports since 2001;

Whereas 3 of the Nation's busiest airports currently have airfield projects (1 new runway, 1 taxiway, and a reconfiguration) under construction to provide an additional 110,900 annual operations and to decrease average delays by approximately 1.5 minutes per operation;

Whereas in the report of the Department of Transportation entitled "2006 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance", the Department confirms that investment in the Nation's highway, bridge, and transit infrastructure has not kept up with growing demands on the system;

Whereas the National Surface Transportation Policy and Revenue Study Commission report estimates that the United States needs to invest up to \$340,000,000,000 annually for the next 50 years to upgrade the Nation's existing transportation network to a good state of repair and to build the more advanced facilities the Nation will require to remain competitive;

Whereas the National Surface Transportation Infrastructure Financing Commission report estimates that, without changes to current policy, revenues raised by all levels

of government for capital investment will total only 36 percent of the \$200,000,000,000 necessary each year to maintain and improve United States highways and transit systems;

Whereas the National Surface Transportation Infrastructure Financing Commission report also finds that there is a growing investment gap in the Nation's infrastructure that will total nearly \$400,000,000,000 in the years 2010 through 2015 and \$2,300,000,000,000 in the years 2010 through 2035; and

Whereas public works professionals are observing National Public Works Week from May 17 through 23, 2009: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of National Public Works Week;

(2) recognizes and celebrates the important contributions that public works professionals make every day to improve the public infrastructure of the United States and the communities that those professionals serve; and

(3) urges citizens and communities throughout the United States to join with representatives of the Federal Government in activities and ceremonies that are designed to pay tribute to the public works professionals of the Nation and to recognize the substantial contributions that public works professionals make to the Nation.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. CORRINE BROWN) and the gentleman from Arkansas (Mr. BOOZMAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

#### GENERAL LEAVE

Ms. CORRINE BROWN of Florida. Madam Speaker, I ask that all Members may have 5 legislative days to revise and extend their remarks on House Resolution 313.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. CORRINE BROWN of Florida. I rise in support of this resolution and yield myself as much time as I may consume.

Madam Speaker, each year during the month of May, we celebrate National Public Works Week. The public works professionals that we recognize today provide the country with essential services and keep our roads safe, our drinking water clean, and our Nation moving. House Resolution 313 honors American public works professionals and celebrates their work from May 17 through 23, 2009.

The public works professionals that we recognize today keep our country running in the most basic and fundamental ways possible. These professionals design, construct and rehabilitate our transportation system, water infrastructure, levees, public buildings and other structures and facilities that are an intimate part of everyday life in the United States.

It is appropriate to set aside 1 week each year to recognize the role that public works play in our daily life. Far too often we take for granted clean water or the method of transportation that we use to get to work. In fact, we

do not begin to fully appreciate these everyday conveniences until they fail us. What happened in New Orleans made the importance of public works crystal clear to everyone. Their lack of clean water, safe infrastructure and basic human needs was a stark reminder that we need to be vigilant to ensure that the citizens of our country get the critical services they need in their lives.

I visited New Orleans numerous times following the hurricane, and I want to encourage everyone not to forget New Orleans, because they still have a ton of rebuilding that needs to be done there and in the other gulf States.

As our Nation's infrastructure ages, it is increasingly likely that more and more elements of it will cease to be productive without renewed investment. It is for this reason that we must recognize the need to revitalize our infrastructure and find ways to make it more efficient.

House Resolution 313 honors the tens of thousands of public works professionals that serve the public quietly. These are the professionals that keep our country operating safely.

Madam Speaker, I support this resolution and hope that all my colleagues will support it as well.

I reserve the balance of my time.

Mr. BOOZMAN. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, investment in the Nation's highway, bridge and transit infrastructure has not kept up with growing demands on the system. The National Surface Transportation Policy and Revenue Study Commissions reported that the United States needs to invest up to \$340 billion annually over the next 50 years to upgrade the Nation's transportation network.

The Committee on Transportation and Infrastructure has jurisdiction over our water transportation system, which consists of 926 coastal and inland harbors maintained by the Corps of Engineers and 25,000 miles of inland and coastal commercial waterways. If we do not keep our harbors and waterways operating efficiently, we threaten our economic prosperity.

To meet these needs, as well as the need for flood protection and environmental restoration, passing a water resources development act for 2010 should be high on the committee's agenda. According to separate studies conducted by the Congressional Budget Office, EPA and municipal groups, the current rate of capital investment will not keep our wastewater treatment systems operational. State and local governments are spending approximately \$10 billion a year in capital investments in wastewater infrastructure. Most of this funding comes from the local taxpayers. However, to meet the needs of communities all over the United States, our Nation should be doubling that spending.

We can't continue to take our wastewater treatment facilities for granted.

Not only are they critical to protecting our health and the environment; they are critical to protecting our economy and our way of life. Public infrastructure plays a critical role in enhancing our quality of life, improving our environment and contributes to our economic prosperity.

We take these systems and the professionals, engineers and administrators for granted. So it is important for Congress to recognize the contribution they make to ensuring America remains the world's premier economic power.

I appreciate Mr. OBERSTAR in bringing this resolution forward. I urge all Members to support H. Res. 313.

I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. I yield as much time as she may consume to Ms. EDDIE BERNICE JOHNSON of Texas.

Ms. EDDIE BERNICE JOHNSON of Texas. Thanks to Ms. BROWN and Mr. BOOZMAN for handling this legislation today. Today we considered House Resolution 313, recognizing National Public Works Week from May 17 through May 23, 2009.

The National Public Works Week is celebrated in May each year. This resolution pays tribute to the professionals that design, build and maintain critical elements of our Nation's infrastructure. This body has always understood the value of these professionals and what they bring to our society. Professionals in the public works sector provide us with safe and efficient roads, access to clean drinking water and other essential services that keep our country running.

It has become increasingly important that Congress designate 1 week each year to recognize those who work in the public works sector. Many people take for granted the public transportation system they use to commute each day or the safe running water in their homes. Far too often we do not realize the importance of these systems until something goes wrong.

At the beginning of this Congress, the House passed a key water infrastructure bill, H.R. 1262, the Water Quality Investment Act of 2009. And this piece of legislation increases authorization levels of the Clean Water State Revolving Fund, grants provided by the Environmental Protection Agency to address combined and sanitary sewer overflows, as well as grants for alternative water source projects. These grants will go one step further to ensure that every American has access to clean water.

Madam Speaker, on February 17, 2009, President Obama signed into law the American Reinvestment and Recovery Act. The legislation provides for over \$64 billion in investment in our Nation's highway system, rail system and environmental infrastructure, not enough but steps in the right direction. It is investment in these areas as well as other critical infrastructure areas that will put America back to work

and see us out of these troubling economic times.

I'm grateful for the administrators, engineers and servicemen who continue to utilize their skills and dedication to provide these essential services to us.

I support this resolution and urge my colleagues to join me and give our public works professionals the recognition that they deserve.

Mr. BOOZMAN. Madam Speaker, I continue to reserve my time.

Ms. CORRINE BROWN of Florida. I yield back the balance of my time.

Mr. OBERSTAR. Madam Speaker, I rise today in support of H. Res. 313, supporting the goals and ideals of National Public Works Week.

H. Res. 313 recognizes the week of May 17 through 23, 2009, as National Public Works Week and pays tribute to our public works professionals. This week has been designated by a variety of groups to celebrate those public works professionals who keep our nation running in the most basic and fundamental ways.

These professionals protect our public health, our economy, and our communities. They design, build, and maintain vital transportation systems, levees, sewage systems, and public buildings that enhance everyday life in our nation.

Today, we are all eminently aware of the financial issues that Americans are facing. What we are less aware of, however, is the current state of our nation's failing infrastructure. Critical elements of our highway system, drinking water infrastructure, and wastewater treatment facilities, are failing us in dangerous ways.

To reinvigorate our economy, Congress passed the American Reinvestment and Recovery Act of 2009. This landmark piece of legislation invests in key infrastructure areas, is currently putting Americans back to work in the public works sector, and is improving the state of our nation's infrastructure.

The Recovery Act provides \$64.1 billion of investment in critical transportation and infrastructure programs. These investments include:

- \$27.5 billion for highways and bridges;
- \$8.4 billion for public transit capital investment;
- \$4 billion for state water pollution control revolving funds;
- \$4.6 billion for water-related infrastructure of the Corps of Engineers; and
- \$5.575 billion for federal buildings.

I am confident that investment in these areas will put more of our nation's public works professionals back to work and improve our economy. Just last week, the Committee on Transportation and Infrastructure held a hearing on the implementation of the Recovery Act and found that as of March 31st, more than 1,250 people have been put back to work in 263 highways projects in 30 states.

As a result of our efforts, more than 1,200 families can rest more easily with the promise of a paycheck, and can continue to make the day-to-day expenditures that will help turn this economy around.

This is the promise that Congress made to the American people—to invest wisely in our infrastructure systems and help the nation's economy recover.

We cannot underestimate the importance of infrastructure investment. Quite frankly, the



public works professionals that we are honoring today protect our citizens, our economy, and our communities.

Madam Speaker, I strongly support this resolution and urge my colleagues to do the same.

Mr. BOOZMAN. After thanking the chairlady for being here and Mr. OBERSTAR for bringing this bill forward, I urge support and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. CORRINE BROWN) that the House suspend the rules and agree to the resolution, H. Res. 313.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### SUPPORTING MOTORCYCLE SAFETY AWARENESS MONTH

Ms. CORRINE BROWN of Florida. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 269) supporting the goals of Motorcycle Safety Awareness Month.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 269

Whereas approximately 7,000,000 motorcyclists ride on our Nation's roads and highways to commute, travel, and recreate;

Whereas motorcycles are a valuable component of the transportation mix;

Whereas motorcycles are fuel-efficient and decrease congestion while having little impact on our Nation's transportation infrastructure;

Whereas the United States is the world leader in motorcycle safety, promoting education, licensing, use of protective gear, and motorcycle awareness;

Whereas the motorcycling community is committed to decreasing motorcycle crashes through licensing, training, education, enforcement, personal responsibility, and increased public awareness;

Whereas, according to a comprehensive study conducted on motorcycle crash causation in the United States the "Motorcycle Accident Cause Factors and Identification of Countermeasures" (Hurt Report), in approximately two-thirds of fatal car-motorcycle crashes, the driver of the car was at fault;

Whereas motorcycle awareness is beneficial to all road users and will help to decrease car-motorcycle crashes;

Whereas May is designated as "Motorcycle Safety Awareness Month"; and

Whereas the National Highway Traffic Safety Administration promotes Motorcycle Safety Awareness Month to encourage riders to always wear helmets and other protective gear, never drink and ride, be properly licensed, and get training and to remind all riders and motorists to always share the road: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the contribution motorcyclists make to the transportation mix;

(2) encourages all road users to be more aware of motorcycles and motorcyclists' safety;

(3) encourages all riders to receive appropriate training and practice safe riding skills; and

(4) supports the goals of Motorcycle Safety Awareness Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. CORRINE BROWN) and the gentleman from Tennessee (Mr. DUNCAN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

#### GENERAL LEAVE

Ms. CORRINE BROWN of Florida. Madam Speaker, I ask that all Members have 5 legislative days to revise and extend their remarks on House Resolution 269.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. CORRINE BROWN of Florida. I rise in support of this resolution and yield myself as much time as I may consume.

Madam Speaker, I rise today in support of House Resolution 269, which seeks to support the goals of Motorcycle Safety Awareness Month. I want to thank the gentlewoman from Arizona (Ms. GIFFORDS) for introducing this resolution and bringing much-needed attention to motorcycle safety in our Nation's roadways.

With May once again bringing warm weather, highways nationwide will witness the seasonal rise of motorcycle riders. The popularity of motorcycles climbs every year, with motorcycle registrations increasing by over 60 percent from 1998 to 2005.

In anticipation of this rise in ridership, it is important to educate the public about motorcycle safety. Public awareness of motorcycle safety benefits everyone sharing the roads, not just the motorcyclists, by reducing the number of car-motorcycle crashes.

In 2007, motorcycle fatalities increased for the 10th straight year in a row. According to the National Highway Traffic and Safety Administration, there were 5,154 motorcycle fatalities and 130,000 injuries in 2007. This tragic statistic is much higher than the 2,116 fatalities and 53 million injuries recorded in 1997.

One of the most effective ways to reduce motorcycle crash fatalities is to encourage riders to always wear a helmet. NHTSA estimates that helmet usage saved the lives of 1,784 motorcyclists in 2007 and could have saved another 800 lives if the motorcyclists killed in non-helmeted crashes had been wearing their helmet.

Throughout the month of May, safety groups across the Nation will host educational events and media campaigns highlighting these safety tools and promoting safe driving practices. Through these efforts, we can work to reduce the number of preventable tragedies that far too often devastate our communities.

While I was a State legislator, I fought hard to keep helmet laws in

place. But, sadly, my home State of Florida now allows people to ride without helmets. With greater freedom comes greater responsibility. Motorcycle accidents without helmets increase the insurance rates, burden the health care system and cause great pain for families.

I thank the gentlewoman from Arizona for introducing this resolution and urge my colleagues to join me in supporting its passage.

I reserve the balance of my time.

□ 1445

Mr. DUNCAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would like to voice my strong support for H. Res. 269, and I want to commend the primary sponsor of this resolution, Dr. BURNESS, from whom we will hear in just a few minutes.

The resolution expresses support for the goals of Motorcycle Safety Awareness Month. As the weather gets warmer across the country, our Nation's highways will experience a very large increase in motorcycle traffic. Because of the increased ridership and potential for accidents, each year May is designated Motorcycle Safety Awareness Month.

During the month, State agencies and motorcycle organizations across the country conduct a variety of activities to remind all riders and motorists to share the road. These activities also encourage riders to be properly licensed, receive proper training, never drink and drive, and wear protective head wear.

As the popularity of this mode of transportation increases, Motorcycle Safety Awareness Month will continue to help drivers of cars, trucks and motorcycles consider the safety of all users of the road.

In approximately two-thirds of fatal car versus motorcycle crashes, the driver of the car is at fault. The activities associated with this resolution will help make all users of our Nation's highways safer.

Additionally, this resolution recognizes the transportation benefits associated with motorcycling. Motorcycles are a fuel-efficient and congestion-decreasing mode of transportation, in addition to having little impact on our Nation's transportation infrastructure.

From a personal standpoint, Madam Speaker, I will tell you that a couple of years ago the youngest of our four children, my son who is now 23, he bought a used 1979 Honda motorcycle for, I think, \$625. Ever since that time, I have read almost every day in the Knoxville News Sentinel something I never noticed before, and that is that almost every day there seems to be a serious motorcycle wreck and often a motorcycle fatality reported on in our local daily newspaper. I have expressed my concern to my son about trying to be as safe as possible, and I believe thus far he is.



I have also noticed that the largest number of motorcycle riders now are people in their forties, fifties, and sixties. Knoxville has hosted several times something called the Honda Hoot where we have over 20,000 motorcyclists come in, most people middle aged and older. So motorcycle ridership is growing by leaps and bounds, and in many ways that is a good thing. But this resolution calls the attention of everyone, motorcycle riders and others, to the need to try to be as safe as possible when using this form of vehicle travel.

I support this resolution and hope it brings attention to motorcycle safety across our Nation's highways as well as the additional benefits of motorcycling. I urge all of my colleagues to support this resolution.

I reserve the balance of my time.

Ms. CORRINE BROWN of Florida. Madam Speaker, I reserve the balance of my time.

Mr. DUNCAN. Madam Speaker, it is my honor at this time to recognize the primary sponsor of this resolution, the gentleman from Texas, Dr. BURGESS, who has become such a leader in so many areas in this Congress, and this resolution is just another prime example. I recognize him for such time as he may consume.

Mr. BURGESS. I thank the gentleman for yielding.

Madam Speaker, I should start by offering special thanks to the Motorcycle Industry Council and the American Motorcyclist Association who have really helped shepherd this bill through the various congressional committees and through Congress.

Madam Speaker, \$300, that is what I paid for my first motorcycle. Throw in another \$20 for the helmet, the freedom, the fresh air, the open road in Texas, the exhilaration was priceless. There are a lot of bikers out there who know exactly what I feel about riding along on the open road, especially in a beautiful State like Texas.

Gas prices last year were on the rise. The gentleman from Tennessee mentioned better weather heading our way. More people across America are going to start using their motorcycles, using them to go to work, travel, or just go for a ride and enjoy the freedom that is uniquely American.

Yet as ridership increases, so does the risk for everyone on the road. Last year in the Lone Star State alone, preliminary numbers revealed that more than 9,100 motorcycle crashes accounted for more than 400 deaths.

As a doctor, I have been in plenty of emergency rooms and trauma centers. Take it from someone with nearly 25 years of experience in medicine, you don't want to be involved in a crash of any kind, but most particularly in a motorcycle accident. As the old saying goes, an ounce of prevention is worth a pound of cure. For bikers, prevention is riding the right way, and that is responsibly. That means getting trained. That means you don't do motocross on

suburban streets. That means you wear protective gear. That means you are aware of the cars and trucks around you.

For other drivers, drivers in the larger vehicles, prevention means keeping your eyes open and staying alert. Something as simple as conversing on the cell phone or comforting a crying child is a dangerous distraction that can lead to a crash as well.

Abundant caution for all drivers is essential and encouraged. But accidents do happen, and when they do, people need to receive proper medical care to treat their injuries.

That is why for the past several years I have introduced legislation to close a loophole on the HIPAA health care law that allows insurers to deny payment for injuries sustained while engaged in certain recreational activities, including riding a motorcycle.

The original point of this law was to make health plans more accountable to the people they cover, but these very same provisions are hurting the people they intend to help. Congress is charged with making laws to protect people. When these laws have the opposite effect, we also have the responsibility to fix them and fix them immediately. This loophole has been a problem for almost 12 years. The time has come to fix it.

I am grateful to say H.R. 1086 passed out of our committee earlier this year. It allows for increased transparency so that people are at least entitled to know the information of what their policy does or doesn't cover, and it must be spelled out up front in a language that everyone can understand.

The time has certainly come for riders and those who desire to ride in the future to listen to the wise advice of people, like our former Transportation Secretary, Secretary Mary Peters, who happened to ride a Harley herself, who was steadfast in her support for this legislation in many Congresses past, and I am sure would join with me today in supporting this legislation.

As I stand here in support of Motorcycle Safety Awareness Month, I am extremely cognizant of the current problems that the motorcycle industry has been having with the Consumer Product Safety Commission, specifically the bill H.R. 4040 that became the Consumer Product Safety Improvement Act that we passed in the last Congress.

Motorcycle dealers are small businesses, and we have put a burden on them that is, in fact, putting their business in danger of survival. And at a time when our economy is losing jobs, we can scarcely afford to continue that.

It is reported today that the President intends to provide the Consumer Product Safety Commission with a 71 percent increase in resources than what they had before to enforce the sweeping laws that were passed in the last Congress. No law has been more sweeping than the Consumer Product

Safety Improvement Act. Unfortunately, it has swept up businesses Congress did not intend to be swept away.

So yesterday, the Consumer Product Safety Commission issued a Federal Register notice providing a stay of enforcement for the motorcycle industry, but a stay is not enough. These businesses need the assurance that they will not be again required to close down. So I introduced a bill earlier this year, H.R. 1587, to permanently exclude the ATV, motorcycle and snowmobile industries from the application of the Consumer Product Safety Improvement Act because what child under the age of 12 is going to get lead poisoning from consuming the battery in their ATV? In fact, there is the potential for more harm to a child by having them ride an adult-sized ATV or motorcycle than there is the risk of the child consuming the battery that is contained within their motorcycle.

The Consumer Product Safety Commission cannot do the job that it needs to do without an administrator. It requires the leadership of the administrator of the Consumer Product Safety Commission to winnow out the intent of Congress and to put this law on the track on which it was intended.

So while I enthusiastically support President Obama for trying to give the Consumer Product Safety Commission more resources, what the Consumer Product Safety Commission really needs is leadership. I ask the President to nominate an administrator for the Consumer Product Safety Commission so they can provide the leadership to truly impute congressional intent.

If there ever was a bipartisan issue on which both Democrats and Republicans can agree to, it is the fact that the CPSC needs a new administrator, and some common sense needs to be applied to the act that we passed in the last Congress called the Consumer Product Safety Improvement Act.

Ms. CORRINE BROWN of Florida. Madam Speaker, I yield such time as he may consume to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY. Madam Speaker, I thank the gentlelady from Florida for yielding me this time.

I would like to speak on behalf of the Rhode Island Motorcycle Association. They are a group of individuals who have taught me a great deal about the safety issues that they face on a daily basis as they ride their motorcycles. They talk to me frequently about the mandates that they face in regards to the helmet laws that face them and others around the country.

Many of them say that of course helmets are a great safety factor if you are going up to 30 miles per hour; but most of them are driving well over 30 miles per hour, and after 30 miles per hour, a helmet won't do you much good.

When you look at the numbers here, about two-thirds of the fatal car-motorcycle crashes, it is the driver who is at fault. Many of them contend that

those who are wearing the helmets often do not have the peripheral vision to know when the car is coming at them. When they are going through traffic and they have this big, bulky helmet on them, they cannot hear nor see where those cars are because of the blockage of their peripheral vision because of the helmet.

Many of them like wearing the helmets, but they want the choice. That is all they ask for. In that case they said let them decide when they ride as to whether to wear a helmet or not. They simply want that choice.

I think, as a matter of safety, it is important for us to make sure that the other motorists on the road know to be aware of motorcyclists, and I enjoy seeing bumper stickers, "Beware of Motorcyclists on Road." I certainly am aware, whenever there is a motorcyclist pulling up, always to be aware to give them plenty of space, and I think most people would agree with me. But that is something in this bill that it calls for other motorcyclists to share the road and other motorists to share the road, that the National Highway Traffic Safety Administration should promote that much more as well. Seeing there are more motorcyclists on the road, it is important that we get this message across. And on behalf of the Rhode Island Motorcyclist Association, I am happy to send their message to Congress.

Ms. CORRINE BROWN of Florida. Madam Speaker, I reserve the balance of my time.

Mr. DUNCAN. Madam Speaker, I have no other speakers and so I would just like to urge passage of this very fine resolution, and I yield back the balance of my time.

Mr. OBERSTAR. Madam Speaker, I rise today in support of H. Res. 269, supporting the goals of Motorcycle Safety Awareness Month and bringing much needed attention to motorcycle safety on our nation's roadways. I want to thank the gentlewoman from Arizona (Ms. GIFFORDS) for bringing this important issue to the forefront.

With the arrival of spring's warmer weather, our nation's highways will once again experience a large increase in the number of motorcycle riders across the country. Motorcycles represent a valuable component of the transportation network in our nation. In 2006, there were more than 6.7 million registered motorcycles in the United States. Motorcycles continue to grow in popularity each year with motorcycle registrations increasing by over 60 percent from 1998 to 2005.

Motorcycles are a fuel-efficient and congestion-decreasing mode of transportation. This increasingly popular mode of transportation also requires greater attention to the safety concerns associated with riding. However, because of motorcycles' smaller size, motorcyclists are often hidden in a vehicle's blind spot. Public awareness of motorcycle safety benefits everyone that uses our nation's roadways, not just motorcyclists, because it can lead to a decrease in car-motorcycle crashes.

In 2007, motorcycle rider fatalities increased for the tenth straight year. According to the National Highway Traffic Safety Administration

(NHTSA), between 1997 and 2007 there were 38,566 motorcyclist fatalities and 756,000 motorcyclist injuries on U.S. roadways. In 2007 alone, there were 5,154 motorcycle fatalities and 103,000 injuries, up from 2,116 fatalities and 53,000 injuries in 1997. These statistics on motorcycle fatalities and injuries each year further illustrate the importance of public awareness and the need for greater education of all roadway users.

Per vehicle mile traveled, motorcyclists are approximately 35 times more likely than passenger car occupants to die in a motor vehicle traffic crash and 8 times more likely to be injured. Further, an estimated 142,000 motorcyclists have been killed since the enactment of the Highway Safety and National Traffic and Motor Vehicle Safety Act of 1966. A NHTSA-funded study, the "Motorcycle Accident Cause Factors and Identification of Countermeasures Study", found that in approximately two-thirds of fatal car-motorcycle crashes, the driver of the car was at fault.

Throughout Motorcycle Safety Awareness Month, riders are encouraged to become educated on the importance of following the rules of the roadway, being alert to other drivers, and always wearing protective gear such as a helmet. NHTSA estimates that helmets saved 1,784 motorcyclists' lives in 2007, and that 800 more lives could have been saved if the motorcyclists involved in fatal non-helmeted crashes had worn helmets.

These striking statistics paint a very clear portrait of the need to decrease motorcycle crashes through licensing, rider training, education, enforcement, personal responsibility, and increased public awareness.

I urge my colleagues to join me in agreeing to this resolution.

Ms. GIFFORDS. Madam Speaker, I am proud today to highlight May as "Motorcycle Safety Awareness Month, and to rise in support of House Resolution 269, which I introduced with my colleague from Texas, Congressman MICHAEL BURGESS.

Our resolution recognizes the importance of motorcycles, and encourages riders to always wear helmets and other protective gear, to never drink and ride and to be properly licensed and trained.

H. Res. 269 also serves as a reminder to all riders and motorists to always share the road respectfully.

I have been riding and racing motorcycles for over 20 years—so the issue of motorcycle safety is of great importance to me.

Sadly, it is true that motorcycles have a higher rate of fatal accidents than automobiles.

According to the U.S. Department of Transportation, motorcyclist fatalities increased by 57 percent between 2002 and 2007.

Motorcyclists are about 35 times more likely than passenger car occupants to die in a motor vehicle traffic crash and 8 times more likely to be injured.

As motorcyclists across the county gear up for the upcoming riding season, these startling statistics highlight the need for safety education.

They also reflect the growing popularity of motorcycles. Over the past decade, U.S. motorcycle sales have more than tripled.

In my home state of Arizona we have more than 150,000 registered motorcycles.

With over 300 days of sunshine in our state every year, you can imagine why so many Arizonans choose to ride their bikes!

There are many other reasons why motorcycles are so popular, but one explanation is simple economics: motorcycles offer a more fuel efficient—and cheaper way—of getting around.

According to the U.S. Department of Transportation, motorcycles consume 56% less fuel per mile traveled.

On average, motorcycles can get between 40 and 75 miles per gallon of gas.

I am proud that, as a motorcyclist, I can leave a smaller footprint on our earth by riding my bike.

I also want to take this opportunity to thank the Motorcycle Industry Council, the American Motorcyclist Association, and the Motorcycle Riders Foundation for all that they do to support motorcyclists.

I am pleased that the House will be considering H. Res. 269 today, and I urge its swift passage.

Thank you and Happy Motorcycle Safety Awareness Month!

Ms. CORRINE BROWN of Florida. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. CORRINE BROWN) that the House suspend the rules and agree to the resolution, H. Res. 269.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

#### SUPPORTING NATIONAL TRAIN DAY

Ms. CORRINE BROWN of Florida. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 367) supporting the goals and ideals of National Train Day.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

#### H. RES. 367

Whereas in May 1869, the "golden spike" was driven into the final tie at Promontory Summit, Utah, to join the Central Pacific and the Union Pacific Railroads, ceremonially completing the first transcontinental railroad and therefore connecting both coasts of the United States;

Whereas in highly populated regions Amtrak trains and infrastructure carry commuters to and from work in congested metropolitan areas providing a reliable rail option, reducing congestion on roads and in the skies;

Whereas for many rural Americans, Amtrak represents the only major intercity transportation link to the rest of the country;

Whereas passenger trains provide a more fuel-efficient transportation system thereby providing cleaner transportation alternatives and energy security;

Whereas intercity passenger rail was 18 percent more energy efficient than airplanes and 25 percent more energy efficient than automobiles on a per-passenger-mile basis in 2006;

Whereas Amtrak annually provides intercity passenger rail travel to over 25,000,000 Americans residing in 46 States;

Whereas an increasing number of people are using trains for travel purposes beyond commuting to and from work;

Whereas community railroad stations are a source of civic pride, a gateway to over 500 of our Nation's communities, and a tool for economic growth; and

Whereas Amtrak has designated May 9, 2009, as National Train Day to celebrate the way trains connect people and places: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the contribution trains make to the national transportation system;

(2) urges the people of the United States to recognize such a day as an opportunity to learn more about trains; and

(3) supports the goals and ideals of National Train Day as designated by Amtrak.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. CORRINE BROWN) and the gentleman from Pennsylvania (Mr. SHUSTER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida.

GENERAL LEAVE

Ms. CORRINE BROWN of Florida. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Res. 367.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. CORRINE BROWN of Florida. Madam Speaker, I rise in support of this resolution, and I yield myself such time as I may consume.

National Train Day celebrates the 140th anniversary of the golden spike, which was driven into the final tie in Utah, and marked the completion of our Nation's first transcontinental railroad in 1869.

□ 1500

Last year, I celebrated National Train Day by holding events throughout my district, including press conferences and events in Jacksonville, Winter Park, and the Sanford Auto Train station. We had a great turnout at all of the events, and I heard firsthand from people who use Amtrak every day to go to work and visit friends and families all over the country.

This year, I will be holding an event on Friday at my hometown station in Jacksonville, and I am planning a trip to New York in the very near future and hope other Members will join me. But we should celebrate Train Day every day, and I encourage Members to do events at their train stations throughout the year.

As Chair of the Subcommittee on Railroads, Pipelines, and Hazardous Materials, I have had the privilege to see firsthand passenger rail systems in other countries. I took the high-speed train from Brussels to Paris—200 miles in 1 hour and 15 minutes; from Barcelona to Madrid—350 miles in 2.5 hours. The advantage for travelers and the business community and others is tremendous.

We need to catch up with the world; and with gas prices continuing to increase steadily, now is the perfect time for us to make serious our investment in passenger rail.

Amtrak ridership and revenue have never been stronger. In 2008, Amtrak set a record for ridership, exceeding 28.7 million passengers. In the same year, ticket revenues increased by 14.2 percent, for more than \$1.7 billion. For my State of Florida, Amtrak expenditures for goods and services were over \$40 million last year, and we currently have over 700 Floridians as employees.

More than just a convenient way to travel, Amtrak is the most energy efficient. Rail travel is more efficient than cars or airplanes. According to U.S. Department of Energy data, Amtrak is 17 percent more efficient than domestic airline travel and 21 percent more efficient than auto travel.

Passenger rail also reduces global warming. The average passenger train produces 60 percent lower carbon emissions than cars, and 50 percent less than airplanes.

I travel all over the country and have conducted many transportation roundtable events that feature rail and its importance. Let me tell you that people love Amtrak and they love the train. It is a great way to commute to work, take cars off congested highways, and improve the environment. In many areas of the country, it is the only mode of public transportation. Let me repeat that: in many areas of the country, Amtrak is the only mode of public transportation available.

We still have a lot of work ahead of us with Amtrak, but we took a major step forward last year when we passed legislation reauthorizing Amtrak at a level that would allow it to grow and prosper, and earlier this year when we provided \$1.7 billion in stimulus funding for Amtrak, and \$8 billion for development of a high-speed rail corridor.

Major infrastructure improvements are still necessary to improve the safety and security of the system and its passengers and workers. Amtrak has and will continue to play a critical role in evacuating and transporting citizens during national emergencies. Unfortunately, it also is a prime target for those who wish to harm us, and we must provide resources to make the system less vulnerable.

Fifty years ago, President Eisenhower created the National Highway System that changed the way we travel in this country. Today, we need to do the same with our rail system; and with the Amtrak reauthorization and real funding for high-speed rail, we are doing that.

The United States used to have a first-class passenger rail system. However, after years of neglect, we are now the caboose—and they don't use cabooses anymore. The American people deserve better, and I believe our government's new commitment to Amtrak will go a long way to restore passenger rail service.

I encourage my colleagues to show their support for our Nation's rail system and its employees by holding events at their local commuter train stations anytime during the year.

I reserve the balance of my time.

Mr. SHUSTER. I yield myself such time as I may consume.

The ceremonial golden spike hammered at Promontory Summit, Utah, May 10, 1869, marked the completion of the transcontinental railroad, one of the Nation's greatest engineering masterpieces. It also marked the birth of what would become the greatest rail network in the world and 140 years later, we are still reaping the benefits of our ancestors' vision.

The United States now has over 140,000 miles of railroads, making up the transportation backbone of this Nation. Our railroads are environmentally friendly, producing significantly less pollution than other modes of transportation. A train can haul one ton of freight 436 miles on one gallon of diesel fuel, and it is three times cleaner than other modes. Trains also help to alleviate the congestion on our crowded highways. One train can actually take 280 trucks off the road.

The deregulation law of 1980, the Staggers Act, has been an unparalleled success. We must take great care to protect the regulatory environment that has allowed the railroads to thrive and resist any effort that would undo all of the progress that this industry has made in efficiency and safety.

On the passenger rail side, last year President Bush signed into law an Amtrak reauthorization that will take this country into the next generation of passenger rail service. The law makes important reforms to Amtrak and also creates a role for the private sector in the passenger rail industry.

The Amtrak reauthorization, the first in a decade, created a framework for a public-private partnership for the construction of true high-speed rail corridors all over this Nation. High-speed rail promises safe, fast, and convenient service—all the while helping to alleviate aviation and highway congestion we face in this country.

The continued success of the railroad industry is vital to this country's economy. I would therefore urge passage of H. Res. 367, which would create National Train Day on May 9.

Mr. OBERSTAR. Madam Speaker, I rise today to highlight the importance of intercity passenger rail in the United States and express my support for Amtrak in conjunction with its 2nd Annual National Train Day on May 9, 2009.

National Train Day was established to celebrate train travel in America on the anniversary of completing the first transcontinental railroad 140 years ago. To mark the day, Amtrak is hosting free events across the country to teach adults and children about Amtrak and the benefits of intercity passenger rail.

Passenger rail's benefits indeed are myriad. The Department of Transportation has described the problem of congestion on our highways and in the air as "chronic". Amtrak removes almost 8 million cars from the road annually. Airports are also experiencing significant delays, with more than 550,000 flights departing or arriving late in 2008. Amtrak eases air congestion by eliminating the need for 50,000 fully loaded airplanes each year.

Amtrak is substantially more environmentally friendly than automobiles or airplanes. In fact, according to the World Resources Institute, rail transportation produces 57 percent less carbon emissions than airplanes, and 40 percent less carbon emissions than cars. Additionally, Amtrak has taken decisive action to reduce its carbon footprint as well, committing to reduce emissions from its diesel locomotives by 6 percent from 2003 through 2010, the largest voluntary emissions commitment in the United States.

Amtrak serves more than 500 destinations in 46 States over 21,000 miles of routes, and employs more than 18,000 people. Amtrak has come a long way since its inception in 1971 and now its beginning its 39th year of operation. The service has faced many challenges over the years, but continues to grow stronger with each passing year. Despite past uneven Federal investment, Amtrak has persevered, achieving many successes in improved operating efficiency, increased ridership, and higher revenue.

In fact, in FY 2008, Amtrak set new ridership and revenue records for the sixth year in a row, exceeding 28.7 million passengers and \$2.45 billion in revenue. These increases are being enjoyed across Amtrak's entire network. In FY 2008, Amtrak held a 62 percent share of the air/rail market between New York and Washington, and a 47 percent share of the air/rail market between New York and Boston, up 6 percent in each market from FY 2007. This increase shows that, where Amtrak is provided the resources to succeed, it provides a triptime competitive alternative to air and car.

At a time when jobs are being lost, the transportation network is getting more congested, and global climate change is taking its toll, supporting passenger rail has never been so critical. Recognizing the need for passenger rail investment, Congress passed the Passenger Rail Investment and Improvement Act last fall, reigniting America's commitment to both intercity and high-speed passenger rail. Among the steps taken to broaden our use of passenger rail, this legislation provided capital grants for Amtrak to bring the Northeast Corridor and other rail network infrastructure to a state-of-good-repair, encouraged intercity passenger rail investment through an 80–20 matching grant program, and created a grant program to finance the construction and equipment for 11 authorized high-speed rail corridors.

The American Recovery and Reinvestment Act gave high-speed and intercity passenger rail another immediate boost, providing \$8 billion in capital grants to States for development of high-speed rail and another \$1.3 billion for Amtrak. This funding is setting us on a course to link regions of the country with a safe, fast, and environmentally friendly mode of transportation. It truly is an exciting and historic time for our transportation network.

Madam Speaker, I lend my strong support to Amtrak and the commemoration of National

Train Day on May 9, 2009, and encourage all of my colleagues to use this excellent opportunity to reflect on the benefits that Amtrak and intercity passenger rail provide to our Nation.

Mr. SHUSTER. I yield back the balance of my time.

Ms. CORRINE BROWN of Florida. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. CORRINE BROWN) that the House suspend the rules and agree to the resolution, H. Res. 367.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the yeas have it.

Ms. CORRINE BROWN of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Resolution 299, by the yeas and nays;

House Resolution 338, by the yeas and nays;

House Resolution 353, de novo.

Proceedings on House Resolutions 348 and 367 will resume on another day.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PUBLIC SERVICE RECOGNITION WEEK

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 299, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. LYNCH) that the House suspend the rules and agree to the resolution, H. Res. 299.

The vote was taken by electronic device, and there were—yeas 419, answered "present" 4, not voting 10, as follows:

[Roll No. 231]  
YEAS—419

Abercrombie  
Ackerman  
Aderholt  
Adler (NJ)  
Akin

Alexander  
Altmire  
Andrews  
Arcuri  
Austria

Baca  
Bachmann  
Bachus  
Baird  
Baldwin

Barrett (SC)  
Barrow  
Bartlett  
Barton (TX)  
Bean  
Becerra  
Berkley  
Berman  
Berry  
Biggert  
Billbray  
Bilirakis  
Bishop (GA)  
Bishop (NY)  
Bishop (UT)  
Blumenauer  
Blunt  
Boccheri  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boren  
Boswell  
Boustany  
Boyd  
Brady (PA)  
Brady (TX)  
Braley (IA)  
Bright  
Broun (GA)  
Brown (SC)  
Brown, Corrine  
Brown-Waite,  
Ginny  
Buchanan  
Burgess  
Burton (IN)  
Butterfield  
Buyer  
Calvert  
Camp  
Cantor  
Cao  
Capps  
Cardoza  
Carnahan  
Carney  
Carson (IN)  
Carter  
Cassidy  
Castle  
Castor (FL)  
Chaffetz  
Chandler  
Childers  
Clarke  
Clay  
Cleaver  
Clyburn  
Coble  
Coffman (CO)  
Cohen  
Cole  
Connolly (VA)  
Cooper  
Costa  
Costello  
Courtney  
Crenshaw  
Crowley  
Cuellar  
Culberson  
Cummings  
Dahlkemper  
Davis (AL)  
Davis (CA)  
Davis (IL)  
Davis (KY)  
Davis (TN)  
DeFazio  
DeGette  
Delahunt  
DeLauro  
Dent  
Diaz-Balart, L.  
Diaz-Balart, M.  
Dicks  
Doggett  
Donnelly (IN)  
Doyle  
Dreier  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ehlers  
Ellison  
Ellsworth

Emerson  
Engel  
Eshoo  
Etheridge  
Fallin  
Farr  
Fattah  
Filner  
Flake  
Fleming  
Forbes  
Foster  
Foxy  
Frank (MA)  
Franks (AZ)  
Frelinghuysen  
Fudge  
Gallegly  
Garrett (NJ)  
Gerlach  
Giffords  
Gingrey (GA)  
Gohmert  
Gonzalez  
Goodlatte  
Gordon (TN)  
Granger  
Graves  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Guthrie  
Gutierrez  
Hall (NY)  
Hall (TX)  
Halvorson  
Hare  
Harman  
Harper  
Hastings (FL)  
Hastings (WA)  
Heinrich  
Heller  
Hensarling  
Herger  
Herseth Sandlin  
Higgins  
Hill  
Himes  
Hinchey  
Hinojosa  
Hirono  
Hodes  
Hoekstra  
Holden  
Holt  
Honda  
Hoyer  
Hunter  
Inglis  
Inslee  
Israel  
Issa  
Jackson (IL)  
Jackson-Lee  
(TX)  
Jenkins  
Johnson (GA)  
Johnson (IL)  
Johnson, E. B.  
Johnson, Sam  
Jones  
Jordan (OH)  
Kagen  
Kanjorski  
Kaptur  
Kennedy  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kissell  
Klein (FL)  
Kline (MN)  
Kosmas  
Kratovil  
Kucinich  
Lamborn  
Lance  
Langevin  
Larsen (WA)  
Larson (CT)

Latham  
LaTourette  
Latta  
Lee (CA)  
Lee (NY)  
Levin  
Lewis (CA)  
Lewis (GA)  
Linder  
Lipinski  
LoBiondo  
Loeb  
Loehsack  
Lofgren, Zoe  
Lowey  
Lucas  
Luetkemeyer  
Lujan  
Lummis  
Lungren, Daniel  
E.  
Lynch  
Mack  
Maffei  
Maloney  
Manullo  
Marchant  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matheson  
Matsui  
McCarthy (CA)  
McCarthy (NY)  
McCaul  
McClintock  
McCollum  
McCotter  
McDermott  
McGovern  
McHenry  
McHugh  
McIntyre  
McKeon  
McMahon  
McMorris  
Rodgers  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Mica  
Michaud  
Miller (FL)  
Miller (MI)  
Miller (NC)  
Miller, Gary  
Miller, George  
Minnick  
Mitchell  
Mollohan  
Moore (KS)  
Moore (WI)  
Moran (KS)  
Moran (VA)  
Murphy (CT)  
Murphy (NY)  
Murphy, Patrick  
Murphy, Tim  
Myrick  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nunes  
Nye  
Oberstar  
Obey  
Olson  
Olver  
Ortiz  
Pallone  
Pastor (AZ)  
Paul  
Paulsen  
Payne  
Pence  
Perlmutter  
Perriello  
Peters  
Peterson  
Petri  
Pingree (ME)  
Pitts  
Platts  
Poe (TX)  
Polis (CO)  
Pomeroy  
Posey  
Price (GA)

Price (NC)	Schrader	Thompson (PA)	Austria	Doggett	Klein (FL)	Peters	Sarbanes	Terry
Putnam	Schwartz	Thornberry	Baca	Donnelly (IN)	Kline (MN)	Peterson	Scalise	Thompson (CA)
Quigley	Scott (GA)	Tiahrt	Bachmann	Doyle	Kosmas	Petri	Schakowsky	Thompson (MS)
Radanovich	Scott (VA)	Tiberti	Bachus	Dreier	Kratovich	Pingree (ME)	Schauer	Thompson (PA)
Rahall	Sensenbrenner	Tierney	Baird	Driehaus	Kucinich	Pitts	Schiff	Thornberry
Rangel	Serrano	Titus	Baldwin	Duncan	Lamborn	Platts	Schmidt	Tiahrt
Rehberg	Sessions	Tonko	Barrett (SC)	Edwards (MD)	Lance	Poe (TX)	Schock	Tiberi
Reichert	Sestak	Towns	Barrow	Edwards (TX)	Langevin	Polis (CO)	Schrader	Tierney
Reyes	Shadegg	Tsongas	Bartlett	Ehlers	Larsen (WA)	Pomeroy	Schwartz	Titus
Richardson	Shea-Porter	Turner	Barton (TX)	Ellison	Larson (CT)	Posey	Scott (GA)	Tonko
Rodriguez	Sherman	Upton	Bean	Ellsworth	Latham	Price (GA)	Scott (VA)	Towns
Roe (TN)	Shimkus	Van Hollen	Becerra	Emerson	LaTourette	Price (NC)	Sensenbrenner	Tsongas
Rogers (AL)	Shuler	Velázquez	Berkley	Engel	Latta	Putnam	Serrano	Turner
Rogers (KY)	Shuster	Visclosky	Berman	Eshoo	Lee (CA)	Quigley	Sessions	Upton
Rogers (MI)	Simpson	Walden	Berry	Etheridge	Lee (NY)	Radanovich	Sestak	Van Hollen
Rohrabacher	Sires	Walz	Biggert	Fallin	Levin	Rahall	Shadegg	Velázquez
Rooney	Skelton	Wamp	Bilibray	Farr	Lewis (CA)	Rangel	Shea-Porter	Visclosky
Ros-Lehtinen	Slaughter	Wasserman	Bilirakis	Fattah	Lewis (GA)	Rehberg	Sherman	Walden
Roskam	Smith (NE)	Schultz	Bishop (GA)	Flake	Linder	Reyes	Shuler	Walz
Ross	Smith (NJ)	Waters	Bishop (NY)	Fleming	Lipinski	Richardson	Shuster	Wamp
Rothman (NJ)	Smith (TX)	Watson	Bishop (UT)	Forbes	LoBiondo	Rodriguez	Simpson	Wasserman
Roybal-Allard	Smith (WA)	Watt	Blackburn	Poster	Loebsock	Roe (TN)	Sires	Schultz
Royce	Snyder	Waxman	Blumenauer	Fox	Lofgren, Zoe	Rogers (AL)	Skelton	Waters
Ruppersberger	Souder	Weiner	Blunt	Fox	Lowey	Rogers (KY)	Slaughter	Watson
Rush	Space	Welch	Bocieri	Frank (MA)	Lucas	Rogers (MI)	Smith (NE)	Watt
Ryan (OH)	Speier	Westmoreland	Boehner	Franks (AZ)	Luetkemeyer	Rohrabacher	Smith (NJ)	Waxman
Ryan (WI)	Spratt	Wexler	Bonner	Frelinghuysen	Luján	Rooney	Smith (TX)	Weiner
Salazar	Stearns	Whitfield	Bono Mack	Fudge	Lummis	Ros-Lehtinen	Smith (WA)	Welch
Sánchez, Linda T.	Stupak	Wilson (OH)	Boozman	Gallegly	Lungren, Daniel E.	Roskam	Snyder	Westmoreland
Sanchez, Loretta	Sutton	Wilson (SC)	Boren	Garrett (NJ)	Lynch	Roskam	Souder	Wexler
Sarbanes	Tanner	Wittman	Boswell	Gerlach	Mack	Rothman (NJ)	Space	Whitfield
Scalise	Tauscher	Wolf	Boucher	Giffords	Maffei	Roybal-Allard	Speier	Whitfield
Schakowsky	Taylor	Woolsey	Boustany	Gingrey (GA)	Maloney	Royce	Spratt	Wilson (OH)
Schauer	Teague	Wu	Boyd	Gohmert	Manzullo	Ruppersberger	Stearns	Wilson (SC)
Schiff	Thompson (CA)	Yarmuth	Brady (PA)	Gonzalez	Marchant	Rush	Stupak	Wittman
Schmidt	Thompson (MS)	Young (AK)	Brady (TX)	Goodlatte	Markey (CO)	Ryan (OH)	Sullivan	Wolf
Schock	Young (FL)		Braley (IA)	Gordon (TN)	Markey (MA)	Ryan (WI)	Sutton	Woolsey
			Bright	Granger	Marshall	Salazar	Tanner	Wu
			Brown (GA)	Graves	Massa	Sánchez, Linda T.	Tauscher	Yarmuth
			Brown (SC)	Grayson	Matheson		Taylor	Young (AK)
			Brown, Corrine	Green, Al	Matsui		Teague	Young (FL)
			Brown-Waite, Ginny	Green, Gene	McCarthy (CA)			
			Buchanan	Griffith	Grijalva			
			Burgess	Guthrie	Guthrie			
			Burton (IN)	Gutierrez	Hall (NY)			
			Butterfield	Hall (TX)	Halvorson			
			Buyer	Hare	Hastings (FL)			
			Calvert	Harman	Hastings (WA)			
			Camp	Harper	Heinrich			
			Campbell	Hastings (FL)	Heller			
			Cantor	Hastings (WA)	Hensarling			
			Cao	Heinrich	Herge			
			Capps	Heller	Herseth Sandlin			
			Cardoza	Hensarling	Higgins			
			Carnahan	Herge	Hill			
			Carney	Herseth Sandlin	Himes			
			Carson (IN)	Higgins	Hinche			
			Carter	Hill	Hinojosa			
			Cassidy	Himes	Hirono			
			Castle	Hinche	Hodes			
			Castor (FL)	Hinojosa	Hoekstra			
			Chaffetz	Hirono	Holden			
			Chandler	Hodes	Holt			
			Childers	Hoekstra	Honda			
			Clarke	Holden	Hoyer			
			Clay	Holt	Hunter			
			Cleaver	Honda	Inglis			
			Clyburn	Hoyer	Inslee			
			Coble	Hunter	Issa			
			Coffman (CO)	Inglis	Jackson (IL)			
			Cohen	Inslee	Jackson-Lee			
			Cole	Issa	(TX)			
			Conaway	Jackson (IL)	Jenkins			
			Connolly (VA)	Jackson-Lee	Johnson (GA)			
			Cooper	(TX)	Johnson (IL)			
			Costa	Jenkins	Johnson, E. B.			
			Costello	Johnson (GA)	Johnson, Sam			
			Courtney	Johnson (IL)	Jones			
			Crenshaw	Johnson, E. B.	Jordan (OH)			
			Crowley	Johnson, Sam	Kagen			
			Cuellar	Jones	Kanjorski			
			Culberson	Jordan (OH)	Kaptur			
			Cummings	Kagen	Kennedy			
			Dahlkemper	Kanjorski	Kildee			
			Davis (AL)	Kaptur	Kilpatrick (MI)			
			Davis (CA)	Kennedy	Kilroy			
			Davis (IL)	Kildee	Kind			
			Davis (KY)	Kilpatrick (MI)	King (IA)			
			Davis (TN)	Kilroy	King (NY)			
			DeFazio	Kind	Kingston			
			DeGette	King (IA)	Kirk			
			Delahunt	King (NY)	Kirkpatrick (AZ)			
			DeLauro	Kingston	Kissell			
			Dent	Kirk				
			Diaz-Balart, L.	Kirkpatrick (AZ)				
			Diaz-Balart, M.	Kissell				
			Dicks					
			Dingell					

## ANSWERED "PRESENT"—4

Blackburn Conaway  
Campbell Neugebauer

## NOT VOTING—10

Boucher Deal (GA) Pascrell  
Capito Dingell Stark  
Capuano Fortenberry  
Conyers Murtha

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining in this vote.

□ 1534

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORTING NATIONAL  
COMMUNITY COLLEGE MONTH

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution, H. Res. 338, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. POLIS) that the House suspend the rules and agree to the resolution, H. Res. 338.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 9, as follows:

[Roll No. 232]

YEAS—424

Abercrombie Adler (NJ) Altmire  
Ackerman Akin Andrews  
Aderholt Alexander Arcuri

## NOT VOTING—9

Capito Deal (GA) Murtha  
Capuano Fortenberry Pascrell  
Conyers Israel Stark

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining in this vote.

□ 1545

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORTING GLOBAL YOUTH  
SERVICE DAYS

The SPEAKER pro tempore. The unfinished business is the question on suspending the rules and agreeing to the resolution, H. Res. 353.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. POLIS) that the House suspend the rules and agree to the resolution, H. Res. 353.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. CONNOLLY of Virginia. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 424, noes 0, not voting 9, as follows:

[Roll No. 233]

AYES—424

Abercrombie Davis (IL) Jordan (OH)  
 Ackerman Davis (KY) Kagen  
 Aderholt Davis (TN) Kanjorski  
 Adler (NJ) DeFazio Kaptur  
 Akin DeGette Kennedy  
 Alexander Delahunt Kildee  
 Altmire DeLauro Kilpatrick (MI)  
 Andrews Dent Kilroy  
 Arcuri Diaz-Balart, L. Kind  
 Austria Diaz-Balart, M. King (IA)  
 Baca Dicks King (NY)  
 Bachmann Dingell Kingston  
 Bachus Doggett Kirk  
 Baird Donnelly (IN) Kirkpatrick (AZ)  
 Baldwin Doyle Kissell  
 Barrett (SC) Dreier Klein (FL)  
 Barrow Driehaus Kline (MN)  
 Bartlett Duncan Kosmas  
 Barton (TX) Edwards (MD) Kratovil  
 Bean Edwards (TX) Kucinich  
 Becerra Ehlers Lamborn  
 Berkley Ellison Lance  
 Berman Ellsworth Langevin  
 Berry Emerson Larsen (WA)  
 Biggert Engel Larson (CT)  
 Bilbray Eshoo Latham  
 Bilirakis Etheridge LaTourrette  
 Bishop (GA) Fallin Latta  
 Bishop (NY) Farr Lee (CA)  
 Bishop (UT) Fattah Lee (NY)  
 Blackburn Filner Levin  
 Blumenauer Flake Lewis (CA)  
 Blunt Fleming Lewis (GA)  
 Boccieri Forbes Linder  
 Boehner Foster Lipinski  
 Bonner Foxx LoBiondo  
 Bono Mack Frank (MA) Loebsock  
 Boozman Franks (AZ) Lofgren, Zoe  
 Boren Frelinghuysen Lowey  
 Boswell Fudge Lucas  
 Boucher Gallegly Luetkemeyer  
 Boustany Garrett (NJ) Lujan  
 Boyd Gerlach Lummis  
 Brady (PA) Giffords Lungren, Daniel  
 Brady (TX) Gingrey (GA) E.  
 Braley (IA) Gohmert Lynch  
 Bright Gonzalez Mack  
 Broun (GA) Goodlatte Maffei  
 Brown (SC) Gordon (TN) Maloney  
 Brown, Corrine Granger Manullo  
 Brown-Waite, Graves Marchant  
 Ginny Grayson Markey (CO)  
 Buchanan Green, Al Markey (MA)  
 Burgess Green, Gene Marshall  
 Burton (IN) Griffith Massa  
 Butterfield Grijalva Matheson  
 Buyer Guthrie Matsui  
 Calvert Gutierrez McCarthy (CA)  
 Camp Hall (NY) McCarthy (NY)  
 Campbell Hall (TX) McCaul  
 Cantor Halvorson McClintock  
 Cao Hare McCollum  
 Capps Harman McCotter  
 Cardoza Harper McDermott  
 Carnahan Hastings (FL) McGovern  
 Carney Hastings (WA) McHenry  
 Carson (IN) Heinrich McHugh  
 Carter Heller McIntyre  
 Cassidy Hensarling McKeon  
 Castle Herger McMahan  
 Castor (FL) Herseth Sandlin McMorris  
 Chaffetz Higgins Rodgers  
 Chandler Himes McNeerney  
 Childers Hinchey Meek (FL)  
 Clarke Hinojosa Meeks (NY)  
 Clay Hirono Melancon  
 Cleaver Hodes Mica  
 Clyburn Hoekstra Michaud  
 Coble Holden Miller (FL)  
 Coffman (CO) Holt Miller (MI)  
 Cohen Honda Miller (NC)  
 Cole Hoyer Miller, Gary  
 Conaway Hunter Miller, George  
 Connolly (VA) Ingliis Minnick  
 Cooper Inslee Mitchell  
 Costa Israel Mollohan  
 Costello Issa Moore (KS)  
 Courtney Jackson (IL) Moore (WI)  
 Crenshaw Jackson-Lee Moran (KS)  
 Crowley (TX) Moran (VA)  
 Cuellar Jenkins Murphy (CT)  
 Culberson Johnson (GA) Murphy (NY)  
 Cummings Johnson (IL) Murphy, Patrick  
 Dahlkemper Johnson, E. B. Murphy, Tim  
 Davis (AL) Johnson, Sam Myrick  
 Davis (CA) Jones Nadler (NY)

Napolitano Ross  
 Neal (MA) Rothman (NJ)  
 Neugebauer Roybal-Allard  
 Nunes Royce  
 Nye Ruppersberger  
 Oberstar Rush  
 Obey Ryan (OH)  
 Olson Ryan (WI)  
 Oliver Salazar  
 Ortiz Sanchez, Linda  
 Pallone T.  
 Pastor (AZ) Sanchez, Loretta  
 Paul Sarbanes  
 Paulsen Scalise  
 Payne Schakowsky  
 Pence Schauer  
 Perlmutter Schiff  
 Perriello Schmidt  
 Peters Schock  
 Peterson Schrader  
 Petri Schwartz  
 Pingree (ME) Scott (GA)  
 Pitts Scott (VA)  
 Platts Sensenbrenner  
 Poe (TX) Serrano  
 Polis (CO) Sessions  
 Pomeroy Sestak  
 Posey Shadegg  
 Price (GA) Shea-Porter  
 Price (NC) Sherman  
 Putnam Shimkus  
 Quigley Shuler  
 Radanovich Shuster  
 Rahall Simpson  
 Rangel Sires  
 Rehberg Skelton  
 Reichert Slaughter  
 Reyes Smith (NE)  
 Richardson Smith (NJ)  
 Rodriguez Smith (TX)  
 Roe (TN) Smith (WA)  
 Rogers (AL) Snyder  
 Rogers (KY) Souder  
 Rogers (MI) Space  
 Rohrabacher Speier  
 Rooney Spratt  
 Ros-Lehtinen Stearns  
 Roskam Stupak

Sullivan  
 Sutton  
 Tanner  
 Tauscher  
 Taylor  
 Teague  
 Terry  
 Thompson (CA)  
 Thompson (MS)  
 Thompson (PA)  
 Thornberry  
 Tiahrt  
 Tiberi  
 Tierney  
 Titus  
 Tonko  
 Towns  
 Tsongas  
 Turner  
 Upton  
 Van Hollen  
 Velázquez  
 Visclosky  
 Walden  
 Walz  
 Wamp  
 Wasserman  
 Schultz  
 Waters  
 Watson  
 Watt  
 Waxman  
 Weiner  
 Welch  
 Westmoreland  
 Wexler  
 Whitfield  
 Wilson (OH)  
 Wilson (SC)  
 Wittman  
 Wolf  
 Woolsey  
 Wu  
 Yarmuth  
 Young (AK)  
 Young (FL)

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1728, MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT

Ms. PINGREE of Maine, from the Committee on Rules, submitted a privileged report (Rept. No. 111-96) on the resolution (H. Res. 400) providing for consideration of the bill (H.R. 1728) to amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to provide certain minimum standards for consumer mortgage loans, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT RELATING TO AGREEMENT BETWEEN THE UNITED STATES AND THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR THE APPLICATION OF SAFEGUARDS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111-37)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

*To the Congress of the United States:*

I transmit herewith a list of the sites, locations, facilities, and activities in the United States that I intend to declare to the International Atomic Energy Agency (IAEA), under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna on June 12, 1998 (the “U.S.-IAEA Additional Protocol”), and constitutes a report thereon, as required by section 271 of Public Law 109-401. In accordance with section 273 of Public Law 109-401, I hereby certify that:

(1) each site, location, facility, and activity included in the list has been examined by each department and agency with national security equities with respect to such site, location, facility, or activity; and

(2) appropriate measures have been taken to ensure that information of direct national security significance will not be compromised at any such site, location, facility, or activity in connection with an IAEA inspection.

The enclosed draft declaration lists each site, location, facility, and activity I intend to declare to the IAEA, and provides a detailed description of such sites, locations, facilities, and activities, and the provisions of the U.S.-IAEA Additional Protocol under which they would be declared. Each site, location, facility, and activity would be declared in order to meet the obligations of the United States of America with respect to these provisions.

NOT VOTING—9

Capito Deal (GA) Murtha  
 Capuano Fortenberry Pascarell  
 Conyers Hill Stark

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BRIGHT) (during the vote). There are 2 minutes left for the vote.

□ 1554

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CONYERS. Mr. Speaker, due to events in my congressional district, I was unable to vote today. If I were present, I would have voted in favor of the following bills: H. Res. 299, expressing the sense of the House of Representatives that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 4 through 10, 2009; H. Res. 338, supporting the goals and ideals of National Community College Month; H. Res. 353, supporting the goals and ideals of Global Youth Service Days.

The IAEA classification of the enclosed declaration is "Highly Confidential Safeguards Sensitive"; however, the United States regards this information as "Sensitive but Unclassified."

Nonetheless, under Public Law 109-401, information reported to, or otherwise acquired by, the United States Government under this title or under the U.S.-IAEA Additional Protocol shall be exempt from disclosure under section 552 of title 5, United States Code.

BARACK OBAMA.  
THE WHITE HOUSE, May 5, 2009.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

□ 1600

#### CROSS-BORDER CRIME

The SPEAKER pro tempore (Mr. GRIFFITH). Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. Mr. Speaker, I want to talk about one of the most important things taking place in our country, and that is the battle on the second front. I am not talking about the war in Afghanistan or the war in Iraq, but I am talking about the battle that is fought daily on the southern border of the United States with Mexico and those people that try to come into the United States illegally. I call it the border wars.

Mr. Speaker, we hear a lot about that crime comes into the United States from the south, from all countries, through Mexico. And then we hear that it is not really a problem. Sometimes it is very difficult for us to know exactly what the truth is. It always tends to be based upon who is giving us that information.

Recently, I was down on the Texas-Mexico border. I visited with numerous of our sheriffs and I asked them this question: How many people do you have in your county jail that are charged with crimes in your county? I am not talking about people being held on immigration violations, just people in jail charged with misdemeanors or felonies. And so the different sheriffs gave me the information that I would like to relate to you tonight.

We will start off in far west Texas, in El Paso, a large population. The Sheriff's Department says: About 18 percent of the people in our county jail are foreign nationals in the United States legally, illegally, charged with crimes, misdemeanors or felonies.

You move next door to Hudspeth County, a vast county the size of Connecticut and Rhode Island, not very many sheriff's deputies in that county. Sheriff Arvin West says: 90 percent of the people in my county jail are foreign nationals.

Moving on down the Rio Grande River toward the Gulf of Mexico, Culberson County Sheriff Carrillo, 22 percent. The three next counties, Jeff Davis, Presidio, and Brewster Counties did not have information that they could furnish me, so I will move on down the river and talk about the other ones.

Val Verde County, 39 percent of the people in the county jail are foreign nationals; Kinney County, 71 percent, foreign nationals; Maverick County, 65 percent; Dimmit County, 45 percent; Webb County, that is where Laredo is, 45 percent are foreign nationals; Zapata County, 65 percent; Starr County, 53 percent; Hidalgo County, 23 percent; and then Cameron County, down on the Mexico-Texas border that buttresses the Gulf of Mexico, is 28 percent.

You can make statistics prove whatever you want them to, Mr. Speaker, but those are a lot of people in American jails from foreign countries that have been charged with committing crimes in this country. That is one reason, maybe the primary reason, why we need to protect the sanctity of the border.

We talk about border security. We are spending money on border security. We are sending a lot of money down to Mexico to spend on border security. But the truth of the matter is cross-traveler crime is still being committed, and people are committing crimes in American counties who are foreign nationals, and it is time the United States realize this truth and secure the border.

A lot of these people are charged with drug crimes, the drug cartels, drug runners. Many of those people in our jails are those individuals. We are learning now that there is a new effort to build tunnels into the United States, not just over in California, but in Texas and Arizona, as well, where needed.

So, obviously, the sheriffs in these counties need help, and we need everybody working on the border, all the Federal agencies, the Border Patrol, the ATF, the DEA, we need all of them. Plus, we need the locals who patrol the whole county. Unlike the Border Patrol that only patrols the first 35 miles inland, the county sheriffs patrol the vastness of the county.

So what can they do about it? There are a couple of programs that we need to help the sheriffs be involved in. One of those is they can get from the Department of Defense used equipment, equipment that has been used by our military, and all they have to do is repair it and they can use that equipment. We are talking about Humvees. We are talking about trucks. We are talking about, even, helicopters. They can repair that equipment by sending it to the State penitentiary where those mechanics are that can repair it. They can also buy, at a low price, equipment that has been used occasionally, new or used equipment that is no longer used by our military.

So both of those things, we should encourage the sheriffs departments to use and to get that equipment. Because, you see, Mr. Speaker, the drug cartels have more money, they have more people, they have better equipment than we do on this side of the border, and that is one way we can enforce the security of the border.

We ought to also use the National Guard on the border. The border Governors have requested the use of the National Guard, and we should use the National Guard.

And lastly, Mr. Speaker, I have met with the sheriffs from Brownsville all the way to San Diego, and they are in a group called the Southwest Border Sheriff's Coalition. There is 31 of these sheriffs, and they have asked, through me, to ask the President of the United States to meet with them so the sheriffs can tell the President firsthand what is taking place on the border from Brownsville, Texas, all the way to San Diego, California, and hopefully the President will do that. We need to protect the border. That is the first duty of government.

And that's just the way it is.

#### TOO MANY HAVE DIED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, a recent report from the Associated Press gave us a new and very grim reminder of the human cost of the conflict in Iraq.

According to the A.P., the Iraqi Government has secretly recorded over 87,000 killings since the year 2005. The A.P. also added its own statistics on the known number of deaths between 2003 and 2005.

When you add those numbers, you get over 110,000 Iraqi civilian deaths since the beginning of the American occupation. But, Mr. Speaker, the death toll is even higher than that. The A.P. said that an Iraqi official estimated the actual number of deaths to be 10 to 20 percent higher because of the thousands who are still missing and civilians who were buried in the chaos of war without official records.

Of course, the death toll itself does not measure the full human cost of the conflict. It doesn't include the injured. It doesn't include the children who have been orphaned. It doesn't include the families that have been devastated by the loss of their loved ones and their breadwinners. It doesn't include the suffering of the 4 million refugees. It doesn't include the countless deaths from indirect causes, which includes the lack of health care because hospitals were closed and so many doctors were forced to flee. And it doesn't include the people who have seen their futures taken away from them because of their schools and colleges being closed by the fighting. It is no surprise that the A.P. report said almost every person in Iraq has been touched by the violence.



And of course, Mr. Speaker, here in America we have seen 35,000 of our finest and bravest men and women killed or wounded in battle, and 140,000 of our troops remain in harm's way today.

Mr. Speaker, war is not a video game. Real people die or are horribly wounded and scarred, and they are scarred and wounded for life. Real families suffer. We need to remember that when we make momentous decisions about war and peace in this House, we have to consider those statistics.

Today, our country is faced with another tough decision about war: What to do about the situation in Afghanistan. I oppose the supplementary funding request for Iraq and Afghanistan. It will prolong our occupation of Iraq through at least the year 2011, and it will expand our military presence in Afghanistan indefinitely.

Instead of attempting to find military solutions to the problems we face in Iraq and Afghanistan, the administration must fundamentally change our mission in both countries to focus on promoting reconciliation, economic development, humanitarian aid, and regional diplomatic efforts.

Diplomacy and economic development are two of the cornerstones of my Smart Security Platform for the 21st century. This plan would employ the many effective nonmilitary tools that we have to fight terrorism. These tools will cost a lot less and be far more effective. They will save lives, stop terrorism, and keep us safe at the same time, or at least safer than a military option. I invite all of my colleagues to consider House Resolution 363, which describes the full plan.

Mr. Speaker, it is clear that the military option has taken us down the wrong road in both Iraq and Afghanistan for the past 7 years. The military option hasn't made us more secure. It has cost our Treasury over \$1 trillion so far, with no end in sight. And the human toll has been appalling. It is time to do something that will make our Nation safer and save countless lives. The smart security platform for the 21st century will achieve both of these goals.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### FORT LEAVENWORTH, A POOR FIT FOR GUANTANAMO DETAINEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, in January, shortly after taking office, President Obama ordered the closure of the detention facility at Guantanamo Bay Naval Base within the year. Up to

250 detainees who are suspects from the war on terrorism will be processed and moved, possibly to facilities located inside the United States. The U.S. disciplinary barracks at Fort Leavenworth, Kansas, is apparently one of the facilities under consideration to house these prisoners.

I have visited Fort Leavenworth, the city of Leavenworth, and surrounding communities. I have talked to city officials, local businesses, and State legislators. I have spoken to U.S. military officers and foreign military students attending the Army's Command and General Staff College located at the fort.

Simply stated, Fort Leavenworth is a poor fit for placing Guantanamo detainees. Fort Leavenworth is known as the "Intellectual Center of the Army," where the leaders of our military and foreign militaries are educated. However, should these politically sensitive detainees be located at the fort, many countries will likely discontinue sending military students to America to be trained. This action would disrupt Fort Leavenworth's primary mission of military education. It would greatly impair a successful international military student program that has spread good will around the world for 100 years.

Additionally, our country should not make Fort Leavenworth's soldiers and their families and northeast Kansas unfairly bear this responsibility at the cost of their safety and economic well-being. The 3,000 residents who live on post as well as the residents of nearby communities would be living at a higher security risk. Since the fort has no major medical facilities, dangerous detainees would need to be transported to a local hospital or V.A. for medical attention. Local public safety officials are not capable of handling a terrorist incident or protests that may occur and would require greater resources. The need to increase security at the fort would likely close off citizen access to Sherman Airfield, the only public airport in Leavenworth, as well as stop rail and river barge traffic that runs to the post. These actions would have significant economic consequences.

Finally, the fort's disciplinary barracks lack the capability to house terrorist suspects. It is largely a medium-security facility for military prisoners. It would cost hundreds of millions of dollars to upgrade the disciplinary barracks to maximum security level and to construct the hospital, residential, and support facilities that would be required to house the additional prisoners and security personnel. As a small post surrounded by a civilian population, there is no room to grow.

Fort Leavenworth is clearly an unsuitable location. I am a sponsor of legislation introduced by my colleague of Kansas, Ms. JENKINS, to prevent Guantanamo detainees from being relocated there.

□ 1615

The decision to close Guantanamo Bay detention facility and relocate terror suspects should not be made recklessly. I'm troubled that the administration is seeking to move forward on Guantanamo despite the absence of a closure and relocation plan and despite the lack of congressional review. In their recently submitted FY 09 war supplemental request to Congress, they ask us for \$80 million to close the Guantanamo detention facility to relocate prisoners, support personnel and services.

I join the gentleman from California, Representative HUNTER, in asking the Appropriations Committee not to include this funding in the supplemental until we see a plan. Still lacking these details this week, I'm pleased to see that our appropriations chairman, Mr. OBEY, announced his refusal to provide the funding.

This critical national security decision deserves critical thought. Detainees should not be moved where they do not belong. And detainees do not belong at Fort Leavenworth.

#### JUVENILE JUSTICE IMPROVEMENTS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MURPHY) is recognized for 5 minutes.

Mr. MURPHY of Connecticut. Mr. Speaker, I rise today in support of legislation that I recently introduced, along with several cosponsors, the Juvenile Justice Improvement Act.

Mr. Speaker, every day in America, 90,000 youth are incarcerated in our juvenile correctional facilities. Seventy percent of these youth are held for non-criminal acts like running away or violating curfew. Instead of working with these youth and these families to identify the root of their problem and help them find alternatives to their negative behavior, our policy in too many places around this country is to simply lock them up. Even more shocking, 7,500 of our Nation's young people sit in adult jails on any given day, even though study after study has proven that that practice of putting youth in adult facilities only increases the likelihood of recidivism and puts them at risk amongst that sometimes very dangerous adult population.

Sadly, these are not the only consequences of putting juveniles in the adult system. Keeping children safe in the adult juvenile justice system is extremely difficult. All too often, physical and sexual assault become commonplace. According to the Department of Justice's statistics division, 21 percent and 13 percent of all substantiated victims of inmate-on-inmate sexual violence in jails in 2005 and 2006 respectively were youth under the age of 18. That number is disturbingly high when you take into account that juveniles account for only 1 percent of all

inmates. Thirteen percent of all sexual violence in our prisons is against these young people. They represent 1 percent of the total population. Moreover, and not surprisingly, youth have the highest rate of suicide in our jails. And as we know too well in Connecticut, placing juveniles with adults only exacerbates that problem.

However, I'm hopeful that with this legislation, H.R. 1873, the Juvenile Justice Improvement Act, we can start to reverse these dangerous trends.

Mr. Speaker, by keeping youth out of the adult criminal justice system and by using rehabilitative programs and services that are proven to try to help stop that cycle of crime, youth involved in these systems can emerge as proactive, positive and productive members of our community and of our workforce.

Specifically, this bill would protect youth prosecuted as adults from being held in adult jails or lockups while awaiting trial except in very limited circumstances. In these limited circumstances, youth prosecuted as adults must be sight and sound separated from adults in that facility to help protect their safety. Fortunately, some States already allow youth who have been convicted as adults to serve their sentence in juvenile correctional facilities. H.R. 1873 would remove a provision in current law that penalizes these States for choosing to house youth convicted as adults in more appropriate settings while not endangering other youth in the facility.

The Juvenile Justice Improvement Act would also work to keep youth out of locked facilities for noncriminal status offenses like running away or violating curfew. It would do this by closing a loophole in the Juvenile Justice and Delinquency Prevention Act.

This vital legislation would also encourage States to take steps to eliminate the use of dangerous practices such as choking youth or restraining them to fixed objects for the purpose of coercion, punishment or the convenience of staff. These steps would include collecting data on the use of these dangerous practices in prisons, providing training to staff on effective behavior management and creating an independent monitoring system to oversee conditions across the country at juvenile facilities.

Finally, Mr. Speaker, the Juvenile Justice Improvement Act would reward States through incentive grants that are implementing ideas that are research and evidence based. Such reforms would include making juvenile justice facilities safer based on this research, improving public safety in the rehabilitation of juvenile delinquents based on research, and better addressing the mental health needs of juvenile justice inmates based on research.

Mr. Speaker, these changes to the juvenile justice system are critical to ensure that all of our youth become law-abiding, contributing members of society. There is not always political util-

ity in government to stand up for youthful offenders, Mr. Speaker. It is not an easy thing for Members of this House or State legislatures to stand up and fight for.

But we need to fight for these kids under the age of 18 who may have made a mistake, maybe a big mistake, to try to give them a second chance or at the very least to try to make sure that when they are in prison, when they are locked up behind bars that they are safe from the ravages that can be associated with incarceration. If we can do those things, we are a better Congress and we are a better society.

With that, I urge my colleagues to join me in cosponsoring H.R. 1873.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MCHENRY) is recognized for 5 minutes.

(Mr. MCHENRY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### LONE WOLF HUNTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I rise today to condemn the statements written as part of an assessment by the Department of Homeland Security classifying disgruntled veterans as a threat to U.S. security and potential recruits for right-wing extremist groups. The report was distributed among law enforcement agencies throughout the country earlier this week. When I was back home in San Diego, our El Cajon police department had actually gotten this memorandum classifying me. Because I served three tours overseas with the United States Marine Corps, two in Iraq in Operation Iraqi Freedom and one in Afghanistan in Operation Enduring Freedom, I am a possible terrorist.

So, Mr. Speaker, I would just like to go over some stuff with this DHS memorandum. It is the "Right-wing Extremism: Current Economic and Political Climate Fueling Resurgence in Radicalization and Recruitment." And here is a picture of it here. This is an actual Department of Homeland Security memorandum that went out to every local, State and Federal law enforcement agency in the entire country.

I would just like to go over a few points of it. It first starts off by saying that "the Department of Homeland Security Office of Intelligence and Analysis has no specific information that domestic right-wing terrorists are currently planning acts of violence." So they don't have any evidence for anything, but they are still going to call people like me possible "terrorists."

We read further down: "The possible passage of new restrictions on firearms and the return of military veterans fac-

ing significant challenges reintegrating into their communities could lead to the potential emergence of terrorist groups or lone wolf extremists capable of carrying out violent attacks."

I wasn't paranoid before, Mr. Speaker, but if we are going to pass new regulations on firearms, we are going to change the Second Amendment. And the fact that I would like to keep my own guns and that I'm a veteran who has served, that makes me a possible terrorist, as stated by our own government, by our own administration.

I read further down: right-wing extremism—and by the way, it is interesting that they don't talk about left-wing extremism or liberal extremism or progressivists. It is just right-wing extremism, and that is okay to talk about. It is okay to scorn those people that are right wing. They aren't as American as everybody else. "Right-wing extremism in the United States can be broadly divided into those groups, movements and adherents that are primarily hate oriented," I'm quoting here from this memo, "those that are mainly anti-government, rejecting Federal authority in favor of State or local authority." That means every single one of our Founding Fathers was a possible terrorist because they believed in local authority. They believed in States' rights. They didn't want an all-encompassing, dominating Federal Government.

It also includes groups of individuals that are dedicated to a single issue, such as opposition to abortion or immigration. I'm quoting again.

So I'm pro-border security. I think that illegal immigration is called "illegal immigration" because, well, it is illegal. That once more makes me a possible terrorist. I'm pro-life. That makes me a possible terrorist too.

I keep reading down: "Returning veterans possess combat skills." That is me. I possess combat skills. So do millions of other Americans that have served in our Armed Forces since 2001—"combat skills and experience that are attractive to right-wing extremists."

The DHS, our own government, is concerned that right-wing extremists, I guess that's me, will attempt to recruit and radicalize returning veterans in order to boost their violent capabilities.

That sounds pretty scary. I must be pretty scary. I wonder if DHS is on their way here to get me right now. I will stay here and wait for them for a little bit longer.

I read further down: "Many right-wing extremists are agnostic toward the new Presidential administration and its perceived stance on a range of issues, including immigration and citizenship, the expansion of social programs"—that is a new one. If you don't like the expansion of social programs, you're a possible terrorist, too—"and restrictions on firearms ownership and use." If you weren't paranoid before, you ought to be getting paranoid now.

I will keep reading: "Right-wing extremists were concerned during the 1990s with the perception that illegal immigrants were taking away American jobs through their willingness to work at significantly lower wages. They also opposed free trade agreements, arguing that these arrangements resulted in Americans losing jobs to other countries." Are Americans not losing jobs to China, to Communist China, to India and to Mexico? If you believe that American jobs are worth fighting for, then you're a terrorist.

#### HONORING THE CREW OF THE APOLLO 11 MISSION TO THE MOON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. GRAYSON) is recognized for 5 minutes.

Mr. GRAYSON. Mr. Speaker, it is with great pride that I introduce legislation today to award the Congressional Gold Medal to four brave and exemplary Americans, Commander Neil A. Armstrong, command module pilot Michael Collins, and lunar module pilot Edwin "Buzz" Aldrin, the crew of the 1969 Apollo 11 mission to the Moon. Additionally, this legislation would award a Congressional Gold Medal to John Glenn, the first American to orbit the Earth and the man who helped set NASA firmly on the path of human space exploration.

Forty years ago, 500 million people watched as Armstrong took those fateful steps on the Moon's surface, the first time that humans had ever set foot on another world. In words that were as poetic as the occasion was meaningful, Armstrong said, "That is one small step for man and one great leap for mankind." He was shortly followed thereafter on the Moon's surface by Aldrin as Collins circled overhead.

I was 11 years old that day, and I watched the Moon landing, joining much of humanity in celebrating this tremendous collective accomplishment. My family was on vacation, but I persuaded my parents to let me stay in the hotel room alone all day and watch television so that I could see these giant men take those giant steps. Their mission was a landmark for America, for the world, and for all time. Americans are still inspired by these men and their mission to travel over a quarter of a million miles of dead space to reach our closest celestial neighbor. I remember at the time thinking that humankind as a species is capable of true greatness. And while wolves howl at the Moon, humans visit it.

On this journey, the Apollo 11 crew showed remarkable bravery, protected for days from the lifeless vacuum by only a thin metal shell. They collected more than 40 pounds of lunar samples, took photographs and deployed experiments to study the solar wind, lunar dust, enable laser ranging and forever carry out passive seismic measure-

ments that remain measurable to this day.

Their footprints remain on the Moon today and forever. The entire endeavor was a culmination of an intensive effort by tens of thousands of scientists, engineers and other dedicated individuals to meet the challenge laid down by President John F. Kennedy 8 years earlier. President Kennedy encouraged Americans to rise to challenges like this one, and the American people responded with ingenuity, discipline and a spirit of collective effort. This journey took political will, scientific and technological risk-taking, inspiration and the heart and soul of millions of Americans who supported this space program.

□ 1630

And it took the competence and courage of these men, Armstrong, Aldrin and Collins, to make Apollo 11 the success that it was.

As the culmination of the U.S.-Soviet space race that commenced with the Soviet's launch of Sputnik in 1957, Apollo 11's success signified the United States' ability to establish pre-eminence in space.

It also helped to inspire a generation to pursue careers in science and engineering, and to believe in the power of American society and American culture. Alone in that hotel room watching TV, I certainly felt a lasting sense of meaning, that connection to those three brave astronauts.

These astronauts represented in that moment America's destiny, a destiny shared by the thousands of men and women who worked to make it happen.

This includes John Glenn, of course, another brave pioneer of human space exploration who had made their journey possible.

Mr. Speaker, I think it is fitting that on this 40th anniversary year of the Apollo 11 mission, we grant these four brave Americans the recognition only this Congress can bestow, the Congressional Gold Medal. That's why I am introducing legislation to that effect today.

I am pleased to be joined in this initiative by the chairman of the House Science and Technology Committee, Bart Gordon; the chairwoman of the Space and Aeronautics Subcommittee, Gabrielle Giffords; Committee Ranking Member Ralph Hall; Subcommittee Ranking Member Pete Olson; and Florida Members Suzanne Kosmas and Bill Posey.

I believe this recognition is long overdue, and I urge my colleagues to support this legislation so it can be enacted into law.

#### HONORING JACK KEMP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, a couple of days ago America lost

one of its greatest patriots, and I mean that. Jack Kemp served in this body, and I had the pleasure of knowing him for a long, long time.

He started out his career, as far as I can remember, as a football player. He was at San Diego where he played. As I understand it, the football team out there really didn't think he had what it took to become a starting quarterback, and they sold him to the Buffalo Bills for \$500, I believe. He always laughed about that. And for \$500, the Buffalo Bills got an all-star quarterback. They won several conference titles in the AFC, and he was an All Pro. Jack Kemp was all pro his whole life. When he ran for Congress and came to this Chamber, everyone who knew him and met him knew immediately he would become one of our leaders. He became our conference chairman and a leader in so many ways. Ronald Reagan tapped him to work with him on cutting taxes, which stimulated the longest period of economic growth in our country's history. Jack Kemp, along with Mr. Roth in the Senate, wrote the Kemp-Roth bill, which was the catalyst for the economic recovery under the Reagan administration.

Jack Kemp was a lot of fun to be with. He wasn't just a stuffy guy. He was the kind of guy that you liked to be around, an all-American person as well as an all-American football player and all-American political leader.

He ran for Vice President with Bob Dole, and I truly believe he would have been an outstanding Vice President had he been elected. I also campaigned for him up in New Hampshire when he was running for President. I will never forget the Styrofoam footballs with his name that he threw to us on the plane. I think it was in January, and it was so cold. The thing I remember the most was Jack put me on a plane. He had three planeloads of congressmen, and the only one that didn't have heat was the one I was on. But he was worth it. He was worth campaigning door to door, store to store in New Hampshire because he would have been an outstanding President.

I came down tonight to pay homage to a good friend whom we will all miss, a man who was a great American, a great father and husband, and he is somebody who will be missed by not only the people in this Chamber and the other Chamber and the White House, but he will be missed by everybody in America who knew him. He was a great, great man.

I just want to say to Joanne and his four children, You have our deepest sympathy. Everybody in this body sends their best regards to you and their sympathy to you for this very trying time you are going through.

If anyone gets to heaven, Jack will be up there, and he probably has a football in his hands. I can't wait to see him again.

## UYGHUR TERRORISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. WOLF) is recognized for 5 minutes.

Mr. WOLF. Mr. Speaker, I rise on the floor again to raise the awareness of the American people and of the Congress that the safety of the United States could be put at risk should Attorney General Eric Holder approve the release of trained terrorists into our country. I repeat, released into this country, not held in jails, but let free in our neighborhoods and our communities.

Eric Holder expects us to take his word that the detainees are not a threat, and that is unacceptable. The Attorney General expects this Congress to sit idly by and the American people to sit idly by until he announces he has released the Uyghurs held at Guantanamo Bay into the United States, into your neighborhood. In fact, he will not allow career FBI and government employees to even brief Members of Congress on this. So much for this administration's promise of transparency and accountability.

Let me be clear: These detainees are trained terrorists who were caught in camps affiliated with Al Qaeda. Those who would use terror are terrorists no matter their intended target. There have been published reports that these terrorists were members of the Eastern Turkistan Islamic Movement, ETIM, a designated terrorist organization affiliated with Al Qaeda.

The detainees held at Guantanamo Bay are trained terrorists. They were trained in facilities affiliated with Al Qaeda and Khalid Sheikh Mohammed, the mastermind of 9/11 who took pleasure in beheading Wall Street Journal reporter Daniel Pearl.

Last month, the U.S. Treasury froze the assets of Abdul Haq, the leader of the ETIM. The Treasury Department targeted Haq as part of their efforts to shut down the Al Qaeda support network.

So here Treasury designates Haq as a terrorist, and Eric Holder wants to release the members of the terrorist group to walk the streets.

Upon making the designation, the Treasury Under Secretary for Terrorism and Financial Intelligence said, "Abdul Haq commands a terror group that sought to sow violence and fracture international unity at the 2008 Olympic games in China."

What if our people had not picked up these terrorists and they had gotten their training and had gone back to China and had blown up one of the Olympic facilities when many American citizens were there? What if? How is it that the U.S. Treasury Department can declare that this is a terrorist group that "sought to sow violence" while the U.S. Justice Department asserts that members of the same group caught at terrorist training camps and held for 7 years at Guantanamo should be released free and clear

into the United States, yet this Congress and the American people are left in the dark about the administration's plans to release the detainees?

If the Congress doesn't really care and want to hold oversight hearings, certainly the American people have a right to know who the Attorney General is asking to place in their communities.

Last Friday, I called on this administration to declassify and provide the American people with information regarding the capture, the detention, and the threat assessment of each detainee they intend to release inside the United States. Regardless of their intended targets of terror, the American people deserve to know whether they have been further radicalized due to their exposure to Al Qaeda leaders like Khalid Sheikh Mohammed. They have been down in Guantanamo with some of the most violent people that have ever walked the Earth. And now, after the radicalization that may have taken place, Eric Holder now wants to release them into our neighborhoods and into our communities.

I worry about the impact these released Uyghurs will have on our national security. I have talked with several former members who have worked in our intelligence community, and to a person they all believe that this will be dangerous for the United States. They all said, what message does their release into the United States send to Al Qaeda and other terrorist networks?

How can Attorney General Holder guarantee that the released Uyghurs will not stay in contact with Al Qaeda and provide them with intelligence within the U.S.? Has Eric Holder never heard of radicalization in prison? Some people go into prison and come out worse than they go in. If the Attorney General cannot or will not answer these questions, he should not consider releasing them.

I ask you, please, the American people need to have all of this information before a decision is made.

## EAST TURKISTANI ISLAMIC PARTY APPEALS FOR NEW RECRUITS IN NEW VIDEO

The militant Islamist group East Turkistan Islamic Party (ETIM) released a new propaganda video, in which it appealed to Muslims in Turkistan to join the group's camps in Waziristan, Pakistan.

The 43-minute video is entitled "Persistence and preparation for Jihad" and was produced by the group's media wing Sawt al Islam.

It includes a statement by the group's current leader Sheikh Abul Haq, as well as its late leader Hassan Makhdum, whose alias is Abu Mohammed al Turkistani. Abul Haq said "jihad" was a duty that falls on all Muslims just like any other religious duty. He also pledged more attacks against Chinese forces. "The operations of the Islamic Turkistani Party will make China experience the same taste of shame and defeat that America has experienced in Iraq and Afghanistan," Abul Haq said.

Footage from the group's training camp showed a group of militants undergoing training under the supervision of military commander identified as Seifullah. Once again, he claimed credit for the bus bomb-

ings and the attack on the police station in Shanghai and Yunnan in May and July of 2008.

The attacks seem to have been carried out using remotely-detonated explosives devices. Footage shown on the video showed a member of the group placing the explosives in a small suitcase and covering it with some cloths, while having a radio detonator in his hand.

Seifullah also made an appeal to Turkistani Muslims to join the group's camps in Waziristan and train on the latest weapons used by the Chinese army's ground forces. He said that the group is currently trying to develop a training program on other weapons used by the army.

The East Turkistan Islamic Movement is a militant group that advocates the creation of an independent, Islamic state of East Turkistan, formally part of Afghanistan, in what is currently the Xinjiang region of China.

The group is thought to have links with al Qaeda. In its 2005 report on terrorism, the U.S. State Department said that the group was "linked to al Qaeda and the international jihadist movement" and that al Qaeda provided the group with "training and financial assistance".

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

## U.S. ECONOMIC CONDITIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Ohio (Mr. DRIEHAUS) is recognized for 60 minutes as the designee of the majority leader.

Mr. DRIEHAUS. Mr. Speaker, thank you for the opportunity to address the House today in what is the first of what will be many conversations amongst the new Members of Congress and our observations as to where we are going in this Congress, some of our observations as to the economic conditions and the policies that have gotten us to where we are.

I would like to thank the Speaker and the majority leader and the majority whip for giving me this opportunity and for giving my fellow classmates, the new members of the Democratic class, the opportunity to come here today and talk for just a little while about what I believe to be the most pressing issue in the United States, and that is the foreclosure crisis and the lending crisis that has led us into this recession.

We would like to talk about some of the reasons we got there. We would like to talk about some of the actions

that have been taken since the Democrats have regained control of Congress in order to address the foreclosure crisis. But we have heard much rhetoric over the years about why we are where we are in terms of this economic crisis.

I spent 8 years in the State legislature in Ohio, and I will be joined shortly by a former colleague in the State legislature in Ohio. We have seen Ohio hit hard by the foreclosure crisis.

Just today in the Cincinnati Inquirer, my hometown newspaper, out of our 52 neighborhoods in Cincinnati, it stated in 33 of those neighborhoods, over 10 percent of all houses currently sit vacant. That is a tragedy, Mr. Speaker. But unfortunately, that tragedy is playing out again and again and again across the United States.

So we are going to spend a little time in conversation with my Democratic colleagues discussing how we got here and what the impacts are, what the impacts are to our constituents, what the impacts are to American families across the country who are currently suffering under the weight of this foreclosure crisis.

With that, Mr. Speaker, I would like to yield to my colleague, the gentleman from Ohio (Mr. BOCCIERI) to talk a little about his observations in northern Ohio.

Mr. BOCCIERI. I thank the gentleman from Ohio and greater Cincinnati area who has done extraordinary work in the Ohio legislature to try and remedy the situation where we find so many families struggling and so many families trying to live the American Dream of owning their own home and having a job to pay for their mortgage.

Mr. Speaker, what we have found over the last several years is that the housing crisis is at the epicenter of the economic downturn that we are experiencing in this country. Make no mistake, today's great recession is rooted right here in the housing crisis that we find so many families plagued with, and especially across Ohio.

But the irony here is that the success of our communities actually begins at home.

Now, the gentleman from Ohio (Mr. DRIEHAUS) and I know, after studying this issue for a long time, we worked on the predatory lending bill that passed through the State legislature in Ohio, and he is assigned to the Financial Services Committee here in the Congress, to try to remedy this situation for average families back home in Ohio.

Now let's talk about those average families. We hail from the Buckeye State. Buckeyes. Bob and Betty Buckeye go to the local community bank. They take out a mortgage to live to that dream of American homeownership. They take out a mortgage. They go to work. They punch a time clock and play by the rules. Maybe they put their kid in college. That bank sells their mortgage three, four, five times down the road. I don't know, Mr.

Speaker, maybe that violates the spirit of the Truth in Lending Act. What happens is after this mortgage is sold three, four, five times, they have no idea who owns it.

□ 1645

And they send their mortgage off every month because they get the bill in. And what happens? Bob and Betty Buckeye begin to feel the economic pinch. They begin to see that the job market is starting to erode. All of a sudden, Bob loses his job and can't make his home mortgage payment. So what does he do?

He goes down to the local bank where he took out the loan and says, "Mr. Lender, give me a couple of extra days. I need a couple of extra days just to make this mortgage payment."

He says, "Well, Mr. Buckeye, we don't own your mortgage anymore."

He says, "Well, who owns it? I took the loan out from you."

What happens is that many, many of our constituents are finding that their home mortgage from Ohio is now off in California or Texas or some other State, and we don't have the opportunity to work with our local community banks to renegotiate this or have that extra month or 2 months. Automatically these things go into foreclosure. You've seen this in Ohio.

Mr. DRIEHAUS. Reclaiming the time, Mr. Speaker, and as the Congressman noted, we both worked on predatory lending legislation in the State of Ohio. I should mention, we initiated those efforts back in 2001 and in 2002, the same type of efforts that were initiated right here in the United States Congress by our Democratic members here in the United States Congress.

Unfortunately, to this day, we do not have Federal predatory lending legislation that has become law in the United States. I think that is a tragedy for our country because, as you have described, Congressman, is how it has played out across the country.

I served on the Governor's Foreclosure Task Force in the State of Ohio. What you observed in terms of Bob and Betty Buckeye—and I like the name—but what you observed played out over and over again. We found that the vast majority of these mortgages were in the subprime market.

That term is tossed around a lot—these subprime loans. Well, subprime loans are simply loans made to families who have already shown that they have difficulty making payments. That's why they are considered to be subprime—that they have difficulty in terms of their credit report, they have difficulty in terms of their credit history in making payments.

So what happened? As you described, we saw these financial entities—not necessarily State-run banks, not necessarily depositories—but we saw these financial entities come into the State of Ohio, and we saw this over and over again in multitudes of States, where

they would make loans available. Sometimes it was no money down, sometimes it was no-doc loans. That is, you didn't have to show any documentation as to your annual income. Yet the folks still qualified for the loan.

Well, how did that happen? Because it used to be, as you know, Congressman, that you would go into the local bank or you would go into the local savings and loan and you would ask for a mortgage loan. And they would come out and appraise your house. And the risk associated with that mortgage loan would be held by you and it would be held by the bank. And they would hold that paper in their portfolio. It was a long-term investment for that financial institution.

But as you described is how it played out. With the development of these secondary markets and the securitization of mortgages across the country, what we saw was very interesting behavior. So that no longer was it the financial entity that was closing the loan that was carrying the risk, but they immediately transferred that risk onto a secondary market. They sold the loan.

The loan was then securitized in a mortgage-backed security on Wall Street and sold to an international investor, sold to a pension fund. So there was no risk at the front end of the closing of the loan. It incentivized all kinds of behaviors. So people who should not have qualified for loans were qualifying for loans. And, very interestingly, the loan products that they were qualifying for were very predatory in nature. Many of these loans, we came to find out, were adjustable rate mortgages—mortgages that had teaser rates up front, but 2 years into the loan, 3 years into the loan, the mortgage rate would adjust. It may adjust in certain cases every 4 months, every 6 months. And you often found the family wanting to get out of that loan, wanting to refinance, but they were unable to do so because of this little instrument contained in almost every one of these loans called a prepayment penalty.

So think about it. You've got a family who has a poor credit history, who has difficulty paying off their debts, now finding themselves with a mortgage that used to be affordable. Say it was \$700. Now all of a sudden that mortgage is \$1,200 after the rate has started to adjust. They want to get out, but this prepayment penalty of maybe \$2,000 or \$5,000 stops them from refinancing.

So they are trapped. They are trapped in a loan that they cannot get out of, and it just repeats itself over and over again when it comes to foreclosures.

I will yield to the Congressman.

Mr. BOCCIERI. So, Representative DRIEHAUS, let me get this straight. Those constituents of ours, Bob and Betty Buckeye, that get those flyers in the mail saying they can get a free vacation if they refinanced their house,

they can send some money to their kids who are in college, those are predatory in nature, am I right, because there's no skin in the game? They're asking constituents to sign away for 30 years or 15 years on a mortgage.

Mr. DRIEHAUS. They were absolutely predatory in nature. Time and time again, there were those of us in State legislatures across the country who called out to our Congress and said, Look, you have the ability to regulate these entities. You have the ability to crack down on predatory lending.

The Republicans in Congress at the time—or the Republicans now—are engaging in revisionist history, where they want to blame the CRA—the Community Reinvestment Act—or they want to blame Fannie Mae or Freddie Mac for the foreclosure crisis, and they seem to forget that they were elected in 1994 and they held the majority in 1995, in 1996, in 1997, in 1998, in 1999, in 2000, in 2001, in 2002, in 2003, in 2004, in 2005, all the way until the election in 2006.

As this chart demonstrates, we saw the growth of these in early 2000. That's when you saw many initiatives. You saw legislation introduced right here on the floor of this Congress in 2000, trying to address this problem.

But the Republicans would have none of it. They said the market will take care of it. The market will address the situation.

We saw in 2003, 734,000 foreclosures. That number, as staggering as it is, in 2003, by 2008 had grown to almost 2.5 million foreclosures across the United States.

I think it's important—and our colleague from Florida is about to join us, as is another colleague from Ohio—but I think it's important when you talk about the true cost of foreclosures, the cost is not simply with the family that is being foreclosed upon, but it's to everybody in the neighborhood.

I have a house two doors down from me that was foreclosed on. That hurts my property value. It hurts the property value of my neighbor across the street. But when you see a multitude of foreclosures and vacancies across a neighborhood, then you see deterioration in the schools. It hurts small businesses. It hurts the entire fabric of the community as you see increasing crime and as you see local governments having to pay the cost of upkeep on those properties.

I will now yield to my colleague from Columbus, Ohio, Congresswoman KILROY.

Ms. KILROY. Thank you so much, Congressman DRIEHAUS. I have been listening to what you have been saying about the impact of this foreclosure crisis on Ohio, and you are absolutely right. When you talk about the impact of these large numbers of foreclosures on communities, we know that a single foreclosure can devastate neighboring homes and the surroundings.

On average, we are told that when a home enters foreclosure, its value im-

mediately plummets, on average, \$58,759. It hurts the neighborhood as well because when that lower price, that lower sales price, that lower valuation hits the books, it hurts the value of the entire neighborhood.

Every time you see a foreclosure, if it's in your neighborhood, your house or my house or our neighbors' houses are going down in value. That also has an impact on our local governments. We know that local governments are hurt as well in this economic downturn. They are finding it harder to protect neighborhoods against arson or squatting or other criminal activity.

So the foreclosure crisis hurts that family, it hurts the neighborhood, but it also hurts all of us in terms of the increase in criminal activity. Vacant and abandoned properties impose high costs on our local communities. Local jurisdictions and our school districts feel the impact of that lost tax revenue from those properties. Our cities are bearing the cost of municipal services, increased code enforcement, boarding things up, trying to find money to demolish homes and other properties that are vacant and declared to be nuisances.

All of these are problems associated with addressing the issue of vacant and abandoned properties, particularly in our city neighborhoods. But it's not just in the cities. It ripples out. It affects our entire State. It affects, in my area, the entire central Ohio community.

So we understand, as you have said so clearly, that in the last 8 years during the Bush administration, and particularly during the 6 years when the Republicans controlled Congress, there wasn't the necessary action that needed to be taken to stem the tide of foreclosures and protect the rest of us from the impact that foreclosures had on the greater economy, the effect in the financial markets because of the securitizing of mortgages, and to protect all of us from the subprime lending that was at the core of this foreclosure issue and this foreclosure problem.

Every day when I drive through my community, I find that there are more and more foreclosed homes, more and more For Sale signs and, according to a recent Associated Press analysis, my county, the largest county in my district, has the unfortunate ranking of number one nationally for neighborhoods with the largest percentage of vacant homes. This is a problem that hurts all of us.

Mr. DRIEHAUS. If the gentlelady would yield, we have been talking about the impact of the foreclosure crisis and the mortgage lending crisis in the State of Ohio. But we are joined now by Congressman GRAYSON from Florida. As you know, Florida has been hit hard by this economic crisis as well.

I would like to yield some time to Congressman GRAYSON to share his thoughts on the foreclosure crisis.

Mr. GRAYSON. Thank you very much. I appreciate that from the Congressman from Ohio. I will tell you that one of the most hard-hit areas of our entire country in terms of foreclosures, dropping housing values, and a general destruction of the economy, is Florida. In particular central Florida, which I represent.

In central Florida, the economy is based on three things: Tourism, housing, and senior services. Tourism is not doing well. Senior services is just barely getting by. But housing has been crushed by the dramatic decline in property values and this plague of foreclosures that we see all over central Florida, but in particular, in the epicenter of that earthquake, which is Orlando.

In Orlando, we have the highest home vacancy rate in the country. Almost 10 percent of the homes in Orlando are vacant. We have had extreme overbuilding and a problem that has been exacerbated terribly by foreclosures, which destroy entire neighborhoods.

What you have to understand about foreclosures is that they are fundamentally, economically irrational. As we heard before, every foreclosure results in losses of tens of thousands dollars to the mortgage holder, as well as putting a family out on the street. So you have to ask yourself: Why are the mortgage companies acting this way, and what can be done about it?

For those of us perhaps on the other side of the aisle who worship the free market, the god of the free market, you can look at the situation happening right now and you can see for yourself that our economic actors are acting irrationally by tossing people out on the street when there is an economic motivation to keep them in their homes and keep them paying. And that's what we saw over and over again in Florida.

We saw 30 percent, 40 percent losses being taken on houses, when people in those houses were employed, when people in those houses had income, when people in those houses had savings and the ability to keep paying, although they had missed a few payments already. In a situation like that, what do we gain by throwing people out on the street?

□ 1700

What benefit is that when the mortgage company takes a 30 or 40 percent loss, the homeowner has to move in with relatives or live in a car, and beyond that, the entire neighborhood is destroyed by foreclosure after foreclosure after foreclosure pervading the real estate market? What good is that?

Well, in Orlando, we have reached a solution that is at least a temporary solution for this problem. What we did is I asked our local State court chief judge to institute mandatory mediation in all foreclosure cases. So for 45 days, foreclosures in Orlando just stopped, stopped cold. We put everybody on timeout. The banks, the borrowers, the homeowners, everybody



was on timeout for 45 days. And you know what? People found a solution to their problems. In 45 days, we got the borrower, the homeowner and the bank together. We put them all together in a room with a mediator paid for by the bank.

Under this program, many people were able to keep their homes. All they needed, some of them, was just an extra couple of months to pay their bills, a little breathing space. That's all they needed. In some cases they needed a longer term on their loan, in some cases they needed to refinance and they hadn't cleared the paperwork yet, but time after time after time what we found is that with a little bit of breathing space people could end up keeping their homes—at least those that had an income, at least those that still had a job.

We did an enormous amount of good by this simple fix on foreclosures in Orlando. But it evokes a deeper question. The deeper question is, How did we get in this situation in the first place? What is it that led to this plague of foreclosures in the first place? And we all know the answer; the answer is predatory lending and housing fraud.

And for those across the aisle who want to cast the blame in this direction, I ask a simple question. The Bush administration was in charge of enforcing the law in this country for 8 years. Can you name me one person in that 8 years that was convicted of Federal housing fraud, just one? And I see a blank stare in response. Not one. Not one case can they identify of a single person who was enforced criminally in this country with violation of our housing laws, not one.

Now, our job is to pass the law. Our job is to pass a bill, send it to the Senate, take a Senate-passed bill, vote on it ourselves, and ask the President to sign it. That is what we do here, and we do oversight as well. But can we enforce the law? No. That is the responsibility of the executive branch. And I am telling you right now that for 8 years they did nothing. Nothing. And now they have the nerve to come to us and blame us for the problems that they created?

Mr. BOCCIERI. Will the gentleman yield?

Mr. DRIEHAUS. I will yield to the gentleman from Ohio (Mr. BOCCIERI).

Mr. BOCCIERI. Thank you, Congressman, you bring up several good points. And let's make sure that we have full disclosure here and big-picture stuff.

You know, the government shouldn't be so immersed in the market. But we set the goalpost, we set the out-of-bounds markers, and within the parameters of that we should allow the free market to work. But what was happening in that free market for the last 10 years? We had hedge fund operators betting on the price of fuel going up; we had folks who were investing and betting on the price of food going up—supermarket, you go into a supermarket, you see prices rising—and we

had hedge funds that were betting that people would not be able to pay their mortgage. Now, this was a recipe for disaster.

Congressman GRAYSON, you bring up valid points: Why was there no enforcement? Why were there no referees enforcing the out-of-bounds markers or the goalposts? Why were we not enforcing this? And why were we allowing families to lose their homes, lose the American Dream? And this notion that we don't have enough regulation, we don't have enforcement of the regulations is what is happening. And what we are finding is that families across this country are struggling because of that lack of enforcement.

Let me give you one example of a family in Ohio. Just last month, the RealtyTrac rated Stark County, the largest county in the 16th Congressional District, one of the counties in my district, among the worst in the Nation in foreclosure rates. The Canton-Massillon metropolitan area ranks near the top of that list: 6,400 foreclosures last year. One of those homeowners was Willie Campbell.

I met Ms. Campbell a couple weeks ago at a roundtable I put together back home to discuss these home foreclosure issues and find out how we could find some valuable solutions. Ms. Campbell was falling behind on her mortgage payments on her three-bedroom home in Stark County. She wanted to do the right thing. She wanted to remedy the problem. She is a good American. She called an 800 number listed on a TV commercial that promised to help her. Well, it didn't. In fact, it was a scam. They took money out of her bank account for 5 months.

Ms. Campbell turned to a community development organization for help. Through mediation, she received help to lower her monthly payments from more than \$850 to a little more than \$620. She was able to cut her interest rate from 9 to 5.6 percent. What's more is that community organizations like the one that she sought help from were able to negotiate a 3-month grace period so her mortgage payments would not be late and so that she could catch up on her bills.

Now, while Ms. Campbell was eventually able to find the help that she needed, more than 4,400 Stark County homeowners who filed for foreclosure last year were not so lucky. And what are those statistics, as Congressman DRIEHAUS suggested and Congresswoman KILROY from Ohio suggested? Ohio ranks at the top five States nationwide for the highest home foreclosure rates. We have found nationwide that home values have dropped 18 percent. Nearly one in five homeowners owes more than their home is worth. And each foreclosed property, as Congressman DRIEHAUS suggested, reduces the property value of neighbors by 9 percent.

We can do better. We have got to enforce the regulations. And that is why this Congress acted to make sure that

we have enforcement of the regulations that are out there so that these fly-by-night lenders and folks who are willing to sign on the other end of the table are brought into check and that we have some balance.

Mr. DRIEHAUS. Thank you, Congressman. I just want to follow up on a point you made and a point that the Congressman from Florida made, and it's about the markets.

We have the best economic structure in the world. We have free market capitalism. And that allows for competition, it allows that competition to drive down prices, and that competition is what makes our economy grow. But when the markets don't work, when the markets have disruptions, it is our job, it is the job of government to intervene.

We are not elected to protect the barons on Wall Street, although if you sit on Financial Services, you would think that some Members are. But we are elected to protect the public good, protecting the public good.

I have heard my colleagues on the other side of the aisle go so far as to suggest that this economic crisis was precipitated by something called "predatory borrowing," as if the borrower has control, as if the borrower has control in the interaction in a mortgage loan, as if the bank is not allowed to say, you know what, you didn't give me the documentation as to your income, so therefore I am going to deny the loan.

We have folks on the other side of the aisle who have just closed their eyes to the crisis, saying the markets will take care of it. And I think that explains the inaction during the 1990s and in 2000 and 2001 and 2002 and 2003, 2004, 2005, 2006.

I had my staff pull some of the bills that were introduced in the House by the Democrats when the Republicans led the Congress. And in the 106th Congress you have both the Anti-Predatory Lending Act of 2000 as well as the Predatory Lending and Consumer Protection Act of 2000, didn't get a vote on the floor. In the 107th, the Protecting Our Communities From Predatory Lending Practices Act, no vote on the floor. The Predatory Mortgage Lending Practices Reduction Act, no vote on the floor. In the 108th Congress, the Predatory Mortgage Lending Practices Reduction Act, nothing. The Prevention of Predatory Lending Through Education Act, no action on the floor by the Republican-led Congress. Again, in the 108th, the Prohibit Predatory Lending Act, no action. And this happens over and over again every single year.

It wasn't until the Democrats took control of Congress that this Congress took seriously its role in regulating the markets when it comes to mortgages, when it understood that our primary objective, our primary purpose is to protect the public good.

This Congress failed the American people under Republican leadership

when it comes to housing. And it was only when the Democrats were elected in 2006 that we started to see action. But before I go through the number of steps that have been taken since 2007, when the Democrats took control, I would like to yield time to our colleague from New York (Mr. TONKO). So, Mr. TONKO, thank you for joining us.

Mr. TONKO. Thank you, Representative DRIEHAUS. I thank you for bringing us together on what is a very important topic.

You know, as we look at this very deep and long recession, far longer than some forecasted, we need to look at the root causes of yesterday that bring us to this point in history of today and how we are going to move forward.

I was very much interested in the chart that you shared with us earlier to look at the recent past history and the neglect that has caused such hardship in so many of the communities across this country. And, rightfully, it can be stated that this recession that we are currently enduring was pretty much triggered by the housing crisis, the mortgage crisis, the lending crisis, the foreclosure crisis. And as has been indicated by Representative KILROY, it impacts in several ways; and we can measure that in very interesting dynamics.

To think of the fact that one out of every 200 homes will be foreclosed upon is a very unraveling thought. That translates to some 3,000 people just in this capital city of Washington, D.C. alone. That is a tremendously difficult burden for communities. When you think of the fact that one child in every classroom in America is at risk of losing her or his home because the parents cannot pay for that mortgage, six in 10 homeowners that wish they understood the terms and details of their mortgages better. And the list goes on and on, all sorts of dynamics that really speak to the trouble that is out there and the impact that has been felt in our communities.

Any number of tipping points can cause this mortgage crisis or this foreclosure crisis. It can range from a job loss in this tough economy, to a health crisis that many families face, to previously missed mortgage payments—or certainly the lack of savings and access to credit, which has been another dynamic that has been dealt with and felt very severely by America's working families.

But on March 5 of this year, several of us—perhaps all of us in this colloquy—were able to stand up on this floor and pass H.R. 1106, the Helping Families Save Their Homes Act, which was our step forward, with the leadership of this House, with Speaker PELOSI determined to make a difference, with the Members of the majority looking to respond as there wasn't a response in the past, with the President and his administration looking to employ certain agencies to help resolve these crises.

We are going to move forward with a plan of action. And we need to make certain that more people are allowed to have a stable, affordable mortgage outcome. We need to work with agencies like the Department of Veteran Affairs and the Federal Housing Administration and the Department of Agriculture to allow people to modify their mortgages so that we can save the day for many homeowners. We need to expand the FHA's mortgage loan modification abilities so that, again, we can bring assistance to so many families.

Ms. KILROY. Would the gentleman yield?

Mr. TONKO. Yes.

Ms. KILROY. I appreciate what you are saying. And after Representative DRIEHAUS laid out the problem of inaction and the impact that it had on our States, on our communities, and the large foreclosure crisis that has spilled over into the greater economy, what you are bringing up is that we now have a Congress that is ready to take action, take action to protect families, to protect communities, to address the issues that got us here into the sad state of affairs that we are; and the Making Homes Affordable Act, helping to stabilize our housing market, helping maybe 7 to 9 million Americans reduce their monthly mortgage payments to more affordable levels through refinancing, through workouts. And I am proud to have supported that kind of legislation, as I know you are and my colleagues. And I am happy to help people who contact my district office to find ways to learn about these programs and how they can learn whether it will help their particular situation.

I think it is great that these programs have gotten a lot of notice and a lot of publicity. But I am concerned that Representative BOCCIERI brought up the issue with the example of his constituent who got taken advantage of by somebody who pretends to help and is really hurting, and a whole new class of predators here springing up in Ohio—and probably in other States as well—taking advantage of somebody who went to them for help.

So I think it is really important that people, when they are working out their mortgages, work with their bank or go to an accredited housing counselor. And in central Ohio, there are five of them—there is Homes on the Hill, there is Columbus Housing Partnership, there is the Urban League, the Consumer Credit Counseling, accredited agencies that will help you.

□ 1715

Mr. DRIEHAUS. Reclaiming my time, we have seen tremendous resources springing up spontaneously across the country, reaching out to homeowners, reaching out to renters who find themselves in difficulty, who are seeking housing assistance. And just like in Columbus, we have the resources for 211 and other avenues, and the Ohio Department of Commerce has

done tremendous work in the State of Ohio. And we have talked about what got us here and the inaction of the multitude of Republican Congresses.

But I would like to draw attention just for a minute and recognize our colleague Congressman HIMES to discuss solutions because we have an opportunity this week. We have an opportunity this week to pass a predatory lending bill. And this will be, I hope, the predatory lending bill that becomes law in this country, that finally when we got here in 2009, we made our mark and we said enough. Enough of the politics as usual. Enough of the Bush administration's saying "no" to protecting consumers and protecting homeowners. We have strong predatory lending legislation that we hope will become law.

So I yield to my friend JIM HIMES.

Mr. HIMES. Thank you to my colleague from Ohio for organizing this on this very, very important topic.

At one level what we're discussing is really very simple. Like every one of my colleagues standing here today, I have deep respect and appreciation for the power of the free market. It is the free market that has created the wealthiest society in the history of humankind. However, a free market requires smart regulation. We regulate dangerous things. We regulate tobacco, we regulate alcohol, we regulate firearms because we understand that used responsibly, they can enhance one's quality of life, but used irresponsibly, they can be devastating. And if there is one lesson that we have learned from this economic crisis, it is that an excess of debt can be devastating, devastating to individuals, to families, and, as we have learned much to our peril, to our country as a whole.

We have a long record, as my colleague from Ohio has pointed out, of attempts, failed attempts, to put in place over Congress after Congress, Republican-controlled Congress after Republican-controlled Congress, attempts to regulate the more excessive and predatory aspects of consumer lending that never saw the light of day.

But now we have an opportunity, a really terrific opportunity to pass commonsense legislation, which in many ways mirrors the very commonsensical legislation that we saw passed in strong bipartisan fashion last week around credit cards with respect to predatory lending.

H.R. 728 is a bill that will bring about a reform of the most predatory of practices. And it's hard, as you dive into this bill, to disagree with what is in there. The bill establishes a simple Federal standard for all home loans that simply says that lending institutions must ensure that borrowers can repay the loans they are sold. Now, in a free market, the market would bring that discipline to bear. But there are oddities within the housing market, subsidies, other incentives that mean, and we are all suffering from this today, that all too often mortgages are

extended to families where the lender knows or perhaps doesn't know but didn't do the work but knows that the individual, the family cannot repay that mortgage. So how hard is it to conceive of a regulation that simply says that a lender must do the work to assure us and to assure the borrower and themselves as a lender that they can repay the loan?

Lenders would be required and mortgage brokers would be required, if a family qualifies for a prime mortgage, to not sell them a subprime mortgage. And this is a particularly pernicious aspect of the mortgage industry. We see it particularly in our minority communities where minority families who might qualify for the low rates associated with the prime mortgage instead are sold a subprime mortgage and therefore are paying hundreds, in some cases thousands, of dollars every month that they don't need to pay. Again, this bill would just assure that mortgage brokers and lenders are not financially incented to put people into mortgages that they don't need to be into. Good, commonsensical regulation.

This bill will also ask that our securitizers, and we know now that one of the aspects of the housing market that was a bit pernicious was that risk was just passed from one hand to another, sliced and diced, and the person who made the decision to take the risk by extending the mortgage a week later had no exposure to that risk. So we are asking that along the chain of custody of a mortgage, whether it's the broker, the lender, the securitizer, that people just do the very basic work to look at this stuff, to look at this stuff and to convince themselves that the law has been followed, that the policies are in place to make sure that you're not putting toxic paper into securities unknowingly, bringing some responsibility to a process which has been all too irresponsible for far, far too long.

This is commonsensical legislation, and I hope and expect that it will draw the same kind of bipartisan support that we saw for the Credit Cardholder's Bill of Rights last week.

Mr. DRIEHAUS. You know, Congressman, we used to say in Ohio that you had more protections in buying a toaster than you did a house in the State of Ohio before we passed predatory lending legislation. And the simple fact of the matter is that for far too long in the United States Congress, the Congress has bent over backward to protect the lenders, but they have failed to protect the consumers. And in failing to protect the consumers, it has not only cost those families who were duped into those predatory loans, but it has hurt neighborhoods, it has hurt communities, it has failed entire cities.

With that, I would like to yield to Congressman BOCCIERI from Ohio.

Mr. BOCCIERI. Thank you, Representative DRIEHAUS.

Congressman HIMES brings up a very, very valid point. When Bob and Betty

Buckeye go to that local community bank, they sign for a 30-year mortgage, a 15-year mortgage, and they are expecting that their job is going to remain intact, that they're going to be able to make those mortgage payments. But what we found with the transactions across the market is that those mortgages were sold three, four, five times, and guess what. They wound up in some investment bank on Wall Street, and then we had hedge funds betting on people failing to pay their mortgage.

So this legislation and the action that the Congress is taking is making sure that Wall Street is put on notice to make sure that you're not going to bet on people failing, Americans failing. America is much better than that. We are more than that. We're not failures. We have a success story that is unmatched around this world.

And when you talk about 6,400 forecloses in my district alone, the largest county in my district ranking number one in a State that ranks number five in the country, 6 million people across this country have lost their homes, these aren't just real numbers. These are real people. These are real people.

Mr. DRIEHAUS. This is what Hamilton County, Ohio, looks like, Congressman. And thanks for the work of the folks that are working in neighborhoods for providing us this data. But this is what inaction in Congress means. It means foreclosures dotting the entire county. And I think I said earlier that in 33 of our neighborhoods in Cincinnati, we now have at least one in 10 homes standing vacant.

We have talked a bit about Ohio, but we have been joined by some of our colleagues from New Mexico and from Virginia. So I would like to recognize Representative LUJAN from New Mexico for his comments and his observations as to the situation in New Mexico.

Mr. LUJAN. Mr. DRIEHAUS, thank you very much for yielding.

As we talk about the importance of looking after those that are most in need and those that have been getting impacted and thrown out of their homes, losing their homes on a regular basis, and you look to see the inactions that have caused this problem, and the actions that this Congress, the 111th Congress, is coming forward to work on to make sure that we're looking after those that need help the most, it's an honor to be here with so many of my new colleagues as we are talking about taking action and not just waiting and waiting and waiting, but being divisive and being bold in our approaches to make sure we're looking after the citizens that we represent.

Mr. DRIEHAUS, one important thing that I wanted to talk about today was there are so many people across the country who aren't able to afford that home, who are saving up and doing what they can so they can experience the American Dream of getting into that home. And they're renters. They are renting homes, and they are sup-

porting a whole other segment of the housing across the country. And it's a segment of the population that was ignored for many years.

Looking back at the Bush administration, when they took office in 2001, touting a homeownership agenda with the goal of 5.5 million new homebuyers, but they neglected to address affordable renting housing needs.

The legislation that we'll be looking at, one important aspect of it, is we're going to be protecting tenants who rent homes that go into foreclosure, recognizing that there is a whole other segment of the population that is very much in need, that are struggling, that made some good decisions, that were maybe lured by some of those predatory lenders but were able to hold off. And now we are going to be going forward, and these are some of the other people that the Democrats aren't turning their backs on, that we're looking to see how we can help.

Mr. DRIEHAUS. Reclaiming my time, that provision is, in fact, an important part of the predatory lending bill that will be coming before us on this very floor on Thursday.

We do understand that not everybody can afford a home, not everybody should be purchasing a home, and there are many, many responsible families that are out there renting. And through no fault of their own, the landlord has gotten in trouble, and the building is now being foreclosed on, and because of that foreclosure, they're out on the streets. This bill provides them protection, necessary protection. The first time this Congress has acted to provide them protection.

So I appreciate your efforts on behalf of the renters and your standing up for the renters. And I just want to tell the people that we are standing up for them and that we will take action on Thursday on their behalf.

With that, I would like to turn it over to Mr. PERRIELLO from Virginia to offer his comments on this discussion.

Mr. PERRIELLO. Representative DRIEHAUS, this is indeed a very exciting moment. You can feel the sense of change.

Many of us that are part of this colloquy right now are all from the freshmen class, and I think it's not a coincidence because we represent a class that is in favor of accountability, accountability and common sense. Many of us were called to politics for the first time by watching more than a decade of irresponsibility here in Congress and in the White House where we saw policies of Wall Street greed cloaked in the sense of Main Street compassion in what was called the "ownership society," policies which seemed to suggest the idea that everyone could own a home regardless of how much money they made when really it was a strategy to help the rich make a lot of money on the failure of those who could never afford a house in the first place.

Year after year, as you've pointed out, there were opportunities to put

basic, commonsense accountability rules in place to prevent this from happening. And year after year we saw this Congress do nothing, do nothing, to challenge these absurd policies.

And we all know now that these policies affected much more than just the lender and the borrower. We all as Americans are in the same neighborhoods affected by these massive foreclosures. It doesn't just affect those who cannot afford their mortgage but those who live on streets where foreclosures have occurred. We have seen a fundamental lack of accountability. But you see this Congress, particularly with the new Members from the 2006 and 2008 class, pushing for real change on accountability. We saw it last week with the credit card bill. Fundamental commonsense legislation that said let's put some rules in place to prevent the tricks and the traps. If it's a product you can't sell on your own, you have to fool people into it, then maybe this is the place where basic consumer protections need to step in. Now we're ready to do the same thing with predatory mortgage lending because we are all affected by this. Our housing prices are all affected by it. Our retirement security is affected by it. And it's about time that we put in place the kind of commonsense legislation that will reward the good actors like our community banks that remained strong through this entire process instead of continuing to bail out those who have been the least responsible through this process.

This is a show that results are possible. They could have been possible if the will was there under previous Congresses and administrations. But now the will is there, and we will not rest until we put in these basic restrictions and continue to expand this new era of accountability to reverse the irresponsibility we have seen over the last 10 years and protect the American family and their right to homeownership.

Thank you.

□ 1730

Mr. DRIEHAUS. Congressman, thank you for your tremendous efforts on behalf of homeowners in Virginia.

As you say, we got elected. We got elected because people wanted to see change. Barack Obama was elected President of the United States because people wanted to see change, and they want to see Congress move forward.

But they keep hearing, on the other side of the aisle, the same old excuses. And the folks on the other side of the aisle don't want to point the finger at themselves. They forget; they have collective amnesia about their 12 years in power here in the House and their failure to do anything when it comes to predatory lending, when it comes to foreclosures.

I yield to Mr. HIMES for his observations and try to wrap this up.

Mr. HIMES. Thank you for the opportunity. I want to highlight one other practice that would be prohibited by

the antipredatory lending bill that is to come before the floor this week.

I spent many years as a vice president of the Enterprise Community Partners, a nonprofit affordable housing group and saw up close and personal the devastation that can be wreaked by a process, a product, if you will, known as asset stripping.

Asset stripping involves the extension of debt, either a mortgage or a home equity line, often to the elderly, often to minority populations, where the lender knows, the lender knows that there is no likelihood that either the senior citizen or the borrower, whoever that borrower may be, can repay that loan.

And it's very deliberate, because as a result of the loan, the lender knows they will come into possession of the home involved. They will take the equity in the home.

Now, in this world of declining real estate values, it's a little hard to understand that business model. But the reality is that ordinarily, when housing prices are rising steadily or less than steadily or more than steadily, as we saw in the last 10 years ago, that can be a very profitable business model based on the expectation that the borrower will fail. That is not the kind of product that anyone on either side of the aisle thinks should be out there victimizing, particularly the high concentration of the elderly and the minority borrowers who get caught up in this thing.

Asset stripping is a pernicious thing that would be forbidden by this antipredatory lending bill, and I think we should take great pride should that occur should this legislation pass.

Mr. DRIEHAUS. Congressman, that's a good point and I have seen all kinds of anomalies in the market that have led to behaviors that you wouldn't want to see. If you were, in fact, elected to protect the public and the public good, you would want to crack down on these pernicious behaviors. And that's exactly what we are doing in the antipredatory lending bill.

But time and time again, if you turn on the radio, if you turn on C-SPAN, if you turn on CNN, you turn on Fox News, you hear Republican after Republican getting up and making excuses, not talking about the pernicious behaviors, not talking about what is wrong with the market and how we might correct that, but blaming all kinds of different actions that have been taken by this Congress in the past.

They go so far as to suggest the Community Reinvestment Act, the CRA, passed by this Congress in 1977, is the root cause of the housing crisis in the United States.

If I have heard this once, I have heard it a thousand times, and it is now talked about all the time on talk radio.

But when you look at the Community Reinvestment Act in 1977 and what it did, it addressed red-lining, be-

cause we knew that there were financial institutions that weren't lending in certain neighborhoods, especially minority and low-income neighborhoods. So we provided incentives for financial institutions to engage in responsible lending in those low-income and minority neighborhoods.

It was called the Community Reinvestment Act, and the Community Reinvestment Act was extremely successful. As a matter of fact, 83 percent of the failures, the loan failures that we are talking about, are not even with institutions that are covered by the CRA. That's a remarkable number.

Yet Republican after Republican blames the Community Reinvestment Act. So I would like to put this one myth to bed. I would like to do that by reading a letter from the Chairman of the Federal Reserve, Mr. Bernanke, to Senator ROBERT MENENDEZ about the CRA. This letter is dated February 25, 2008.

"Dear Senator:

"Thank you for your letter of October 24, 2008, requesting the Board's view on claims that the Community Reinvestment Act (CRA) is to blame for the subprime meltdown and current mortgage foreclosure situation. We are aware of such claims but have not seen any empirical evidence presented to support them. Our own experience with CRA over more than 30 years and recent analysis of available data, including data on subprime loan performance, runs counter to the charge that CRA was at the root of, or otherwise contributed in any substantive way to, the current mortgage difficulties.

"The CRA was enacted in 1977 in response to widespread concerns that discriminatory and often arbitrary limitations on mortgage credit availability were contributing to the deteriorating conditions of America's cities, particularly low-income neighborhoods. The law directs the four Federal banking agencies to use their supervisory authority to encourage insured depository institutions—commercial banks and thrift institutions that take deposits—to help meet the credit needs of their local communities, including low- and moderate-income areas. The CRA statute and regulation have always emphasized that these lending activities be 'consistent with safe and sound operation' of the banking institutions. The Federal Reserve's own research suggests that CRA-covered depository institutions have been able to lend profitably to lower-income households and communities and that the performance of these loans is comparable to other loan activity.

"Further, a recent Board staff analysis of the Home Mortgage Disclosure Act and other data sources does not find evidence that CRA caused high default levels in the subprime market. A staff memorandum discussing the results of this analysis is included as an enclosure."

He ends like this: "As the financial crisis has unfolded, many factors have

been suggested as contributing to the current mortgage market difficulties. Among these are declining home values, incentives for originators to place loan quantity over quality, and inadequate risk management of complex financial instruments. The available evidence to date, however, does not lend any support to the argument that CRA is to blame for causing the subprime loan crisis.”

Mr. Speaker, I submit the November 25, 2008, letter to Senator MENENDEZ for the RECORD.

BOARD OF GOVERNORS  
OF THE FEDERAL RESERVE SYSTEM,  
Washington, DC, November 25, 2008.

Hon. ROBERT MENENDEZ,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR: Thank you for your letter of October 24, 2008, requesting the Board's view on claims that the Community Reinvestment Act (CRA) is to blame for the subprime meltdown and current mortgage foreclosure situation. We are aware of such claims but have not seen any empirical evidence presented to support them. Our own experience with CRA over more than 30 years and recent analysis of available data, including data on subprime loan performance, runs counter to the charge that CRA was at the root of, or otherwise contributed in any substantive way to, the current mortgage difficulties.

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Sincerely,

BEN BERNANKE.

Enclosure.

Yet the myth is perpetuated over and over again by my Republican colleagues.

We appreciate this opportunity, the newly elected Members of the Democratic class, to give an analysis of how we got here in terms of the mortgage crisis, how the mortgage crisis has led to the bank failures in this country, how we are now here to help pick up the pieces.

We were elected in November, along with the President, to work on solutions, to quit turning a blind eye to the economic crisis in this country.

But we know, over and over again, and I certainly saw it as a State legis-

lator, when we asked for Federal intervention in the markets, when we asked for Federal intervention when it came to foreclosures, there was only silence coming from Washington D.C.

On Thursday we have an opportunity. On Thursday we have an opportunity to pass antipredatory lending legislation that will make a difference, that will make a difference for every American family. And it is my hope that finally, in the spring of 2009, the Federal Government will step up to its responsibility and pass antipredatory lending legislation and pass a law that will be signed by this President to protect homeowners across the country.

#### WE MUST NOT IGNORE CONTINUING THREATS TO ISRAEL'S SURVIVAL

The SPEAKER pro tempore (Mr. KISSELL). Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, yesterday this House voted to commemorate the 61st anniversary of Israel's independence. However, even as we recognize this historic occasion, we must not ignore the continuing threats to Israel's very survival, the greatest dangers presented by the radical regime in Tehran whose leader, Mr. Ahmadinejad, has repeatedly denied the Holocaust, as all of us know, and has called for Israel to be wiped off the map.

More recently, at last month's Durban II hate-fest in Geneva, Ahmadinejad reminded us of his regime's goals when he savagely attacked Israel, stating that “world Zionism personifies racism,” and called Israel the “most racist” regime.

These are not mere idle words, Mr. Speaker. Ahmadinejad and his fellow thugs have long sought to make good on their call for Israel's elimination by sponsoring violent Islamic extremist groups and pursuing nuclear, chemical, biological and missile capabilities. In the face of such a menace to our strong, democratic ally, Israel, and to our vital interest in the Middle East, the U.S. and other responsible nations must not stand idly by. We cannot accept the prospect of an emboldened nuclear Iranian regime.

We must close loopholes in U.S. and international sanctions so as to deny the regime all remaining lifelines for their economy and compel it to abandon its destructive policies.

Further, we should realize that the existential threats to Israel, and the obstacles to peace, begin with Iran; but, sadly, they do not end there.

We must learn history's lesson that we will not achieve peace by engaging with these Islamic militant groups like the Iranian proxy, Hamas, or by recognizing a Palestinian Authority government that includes Hamas.

In standing with the Jewish state against those who seek to destroy it,

we should above all do no harm. Unfortunately, proposed funding for the Palestinian Authority, the West Bank and Gaza is included in the emergency supplemental, which would be before this floor in a matter of days; and it does not meet that standard of do no harm.

It would provide, in fact, hundreds of millions of dollars of assistance in Gaza, thereby essentially providing a bailout for Hamas, enabling Hamas to divert its funds from reconstruction and put it, instead, to the purchase of arms. It would reward and bankroll a Palestinian Authority that has proven itself unwilling or unable to fulfill its responsibilities.

When considering assistance to the Palestinian Authority, Mr. Speaker, we need to judge their leaders by their words, and by their acts as well. Just last week Palestinian Authority leader Abu Mazen reiterated his refusal to recognize Israel as a Jewish state. He said the same thing last year and the year before that, and there is no reason to think that more U.S. assistance will cause him to have a change of heart in the future.

Indeed, Abu Mazen and other senior Palestinian Authority officials have repeatedly emphasized that they do not expect Hamas or other violent Islamic groups to recognize Israel at all.

Instead, Abu Mazen bragged last year about his many years of leading and supporting violence against Israel, claiming that “I have the honor to be the one to fire the first bullet in 1965.”

But this should come as no surprise, Mr. Speaker. In 2005, when campaigning for the leadership of the PA, he echoed Arafat and Hamas by referring to Israel as the Zionist enemy. A Palestinian transparency organization reported last month that many forms of favoritism, nepotism, misappropriation of public money and abuse of public position continued to impact many sectors of the Palestinian society.

□ 1745

If Palestinian leaders will not uphold their commitments to uproot violent extremism, to stop corruption, to recognize Israel's right to exist as a Jewish democratic state, they should not receive 1 cent of U.S. taxpayer dollars. The proposed supplemental, however, would provide \$200 million in direct cash transfers to the P.A. Let's stop this bill, Mr. Speaker. It does not do justice to the U.S. nor to Israel.

#### DOMESTIC ENERGY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 60 minutes as the designee of the minority leader.

Mr. SHIMKUS. Mr. Speaker, it is great to be down here, and I am going to turn immediately to my colleague, Dr. PAUL BROWN from Georgia, to talk on the cap-and-tax, global climate change, destruction of jobs in America,

a bill that may be coming to the floor soon.

Mr. BROUN of Georgia. I thank my dear friend JOHN SHIMKUS for leading this hour, and I congratulate him on his leadership on this extremely important issue on energy.

Mr. Speaker, I rise today because my colleagues on the other side of the aisle are once again trying to pass off baloney for prime rib. In the last 100-plus days, we have seen nonstimulating stimulus packages, and we are probably going to see some more, secretive bills in an "open and transparent" Congress, and trillion dollar commitments to fiscal responsibility. Clearly, liberals have a monopoly on the misnomer. Unfortunately, the disguises are out again today with this tax-and-cap plan.

We must not be fooled by the rhetoric. This is a \$646 billion tax that will impact every American family, small business, and family farm. Family energy costs will rise by more than \$3,100 a year for every family. This is an outrageous tax on every family that drives a car, buys American products, or flips on their light switch when they come home. So unless your name is Fred Flintstone or you live in a cave, you will be impacted by this tax.

Senior citizens, the poor, and the unemployed will be hit the hardest by this tax as experts agree that they spend a greater portion of their income on energy consumption. This is a time when we should be promoting policies that stimulate our economy and not tear it down. Various studies suggest that anywhere from 1.8 million to 7 million jobs will be lost by this tax-and-cap policy. Make no mistake that the Democrats' airtight cap will suffocate America's small businesses, crippling America's respiratory system, the free economy.

My colleagues on the other side of the aisle will claim that this tax-and-cap will help clean up the environment; however, this doesn't seem that it is even about the environment or global warming anymore. This has turned into a revenue generator for NANCY PELOSI and HARRY REID's radical agenda, their steamroller of socialism that is being shoved down the throats of the American people, and that agenda includes socialized medicine. The tax-and-trade will be one of the largest sources of revenue for their new radical socialistic agenda. Mr. Speaker, the cat is out of the bag, and the American people see through the disguises, rhetoric and misnomers. Taxing families during an economic recession is not the only way to clean up the environment.

Fortunately for the American people, Republicans have offered an alternative to this unaffordable new energy tax that no one can afford. We believe that you can clean up the environment and keep jobs at the same time.

Our solutions include American energy produced by American workers to create American jobs. Our all-of-the-above energy plan brings us closer to

energy independence, encourages greater efficiency and conservation, promotes the use of alternative fuels, and lowers gas prices.

And don't think Democrats aren't doing any back-scratching when it comes to their new energy tax. The Washington Times reported yesterday that a loophole has been tucked into this legislation written by the congressional liberals that would exempt at least one major energy company from at least one of the many onerous provisions of the Democrats' national energy tax plan, ultimately leaving hard-working families and small businesses to pick up the tab.

I encourage all the non-Fred and Wilma Flintstones in America out there to stand up and demand straightforward answers from your lawmakers about this new energy tax that is being promoted by NANCY PELOSI and company, and encourage your lawmakers instead to support an all-of-the-above energy plan that removes our dependence upon foreign oil, lowers energy costs, and will create more jobs.

I thank the gentleman for yielding. We have got to stop this tax-and-cap plan that is being promoted by the leadership of this House and Senate. It is going to kill the American economy, it is going to cost jobs, and I congratulate my dear friend from Illinois for bringing all this out and being a leader in promoting responsible energy policy for America that the American public can count upon. And I congratulate you.

Mr. SHIMKUS. I thank my colleague, and I appreciate him coming down. I am going to turn quickly to my colleague from Tennessee, Congresswoman MARSHA BLACKBURN, for such time as she may consume.

Mrs. BLACKBURN. I thank the gentleman from Illinois for his leadership on this issue and for hosting this Special Order hour. I am so pleased to come and join with you and discuss the issues that we have before us with the Democrats' national energy tax, or the cap-and-tax legislation as some call it, or cap our growth and trade our jobs, or, Mr. Speaker, many people refer to cap-and-trade as just that, because it is certainly what they are going to do.

Now, we also know that if they don't get their way on cap-and-trade, what they are talking about doing is an end run and coming back around and letting the EPA regulate CO<sub>2</sub> emissions under the Clean Air Act. Indeed, I have a bill, H.R. 391, that I would encourage all colleagues in this House, all Members of this House to sign on and support this bill and keep the EPA from going around against the will of the people and regulating CO<sub>2</sub> emissions under the Clean Air Act.

Mr. Speaker, I think it is very interesting that as we are having this hour tonight and as we are looking at the logic of EPA and the logic of some of my colleagues, I wonder if we have considered that if you look at the EPA's threshold of 25,000 tons of CO<sub>2</sub>, that

would make you a major emitter, if we have considered that the EPA threatens to use that regulation against every business, every farm, every church, or every building in this country. And, of course, before the EPA gets the chance to regulate CO<sub>2</sub>, many of our colleagues want to come in and tax it right here so that they can both regulate the air that we breathe and tax the air that we both breathe and then that we exhale.

The debate that we have before us is not about making energy cleaner; it is not about making energy more plentiful. What we would see happen from this debate is that energy would become more and more scarce, and we also would see that the cost to every family would be more and more expensive.

So, here we are. We are talking about cap-and-trade; we are talking about the expense of it. And as expensive as energy costs got last year, we are not going to take any action that will make it more plentiful, we are not taking any action that would make it more readily available, we are not taking actions that are going to make it cleaner, and we are not taking actions that are going to make it more affordable. Indeed, the legislation before us would do quite the opposite.

So I join the gentleman from Illinois in being from a State, my State of Tennessee, that would be among the hardest hit by this new energy tax and by the efforts that are coming from the other side, indeed, their efforts to make energy more expensive. My colleagues on the other side of the aisle have conveniently forgotten how quickly economic slowdowns follow escalating energy costs. They have forgotten how dramatically high gas prices impacted family budgets last summer. They look upon the increased use of mass transit in the wake of those energy costs as a positive development, forgetting that in many rural districts like mine in Tennessee there is no mass transit, there is no bus service that goes from Waynesboro to Adamsville to Selmer. There is no mass transit in these rural communities. And in picking winners and losers—which they do in this legislation; they pick lots of winners and decide who is going to be the losers—they are asking the American people in their bill to make a choice between very expensive energy or no energy at all. All their scheme will cap is American productivity and trade American jobs.

Now, I think, Mr. Speaker, that if you were to ask each and every Member of this House, we would all say that we believe in clean air, clean water, and clean energy. We believe in conserving our environment for future generations.

Certainly, I grew up in a household with a mother who dedicated much of her life to conservation and beautification and preservation and historic preservation efforts, so much so that in 1997 Keep America Beautiful gave her



their lifetime achievement award. We grew up doing the things that helped clean this planet, looking for ways for energy to be more affordable and more accessible.

Now, Republicans as a whole believe in that type conservation for future generations. We do not believe that you need to tax the American people out of their house and home to pay for it, a house, by the way, which under a cap-and-trade system is going to be hotter during the summer and colder during the winter.

Republicans believe that we have more alternatives than wind and solar as sources for clean, secure energy. We know that we can safely exploit American oil resources to provide for a less expensive transition to alternative fuels. We know that we can power a next-generation electricity grid with safe nuclear power that will allow for practical electric cars and reliable transmission, rather than forcing the costs of energy to explode so that Washington might fund yet another expansion of the Federal Government.

Tennesseans know that hydroelectric power is safe and reliable. It is clean. It has powered our State for two generations. What bewilders me is that these kinds of innovative solutions are discouraged under the Democrat cap-and-tax system. It reinforces my belief that this bill is more about revenue than it is about revolutionary energy.

We should be doing things to encourage our innovators. We should be doing things that will incentivize exploration and transition to new types of energy, rather than making it more expensive, making it more scarce, and cutting off energy and innovation.

Republicans have proposals for safer, cleaner, cheaper domestic energy that will conserve our resources, secure our energy sources, and expand our economy. We do it without picking losers but, rather, by inspiring that innovative spirit that has solved problem after problem after problem in this Nation. We do it without making energy more expensive and more burdensome to the family budget. We do it without making power more scarce, but by making it more abundant.

I thank the gentleman from Illinois for his leadership on this issue, and I encourage all of our colleagues to join us in making certain that we stand against cap-and-trade and also that we support H.R. 391, which will prohibit the EPA from regulating CO<sub>2</sub> emissions under the Clean Air Act.

□ 1800

Mr. SHIMKUS. I thank my colleague for coming down and making the time. We have already had a colleague from Georgia and now from Tennessee. I'm now going to be followed by Dr. FLEMING of Louisiana, a new Member, and I think this shows the diversity of representation in this country.

I appreciate your coming down and you're free to open with your comments.

Mr. FLEMING. Well, I thank the gentleman from Illinois. I also thank the gentlelady from Tennessee for her remarks. I certainly agree with everything she has said this evening. And perhaps I have a couple more things to add.

Mr. Speaker, there are no two ways about it: this is a revenue-boosting or a net tax system by any way you look at it. The experts have looked at it, economists and energy people. I guess you could call it cap-and-trade with a little C for the "cap" and a big T for "tax." What do I mean by that? Well, what is the cap-and-trade or what we call the "cap-and-tax?" Basically, it says that there are factories out there that can burn coal or emit CO<sub>2</sub> into the atmosphere as long as they can find somebody else by way of allotments who are perhaps under the threshold by taking that burden from them. And in the process, there is some sort of exchange of currency.

Now what kind of currency are we talking about? Well, it is estimated, at least at this point, and we don't have details as often we don't get on these things, of \$646 billion of net taxation to our economy. So again, let there be no mistake about it. This is a tax.

Now, what effect will it have on us Americans? Well, first of all, we know it is going to increase unemployment because as the tax burden is put on the factories and as it is put on power plants, there will have to be a movement of factories and other things offshore or to other countries who are not part of this program. We also know that it hits the poor. And it is also going to lower the overall standard of living.

Well, here is just a couple of facts that I would like to share with you, Mr. Speaker. A recent MIT study shows that cap-and-tax will cost the average American household \$3,100 a year. Now, I know there has been some controversy about this. And it is my understanding that the MIT people went back and said, we were wrong on that; it is more than \$3,100.

Another study shows that we are likely to lose three to four million American jobs if this is enacted. Companies who are looking to invest in our economy will simply move overseas, as I said. There is also a debate about whether it will create a stimulus. For the last few months, we have been talking about how important stimulus is to our economy. Well, this will definitely stimulate an economy. It will stimulate other countries' economies while hurting our economy.

Now all of this perhaps would be a theoretical and perhaps a hypothetical discussion except for the fact that cap-and-trade is not really a new concept. They have had it in Europe for years. This morning I heard Dr. Gabriel Calzada talk about this. This gentleman is from Spain and an expert in this area. So what is the Spanish experience in this, Mr. Speaker? What Spain found was that for every green

job that was added, and again, I'm not exactly sure what a "green job" is, but for every green job, there was a loss of 2.2 jobs. In the so-called "green jobs" it was found that 90 percent of these jobs were in the implementation or construction. And these jobs were quickly dissipated as soon as the construction was ended. So what is the current unemployment rate of Spain? Seventeen and a half percent.

Now there was also a discussion by a very interesting expert in microeconomics. Aparna Mathur is her name. And I would like to read some very interesting facts into the RECORD: "These higher costs of production by cap-and-trade will translate to higher energy and product prices. In a paper that I co-authored with my colleagues at the American Enterprise Institute, we estimate that a cap-and-trade system, with a \$15 permit price, will increase the cost of everything, from food, clothing, shoes and home furnishings by 1 percent, of gasoline 7.7 percent, electricity 12.5 percent, and natural gas 12.3 percent. Of course, as previous experience with cap-and-trade programs has shown, permit prices are likely to be extremely volatile and rising over time, and our \$15 price estimate is likely to be conservative. Other studies suggest that the price could be above \$50 in 2015, close to \$100 in 2030 and \$200 in 2050. We can safely project that our estimates will be some multiple of these higher prices."

Now, also she points out something else, and that is this: as a percent of the total home budget for poor people, electricity is 4 percent, whereas for richer, more wealthy people, upper middle class perhaps, it is only 1 percent. Therefore, the burden to a low-income person is going to be four times that of someone of higher income. So what does this do in net effect? What it does is it hits the poor first and worst. How else does it hit the poor and how else does it hit everyone else? Well, we know that all the costs have to be passed along to the consumer. So as Dr. Mathur pointed out, we are going to see inflation in the cost of everything we do because everything we have today in terms of products, and even services to some extent, are dependent upon energy cost. And certainly it is going to create unemployment, because if this system were implemented worldwide, perhaps it would be an even playing field. But that is not the case. We know that for everything we do, we have China and India that is reversing that tremendously in terms of the impact on the environment. And while their economies are growing rapidly, ours will be diminishing related to this.

So the net effect of that, Mr. Speaker, is that if we move forward with this crazy plan, we are going to see both middle class and lower-income people hurt the worst. We are going to see an overall lowering of life styles. We are going to see ourselves less productive and less competitive around the world.

And that is going to relegate to actually a net loss in jobs.

So I call upon my colleagues in our discussion this evening—and hopefully this bill won't even come to the floor. But if it does, I ask my colleagues, Mr. Speaker, to vote "no" on this wasteful bill that is really, in my opinion, just another Trojan horse, a way of generating revenue to pay for new social programs and perhaps even newer social programs that are yet to be determined.

And with that, I thank you, Mr. SHIMKUS, and I yield back to you.

Mr. SHIMKUS. Thank you, Dr. FLEMING, for joining us. Now I'm pleased to be joined by the ranking member of our Agriculture Committee from the Commonwealth of Virginia.

Ranking Member GOODLATTE, thanks for joining us.

Mr. GOODLATTE. Well, I thank the gentleman from Illinois for holding this Special Order to talk about the cap-and-tax proposal that has been offered by Chairman WAXMAN of the Energy and Commerce Committee and subcommittee Chairman MARKEY of the subcommittee dealing with energy on that committee. And it concerns me greatly as it should concern all Americans.

When you look at the sources of energy that we have in our country today, this legislation is going to drive up energy costs for the average American. It is going to drive up the costs of a whole lot of other things than simply their electric bills and the cost of other energy they receive. It is also going to drive up the cost of virtually every good that they receive and a lot of services that they receive as well. It concerns me greatly.

I have served as the ranking member and previously the chairman of the Agriculture Committee. Today I serve as the ranking member on the subcommittee of the Agriculture Committee that deals with energy. And quite frankly, it is a situation where this is a solution in search of a problem. And quite frankly, the solution is going to create great problems for the American people.

What we really need to have in this country in this time of very severe economic turmoil when people are losing their jobs and the economy is suffering is we need to be looking at producing more domestic sources of energy of all kinds. And yet this legislation is going to discourage the production of most of the principal sources of energy that we utilize in our country today, including coal production and nuclear power.

The gentleman may correct me if I'm wrong, but my understanding is that nuclear power, which is completely CO<sub>2</sub> gas emission-free, is going to not receive any credit for the availability of electricity that is produced from this source which today produces about 20 percent of all of our electricity in the country. And it seems to me that if you're truly dedicated to solving our problems of energy sources, you would

want to be encouraging increased production of all different sorts of energy.

Now nuclear power is very capital intensive. But once you have a new nuclear power plant, it is the cheapest source of electric generation that exists in the country, even far cheaper than coal as a source of energy. And yet the fact that it is CO<sub>2</sub>-free doesn't seem to make any difference, because there are those in the environmental community who are very hostile to nuclear power production, even though we have—and countries like France which now produces more than 75 percent of its electricity from nuclear power—have addressed in new and innovative ways the waste disposal issue and other safety issues that make nuclear power very, very attractive.

And then when it comes to coal, do you know that more than half of our electricity in this country is generated by coal? It is a very, very important source of energy. And yet it is treated like the lost step-child in this legislation because no effort is really made here to help coal address the serious concerns that have been raised by some about the amount of CO<sub>2</sub> that is emitted from coal production. That to me does not make any sense. We are the Saudi Arabia of the world in terms of coal production. We have more coal reserves than any other country in the world. And we have tremendous capabilities in terms of long-term ability to generate cheap, low-cost power.

Mr. SHIMKUS. Would the gentleman yield on coal just for a second? I think this is an important issue, of course, for me. But a couple of recent occurrences highlight the fact that this bill really is an assault on coal. And however they try to clean it up, it is not working. Yesterday in the local paper, what did Speaker PELOSI do? She said the coal-fire power plant here in the Capitol is now switching to natural gas, that coal is gone. At a news conference briefing held last week at the United States Energy Association, FERC Chairman Wellinghoff told reporters that nuclear and coal power was too expensive. He estimated the cost of building a nuclear plant at about \$7,000 per kilowatt and discouraged investors from undertaking such ventures.

So the signals are no nuclear and no coal.

Mr. GOODLATTE. So what are they going to replace it with?

Mr. SHIMKUS. They don't like coal. They don't like hydro. But don't like nuclear. But they like electricity.

Mr. GOODLATTE. They like electricity? I like electricity. You like electricity. But you have to produce it with something.

Mr. SHIMKUS. Here is the President's comments.

Mr. GOODLATTE. Seventy-five percent of our electricity—people who are paying attention to this issue should know that 75 percent of the electricity produced in our country today is produced from coal and nuclear.

Mr. SHIMKUS. And here is the President's statement during the campaign: "What I have said is that we would put a cap-and-trade system in place that is as aggressive, if not more aggressive, than anybody else's out there. So if somebody wants to build a coal-fired power plant, they can. It is just that it will bankrupt them because they are going to be charged a huge sum for all that greenhouse gas that is being emitted."

So the signals are "no" in a venue when the demand for electricity is going to go up by 30 percent. But we want to limit the ability to produce electricity which is why we fear the real price escalations.

I just want to tie this in with the leadership of this House in Washington and down at the White House and through the Federal agencies. They are saying "no" to coal and "no" to nuclear when we have all these challenges that face us.

□ 1815

Mr. GOODLATTE. And they have no good answer in terms of what to replace it with. Wind power and solar, two that are very commonly cited, produce just a tiny percentage of the electricity in our country today. I think wind power and solar are great and they have great potential and we should encourage more of them, but there is no way that they are going to replace our traditional sources of generating electricity any time in the near future.

So the natural result is going to be that if you write legislation that heavily penalizes other sources of energy, particularly coal, what you are going to have as a result is much higher energy costs. And it will affect people all across the country in very dramatic ways, and they will see it when they open their bill for their electricity. But they are also going to see it in ways that may surprise them in terms of the cost of goods and services and in terms of their very livelihood because many jobs will go outside of the country to other countries like Russia and China and India that have no intention of complying with the same type of a cap-and-tax system that is being proposed right here in this Congress. Therefore, they are going to have cheaper sources of energy.

China and India, right now, are building one new coal-fired power plant a week. Are they going to comply with cap-and-tax? Are they going to reduce their greenhouse gas emissions? No, they are going to dramatically increase those greenhouse gas emissions, and the end result is they will produce electricity cheaper. Therefore, they will be able to produce goods cheaper in those countries. They will be a magnet to draw jobs to those countries, to become manufacturing bases, as they are already growing to be. It is just going to get worse.

Even though China has grown so much in terms of its manufacturing in

recent years, the United States is still the world's largest manufacturing country. We are going to lose that when this bill takes effect if we don't get the American people to speak out about it and let the Members of Congress know that this kind of damaging legislation will cost jobs and raise the cost of living in this country if it is not brought to a halt.

Every source of energy that we have, whether it is coal or nuclear power or oil or natural gas or solar or wind power or geothermal or renewable biofuels, all of them have environmental issues attached to them. You can't name a one that doesn't.

Wind power has all kinds of environmental issues attached to it. People have attempted to build wind power facilities in my district and have gotten great push back on the effect about birds and bats and noise.

Solar generating facilities that have been proposed for the southwest of this country have had lawsuits brought against them to prevent them from building these solar facilities because of the impact it will have on desert vegetation and desert wildlife and so on.

Ethanol and other renewable fuels have environmental opponents to them as well.

So it seems to me that the all-of-the-above approach of the Republican Conference, of promoting the development of new sources of energy, of promoting energy conservation and efficiency, and of promoting the development of all of our sources of energy, including our traditional sources, and producing them domestically to reduce our foreign trade deficit problems and to create more jobs in this country is the way to go here. That ought to be the alternative that this Congress turns to instead of a cap-and-tax government planning scheme that stifles private sector innovation, that causes higher consumer energy prices and causes job losses and lower wages and stock devaluation.

Its potential for abuse and corruption is great. It is a windfall for certain people who didn't do anything to deserve the benefits that they will get when they suddenly find that they have something to sell or trade under this system. And it is not likely to actually reduce any emissions significantly.

This idea that somehow we can reduce greenhouse gas emissions to the extent that we can turn down the thermostat of the world when other countries are going to increase their CO<sub>2</sub> emissions around the world is folly. That is what this legislation is, and it has no guarantee that it will solve the global warming issue that many have focused on. Instead, we do have a guarantee that it will have a devastating impact on our economy.

I thank the gentleman for allowing me to speak during this Special Order.

Mr. SHIMKUS. I appreciate the gentleman coming down, and I would like to now recognize the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman and I am delighted to be here with Mr. SHIMKUS.

Mr. Speaker, Mr. SHIMKUS has done so much on energy for so long in the Energy and Commerce Committee and has really brought to the forefront so many innovations and ideas on how we can solve our problems, and also making sure that we do the right thing.

Mr. Speaker, I rise today to express my concern about our national energy and environmental future. I am really worried that Congress may soon consider the cap-and-trade legislation in an attempt to move America toward a clean energy economy and decrease our reliance on foreign oil sources.

That sounds good, doesn't it, and the act in its current form will do that, but it will do much worse, and I cannot support a cap-and-trade program that will unfairly penalize small business, industry and taxpayers across the country.

A lot of my constituents get this. I would like to read a short quote from one of my constituents. The gentleman is from Darien, Illinois, and he says: "I am writing to ask you to vote "no" on any cap-and-trade bill that comes up for a vote this congressional session. Cap-and-trade is a huge tax on every American who flips on a light switch or puts gas in their car. Cap-and-trade would do nothing to affect global climate change, but would harm our economy and lead to job losses and higher taxes for all Americans."

Many estimates exist on job losses and rising electricity prices under a cap-and-trade program. One recent and very conservative estimate suggests that Illinois would lose 48,000 manufacturing jobs by 2020 and see a \$1.47 per kilowatt increase in their utility bills. Illinois is 50 percent reliant on nuclear power followed by coal.

For this reason, I think with record unemployment and foreclosures, how can we ask the American people to swallow a huge cost of living increase when they are already struggling to live?

In an apparent trend, the recently passed budget resolution slashed Yucca Mountain funding. This disturbs me. It effectively signaled lack of support for expanded nuclear production, closing the window of opportunity for a waste solution. Taxpayers have already put \$16 billion into this mountain to take care of our waste. So this is welcome back to the Carter years when the reprocessing plants that were built here in the United States, six of them, were shut down before they even opened. I think one opened.

Mr. Speaker, there is no silver bullet solution for the future of our national energy supply, but we would be irresponsible to incentivize emission reductions without including supply increase solutions. I think that the U.S. can lead in the environmental performance and production with this policy. I just don't believe that cap-and-trade is an appropriate means of doing that.

We need a combination of technology and increased production of nuclear renewables and fossil fuels. Each have to be a part of the long-term plan for America's energy and environmental security.

I want to focus for a moment on the nuclear. As I said, Illinois is 50 percent nuclear, 20 percent in our country, and there are a lot of permits pending out there for increased nuclear plants. But we need reprocessing to deal with the waste. If you thought of nuclear energy as a log, and you cut 3 percent off this side and 3 percent off of that side of the log, and you put that log, the 3 percent plus the 3 percent and burned it, and then take the other part of the log, which is 94 percent, and put that into the ground as waste, that is what we are doing right now. So we can really increase the capabilities of nuclear and we can reduce the toxicity and we can reduce the longevity of the radioactivity. So this is a no-brainer. I can't understand the Secretary of Energy and the administration suddenly deciding that we put a hold on the recycling process when we have worked so hard and come so far on the research to be ready to do that without nuclear proliferation.

So I think we really have to look at doubling the amount of power generated from zero emission nuclear power by 2030; and, more importantly, we need to begin nuclear fuel recycling and incentivize interim storage to get us there. Recycling reduces the volume of that, and it is clean and it is safe. And then utilizing technology to transition to a low carbon transportation system is another way we can dramatically decrease petroleum use and reduce emissions.

Lithium batteries in fuel-cell technology, like those being developed in Illinois at Argonne National Lab in my district, will transform both the auto manufacturing sector and help America recapture the domestic battery manufacturing base.

I currently serve as the co-Chair of the High Performance Building Caucus, and each month we hear from a business or an association about the technology, a service that offers a solution for improving commercial and residential building efficiency. Forty percent of the emissions in this country come from existing building infrastructure. So retrofitting existing buildings or utilizing technology in new building construction can serve a variety of things. There are so many things that we can do. We need everything to cut out the CO<sub>2</sub> and the other gas emissions that cause so many problems.

Illinois is almost exclusively dependent on nuclear power followed by coal, so we cannot afford the price spikes that would follow a cap-and-trade plan, especially without the increased power production.

I hope that leadership on both sides of the aisle remember to put their constituents first when it comes to considering climate legislation and allow

technology and the market to pave the way for emission reductions.

I thank the gentleman for holding this Special Order. I think it is a great benefit that we continue to discuss this issue. I hope that we can all work together to really solve this. Cap-and-trade will not do it.

Mr. SHIMKUS. I thank my colleague.

It is very important that we continue this discussion, this dialogue, and help inform the American public.

The reality is the 686-page bill, so it is \$1 billion a page, but the reality is that there are large portions that are to be written later. Part of our challenge to really debate this bill is to call my friends out and say, okay, you promised transparency. You promised openness and regular order. What are the scores so we can figure out the winners and losers? But it is crafted behind closed doors.

In fact, I heard today that this bill will now bypass the subcommittee and hopefully go to the full committee, which is really a shame for individuals who have promised regular order to continue to disregard it.

In fact, Chairman WAXMAN, Chairman MARKEY, and Chairman Emeritus DINGELL all sent a letter making sure that this would not be done in reconciliation, and pushing for regular order. They sent a letter to President Obama.

And it is now these very same people who sent a letter begging for regular order who are not going to allow regular order to occur on this bill. That is sad because it hurts our ability to educate our constituents, our voters, and let them make a decision. And they do that every 2 years.

With that, I am pleased to be joined by a new Member from Pennsylvania, Mr. GLENN THOMPSON.

□ 1830

Mr. THOMPSON of Pennsylvania. Thank you, sir. I thank the gentleman for his leadership on this issue because this is, as I was preparing to come to Congress, the fact that we had a complete lack of a national energy plan and that our energy situation we were in was just not facing us from our energy needs, but our economy and our national defense.

Mr. Speaker, I come from an energy-intensive part of the country in rural Pennsylvania. I can say that the cap-and-tax plan is nothing more than a national energy tax. The devastating impacts of creating such a program are obvious and alarming—while the benefits remain entirely unclear.

A cap-and-trade program will not just raise the price of gas at the pumps and increase our home heating and cooling bills, but it will increase the cost of all goods and services that we rely on.

The truth behind the cap-and-tax plan is that it will lead to more taxes, fewer jobs, and more government intrusion in our lives.

The President's energy plan is a \$646 billion tax that will hit almost every

American family, small business, and family farm. Family energy costs will rise on average by more than \$3,100 a year. That makes no sense, considering the current economic crisis we find ourselves in.

Those hardest hit by this massive tax will be the poor, who, experts agree, spend a greater portion of their income on energy consumption. Cap-and-trade—cap-and-tax—amounts to, literally, a war on the poor.

In my district, many folks depend on the Low-Income Home Energy Assistance Program to make energy costs more affordable just to make ends meet. It makes zero sense to impose what are essentially new taxes on energy when we have programs like this to make it cheaper for those who need it most.

Now, we believe that there are better solutions—better solutions than more taxes and few jobs and more government intrusion. And while I strongly favor diversifying our energy portfolio and increasing our renewable sources, we have to be realistic about how we go about this.

We talk a lot about renewable energy sources, but the fact remains that wind and solar still make up less than 1 percent of our total energy consumption in needs that it meets. Even with heavy government investment and involvement, it's obvious that these sources will continue to be minor contributors in the coming decades to our energy needs. A cap-and-trade system equates to enormous new taxes on fossil fuels, which currently accounts for 85 percent of our overall energy consumption.

What do we know about the experience with cap-and-tax? Well, Spain is a country that has been identified as a success story for cap-and-trade by President Obama. Now I agree that the best predictor of future performance is past performance. That has been something I have led my life by as I have made my decisions. So what has been Spain's experience over the past 7 years with cap-and-trade?

Earlier today, at the Republican Energy Solutions hearing, we heard testimony from Dr. Gabriel Calzada Alvarez from a university in Madrid, Spain. Dr. Alvarez reported on the failure of cap-and-trade in Spain. What are the outcomes that he saw of cap-and-trade—the real past performance of cap-and-trade?

First, unemployment. There were 2.2 jobs lost for every 1 job created in Spain. For every 10 green jobs that were created, only 1 survived. The rest require continuous massive government subsidy and funding.

The second outcome we saw was unaffordable energy costs. The price of energy in Spain has gone up 31 percent during those 7 years of this grand experiment with cap-and-trade.

The third outcome has been unreliable energy. Spain's power grid system has been unreliable, with blackouts that he reported, leading some pro-

ducers to move their manufacturing plants to other countries.

Dr. Alvarez reported that just last week, British Petroleum closed two solar plants in Spain, and said that the wind and solar industries are losing thousands of jobs.

Interestingly enough, a number of these manufacturers in Spain moved to our country to escape Spain's cap-and-tax. I'm absolutely confident today they may be packing their bags, getting ready to move again, along with our own United States manufacturers, because of the crushing impact and the discussions we are having of imposing this proposed cap-and-tax in our country today.

Mr. Speaker, the best predictor of future performance is past performance. The only measurable outcomes of this proposed national energy tax is, based upon past performance, higher unemployment, higher energy costs, and unreliable energy sources. Frankly, Americans deserve better.

I really appreciate the gentleman yielding time, and I appreciate your leadership on this very important and critical issue.

Mr. SHIMKUS. I thank my colleague from Pennsylvania for joining us. I look forward to working with him as we move to defeat this, wherever we get a chance to.

Now, just for my colleagues to know, I think there are about 10 minutes remaining. I would like to now give the time to Dr. PHIL GINGREY, a colleague of mine from Georgia on the Energy and Commerce Committee.

Mr. GINGREY of Georgia. I thank the gentleman for yielding. I thank Representative SHIMKUS for leading not just this hour, Mr. Speaker, not just this hour tonight, but he has been in a leadership role on an all-of-the-above approach to solving our energy problem and our dependence on a lot of countries that don't like us very much for our sources of oil and natural gas.

This goes back, Mr. Speaker, to the August recess of last year, where so many of us on this side of the aisle just spent literally the entire month with the lights down low and the microphones off and the C-SPAN cameras not running, but just bringing people on the floor of this House that were visiting the people's House on summer vacation and talking to them about an all-of-the-above approach to solving our energy problems.

So I thank Representative SHIMKUS for that, and my colleague from Illinois (Mrs. BIGGERT), and Representative G.T. THOMPSON. I think about the person he replaced in Pennsylvania, a long-serving member in this body, who retired—John Peterson—and the work that he did in regard to clean coal and his efforts. Of course, that is a signature issue that Representative SHIMKUS is trying to rally us behind—clean coal technology, carbon sequestration, and things that are part of this total package of all-of-the-above.

Just real quickly let me say this. I heard Representative BIGGERT talk

about the situation in Illinois. I wasn't really aware of the dependence on nuclear for electricity in Illinois and its relationship to how much energy is generated by coal. So you have got that one-two punch in Illinois.

It's just the opposite in Georgia. It's mostly coal. Some hydro and a little bit of nuclear. We are very likely to get the next two nuclear power generators come online pretty soon at Plant Vogtle in my great State of Georgia.

But there is no question that this cap-and-trade or cap-and-tax—you know, the word scheme can be a pejorative. And I honestly believe, as I stand here and tell my colleagues, that I think this is a scheme. It is a scheme to get jobs that have long ago located in the South and Southeast because of the low cost of labor, to get them back into Massachusetts or out in California. And this is the way they do it. They are not willing to cut the cost of labor, for obvious reasons, so they jack up the price of energy in the Southeast and in Illinois and other States of the breadbasket of the country and the Rust Belt.

I think if you go around your district and you talk to people, every manufacturer will tell you, "For goodness sake, Congressman, do something about stopping this cap-and-tax situation."

That's what we are all about here tonight. I know time is limited so I want to yield back and let some of my other colleagues have a little time. But, JOHN SHIMKUS, thank you for the opportunity. We will continue to be with you on this effort. We have got to stop this scheme.

Mr. SHIMKUS. I appreciate my colleague from Georgia. Georgia has some significant challenges on the renewable electricity standard that they are trying to cram down, which will definitely increase rates in the Southeast. We need you in the fight—and we are glad you are here.

I would now like to turn to my other colleague and friend, also from the Energy and Commerce Committee, Congressman STEVE SCALISE from Louisiana.

Mr. SCALISE. I want to thank my friend from Illinois on his leadership on this issue as well. As my other colleague said, this is one of those big battles that happens up here in Congress not too often, but at a time when we are facing very difficult times in our economy.

We are talking about different things that we can do to get our economy back on track. But for the last few years, a lot of us have been talking about what we need to do to really achieve energy independence, to reduce our dependence on Middle Eastern oil, stop sending billions of dollars to countries that don't like us, but also to really promote those alternatives in our own country so that we can get to that next level of generation of new energy sources.

So this bill, this cap-and-trade energy tax, comes before us. If you look

at President Obama's own budget, President Obama's budget estimates that a cap-and-trade energy tax would generate \$646 billion in new taxes on American families—something that would have a devastating impact.

The National Association of Manufacturers estimates 3 million to 4 million jobs would be lost. The President's own budget director says average American families would pay thousands of dollars more on their home utility bills. So I think as people look at this, they realize this is the wrong approach.

The good news is there is a better way to do this. We filed last year the American Energy Act, a bill to actually promote a comprehensive energy plan to get energy independence in America, but to get it by using our own natural resources; to explore our oil, our natural gas, which we keep finding more reserves throughout the country. Up in Shreveport, Louisiana, we found the largest natural gas reserve in the country's history.

So we have got those natural resources in our own country. Unfortunately, a lot of policies here stop us from using them. That could create hundreds of thousands of jobs, generate billions of dollars for our economy, and then you would use that money to promote and find and explore those alternative sources of energy like wind, like solar, to get those online; to encourage more conservation, as people are already doing.

But we also need to include clean coal technology and nuclear power. Nuclear is a source that emits no carbon. And so as we have heard from some of these studies, the Spain study is a really good indicator, a country that has gone down this cap-and-trade energy tax road and has realized how devastating it is to their economy.

That study that just came out in Spain that said for every green job they created, every permanent green job, they lost over 20 full-time jobs, because even the bulk of the jobs they created were temporary jobs. So for every job they created that was a permanent job, they lost 20 jobs in their economy. And they have realized it was a failure.

America surely shouldn't go down that road. That's why we are proposing these alternatives. There is a much better way—a way that we can achieve American energy independence by promoting the alternatives and using our natural resources that we have in this country to create good jobs, keep those jobs here, promote the alternative sources of energy, and reduce our dependence on Middle Eastern oil.

I thank the gentleman for his leadership on this issue.

Mr. SHIMKUS. I appreciate my colleagues—all my colleagues—for coming down here tonight. In fact, I didn't have to spend much time, we had so many people involved. I think it shows the concern of this debate.

One of our new Members recently elected—and when you are elected out

of cycle, you get a chance to get sworn in and speak here. And he actually had one of the best speeches I have ever heard. In fact, I wrote it down to a point that I wanted to highlight his comments.

He said, "It is a humbling experience to take a job when people back home are losing theirs, and become a member of this House when people are losing theirs."

It made me appreciate the great honor that the people of southern Illinois have bestowed on me to come here and represent them. How dare I come here and cast votes that would cause them to lose their jobs in even greater numbers. I am here to protect their jobs.

Why am I so impassioned? In the 1990 Clean Air Act amendments, this mine, Peabody No. 10 in Kincaid, Illinois, closed. Twelve hundred jobs were lost in just one mine. Fourteen thousand in southern Illinois.

The Special Order before this had a lot of members from Ohio, and one of them mentioned Bob and Betty Buckeye, which I thought was cute. Ohio lost 35,000 coal mine jobs. Ohio. About 92 percent of their energy portfolio is coal.

If you follow President Obama's quotes and you follow the FERC chairman and you follow the bill, this is an assault on every State that relies on coal-fired power and the miners that get that coal from the ground.

We will have a chance to talk, debate, offer amendments to make sure that these jobs are protected, and then when my colleague makes a comment, "it is humbling to be given a job when people are losing theirs," we best be about the business of protecting the jobs of our constituents.

□ 1845

And this cap-and-tax, this national energy tax, will destroy jobs; and that is what we are here to fight.

I see my colleague is here. I have 1 minute left, and I recognize the gentleman from New Jersey.

Mr. GARRETT of New Jersey. I appreciate all the work the gentleman has done, and I know we will be doing this in the future.

Obviously, this cap-and-tax Special Order that you are talking about tonight points out the fact that we are looking at higher energy costs, what you were just talking about here, fewer jobs, and of course more government interference and intrusions into private lives. When we come to the floor next time to address this issue, I want to address the issue of "not in my back yard," or NIMBY, and the fact that you are running at cross purposes here. And that is that, in order to do some of the good things that they want to do—which is to get to some alternatives, renewables, and the like—we cannot do it in the structure that is in the bill before us, or what have you, because new electricity demands will be graded, spikes in energy costs will occur, the

fact that we need new transmission lines—and I will be able to come to the floor to explain in detail how this is not already occurring because of the problems with NIMBY, the fact that people do not want to have this occur in their back yard.

I commend the gentleman on his work here. And I look forward to elaborating on this in future floor remarks.

Mr. SHIMKUS. I appreciate my colleague joining me.

Mr. Speaker, I yield back the balance of my time.

#### ENERGY ALTERNATIVES

The SPEAKER pro tempore (Mr. HIMES). Under the Speaker's announced policy of January 6, 2009, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 60 minutes.

Mr. BLUMENAUER. Mr. Speaker, it has been interesting to sit here on the floor and listen to my colleagues deal with their talking points about climate change, carbon pollution, and what they would like to debate. Sadly, they are a little bit out of phase with what, in fact, we are facing as a Nation. Luckily, the American people understand that there is a serious problem facing us dealing with carbon pollution, and they favor action to do something about it.

The American people know that ice disappearing in our polar regions, birds migrating further and further north because of the change in the temperatures, the weather that is being disruptive with drought and extreme weather events and the consensus of the scientific community all converge. We've got a problem, and it is threatening life as we know it.

The American public is not likely to be somebody who is told by 98 doctors that their child is seriously ill and needs a specific medicine or treatment. The American public would not be inclined to go search for a single doctor that disagrees, to take a chance. If you have engineering experts who tell you that you are living in a building that is likely to collapse, you think about that seriously. And if you get a second opinion and a third opinion and a fourth opinion and a fifth opinion and they all agree that the building is likely to fall down upon you and your family or your customers, you are not likely to keep searching for that one outlier who says don't worry about it.

The public knows that we have a serious problem. There is a consensus in the scientific community that we need to do something about it. And, indeed, everything that we are talking about doing to control carbon pollution and to reduce our dependence, particularly on petroleum, but especially foreign oil, all of these are things that we should be doing anyway, even if we weren't threatened by global warming and serious disruption from the carbon pollution.

Sadly, the last hour demonstrated again that too many on the other side

of the aisle have simply lost their ability to have a serious conversation about what the scientific community and the majority of the American public feel is a serious problem; indeed, maybe the greatest single threat to our way of life.

I am reminded of what happened 68 years ago in this Chamber. The world was being slowly engulfed in World War II. The Nazis had taken over most of Europe and Great Britain was at risk. The Japanese had moved throughout the South Pacific. The United States was looking at an international landscape that was increasingly more and more threatening. But 68 years ago, there were some in this Chamber—actually, a majority on the other side of the aisle—that weren't that concerned. They felt that we were still shaking off the events of a Great Depression and we couldn't afford money on a military buildup, that we shouldn't have the human resources in our military.

We were facing the expiration of the conscription, the military draft. There was a vote 68 years ago that by only one vote, 203-202, enabled us to have a military draft and have some semblance of the tools available when the inevitable happened. And on December 7, 1941, the day that President Roosevelt said before us in this Chamber would live in infamy, at least we had those tools available to be able to spring into action and fight to save our country from existential threats.

I feel very strongly that we are facing something similar today, and we are going to have too many people in this Chamber who are not going to be able to answer a question that will be posed by history 68 years from now. They are not going to be able to look their children and grandchildren in the eye 10 or 15 years from now and explain why they weren't part of a process to provide a solution to the threat of global warming.

Listen to the echoes that are still in this Chamber from our colleagues. One gentleman I like was talking about how there was a recent MIT study that showed that there was \$3,100 in cost from a program of preventing carbon pollution, a cap-and-trade program. And then he acknowledged, well, there are some controversies surrounding it. Absolutely there is controversy surrounding it. But then he went on to say, well, it appears as though the number is even higher than \$3,100. Absolutely false.

The author of that report, in fact, has written to the Republican leadership that has been misusing the study to say that it is wrong in so many ways he doesn't know how to count. It would be a tiny fraction of that amount, and that assumes that we are not giving things back directly from those resources to make a difference for people. It is embarrassing that people are still purposely misstating research like that, but it is typical.

Echoing in the Chamber now, there was somebody who was talking about

how important it is to support Republican legislation to prevent the EPA from doing its job under the Clean Air Act to deal with carbon pollution. I find that embarrassing. For the last 8 years, the Bush administration has abdicated its responsibility under the Clean Air Act to take action. Indeed, even this Supreme Court slapped them down for dragging their feet dealing with the auto tailpipe standards. What an outrageous response. Instead of joining in an effort to work to make sure that we are meeting the challenge, instead we are going to introduce legislation to prevent the EPA from doing its job if Congress fails to act.

We heard my friend from Illinois talk about how deeply concerned he was that, under the Speaker's leadership, we have changed the Capitol Hill Power Plant that for the 14 years that I have been in Congress has been belching cold smoke into the air—one of the most serious sources of air pollution here in Washington, D.C.—somehow the fact that the Speaker has acted with legislative leadership in the Senate to solve this problem by cutting the emissions in half and using natural gas instead of coal, that somehow that is bad. Well, as somebody who lives in Washington, D.C. over a third of the time, I am glad that we are not going to be polluting the air with carbon pollution. I think it is the least we should be doing for the millions of people who live in the metropolitan area, in terms of clean air, dealing with the awful substances that are part of the emissions from coal. And to think somehow that that is wrong gives you a sense of the mindset.

The new Representative from Pennsylvania was troubled by "a complete lack of an energy plan." Well, maybe he is so new to Congress that he hasn't noticed that George Bush and the Republicans have been running things here for the last 8 years and, in fact, have passed various pieces of legislation to the benefit of some of the polluting energy industries, but failed to come forward with a comprehensive energy proposal.

The notion somehow that we can't move forward in a thoughtful, comprehensive fashion to be able to design a system to reduce carbon pollution, I think, is, frankly, embarrassing. Luckily, the Democratic leadership is committed to moving forward. This is one of the top priorities of Speaker PELOSI.

We have work that is undertaken in the House Energy and Commerce Committee moving forward with draft legislation which hopefully will be moving on to us in a matter of weeks, if not days. We are poised to work with the House Ways and Means Committee as part of this partnership, and the Obama administration has set down markers and is prepared to act, either administratively or in cooperation with us, with legislation.

This country shook off the Great Depression by mobilizing the economy to fight World War II. We have an opportunity to mobilize against a threat at



least as great—that dealing with global warming—and to harness new technologies, new industries, new products and services to be able to put people to work.

Contrary to what has been suggested, alternative energy—wind, solar, biomass—across the globe are some of the fastest growing industries on Earth. Solar and wind power industries alone have sustained annual growth rates of 30 to 50 percent, creating tens of thousands of jobs while reducing reliance on foreign sources of oil and helping to shrink our carbon emissions.

Now, it is true that these renewable sources today account for less than 3 percent of the world's power generation, but the opportunity here is enormous. We expect that there will be increased energy demands in the United States and around the world, but only about a third of the generation capacity that will be needed to meet expected demand by 2030 has been built.

We have an opportunity to shape and direct how we manage that, to be able to direct it in a way that is going to make the greatest impact on our economy.

□ 1900

Mr. Speaker, there has been a fair amount of hyperbole about what will be the costs of controlling carbon pollution and moving into a new economic era. The IPCC has been in the forefront of this with the research that's coming forward, and we have had a chance to look at the parameters that they have suggested. In survey after survey of greenhouse gas reduction scenarios undertaken by respected and peer-reviewed modeling groups, there is a projected average GDP reduction of perhaps five-tenths of a percent to three-quarters of a percent to 2030 and 2050, respectively. The estimate is that by 2030, the overall United States gross domestic product is projected to double to some \$26 trillion. Without a cap on greenhouse gas emissions, the United States reaches that doubling by January 2030. With a cap, it reaches that goal 3 months later, April 2030. This is consistent with the research that we have done in Oregon at Portland State University. The State Carbon Allocation Task Force, looking only at the electrical sector, found that while carbon reductions to meet the State's 2020 goal of 10 percent below the 1990 levels would increase energy rates. Under most conditions, average consumer costs would be the same or lower due to cost savings from energy efficiency.

I want to be very clear about this because, contrary to the assumption of some critics sticking to their talking points, any money that is generated from fees on carbon pollution is not somehow buried, it's not shot into space, it's not locked in a vault somewhere. This money is used to be able to strengthen our energy infrastructure, and higher prices are further going to encourage efficiency, and last but not least, we will be investing in new prod-

ucts and services in energy-efficient standards. So that as a net result, 20 years from now, at least in our community, it's clear that we're not going to have, as a result of the change in electricity, some massive burden on individual consumers because we will be smart with our investments and people will be smart in terms of what they do, and we anticipate there will be no net increase.

Now, one of the factors that is also important to point out is that we are going to be looking at new technologies and products that leapfrog ahead. Back when we were considering in the Northwest the plans that we were going to make in the 1980s, we didn't actually consider that compact fluorescent light bulbs were going to be a serious lighting efficiency choice, but by the year 2000, these CFLs were widely available. And now, even more efficient lighting technologies, the LEDs, were on the horizon and moving forward. There will be further technological innovation, exactly what we saw when there was a restriction to deal with another gas in the atmosphere, the CFCs, the chlorinated fluorocarbons, that were threatening the ozone. You will recall at that time companies like DuPont threatened that there would be massive disruption, a massive increase in costs, and people would be put out of work. Well, actually, that's not the case. The initiative was taken. Not only were there not massive dislocations, a large increase in unemployment, but companies like DuPont actually made money by producing alternative chemical refrigerants. And surely the same will occur now if we are diligent about our investments.

But more to the point, what's going to happen if we take the alternative that is offered by some and continue with business as usual, to not control carbon emissions, to fall victim to concern about temporary problems with the economy? The report by Sir Nicholas Stern for the Government of the United Kingdom suggests that the mid-rate growth for global emissions are projected to cost 5 percent of the global GDP. A 5 percent loss of the world economic output. Now, actually the trend line is a little more disturbing than what Sir Nicholas Stern came up with because he was just dealing with the mid level of the projections. We have seen that emissions in the last several years have been at or above the high projections in the IPCC fourth report from 2008. And as a result, we have to look at that higher range that was suggested by the Stern report, which could be a 20 percent reduction in global GDP.

The status quo, ignoring the problem, trying to score debate points, roll back the Clean Air Act, and wait poses much more serious problems in terms of what we are likely to see as a consequence. And many of these potential problems are not market related. The effects of this extreme variation, I

have had Members of Congress today joking about the unstable weather here in Washington, D.C., extreme rain, heat, cold. Well, we're seeing global weather instability increasing around the planet. And the droughts, the heavy rains, the windstorms, these carry with them a cost as well.

There are socially potentially disastrous effects that relate to unease and upheaval from drought, fighting over water. There's a whole range of social costs that people need to be thinking about.

There are, I think, very sober voices that should be heard above the talking points. One voice that I find most compelling is that of retired United States Army General Anthony Zinni, who has written: "We will pay to reduce greenhouse gas emissions today or we will pay the price later in military terms, and that will involve human lives."

We are already looking, in my State of Oregon, at the likely adaptation costs. We've got issues relating to flooding, landslides, forest fires, the potential need to relocate highways and other public works. We are facing real threats in our State like they are already being faced by coastal villages in Alaska and in the British countryside of being eaten away by the increase in sea level and storm surges. We are already facing the problems of competition for lower summer stream flows from hydroelectric power, irrigation, navigation, municipal water supplies, and system stream ecosystem needs. We're having a drama being played out now in the State of California with their prolonged drought. That's a taste of what we are looking at in the immediate future if we are unable to act.

We have brought that down in Oregon, a State that has been a leader in efforts to curb greenhouse gasses, to plan for energy futures, an intensely environmentally conscious State. We recently had a study published by the University of Oregon's Climate Leadership Initiative by Echo Northwest, a consulting firm located in Oregon, that estimates the cost to Oregonians by 2020 from the impacts on global warming of \$3.3 billion annually, almost \$2,000 per Oregon household or 2 percent of our current gross domestic product. Put in perspective, that would be the equivalent of a household annual electric rate increase of 175 percent.

Mr. Speaker, these are sobering facts that deal with the highly likely outcomes of our failure to get our arms around this problem and move forward to deal with the problems of greenhouse gas emissions. We need to be serious about opportunities dealing with the savings from energy efficiency. This is an area that we should be doing regardless of greenhouse gas emissions. This is something that is within our power right now.

Part of what is being ignored by critics and their talking points is that all of the major approaches to deal with

greenhouse gas emissions, with the cap-and-trade, would put much of this money back into a system to help people improve energy efficiency. Remember, I mentioned the one study that, in fact, estimates that people would actually be paying less by 2030 than they're paying today, even though electric rates would well go up, because of increased energy efficiency.

We are currently wasting more energy than any other country in the world. The United States is less carbon efficient than 75 out of 107 industrialized countries, and we use the most transportation fuel per passenger mile. There is absolutely no reason that we, as a society, as we are working to create new green collar jobs built on an energy-efficient, carbon-constrained economy for the future, can't take advantage of this to be able to not only reduce power rates in the future, saving Americans money, but put people to work now. We have seen this work in the United States. California has some of the highest electric rates in the country, but over the course of the last 30 years, electric energy efficiency has saved Californians \$56 billion while producing 1½ million new jobs.

□ 1915

The University of California at Berkeley projected savings in jobs from meeting California's Assembly Bill 32 carbon cap-and-trade law. By 2020, they project \$76 billion in saved energy costs at current rates and 400,000 new jobs in California.

Mr. Speaker, the opportunities to move forward to capitalize on energy efficiency is something we want everybody to look at. We have had experience in this area in the Pacific Northwest.

We have engaged in one of the most comprehensive efforts with our northwest power planning council, electric utilities in the Northwest, to try and deal with least-cost energy planning, looking at the big picture. I am proud to say that my hometown of Portland, Oregon, was the first American city with a comprehensive energy policy enacted in 1979.

There has been a lot going on in the Pacific Northwest dealing with energy efficiency. Between 1980 and 2000, the region invested almost \$2.5 billion in energy efficiency. It costs money to be able to move forward on that energy efficiency curve. But during that period of time, the region earned that total investment back once every 18 months.

Let me repeat that: over the course of that 20-year period of time, we invested \$2.4 billion in energy efficiency and the savings, as a result of that investment, were repaid every year and a half. That's a 67 percent average annual rate of return on investment.

This is what we are talking about in terms of being able to move this forward. Now, there are some that suggest, well, you can't do this because it's going to pull the plug on State and local economies; they can't survive

this aggressive push towards energy efficiency.

Well, looking at what has happened in the Pacific Northwest over the last 25 years. That's simply not the fact. Californians have actually had some reasonable economic growth in this period of time. We have had the same in Oregon. By not being intensely carbon based, investing in energy efficiency, we have been able to produce substantial economic benefit while we are growing in a sustainable fashion.

It has resulted in Oregonians, in the metropolitan area of Portland, exporting fewer of their dollars to Houston, Venezuela or Saudi Arabia and, in fact, they have almost \$2,500 a year more disposable income that they are not spending just on transportation alone. This makes a real difference in terms of the initiatives that were made.

In Oregon, we have been working to reduce carbon emissions. Our carbon emissions were 30 percent lower than the national average in 1990, and by working very hard, they are 36 percent lower than 2007. But it's been done without any reduction in our State gross domestic product.

Now, Mr. Speaker, these are important points that need to be part of a serious discussion. The status quo, business as usual, head in the sand, we are not going to worry about it now, we are to going to make it a political football is, I think—there may be a time when politics could be played this way. I think the stakes are too high. The American public knows that.

I hope, sooner, rather than later, my friends on the other side of the aisle will understand that this is a serious problem and it invites a serious response.

I hope they will reject the advice of Republican Leader BOEHNER, who has been misusing, for instance, the MIT study repeatedly, despite having had a call to his office's attention how misleading that figure is. But his advice has been to Republicans to not be legislators, but to be communicators, to talk instead of act.

I sincerely hope that that approach will be rejected, because we will be better off, not as a, just as a Congress, we will be better off as a country and as a people if we have broad bipartisan interaction. They may not agree with each and every point, but at least have an honest debate, stop misrepresenting facts and give people permission to be involved with serious efforts to solve this problem.

Because, make no mistake, Mr. Speaker, this problem demands attention and it will get attention. One of the most important decisions of the Obama administration is that they were going to start following the law under the Clean Air Act and deal with carbon pollution. This is clear, we are heading down this path.

If Congress doesn't act, we will be dealing with carbon regulation through a combination of administrative action and legal action. It's one way to solve

the problem. I, personally, don't think it's the best, but it's one of the approaches that will be taken.

We find now that there is growing support from leaders in the business community to act seriously to reduce greenhouse gas emissions. There is a growing consensus among business leaders that now is the time to act, and they are participating with us in serious discussions to craft a workable solution.

It's somewhat ironic that we hear the United States Chamber of Commerce being cited by some to cite that there are problems in opposition to dealing with greenhouse gas cap-and-trade initiatives. Actually, the best research I have seen is that there are only four companies on the board of directors of the Chamber of Commerce that are in support of this "just say no" attitude.

Of those companies that have taken a position on the board of directors, 80 percent support Federal regulations with goals to reduce total U.S. global warming pollution, not all in agreement on precisely the response, but Alcoa, Caterpillar, Deere and Company, Dow Chemical Company, Duke Energy, Eastman Kodak Company, Entergy, Fox Entertainment Group, IBM, Lockheed Martin, Nike, PepsiCo, PNM Resources, the Robertson Foundation, Rolls Royce North America, Siemens Corporation, Southern Company, Toyota Motor North America, Xerox. These are all companies that have realized, in many cases, because they are global in nature, that Europe is moving, Japan is moving. Even China is moving on areas of energy efficiency, and there are opportunities for us to work with them, even as they move to be the leader in wind, solar and electric cars.

So major businesses, 80 percent of those on the Chamber board of directors that have taken a position, favor Federal regulation. This is the wave of the future. This is what we as a society need to do.

I am encouraged with the progress that we have made already here in the work under the leadership of the Speaker, of our various committee Chairs, and an active group of Members in the Democratic Caucus moving forward and advancing this debate.

I look forward to having legislation on the floor this year that we can deal with and hopefully enact, working with the administration. I look forward to the United States when it comes to coming together with the global community to deal with climate change in Copenhagen in December.

I look forward to our being there with the United States no longer being missing in action, but, instead, assume its rightful leadership role as the most powerful Nation in the world, as the strongest economy, and, frankly, as the largest emitter of greenhouse gases in history that we accept our responsibility, our leadership and move this forward.

Mr. Speaker, I appreciate the opportunity to be here this evening to share

some thoughts. I look forward to our being able to continue the discussion on the floor of the House. I hope, I sincerely hope that we will be able to engage in a thoughtful, deliberate discussion of alternatives that will reduce greenhouse gases, the threat to the planet, strengthen our economy and make a more liveable world for our children and grandchildren.

#### DEFINING MOMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from California (Mr. RADANOVICH) is recognized for 60 minutes.

Mr. RADANOVICH. I appreciate being joined here with my colleague from Illinois to talk about somewhat of a new issue, I think, in the Congress, but more of a broad overview of the situation here in the United States and the situation of the Congress where we might be headed as a country and some new ideas that might be in order.

Mr. Speaker, I can't help but think during this special time of the references of our current situation to the Great Depression in the 1930s and the FDR administration, how Franklin Roosevelt dealt with those issues and a contract, a social contract that was written during those times that was felt to be necessary in order to deal with the trying times of the day.

And I am not suggesting that the Depression is anything like what we are facing now. We are lucky to not be dealing with 30 percent unemployment, although there are some places in California that have that. Nationally we are not there. But there are some similarities.

And I was reading a book the other day by Jonathan Alter, a very interesting book, called "The Defining Moment." And it was that time during the first 150 days of the FDR administration that it dawned on FDR that he was writing a new social contract.

Jonathan Alter said it well when he wrote: "FDR knew he was on the verge of proposing nothing less than a rewriting of the American social contract. Instead of every man being the captain of his own fate, he envisioned the ship of state carrying a safety net. He favored what he called cradle-to-grave coverage, including national health insurance. But he knew that trying to insulate average Americans from the ravages of the market was a long-term process." So, in public, he borrowed a term from the private sector and spoke vaguely of social insurance.

□ 1930

It dawned on me that having been here a number of years, having had a Republican majority for about 12 years, having thought of reading the signals back in 1994 that the American people wanted a change in their government, and less government, the fact that perhaps during that time a new social contract would have been something that

could have succeeded in achieving those goals while we were in office.

Now, the Republicans, when they came in charge, didn't do what they had promised to do in reducing government, and that has led to us being in the minority now. I think the Republicans get that, and I think we are in a position now where we are trying to assess, where do we go from here? And it dawned on me that it is probably no surprise that we are drawing up these similarities to the Depression and the time for a new deal. We have a President in the White House who has been characterized as the next FDR and very popular and spending money like FDR, but I think that leaves to Republicans the opportunity to define a new social contract, and that interests me.

And I have to go back to times of the contract with America; and that was a contract, but it wasn't necessarily a social contract. It was a political contract. If the American people gave the majority in the House to the Republicans, they would bring 10 bills to the floor, and that was it. It didn't really speak of a social contract in that what government would do and then the rest of society would do as a response to that. It didn't really define a new social contract that we need today.

So I would like to encourage some conversation about that or along those lines. I am so proud to be joined by my friend from Illinois, Mr. ROSKAM, and also my friend from South Carolina, Mr. INGLIS, to discuss it.

Mr. ROSKAM. If the gentleman would yield. I thank the gentleman for gathering us today and for his leadership, and really having a conversation that I think is very important, Mr. Speaker, to talk about where we are, because my sense is that we are at a very pivotal point in our public life right now and when the types of changes and the types of choices that are being presented to the public are choices that we are going to reflect back in 5, 10, 15, 20, 30, 40 years and say that was the time.

I remember my mother grew up in Oak Park, Illinois, and she was born in 1930. She remembers and I remember her telling me about what it was like for her as a little girl turning on the radio and hearing the voice of Adolph Hitler, and just that sort of ominous feel. And now I am kind of projecting here, but I am imagining that my mother as a little girl sort of knew that there was something that was going on, and that time that she was involved in was formative.

And I would suggest to you, take the World War II reference and abandon it now, and this time that we are in just has a feel about it. It has a poignancy to it, and it has a sense that decisions that are going to be made are going to be made and have long-term implications, and I think that one of a couple of things is going to happen.

My hope and expectation is that we are going to make decisions and we will say, thank goodness that there

were clear-thinking people in Washington at the time that the wheels were coming off the cart. But the alternative is that we surrender so much freedom and we give up so much to a benevolent government that sort of pats us on the head and says: We are going to take care of all your problems. And then we wake up, and when the government fails—and we've seen that time and time and time again lately. We wake up and we don't have those tools that should be ours, and instead they were squandered and they were given away at a time of panic and at a time of legitimate fear.

So here we are on the floor of the House of Representatives, and we are in the midst of this conversation as a country and we have got to look carefully at where we have been and then figure out where we are going. And I think any honest assessment of where we have been takes a look back and says: Okay, United States of America, you have been given an inspired Declaration of Independence. You have been given a Constitution that is the envy of the world. You, as a Nation, and your predecessors have gone through the Civil War. You have gone through the turmoil of slavery. You have gone through world wars. You have gone through a Depression like we were talking about a minute ago. You defeated communism. You defeated fascism, and here you are at this moment where great decisions need to be made. But do so as a Nation with a proud heritage, as a Nation that has understood where it has come from and where it needs to go.

But don't panic. Don't underreact. Don't act as if there are no problems, because there are problems. We know there are great difficulties. We know we have a health care system that is unsustainable. We know that the world is an increasingly dangerous place. We know that the amount of money that is being spent here in Washington begins to feel like generational theft. It really is too much. So we are rightly sobered by these things. But as we are contemplating solutions, we ought not be dismissive of this incredible heritage that we have been given.

I yield to the gentleman from South Carolina.

Mr. INGLIS. I thank the gentleman for yielding. I think what you just said is very true. The thing I would add to it is that it is also important that we not abandon hope in the midst of that awareness. You just talked about the important awareness of the trials that we are in. We need to be very much aware.

We also, I think, need to approach them with a hope that—well, it depends on where you come from. From my perspective, it is this: The reason I have hope is I believe there is a sovereign God who is in control of all things and, furthermore, I think he is good. So if you put those two things together, I have every reason to be optimistic. Now, I do need to be aware of

the risks that we face and, therefore, respond to them and anticipate them, but also with the hope that America has been through similar kinds of troubles before and met incredible challenges.

Since I serve on the Science Committee and Foreign Affairs, I always mention the scientific kind of things. I am not a scientist. I just play one occasionally on the Science Committee, by the way. But when you think about the things that the United States has done, we finished the transcontinental railroad in the midst of the Civil War. We finished the Panama Canal when the French had abandoned that effort after losing tens of thousands of people to malaria and other causes of death in Panama. We were the nation that fought and won World War II, that very quickly responded to the arms race, to Sputnik, and all of that.

In South Carolina, part of our claim to fame is the Savannah River site was and, as I understand it, still remains the largest construction project in the history of the country. All the stainless steel in the country was going to Aiken, South Carolina, to build the canyons that would develop some of the elements related to our nuclear arsenal, the bomb plant as we call it in South Carolina. Then, in 1961, President Kennedy said we must go to the Moon, make it our goal to go to the Moon before the end of the decade. And we did it, 1969.

So the amazing thing to me is that we accomplished all of those things with technology that now looks very old. The Apollo mission was all designed on the slide rule. Actually, the shuttles were designed on slide rules.

So when you take what America has done with this entrepreneurship, this belief in freedom that the gentleman was just mentioning, and charge that up in the right way so that you marshal those forces and you go out and you conquer these problems, that is what we are about. And I think what our friend just mentioned is very good about the importance of this free enterprise system and the American Dream.

To me, the American Dream is this: It is the fulfilling of the God-given desire to create, to contribute, to care, and to live at peace with one's self, one's neighbors, and one's God. That is the American Dream. And it starts with an understanding that it is the opportunity to do those things, not the guarantee. And that is, I think, what separates us from the other party is they are talking all the time about guarantee. We talk about opportunity. The gentleman from California, I think, talks about opportunity.

Mr. RADANOVICH. It is very interesting. Yes, we do talk about opportunity. But I am reminded about the opening line to Common Sense, which was the book written, that sparked the American Revolution, by Thomas Paine. In the very opening sentence he says: Writers have so confused govern-

ment with society as to leave no distinction between the two.

It is a reminder today that there is more than one institution in this country. In fact, if you go back to the Bible, in Genesis there were institutions created there. God said, go forth and multiply; He created the family institution. He said, tend to the garden. He created the business institution. And He said, worship me, which meant love God above all things and love your neighbor as yourself. And then afterwards, Cain killed Abel, and we needed another institution to keep from killing each other, and that was the government, and so we had four.

Even back in the Revolutionary time, there wasn't really a clear idea about what institution did what in society so that we could have the opportunity that we are looking for. Right now, I think, with this New Deal social contract that I believe that we have in place now, which started in the 1930's, Ronald Reagan, the great President that he was, the conservative that he was, still was not able to distinguish between all of those, and the growth of government still happened during that time. The Contract with America wasn't necessarily anything more than a promise to bring 10 bills to the floor. It had its purpose. It was good in many ways, but it didn't address what Thomas Paine thought was the confusion out there about what is government doing, what do we call this remaining society part, and what does it look like, and who does what in this country. Does government raise families or does family raise families? Does government provide jobs or does government protect people and business is the one and should be allowed to provide the jobs and the economy?

And so when we look today at the new administration, the change in majority that we have right now, the growth in the budget, the intention of taking over 17 percent of the business sector and the health care sector, bringing it in under government control and creating a new bubble that will happen, and that is replacing fossil fuels with solar and energy production with massive subsidies that will rack up the national debt like we have never seen, it does make you wonder about whether or not at some point in time the old ATM is going to stop giving out cash. And then what are we going to do? Because we have based our society on a complete reliance of government while ignoring the value of the other institutions, and while relying more on government, we weaken the other institutions. That, I think, is what frightens me the most.

Everybody wants the President to succeed, but we wonder whether he will under the policies that he has adopted. And our hope is there with him, but there is a realistic expectation that if a liberal left policy of dramatically increasing the size and influence of the government is going to collapse upon itself I think at some point in time.

Mr. ROSKAM. I jotted down what you just said: Relying on the government, we weaken these other institutions, and that is really to the point. You know, the gentleman from South Carolina was talking about sort of an orderliness, if I could paraphrase, an orderliness. And I know the three of us and I know every Republican in the House of Representatives recognizes the role of government. There is an appropriate role of government, and the gentleman just gave a glimpse into the seeds of that, and it goes back ancient of times in civilization, and it was to create a structure for fairness and follow-through and an ability to have an expectation of what the ground rules are.

□ 1945

But when government bleeds over into responsibilities that aren't really the government's, and when people give the government that kind of responsibility and ultimately that authority, then you see where this ends up. And it is not a good picture.

Going back again to Genesis, I am reminded of the story of Isaac and his two sons, Esau and Jacob. And as you know, in that Near Eastern culture at that time, the oldest son who was Esau had the birthright. He had the property right. Give me a little grace here. It was about 90 percent ownership expectation that the oldest son was going to get the estate, the cattle and the household. And then the number two son kind of picks up the scraps. That is sort of the way it was in that time. Well, as you know, the account is that Esau comes in out of the field, and he is famished. He is crazy hungry. And we have all been like that. We know what that is like, just being so hungry you can hardly see straight. And his brother, Jacob, the number two son, is cooking some sort of stew. And Esau comes in and says, Give me some stew. And Jacob says, Give me your birthright. And Esau agrees to it. And now I'm collapsing the story down, but Esau gets passed over. He gives up his birthright.

I have this sense that we, as Americans, right now are in a position where we have this birthright that has been given to us not really through work of our own, but it is this birthright that has been entrusted to us. It is the ability to start a company, the ability to innovate, the ability to really capture what it is you want to do; and yet we are being coaxed, as a country, right now by some people who are saying, Give up that birthright. Just give it up. Here. We will give you "stability." And in the name of "stability," many, many people are sacrificing a fundamental birthright. It hasn't happened entirely. But we are sort of on that verge. You get the sense that that is what is beginning to happen.

One of the reasons that I'm a Republican is because I think the Republican Party has this high view ultimately.

Many times it is not articulated well. Many times we bumble along. And we are far from perfect. But do you know what? There is a core there that says, We know what that birthright is. And it is a system that has been the envy of the world that has created more prosperity for more people than the world has ever seen before. And yet we are being told, Just give it up. Just give it up, and you will get stability in exchange.

And I would submit that is a very, very bad deal. And we ought not make that exchange.

I will yield to the gentleman.

Mr. INGLIS. And you mentioned "orderliness." I think what we are talking about here in part and what Mr. RADANOVICH has been talking about is the rule of law, the importance of knowing that you can count on the rule of law to allow you to, among other things, enjoy the fruits of your labors. When you trade that away and you don't have that assurance, you have this system like you're talking about where there is stability or there is a guarantee rather than an opportunity. If you don't have the certainty that you can, because of the rule of law, have the certainty of knowing you can enjoy the fruits of your labor, then there is just less labor. It is just the way it is. That is human nature.

Dick Arme, our former majority leader, was the first person I heard say this. He said, "Communism is that system where he who has nothing wants to share it with you." And so it really is a pretty good definition I think of communism. And of course I'm not accusing anyone here of advocating communism. But I do think that when you break this connection between industry, work, labor, and reward, funny things start happening. You lose incentive, and you lose the certainty of reward.

The thing that we do believe in, we Republicans advocate this thing of orderliness, or rule of law, very highly. We value that very highly because there are some economies around the world you can look at where they are blessed with many resources, but yet they lack the rule of law. And as a result, there is no certainty that your work will be rewarded, and, therefore, there just isn't as much work. There isn't as much industry. If you can't own the fruits of your labor, then you labor less. And for some people, this is a real problem. There is a deep philosophical divide that, I think the gentleman here can agree with me, we face a lot. Some people really have a Utopian view of humankind and think that we will some day move beyond this need to have a linkage between work and reward. But I think that what we realize is that, no, you will never break that link. You don't want to break that link. It is just the way it is. And so you want to make clear there is a clear linkage, and then people keep working. They keep innovating.

It is why, for example, we think that economies around the world that steal

our intellectual property are so offensive to us. We think, no, we had people who worked hard, who studied hard, who invested time, energy and capital to create something, and now you have gone and stolen it and are selling it on the streets for \$5 a copy when it really costs a lot more than that to develop. And some people think that is sort of Western imperialism maybe, but I think it is pretty clear that what we are talking about is effort and reward. And you have to keep those together and make opportunity for effort and reward.

I will be happy to yield to the gentleman from California.

Mr. RADANOVICH. I thank the gentleman.

You raise an excellent point, and you speak of the virtue of work. And I'm reminded of virtue. I just have to think about where this virtue that you say comes from, and discussing previously the idea of what other institutions do and what they provide to us in our society. One of those is the issue of virtue. Where does that come from? And there is a chapter in the Bible in Second Peter where it addresses the issue of where freedom and independence come from. And it really starts with faith. And so the growing of that virtue doesn't start here. It starts in the faith institutions. Call it "church," call it "religion," whatever you want to call it; it starts with faith. And that, as outlined in Second Peter, produces virtue which produces freedom and independence. And it all goes into the ability that you describe and that is the desire and the ability to go and reap the rewards of your own labor.

The point I would make in response to yours is that that faith institution has to be really strong in the country because the Founding Fathers relied on it to be the virtue builder in a free society. They restricted government and religion because that had been the forms of tyranny over the last thousand years. Benjamin Franklin was leaving Independence Hall after they signed the Declaration of Independence. Somebody said, What have you given us? He said, Liberty, if you can handle it. And he was really talking about this idea that self-government doesn't come without virtuous people, and virtue originates in a sector that has been beaten down quite a bit. I think that is one of those institutions that has been suffering from Big Government.

I would love to take just a second to illustrate the most artful example and the best form of describing how we love one another as ourselves. It is charity. And if you look at a cross-section of charity in this country, I have identified about \$1.2 trillion of charity that occurs in the United States every year. Americans give about 1.5 to 2 percent of their gross income to charity on average, and that accounts for about \$300 billion a year that goes to churches and nonprofits and the like. Surprisingly, corporations and foundations

only give about \$100 billion a year. That makes \$400 billion. The balance, \$800 billion, comes from government charity, that is the forced levy of taxes on you and me. Twenty-five cents of our tax dollar goes to government charity in the form of Medicaid, food stamps—rack them up—farm subsidies and everything else. It adds up to about 25 cents on every dollar. And if the Founding Fathers were relying on the faith institutions to be the originators of virtue through faith, freedom and independence, it is getting less than one-third of the charity that is operating in this country today, while the lion's share of it goes to government which, at best, can sustain people at where they are.

The story you described about the person who is hungry and the main motivator of going to work and improving your life and doing things better, how can they be motivated when the charity is coming from a government institution that doesn't really encourage them beyond their own current situation and never really educates them on the need to work and why and the benefits of it? So I'm not surprised that there is more of a dependency on government, the growth of government, the overreliance on it, and this trend toward Big Government, because you have to follow the charity money. Frankly there are less of those virtues in this country because the faith institution has been weakened by the growth of government, and they are not able to—and they are the source that brings up this notion of freedom and independence, which is wanting in this country.

Anyway, I was intrigued by your thoughts of how people are motivated to work and what are the original origins of that ethic. And it is severely underfunded and being run over today by government.

Mr. ROSKAM. These choices that we are dealing with remind me of a story I heard about a young woman who was a foreign exchange student here. I forget what country she was from. But she came over here as a high school student or a college student and spent 1 year here like so many foreign exchange students do. And someone asked her, So what did you think? Wind it up for us. What did you think about this year that you spent in America? And what was the thing that made the biggest impression on you? And they were thinking, oh, computers or the highway system or the cool kids at school or whatever some of those predictable things were. But she said something that was very, very unusual. And she said that the biggest impact on her was the number of people who approached her and said, So what are you going to do? What do you want to study? What do you want to grow up and be?

And sometimes we lose track of that. I think that is such a common experience for Americans, an expectation that one generation is going to supersede the next generation in terms of

achievement. But for this girl, it was revolutionary. She came from a culture that didn't really support that, where that wasn't the expectation. And so for her to go around and be reaffirmed on these dreams, that dream of possibility, all of a sudden it was like, wow, I could do a lot of things.

One of my favorite authors is an author named Paul Johnson. Paul Johnson is a living British historian who likes the United States. So it is nice to read his stuff. He really likes America. And in one of his books called "A History of the American People," Paul Johnson talks about our Founders and compares them to the advisers of King George III. And so he goes through this list and he says, basically, you have got this A Team, this unbelievable group of people who founded our country. And you know all the names, Jefferson, Washington, Hamilton, Monroe and Madison and a whole cast of great leaders. And he says that they were such special people, but they were ultimately eclipsing themselves because the combination of them was so great.

And he said there was a second and a third tier of leadership underneath them that in any other generation would have been tier one people, but they just had the dumb luck to be on the scene with this incredible group of talent. And Johnson writes and compares that to the advisers of King George III, the King of England during the Revolution. And I'm overcharacterizing this, but it is as if we weren't playing fair. That is how good our Founders were compared to the leadership on the other side.

And Johnson makes this point: he said all kinds of factors go into history, into how history turns out and how things happen. There are economies. There is weather. There are wars. There are a whole host of things. But ultimately the single most important thing in the determination of history is the people who are in charge at the time—and now this is the PETER ROSKAM footnote—and the choices they make.

□ 2000

And so here we are, we are at this time, almost a tumultuous time in our public life where there is a great deal of fear out there. There is a great deal of anxiety and restlessness. People have been so disappointed for the last couple of months about solutions that they have seen and expectations that Washington and big institutions were going to come through for them. And ultimately, many of those institutions have failed.

One of the reasons that I am here and one of the reasons that I am part of the party that is the Republican Party is because there is that real bedrock of knowledge that, notwithstanding all of the challenges, there is this high view of the individual and a confidence that given a fair set of laws, given a fair shake, given a fair opportunity, there is going to be, on balance, a very good

result. That is not to say we don't have responsibilities because we do. But this view that somehow government is going to come in and make problems go away is, I think, profoundly naive. And we need to be mindful of surrendering so much of our national identity and so much of ourselves to a government that hasn't always deserved our confidence.

Mr. INGLIS. I would add to that, these were exceptional people that you just listed that believed in some very exceptional ideas.

I am a conservative. We are all conservatives here speaking tonight. And to some extent, conservatives are people who sort of want to keep things together the way they are. And I am also conservative philosophically as in wanting to have things like free markets and things like that. But it is also true that at times conservatives are people who want bold change, bold strokes, not just keep it the way it is, we really want to change things.

So those folks you were just mentioning were very bold in believing some pretty audacious things. Like we hold these truths to be self-evident. In other words, they are not going to make any further explanation of it. We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain inalienable rights. Among these are the right to life, liberty, and the pursuit of happiness.

That was a bodacious thing to say in 1776. You could say the conservative personality thing was to continue to believe in the divine right of kings. But here were these upstarts in the colonies who said no, listen, we have studied the laws of nature and of nature's God, as Mr. Jefferson said in that document, and we come to a different conclusion. And then he stated the conclusion that we hold these truths to be self-evident. I think it is very exciting just to see how bold they were.

Now fast forward to where we are today, and we have a big challenge. Our challenge today is that our pollsters tell us that for the first time in awhile, maybe in our lifetimes, people don't believe that their children will be better off than they have been. I think that is worth examining and figuring out why that is.

When we started this wonderful adventure here in the United States in 1776 with those incredible words of change and things being self-evident, we carried that on. That was sort of our heritage. As Tom Friedman writes, America is young enough and brash enough to believe that every problem has a solution.

Much of the world has long ago left that nation, but they need us, the Americans, to believe that every problem has a solution. And I would submit that it comes from the DNA we developed in 1776 when we said that all men are created equal. Hello, that is not what the rest of the world thought. And we are endowed by these certain

inalienable rights. That, I would submit, carries through to the thought that yes, by my sacrifice today, or my putting my kids through college or whatever it is, can create for them a better standard of living than mine, which I think is something that has driven this country to its economic success.

It seems to me it is tied in with that DNA and that political understanding, and that comes, as the gentleman from California was saying earlier, was really from a faith understanding. So it really is connected to a series of very big thoughts in America that gets us to the place now of a big challenge, which is do we believe that our children will be better off than we are.

Unfortunately, a big number of our fellow citizens think not. I think it is worth asking, why is that and what can we do to convince them that no, really, America's best days are still ahead if we just stick to these principles, we return to our principles.

Mr. RADANOVICH. I am intrigued by the gentleman from Illinois's thoughts about this person who was so amazed that someone asked her what she wanted to do with her life.

Speaking about the authors of the Constitution and the Declaration of Independence, how important it is to be able to decide your own fate and be able to choose. And I believe, I think the progress of civilization, it moves from tyranny to self-government. I think we are on that march. There are a lot of bumps along the way and a lot of misconceptions about how order and society ought to be, but I think the beauty of the Declaration of Independence was that government was reined in and religion was put in its place, and after that you had the freedom to be able to—by and large, there were still a lot of problems in the United States even in its beginning, but it was the beginning of that.

In the 1830s, a gentleman by the name of Abraham Kuyper, he was a Calvinist Prime Minister in the Netherlands, he originated a concept. And again, this was while European countries were still figuring out their social contract and who was responsible for what, but he came up with this notion called *coram deo*, a Latin term, but it meant living life in the face of God.

It reminded me of what you said about this young child having her choice. And it was quite a bold statement for the time, but the statement was that government had no authority to be able to limit your freedoms in life, and neither did the church or any other form of authority, that that connection between the individual and God was the supreme connection.

And when Thomas Jefferson wrote in the Declaration of Independence that we have the inalienable right to life, liberty, and the pursuit of happiness, what a huge step in moving from tyranny to self-government. This idea of Kuyper and living life in the face of God came afterwards in the 1830s. This



is when Darwin came out with “The Origin of Species” and Karl Marx and fascism and some of these others things were being mulled about. I think he set a new landmark about what are our freedoms. And to me, it further illuminates what a social contract might be, but that that individual had those freedoms.

I can't help but think in addition to that what the mandates were in the Garden and the ability to create a family, to go to work and worship God and love each other as ourselves, and have a government that protects you, and the freedom to be able to live life in the face of God through those institutions that were built up. Not everybody has those freedoms. Not everybody has a loving father and mother. Not everybody has learned the ability to work or has the ability to go do that. Not everybody has the freedom to worship God and love their neighbor as they wish.

I am kind of intrigued about what a new social contract would look like if we are back to the social contract of cradle to grave by government, government is getting too big, it is likely to come to an end of itself one way or the other. And if that is the case, what do Republicans present? And do you present it in a way that people logically say by golly, I want to go with that.

Mr. ROSKAM. I think that is the great invitation. That is the conversation that we are having with the American public. That is what is such a dynamic part of where we are today.

There was a great theologian in one of the early church fathers, Saint Ambrose, who said we don't impose on the world; we propose a more excellent way.

I think that is, in part, at the essence of what we are about right now because, you know, we have all seen, everybody knows what a government that is too big and too unwieldily looks like. That story doesn't end well.

I think about the cartoon “The Jungle Book” with the Walt Disney cartoon and it has the snake, Kaa. The snake, Kaa, is very charming and gets young Mowgli in his eyes, and basically Mowgli becomes transfixed. And Kaa is able to manipulate him. Kaa says “trust in me” and he comes up with a song, and I will spare you in my singing of that song. Ultimately this young Mowgli is completely bewildered. And where does he end up? He ends up in the coils of Kaa, the boa snake.

I think there is a little bit of wow, that sounds really great. That program sounds good and that sounds like something that is great and stable, but my fear is and my hesitancy is that to surrender what the American public is being asked to surrender by, with all due respect the Democratic leadership in this Congress, is, I think, regrettable. The amount of money. And it is being done gently. It is being done very smoothly. It is being done cleverly, if I might say so; but it is being done in

such a way to basically coax people into surrendering things which I think they will do so with great regret.

I think the invitation is come along on this more excellent way. Come along on a way that says we acknowledge the difficulties of where we are. And we are rightly sobered by the challenges our country faces today. None of us here on this floor are pumping sunshine, acting as if everything is great, because it is not great. We are really sobered by the challenges we face.

But notwithstanding those challenges, we don't panic and we don't surrender freedoms that are our birthright. In the exchange, we end up with some sort of stability that I think is going to be completely unsatisfying in the long run.

Getting back, I think the gentleman from South Carolina and the observations he made about sort of the predictability of contract and the work ethic, not long ago I was traveling in another country that doesn't have a good solid rule of law. And the officials that we met with were talking about the issue that they characterized known as impunity, meaning you could commit crimes with impunity. You can do it and get away with it.

One of the countries that is in this hemisphere has a murder conviction rate of 3 percent. Think about that, 3 percent of the murders that occur in that country end up in a conviction.

What does that mean? If you can commit murder with impunity, what does that mean for somebody trying to start a business? What does that mean to try and enforce a contract, or stand up for your rights as an entrepreneur and get things going? And I would submit to you it is almost impossible. And many of these problems that we see around the world, not all of them, but many of them are exacerbated by this idea of impunity, the ability to just do whatever you want.

So here we are. We are having a conversation as a country right now about what do contracts mean? What does it mean when you sign a piece of paper? We have seen coming out of the White House some very aggressive moves trying to rewrite contracts. Again, I would submit, over an extended period of time, that is a scene that doesn't end well either. In the short term, that can be very satisfying if you are on the right side of that deal. But at some point in the future, you may not be on the right side of that deal.

Ultimately, what does it do? It creates a disincentive for people to put themselves at risk. It creates a disincentive for people to be creative. What we need at this time in our history, with all of the challenges that we have, a whole host of things, the economy and everything, we need our best and brightest leaning into this thing.

□ 2015

We need people saying, “You know what? I'm here. I want to participate. And I know if I do, there is a reward for

me, and it's a reward that is borne of my innovation and my entrepreneurship and my willingness to put myself and my capital at risk.”

I will yield to the gentleman.

Mr. INGLIS. I thank the gentleman for yielding. We have been describing here, I think, as the gentleman from California really started us off with the idea of what we really deeply believe with our faith really gives us a concept of respect for individual rights and the need to protect those rights. And then we have talked some about the dignity of work and protecting and affirming that dignity through the rule of law. The gentleman from Illinois was just mentioning that.

That leads us to policies. And these all flow from that deep well of what we really deeply believe and then it comes up to the surface level of instant policy or the policies of today—the policy questions of today.

The one that I think we need to answer is: Is it possible for our children to live a better life economically than we have? I think the answer is yes, as long as we do what we know works, and that is to have a system of taxation that is not confiscatory, that allows you to keep the rewards of your work. So you want to keep taxes relatively low. You want to keep regulation relatively light and effective, not burdensome, not a gotcha, but rather calculated to produce results that are reasonable, and light touch.

Then, you have got to reduce litigation somehow so that there is some certainty that you will not lose what you have done by becoming somehow the guarantor of someone else's outcome. You can't ask somebody else to guarantee their outcome. If you do that, that is the way you end up with too much litigation, and the result is that people move productive capacity away from a developed nation to an undeveloped nation.

They decide, “Well, we will go take our risk with a less established rule of law, because in the developed country which had this rule of law, you now have such high taxation, regulation, litigation, it's too much risk for us. We are not going to get the reward.”

So, for us, really what it is, is a matter—to answer that question, whether our children's future can be brighter than ours, the answer is yes, if the top level here on what bubbles up to policy—if we keep taxes relatively low, keep regulation relatively light, and we keep litigation down, the result will be people will want to do business here and there will be opportunities for our children and our grandchildren.

I'd be happy to yield to the gentleman from California.

Mr. RADANOVICH. Thank you. I thank the gentleman from South Carolina. I know the gentleman holds in such high esteem the words of the Founding Fathers in the Declaration of Independence, and what a wonderful contribution to the world that was, but I can't help but think what Thomas

Jefferson might have worded differently had he gone through the sixties—had he been a flower child in the sixties or had he lived through the Great Depression; the collapse of business the way it did.

I think what I admire the most about what they did was the reining in of government and religion and putting them in their proper place. There was the assumption that, as Thomas Paine said, the rest of society would be families and business and they would operate according to the norms.

I'm not one of those people that say we have got to get back to the principles of the Declaration of Independence, we have got to get back to our founding principles, because I think this is more about looking forward with new illumination built on that.

But what I find interesting is that, had Thomas Jefferson gone through the Great Depression or was a hippie in the sixties, or at least was around when that was happening, would he have worded life, liberty, and the pursuit of happiness a little different. I wonder.

Would he have made a statement about the need for every child to have a mom and a dad, or, you know, the need for business to not be taken up by wrong principles and end up in collapse, and what would have been his advice on how to deal with the Great Depression?

The bottom line is: Would he have worded those opening lines of the Declaration of Independence any different? And I don't have the answer, but it would have been interesting to have a conversation with him today, where he has the knowledge of what occurred after that.

Not that I would ever suggest that it needs to be rewritten, but it does speak to me of perhaps some new inalienable rights that have been illuminated since then because of the history of the United States and what has happened over time and what we have experienced and what our world has become and the results of new knowledge, new science. So, I wonder.

I think it's kind of interesting because we have the opportunity, I think, in the form of a new social contract, to plow new ground and to be bold to develop a contract that really does speak to and contribute to this rise of out of tyranny to self-government. We're not there with self-government yet.

I think the gentleman from Illinois references things that are at risk. I really do believe it's the leadership we provided in the world since the foundation of the country and the Declaration of Independence and the statement of rights that we are going to lose if we are overly reliant on a large Federal Government that has increased dramatically in these last few months at the expense of these other institutions, including business, that is more encumbered daily and provides less incentive to go out and do the things that we have talked about—going out and prospering and earning an income and

taking care of yourself, and benefiting from it, as well as families and the virtue-building power of faith.

I think that is what we stand to lose. I sure don't want that to happen.

Mr. ROSKAM. I think one of the things that we find ourselves in this quandary as Americans is sort of a gotcha mentality, right? The gentleman from South Carolina referenced that a minute ago. I think of my fourth-grade teacher. My fourth-grade teacher's name was Lillian Anderson. She was a dear woman. I had her her last year, which you can interpret as I drove her to retirement, I suppose.

Ms. Anderson was one of those teachers, though, when you would go and do work, she would come back and make the corrections. And it was sort of a gentle way. I mean, she would look at the report and, "Oh, Peter, you didn't indent this." We've all gotten those marked-up papers from teachers.

So you think about American businesses today who are looking at a regulation. They have an assignment. They have a law that is passed by Congress, and then some Federal agency has come up with a rule interpreting that law. As we know—we have all dealt with constituents—some of the laws are clear as mud, and some of the rules are even worse.

So you're a small business owner, you're a big business owner, whoever, and you're not sure what the rule means, and you're doing your best. You are legitimately doing your best. And you realize, "You know what? We've messed this up. It wasn't through malice, it wasn't through manipulation, it wasn't through cheating or deception. It's an honest mistake."

Well, other countries have figured this out. Other countries have created a regulatory environment that is not a gotcha environment. Other countries have figured out you can go to a regulator and say, "Look, this is what we're doing. This is how we're interpreting this rule. Are we doing the right thing?" And in these other countries they will look at it and say, "No, you're not doing the right thing. Here's the right thing to do. Don't do this anymore. And if you do this in the future, you will be punished, but we acknowledge that it wasn't intentional and you're not trying to deceive or defraud anybody."

Can you do that the United States of America under this current environment in our country? No. If you're doing something on balance and you have an ambiguity about it, 9 chances out of 10, you're crazy if you go to a regulator and say, "You know what? This is what we're doing. What do you think?" They will come back to you and say, "You have the right to remain silent." And we know the Miranda rights. It makes no sense.

So what we have got to do, I think, in this country in order to create prosperity and in order to create an environment where we are regulating for the right things instead of regulating

for the sake of regulating—and there's a big difference there. If we're regulating for the right things, that means someone can come in and say, "Look, we're doing this," and the regulator says, "Don't do that anymore." Or, alternatively, "Yeah, you're doing the right thing. Proceed. Off with you. And be lively."

I think there is an attitude that has to develop in the United States. And I think Republicans that I have interacted with in the House of Representatives get it. They get the idea that government is not supposed to come along with a heavy hand, to go back to the gentleman from South Carolina's language, with a heavy hand and come in and just pound and pound and pound and just take the life right out of some entrepreneur or somebody who's self-employed or starting something up.

But instead, it's supposed to come in with a light touch. And if there is a legitimate area where there's wrongdoing, then we all agree there needs to be a reconciliation to that.

So none of us are saying, "Don't punish the wrongdoer," but there is an attitude, there is a way to get to that point that honors business people and honors and recognizes that people that are starting companies in all of our districts. They are the ones that are putting capital at risk, they are the ones that are working. They don't have lobbyists that are coming here to Washington, D.C. They are not represented here, except by us.

I think that as we are moving forward, we ought not fall into sort of this harsh language—harsh antibusiness language—that we see coming out of the leadership on the other side of the aisle that actually has a very low view and paints everybody with a bad brush.

Are there some bad actors? There sure are. Are there people that need to be punished? There sure are. But let's not drag business through the mud with an expectation that an entrepreneur or somebody who wants to work hard isn't well motivated. I think that that sort of degrading of business is a point that we need to be very, very mindful of.

I know our witching hour is approaching.

Mr. INGLIS. Madam Speaker, may we inquire of the time?

The SPEAKER pro tempore (Mrs. DAHLKEMPER). The gentleman has 1 minute remaining.

Mr. INGLIS. I would be happy to yield to the gentleman from California, who started us off on a high note. We went from high notes to policy, and now we're back to a high note, maybe, for conclusion.

Mr. RADANOVICH. I appreciate the time from the gentleman from South Carolina. I think I would just leave with the note that the social contract that we are operating with right now is cradle to grave. It started during the Depression. We're back at it with full force now.

If we were to create a new social contract, what would it look like, in opposition to something like that? If we were to hold up to the American public a different social contract, try to imagine—and I'd even implore the public to do this, too—what would the alternative look like? I think it's something to think about. Because we are obviously unsustainable for the rest.

I just want to send my prayers to a colleague here who is away on a family matter and couldn't join us tonight.

#### H1N1 INFLUENZA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes.

Mr. GINGREY of Georgia. Madam Speaker, thank you for the opportunity to address my colleagues for the best part of the next hour.

What we are going to do, Madam Speaker, is talk about this current virus that is going around that we are now referring to as type A H1N1 influenza. I think most people would understand better if we said swine flu. Now I understand why we are trying to get away from calling it swine flu, and obviously in States across the country where the pork industry is hugely important to the economy, they don't want this fear—unwarranted fear, really—of consuming pork products that are completely safe. Obviously, you have known from almost childhood that pork should be well cooked to a temperature of 160 degrees and it's perfectly safe.

□ 2030

But that is the reason why I am going to stand here tonight and probably not use the term "swine flu" very much, because I don't want to create an unnecessary fear of a very, very safe product that could be harmful to States across this country and to other countries as well. We are in a tough time economically on a global scale, and we don't want to make those matters worse by creating a false sense of concern.

I will be joined, Madam Speaker, this evening by a colleague or two—or three or four maybe—who are part of the GOP Doctors Caucus. We formed this caucus at the beginning of this Congress, the 111th, as we grew our numbers of health care providers in their previous life who now have morphed into Members of this great body of the House of Representatives. We have that really on both sides of the aisle, but this is a Republican hour, Madam Speaker, and I will be joined by other Republicans. I would welcome, if any of my Democratic friends, health care providers, are sitting in their offices watching us on television on C-SPAN, if they want to come over and join us and weigh in on this, I would be glad to yield them time.

There is no partisanship involved here. The purpose is to try to inform

our colleagues, all 435 in the House, so that they can inform their constituents. And each one, as you know, Madam Speaker, represents almost 700,000 people in their respective districts. And we are all getting calls. I mean, people are scared.

I would say that some fear is warranted, but a pandemic of panic is not warranted. And so the more information that we, as Members of Congress, can give to our constituents and that our staff can give when they call the office, either here in Washington or in our district offices, then we get to keep this thing in its proper perspective. And that is my purpose tonight, and that is the purpose of my colleagues that will be joining me later in the hour to talk about this issue and to make sure that people have enough information that they can take care of themselves and their children, or maybe their elderly parents, or possibly someone in the family whose immune system is compromised so that they know what to do, they know what the risks are, they know what their government is doing.

And, Madam Speaker, I want to commend and compliment the Federal Government and our respective State health departments, the Centers for Disease Control in my great State of Georgia, which, as you know, is an integral part of the Department of Health and Human Services and is really the lead agency, if you will, in regard to infectious disease, communicable disease, epidemiology. And Interim Director Dr. Besser and previously the Director of CDC, Dr. Julie Gerberding, these are the kinds of people, both with experience in infectious disease—in fact, Dr. Gerberding, internal medicine specialist, subspecialty being infectious disease. It is comforting to know that these kinds of professionals are standing guard, they are watching our back.

We had a hearing last week when, both Republicans and Democrats, the new Secretary, the day after she was confirmed, Kathleen Sebelius, former Governor of Kansas and now Secretary of Health and Human Services, former Governor of Arizona, Janet Napolitano, now Secretary of Department of Homeland Security, and Admiral Schuchat from the CDC, all spoke to us and told Members of Congress exactly what the plan was and what was being done and what is currently being done in regard to this impending pandemic. We are pleased, a week later, to find out that things are much better today on, what is it, the 5th of May, than they were a week ago or 2 weeks ago. And it looks like we are not, Madam Speaker, going to have a pandemic of this potentially very virulent virus that has occurred in our past history.

We will talk a little bit maybe about what happened in 1918, when 50 million people across the world died from influenza. Of course that was a different time. It probably started in the United States in very confined quarters as

men were training to be rushed into the battle of the great war, World War I, and in very close contact. But of course back then there were no vaccinations against any kind of flu, seasonal flu, avian flu, this current type, H1N1 influenza virus, no vaccine, and more importantly, Madam Speaker, no antibiotics. It was not until 1941, I think, or thereabouts, that penicillin was discovered.

So you really had no effective way of treating complications, and of course the complications that would lead to death. And let's say even the 35,000 deaths that occur today following just regular seasonal flu, complications from seasonal flu, they are respiratory; it's pneumonia, it's sepsis. And back in 1918 I don't think there were any respirators that I'm aware of. I don't think that's true. My colleague from Georgia, Dr. PAUL BROWN, a family practitioner, has joined me. And when I yield time to him, we can talk about that in a colloquy about what was available.

But I think we could compare the current situation, this 2009 concern over this influenza, to 1976, when a very similar virus struck—again, originated in a military facility; I think it was Fort Dix. There was, I think, at least one death, and five soldiers came down with this type A influenza, H1N1, very similar—I said I wasn't going to say swine flu, but very similar to what we are looking at today.

Back then, a vaccine was developed very specifically, and we started a big vaccine program. I think 50 million people in 1976 during the Ford administration were vaccinated against this virus. In retrospect, it may have not been necessary. And finally that program of vaccinating everybody was canceled because of complications. We had more complications really from the vaccine than we did from the flu. And I say that not to suggest today that we shouldn't prepare ourselves—and again, I compliment the respective Secretaries in the CDC and the States that are ready. And they are ready, and people should be very comforted by that. But we need to question how much money we spend. Is it appropriate to, let's say, spend \$2 billion in the upcoming emergency supplemental that is primarily for the ongoing cost of trying to win in Iraq and Afghanistan, a very important spending that is probably going to end up being \$90-plus billion in this emergency supplemental? But whether or not we need to spend \$2 billion specifically in this emergency supplemental on developing a vaccine and vaccinating 50 million people like we did back in 1976, there is some question in my mind, as a physician who practiced for 30 years, although not infectious disease, but I do have some concerns that we don't overreact and that we make sure that we have a measured response.

The President has an obligation to do that. And I can understand that he doesn't want to take this too lightly.

I'm sure he remembers Katrina just as we all do. I will use the expression, he doesn't want to get "Katrina'ed" over this issue by not responding appropriately. And I do understand, and I think we all understand what I'm talking about when I say that. But we will spend the best part of an hour talking about this issue.

I have got just a very few posters that I want to share with my colleagues, Madam Speaker, before yielding to Dr. BROUN, the great physician Member from Athens, Georgia.

This first slide is referencing that outbreak that occurred back in 1976. And again, it was very similar. The serotype, the specificity of the virus then was very similar to this 2009 outbreak. Five soldiers at Fort Dix, New Jersey, I believe—contracted H1N1 influenza and one soldier died. Tests on many more—of course I'm sure everybody at the base was tested for this virus, and it confirmed that 500 actually were infected, but most of them really showed no noticeable symptoms. I mean, they may have had a sore throat, they may have had what we call rhinorrhea—technical name for runny nose, sneezing and body aches and things like that—but they really showed no severe symptoms. And over the following months, no other Americans died from that virus. The loss of one life, of course, is one life too many, especially for the family of that individual, but clearly things kind of resolved themselves in pretty quick fashion. And as I say, no other Americans died from the virus.

But the inoculation that we did develop—and I think I may have this included on the slide, Madam Speaker—but we spent \$135 million developing a vaccine. That was back in 1976, 1977, what, almost 40 years ago. And we have just appropriated or are on the verge of appropriating \$2 billion to our response to this flu. And it may be that a lot of that expense will be developing a vaccine. And it is possible, if we do that, develop a vaccine in mass quantities, that we will never use it. Because remember in this experience, where the complications from the vaccine—and I want to talk about that just briefly—might end up being worse than the disease itself.

So as I say, in 1976, this \$135 million—and that was a lot of money back then—developing this vaccine and inoculating 50 million people, the vaccinations began on October 1, 1976, and by December 16—so we're talking, what, 2½ months later—the Federal Government decided we needed to suspend this program because there were increasing reports, Madam Speaker, of side effects. And I am not talking about just a little swelling or rash or itch at the injection, the vaccination site. I'm talking about some serious things. In fact, I want to talk about one thing in particular.

But there were some deaths attributed to the vaccine; 50 million people received the vaccine. And one of the

side effects was a very serious condition, Madam Speaker, called Guillain-Barre syndrome. I don't know who Guillain was and I don't know who Barre was, but maybe Dr. BROUN will tell us about that. But it was named after some very—not American physicians. But this Guillain-Barre syndrome is a paralysis that occurs, and it literally causes paralysis from the neck down. And these people couldn't survive back in 1918, certainly, but even today without the aid of a respirator.

The good news is this condition usually goes away and they recover full function, but it can take as long as a year. And some of these patients spend most of that year in a hospital, away from their families, away from their jobs, and many months on a respirator so they can even breathe.

So this was a very, very serious complication, Madam Speaker, from these vaccinations that were developed back in 1976 to treat this very similar virus that we are facing today.

□ 2045

So what happened is pretty quickly the vaccination program was suspended. And then you have to say, well, was that \$135 million well spent? I think maybe in retrospect, but you have to be careful about saying, well, you know, don't do this or don't do that, that it looks like this is not going to be a very serious flu, that it's not going to be even, Madam Speaker, as serious as seasonal flu, and there's just going to be a few people sick in a few States and maybe other countries as well, but it's not going to be a pandemic. And maybe if we have the money available to produce a vaccine in mass quantities, the decision very well could be not to do that, and then we will be able to return some of that money, maybe most of that money, to the taxpayer. Maybe we'll be able to spend it on something that's equally as important or maybe even more important. But that's a subject for debate, and I realize that you have to be very careful about saying that we don't need to do anything because clearly we do, and I think we are doing a lot.

At this point I want to yield to my colleague from Georgia, who represents Athens and my home of Augusta, Georgia, and he does it very well, and that's my colleague and fellow physician, Dr. PAUL BROUN.

Mr. BROUN of Georgia. Thank you, Dr. GINGREY, for yielding.

As you were discussing the past flu epidemics and the 1976 swine flu that happened back then, I was practicing medicine in rural southwest Georgia. At the time, of course, the recommendations were for everybody in this country to get a swine flu vaccine. As a practitioner, I was concerned about that, and I was asked by many of my own patients should they get this flu vaccine. And, frankly, I was not recommending it because, as I looked at the data that were available at that

time, I just really questioned the wisdom of exposing people to the vaccine. So I was not recommending it to my own patients. I did not get the vaccine myself. And actually, in my practice, which was a very busy general practice in rural southwest Georgia, I did not have one single patient come down with swine flu, not the first one. But I had several patients get Guillain-Barre syndrome from the vaccine. One was a good friend of mine who was a newspaper publisher in the community, and he struggled and his family struggled with his paralysis. But people died.

A lot of folks don't consider that these vaccines aren't innocuous. There are side effects and can be tragic side effects and can lead to death. More people died from the vaccine than died from the swine flu back then.

Just Monday I was chairing a facility at the vet school at the University of Georgia, in Athens, Georgia, and went into a biocontainment lab, a level 3 biocontainment lab. There's a researcher there who's doing probably the cutting-edge technology research on this infection that we have out in the public today. He came from the CDC before he came to the University of Georgia, and he deals with these viruses. They have some pretty potent viruses in their laboratory there. And he told me that a week ago he was telling the CDC and the people in the Federal Government, anybody who would listen, NIH, et cetera, that this virus did not have the characteristics of being what we call in medicine a very virulent virus. In other words, it was not one that was going to create a lot of infections and severe infections in this country.

I asked him, why do we see in Mexico people dying at a greater rate than we do here? And he said, well, we really don't have the data of how many people are infected down there. But from what he could ascertain, and he was part of the group who was studying the virus in Mexico, and he said that down there the people who are getting the virus, this current infection, and who were having severe difficulties and were dying principally were people that had other what we in medicine call comorbid conditions. In other words, they had respiratory problems. They had other illnesses that created a problem where they would develop secondary infections and die.

Mr. GINGREY of Georgia. If I could reclaim my time for just a second and yield right back to him, he brought up a very important point, Madam Speaker.

There have been two deaths in the United States thus far attributed to the current version of this same virus, H1N1 influenza type A. One was a 2-year-old toddler, a Mexican national, who came to Texas for a visit and was actually sick before, and I think this was a little boy, before they came into Texas, and subsequently the child died in Houston in the hospital. And what you get from the news releases, from

the press releases, is that it says that the child had multiple health problems before developing the flu. And now we just heard, and I'm not sure if Dr. BROUN is aware of this, but another death has occurred. This was an adult woman, I believe, also in Texas that lived in a border town very close to the Mexican-Texas border. And also it says this woman that died had multiple health problems.

Now, Dr. BROUN and I are physicians. When you start talking about multiple health problems, are you speaking of metastatic cancer, as an example? Maybe somebody who had breast cancer that had spread to other parts of her body? Possibly. Are you talking about somebody that has coronary artery disease and has had three or four heart attacks and a bypass procedure done who is in congestive heart failure? Are you talking about somebody who has severe type 2 diabetes who is on insulin, who is on dialysis because of renal failure?

I mean, I think the media has a responsibility here that they are not fulfilling because they don't give you the whole story, and I think it's very important that we get that so we understand what the true risk is and how severe the flu is.

And I yield back to my colleague, but I wanted to make sure people understand these two deaths, these were sick people: one, a very young child; another, a past middle-age adult woman who had health problems. "Comorbidity" is the term that my colleague used.

Mr. BROUN of Georgia. I appreciate the gentleman's bringing that up.

You're exactly right. Any death is tragic and we in medicine try to prevent all deaths. When I graduated from the medical college in Georgia just like you did, I think you were a year ahead of me there in Augusta or maybe two, but I took the Hippocratic oath. They don't do that in medical school because the Hippocratic oath says, "I shall do no harm," and it says "I shall not perform an abortion," and *Roe v. Wade* has changed that; so medical schools are not taking the Hippocratic oath anymore because there are doctors that are doing harm. They're killing babies through abortion. I am very pro-life, and I know that life begins at fertilization, and I want to protect all life. And it's tragic whenever a life is taken, whether it's an unborn child or whether it's a 23-month-old child that died like this one from this H1N1 type A flu or whether it's an elderly person. But what happens, and particularly has happened in this case, is I think the gentleman is exactly right that the media has overblown this.

There is a lot of misunderstanding when the World Health Organization, the WHO, says there is a pandemic. What does that mean? Most people in America think, well, people are going to be dying in wholesale lots all over this country as they did in the early part of the last century. Well, the

World Health Organization, when they talk about a pandemic, they just mean there's flu in multiple areas, and it doesn't mean that people are going to be dying. In fact, the flu in America has been very mild. Most people, as it was in 1976, who have contracted the flu go about their business. And that is a danger in that people, if they start running a fever, they need to stay home, whether it's with this flu episode or any flu episode. They need to take care of themselves. If they run a fever more than a day or two, as a primary care physician, I would tell them they need to see their physician. Now, they don't need to take antibiotics.

Mr. GINGREY of Georgia. Let me reclaim my time to make a request, Madam Speaker, of Dr. BROUN, because I think that our colleagues and their constituents really need as much information as they can possibly get.

The media creates a near hysteria situation, and then when, of course, the fires are going out and there's no longer a crisis, then they are on to the next story. I can tell you that I was scheduled on several national opportunities to talk about this issue when it was the news du jour. Then all of a sudden when things get better, they just say we don't need you anymore because we're on to another story and there's a runaway teenager somewhere or some other more exciting story.

But I think, Madam Speaker, it would be great if Dr. BROUN and anybody that joins us later in the hour could tell us exactly what you would do as a physician, as a health care provider, when someone comes to your office and they either have some symptoms, they think they might have the flu, or maybe they just come because they have heard that they ought to be taking Tamiflu or Relenza. They're not sick yet, but they think, well, maybe if I get on some medication ahead of time that I can somehow prevent this and I owe it to my children to get a prescription from Dr. BROUN.

Would you talk about that for us?

I think, Madam Speaker, if we can have Dr. BROUN do that, it would be very helpful for people to understand what they should do.

Mr. BROUN of Georgia. Certainly I would be happy to discuss how I approach patients. In fact, I've had patients come in and say, Dr. BROUN, I don't want to get the flu. I want some Tamiflu or I want Relenza. And, frankly, taking it prophylactically may help, but the thing that we are doing is we are spending a lot of money to take that, and once they take the preventative, if just a few weeks later they get exposed, then they could still get the flu. It doesn't have a lasting effect.

So what we do know is that taking these antivirals like Tamiflu and Relenza, if you take those very early on in the course when people first start getting a fever, when they first start aching all over, when they first start getting the runny nose and the cough and the sore throat, if they'll go to

their doctor then and be evaluated to see if they indeed do have the flu and then get on the medicines, that's the best way, most cost-effective way of treating this.

Now, a lot of patients will come in the office and say, I've got the flu, I want antibiotics, or they'll call on the phone and say, Dr. BROUN, I'm running a fever, I need an antibiotic. Well, most fevers aren't susceptible to antibiotics because most fevers are due to viral illnesses. Even allergies can cause fevers. Fever in itself doesn't indicate that a patient needs an antibiotic.

Mr. GINGREY of Georgia. What you're saying, Dr. BROUN, is that antibiotics are not really effective in treating a viral illness.

And I want to ask another question of the doctor, Madam Speaker.

Does everybody that goes to see their family doctor, primary care physician, infectious disease specialist maybe, does every one of them, if they have symptoms, runny nose, aching a little bit, maybe a low-grade fever, headache, whatever, do they all need to be cultured for this particular H1N1 type A influenza virus? Do they all need to have a culture done? Respond to that, if you would, Dr. BROUN.

Mr. BROUN of Georgia. No, I would say that they don't need a culture unless they're at high risk. In other words, if they had been in Mexico, particularly Mexico City, which is apparently where the nidus of this infection began—we don't really know for sure, but if people have been in Mexico City, if it's within the incubation period, which is about a week, and start running a fever, then maybe it is a good idea for them to have the culture done or the flu test done to see if this is indeed the swine flu.

□ 2100

But the thing is, the treatment that they are going to get, even if they have the H1N1 flu is not any different than if they have any other of the viruses. The big question is, do they need antibiotics or not? Do they need the antiviral, the Tamiflu-Relenza types of medications, or are they better off with penicillin or some of these other high-powered drugs that are on the market today?

And a CBC, a complete blood count, will help the doctor to understand whether they have a viral infection or bacterial infection. If their white blood count is high, if they have what we say is a left shift, in other words if they have types of white blood cells that indicate a bacterial infection, then they do need antibiotics. They do need a bacterial culture just to see if any of the antibiotics that the doctor prescribes are going to eradicate that particular bacteria.

But as I mentioned earlier, most fevers, most colds, most pneumonias, most bronchitis, most ear infections are not caused by bacterial infections. So utilizing antibiotics in those cases is a huge waste of money, it exposes

the patients to developing allergies to those antibiotics. Plus, it also sets up a situation where people can develop a superinfection.

So they need to be evaluated, but let the doctor direct how that care is going on. Hopefully, that answers your question.

Mr. GINGREY of Georgia. It does. I want to continue this colloquy, Madam Speaker, with Dr. BROUN, because, if, as Dr. BROUN said, every person that comes in that office that thinks that they may have the flu, not seasonal flu, but this flu that everybody is panicking over, that, you know, the doctor, Dr. BROUN, you correct me if I am wrong, but the doctor is going to do a physical examination on that patient. They are going to look at the throat, the tonsils where strep throat can occur.

They are going to listen to the lungs; they are going to use that stethoscope. They are going to make sure that patient doesn't have pneumonia. And they are going to make an evaluation. As Dr. BROUN was saying, it's the very young or the very elderly or somebody that's immune compromised, the approach may be a little bit different.

But this Tamiflu, which is a pill or capsule, and this Relenza, which is a nasal aspirate, they are as effective 2 or 3 days later, I think certainly if they are administered within 48 hours. So, Dr. BROUN, you might say to those folks that they are real nervous about, well, look, we are going to treat this symptomatically, and probably not with an antibiotic, as Dr. BROUN said.

And if in 24 to 48 hours your child is getting worse, then, absolutely, you come right back here to my office, I believe available 24 hours a day. That's the way we practiced when Dr. BROUN and I were practicing, and we will then go ahead and do a culture and start your child or your mom or your dad or your mother or your sister or your wife or husband, we will put them on the antiviral, the Tamiflu or the Relenza. And then we will kind of wait and see what the culture shows.

So there is time. What Dr. BROUN is talking about is treating people, using your brain and using your skills and not wasting precious medication if you don't need to.

Mr. BROUN of Georgia. You are exactly right, Dr. GINGREY. Putting people on antibiotics or just taking Tamiflu because you are scared is not a good utilization of your money. And certainly the health system is overburdened by the misuse or overuse of antibiotics and all kinds of drugs.

But you brought up a good point too that I wanted to focus on just a second.

And the thing is, if a child starts or a person, adult, starts running a fever, if they don't have any other health problems, if they don't have chronic lung disease, if they don't have severe asthma or chronic bronchitis, if they don't have diabetes where they are more liable to develop infection, secondary infections, if somebody is basi-

cally healthy, then waiting for 24 hours is not going to hurt those healthy people, in all likelihood. It's worthwhile monitoring that patient, just seeing what they do, treating the fever with some Tylenol or Advil, one of those types of medicine.

Mr. GINGREY of Georgia. If I could make one point, we are not talking about meningitis here. It's not meningitis. It can be a severe illness, as Dr. BROUN says, but it's not going to kill you within 24 hours. And I think you are approaching it the way Dr. BROUN is describing.

I didn't mean to interrupt him, Madam Speaker, but I thought it was important that people understand because people do know about situations where somebody was perfectly well one day and dead the next from meningococcal meningitis, a bacterial infection, not a viral infection. Viral meningitis usually just causes a severe headache and is time limited. I thought it was important to make that point.

Mr. BROUN of Georgia. The gentleman is exactly right. The severity of the illness makes a big difference. Dr. GINGREY, you had been talking about the doctor taking the time to do a history and physical, which is extremely important. I want to point out here, just to go off on a tangent for just a moment, as we see what the majority here in this House is trying to propose, this push towards socialized medicine, doctors aren't going to have time to take a proper history and physical because they are going to be pushed to ration care.

And so that socialized medicine that's being pushed by the leadership in the House and the Senate is not the way to go, and it's going to hurt people more than help people. And it's going to be disastrous economically.

But getting back to the flu, if somebody is concerned, they need to look at the possibility of this person having the flu. My daughter called me up just the other day when this was so hot in the news, and she was concerned she might have the flu. Well, she is a stay-at-home mom. She hasn't been out to be exposed to anybody where she would get the flu.

So people need to have a little common sense about this as they think about this. Just because it's in the news doesn't mean that they are going to get it. Just because WHO is saying that there is a pandemic, that just means that people in multiple areas have the flu, and it doesn't mean that people are going to be dying in wholesale lots.

Mr. GINGREY of Georgia. Absolutely, you are right, and you pointed out this earlier, Dr. BROUN did, that a pandemic just means that it has spread to the point that multiple countries are involved, and they are talking about the volume of cases, not necessarily the severity.

And they, by the way, so our colleagues can understand this and advise their constituents when they call, the

World Health Organization has not declared a pandemic.

Mr. BROUN of Georgia. That's correct.

Mr. GINGREY of Georgia. They have declared a category 5, which is one step from saying there is a pandemic. I don't believe they are going to get to category 6 and make that declaration, as things have improved. I mean, that is not wishful thinking on my part. I understand that it could go the other way, but I don't think it will.

Mr. BROUN of Georgia. Well, you are exactly right. And we have had over 400 cases that have been reported here. In fact, there have been several cases in our own State of Georgia that have been diagnosed serologically, which means through the testing that they do, indeed, have the type-A H1N1 flu, but in most cases it's very mild.

And the people that are dying, this 23-month-old infant, as well as the lady in Texas, both by reports, we don't know for sure, by reports, those people had other conditions that led them to have the possibility of secondary infections.

The way I remind my colleague—I don't have to remind my colleague, because he knows very well that the way people die from flu is through pneumonia, through respiratory difficulties and, and they will develop severe respiratory stress syndrome or some other types of respiratory problems or will develop pneumonia and die from the pneumonia. Frequently, it's a bacterial pneumonia with these co-morbid, as we say in medicine, conditions that give them the greater possibility of developing those types of things. But going to your doctor, or even consulting your doctor or even the doctors and nurse by phone is, I think, an appropriate reaction in not being afraid as the American public are.

As I mentioned, my friend at the University of Georgia has been telling the people within government, the government entities, the CDC and all, that this particular flu is not of epidemic proportions. It's not one that is going to be very virulent and, thus, is not going to create a lot of severe problems besides these two deaths, which are tragic. We have had very little problems in America with the flu.

And my friend also said with it being more widespread in Mexico, he doesn't really have the data but he thinks that probably in Mexico, where we have seen people die, a whole lot more than here, that it's probably the same proportion of deaths that we see with every flu epidemic. So people shouldn't be afraid.

He also tells me that there is a possibility that next fall we are going to see this same H1N1 flu virus come back to America and come back as a potential infection, viral infection, on a bigger scale; but people should just do the commonsense things to help them from having the flu, which means they should wash their hands. If somebody is running a fever, they should talk to



the doctor and not send the child to school who is running a fever.

They need to make sure that they keep their fingers out of their nose and keep their hands out of their mouth and things like this. It may be just common sense.

I have had some of the liberals who don't particularly like me in my district complain about my making those recommendations, but people don't think about those things. And it's important to do those commonsense things to prevent yourself from getting the flu. So we need to just do those commonsense epidemiological measures of trying to prevent ourselves from getting the flu and not be afraid.

Mr. GINGREY of Georgia. I chuckled just a little bit at what Dr. BROWN was saying, but it is absolutely right. He is absolutely right. And, colleagues, I don't know, on Sunday morning you refer CNN or Fox News—I guess my Democratic colleagues, it's CNN; and my Republican colleagues, it's mostly Fox News. But they have a medical consultant, Sanjay Gupta on CNN, and Isadore Rosenfeld, a gentleman that I listen to.

Fortunately, they don't limit him to a 2-minute sound bite. On Sunday morning Dr. Rosenfeld has a 30-minute interview.

And he, Madam Speaker, he was so good and so practical and talked plain talk, just like Dr. BROWN about, you know, the risk and the relevant, what do you do. And I imagine that he will be talking about that this Sunday, Dr. Gupta probably as well on CNN.

But, generally, the information is outstanding, and I say that from the perspective of being a practicing physician, and Dr. BROWN as well, and they talk about cover your nose and mouth with a tissue when you cough or sneeze, wash your hands often with soap and water, especially after you cough or sneeze.

Avoid touching your eyes or your nose or your mouth, because germs definitely, as Dr. BROWN said, spread that way.

So it's so much common sense. And I commend Dr. Rosenfeld, Dr. Gupta and others, and of course earlier, Dr. BROWN, before you got here, Madam Speaker, knows that I talked about the response that we have gotten from the Secretary of Health and Human Services, Governor Sebelius, the Secretary of the Department of Homeland Security, Governor Napolitano, the acting director of the CDC, Dr. Bessler, and on and on and on.

President Obama's response in regard to the budget, we talked about the fact that he said, well, let's put \$1.5 billion in case we have to develop a vaccine specific, in case this thing does become a pandemic, and we have got lots of folks that are getting very sick, and we need to go in that direction.

□ 2115

So I think the response has been good, but we need to make sure that we

don't overreact and we don't let the inappropriate media cause panic to set in. These good doctors that speak on these shows I think are doing a good job to prevent that from happening.

Mr. BROWN of Georgia. Dr. GINGREY is exactly right. And I want to know what this \$1.5 billion or \$2 billion that the President has proposed to spend on this flu outbreak is going to be spent on? Is it going to be a useful expenditure? Is it going to be needed?

We saw in 1976 under President Ford when they spent all that money that actually caused more harm than good. More people died and had disease from the vaccine. Now, we have better technology; in fact, the gentleman at the University of Georgia has just some outstanding technology today where they can help develop vaccines very quickly. But still, it takes a while to produce enough vaccines to be able to help if they are needed. And what we see in this particular flu outbreak is that I don't think they are needed. I don't think we need to be appropriating \$1.5 billion or \$2 billion for the H1N1 flu. We need to give those funds to our military personnel to keep them from dying in Afghanistan or Iraq.

Mr. GINGREY of Georgia. Reclaiming my time, because that is a great segue for me; because, Madam Speaker, I represent a district, Marietta, Georgia, is part of it, Cobb County. Lockheed Martin has a plant there where we employ almost 8,000 great Georgians, probably a few folks from Alabama and surrounding States that work on those flight lines for the C-130 and also, more specifically, the F-22 Raptor.

The Department of Defense has made the decision to cancel that program at 187 F-22s, when originally we thought we needed 700, the military. The Air Force in particular has said, Madam Speaker, repeatedly that even 240 planes would put us in a moderate-risk situation, and all of a sudden this administration has made the decision to cancel that flight line and I think put us at a high-risk situation.

I feel very strongly that in this emergency supplemental there are four, and that is it, four of these F-22 Raptors that give us that fifth generation of air superiority, best in the world, and we are going to appropriate as a part of an emergency supplemental mainly for continuing to fight and win in Iraq and Afghanistan, particularly Afghanistan now; yet, we are going to spend \$2 billion possibly preparing a vaccine that will never be used?

Let me tell you what happens, Madam Speaker, with that vaccine if we produce it at 50 million or however many doses like they did back in 1976 when it only cost \$135 million. We might be spending \$2 billion on a vaccine that gets poured down the drain and is never used, and we could have purchased 15 or 20 F-22 Raptors.

Again, that is getting off on a tangent a little bit, but I feel like I really need to mention that because we have to prioritize our spending. We have to

do these things in an appropriate manner. We can't let all of our spending and our reaction be media driven in responding to a panic so that we don't get Katrina'd. And I would yield back to my colleague.

Mr. BROWN of Georgia. I would like the gentleman to clarify something for me. You made a statement, and I am not sure if I understood it.

It is my impression that actually it is the administration who decided to cancel the Raptor, the F-22. It wasn't the Air Force. Is that correct? What was the situation?

Mr. GINGREY of Georgia. Madam Speaker, reclaiming my time, the gentleman is absolutely correct. He is absolutely correct.

Thirty different studies have suggested that we need a minimum to be able to have enough planes. We have a situation in Hawaii at Hickam Air Force Base where they only have one squadron, that is 20 F-22s, and the same thing is true at Tyndall in Florida. They have one squadron of 20 planes. And it is very possible that with the limit of 187, which the Air Force clearly has said on repeated occasions that that is not enough, that it puts the Air Force in a high-risk situation, that they may just have to BRAC those bases and take those planes and put them somewhere else, Elmendorf as an example or in Guam or Okinawa.

But, Madam Speaker, the gentleman from Georgia is absolutely correct that this was a decision that was made by the administration, and it was based on cost. It was not based on the needs, as repeatedly stated by the highest ranking members of the Air Force and by 30 different studies, that we need more planes.

We got off on a tangent, Madam Speaker, but it is important because what we are talking about as we discuss the appropriateness of spending \$2 billion to produce a vaccine that may never be used, that is a very important decision that our country has to make, and I think the American people need to understand that. So I thank the gentleman for asking that question, Madam Speaker, and I gladly yield back to Dr. BROWN.

Mr. BROWN of Georgia. While we are talking about defense, let me point out something else, too, that was a cost decision evidently by this administration. The North Korean Government fired off a rocket. It wasn't quite successful, but they are working on intercontinental ballistic capability, and they are developing nuclear weapon technology in North Korea. We know that without a question. The day after the North Koreans fired off their rocket, our President announced that he was going to cut the antimissile defense spending. And we need that spending. We need an antimissile defense system in this country more than we ever have.

President Reagan suggested that we develop an umbrella over this country, an umbrella that would make nuclear

weapons totally obsolete. But this administration wants to cut that antimissile spending which we desperately need and is, in fact, one of the most important constitutional functions of the Federal Government.

We need the F-22 Raptor. We need the antimissile defense system. I don't think we need to spend \$1.5 billion on a flu vaccine when already the research shows that it is not going to be very virulent.

Before I yield back, I would like to make a very strong point here. We are stealing our grandchildren's future by borrowing and spending. We are borrowing too much, we are spending too much, we are taxing too much, and it has to stop. And we need to spend on things that are critical, that are constitutional, that have to do with our national defense, that have to do with our national security. And we need to drive things by science and not by hysteria. This hysteria over the flu is driving the media and is driving the administration, driving the leadership here. We have got to stop that.

Mr. GINGREY of Georgia. Let me reclaim my time and try to wrap up, Madam Speaker, as we get close to the allotted time.

What Dr. BROUN is talking about, my colleagues, I want you to think about what he said, if you think we have gotten a little afar from our starting point on talking about this H1N1 influenza. The health of the Nation is more than just protecting people from a pandemic, from disease, from infection. That is certainly a huge part of the responsibility of our government, to try to protect its citizens, and I think that we do a great job and we have a great health care system. But the health of the Nation also, as Dr. BROUN is suggesting so accurately, has to do with national defense and to make sure that our leadership understands the importance of us being respected. It is nice to be liked, and we all want to be liked. When our Commander in Chief goes to Latin America or goes to speak at the European Union or the Group of 20 or to Turkey or wherever, or visits our troops in Iraq, I think we need to understand the health of the Nation is more about freedom from disease. It is about strength. It is about character. It is about making the important decisions of where you spend the hard-earned tax dollars that 300 million people in this country have to write a check every April 15, that we have that responsibility, and we can't afford to squander one dime of it.

I am going to yield back to my colleague maybe for the final 30 seconds, but, Madam Speaker, I just want to say that during this hour, this Republican GOP Doctor's Caucus of which Dr. BROUN and I are a part, I want to point out this last slide. We are talking about strengthening the doctor-patient relationship, but we are talking about a lot of things tonight in regard to the health of the Nation.

With that, I want to yield back to my colleague for some closing comments, and then we will wrap up.

Mr. BROUN of Georgia. Very quickly, I want to bring out that the economic health of the government is very important for fiscal health, too. I think a lot of people who may be dying in Mexico is because of their poor economic health, and we are going down a road now with this tax-and-cap policy that is being fostered by the Democratic majority to tax energy, which is going to create a tremendous downturn in our economy. It is going to put people out of work. And we have got to stop that, too, because it is going to affect the physical health of those people who aren't able to buy their insurance, who aren't able to go to the drug store and buy their Tamiflu or their antibiotics. So economic health is going to be critical for physical health, and we have got to stop this cap-and-tax policy that NANCY PELOSI and company are trying to force down the throats of the American people.

Mr. GINGREY of Georgia. Let me reclaim my time for the remaining minute or less. But Dr. BROUN I think, Madam Speaker, hit on a good point. We talked tonight mostly about the physical health of the country, the Nation, and the importance of providing that and protecting people from disease, if we can. But what Dr. BROUN mentioned, the fiscal health of the country, is almost as important if not as important. And so when we start recommending policy that a small group of zealots want us to go down a road of cap-and-trade or cap-and-tax, we can hurt this Nation just as badly by being fiscally irresponsible as physically irresponsible.

Madam Speaker, I yield back the balance of my time.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORTENBERRY (at the request of Mr. BOEHNER) for today and the balance of the week on account of the hospitalization of his child.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MURPHY of Connecticut, for 5 minutes, today.

Mr. GRAYSON, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. POSEY, for 5 minutes, May 12.

Mr. POE of Texas, for 5 minutes, May 12.

Mr. JONES, for 5 minutes, May 12.

Mr. HUNTER, for 5 minutes, today.

(The following Member (at his request) to revise and extend his remarks and include extraneous material:)

Mr. WOLF, for 5 minutes, today.

#### ADJOURNMENT

Mr. BROUN of Georgia. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Wednesday, May 6, 2009, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1591. A letter from the Clerk, U.S. House of Representatives, transmitting A letter from the U.S. House of Representatives, Clerk, transmitting notification, pursuant to section 1(k)(2) of H.R. 895, One Hundred Tenth Congress, that the board members and alternate board members of the Office of Congressional Ethics; Former Congressman David Skaggs; Former Congressman Porter J. Goss; Former Congresswoman Yvonne Brathwaite Burke; Former House Chief Administrative Officer Jay Eagen; Former Congresswoman Karan English; Professor Allison Hayward; Former Congressman Abner Mikva; Former Congressman Bill Frenzel; Staff Director and Chief Counsel Leo J. Wise; Senior Counsel William H. Cable; Investigative Counsel Omar Ashmawy; Investigative Counsel Elizabeth A. Horton; and Administrative Director Mary K. Flanagan, have individually signed an agreement to not be a candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress for purposes of the Federal Election Campaign Act of 1971 until at least 3 years after the individual is no longer a member of the Board or staff of the Office of Congressional Ethics.

1592. A letter from the Executive Director, Commodity Futures Trading Commission, agreement to not be a candidate for the office of Senator or Representative transmitting the Commission's final rule — Electronic Filing of Disclosure Documents (RIN: 3038-AC 67) received April 3, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1593. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Import/Export User Fees [Docket No.: APHIS-2006-0144] (RIN: 0579-AC59) received March 30, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1594. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's "Major" final rule — Marketing Assistance Loans and Loan Deficiency Payments (RIN: 0560-AH87) received April 24, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1595. A letter from the Director, Regulatory Review Group, Department of Agriculture, transmitting the Department's "Major" final rule — Sugar Program (RIN:

0560-AH86) received April 24, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1596. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Delay of Compliance Date for Newly Registered Entities [Docket No.: APHIS-2007-0033] (RIN: 0579-AC53) received April 14, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1597. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Importation of Sweet Oranges and Grapefruit from Chile [Docket No.: APHIS-2007-0115] (RIN: 0579-AC83) received April 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1598. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Revision of the Hawaiian and Territorial Fruits and Vegetables Regulations; Technical Amendment [Docket No.: APHIS-2007-0052] (RIN: 0579-AC70) received April 7, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1599. A letter from the Director, Policy Issuances Division, Department of Agriculture, transmitting the Department's final rule — Mandatory Country of Origin Labeling of Muscle Cuts of Beef (including Veal), Lamb, Chicken, Goat, and Pork; Ground Beef, Ground Lamb, Ground Chicken, Ground Goat, and Ground Pork — received April 14, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1600. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — Tuberculosis in Cattle and Bison; State and Zone Designations; New Mexico [Docket No.: APHIS-2008-0124] received March 23, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1601. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule — National Poultry Improvement Plan and Auxiliary Provisions; Correcting Amendment [Docket No.: APHIS-2007-0042] (RIN: 0579-AC78) received April 24, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1602. A letter from the Acting Administrator, Risk Management Agency, Department of Agriculture, transmitting the Department's final rule — Common Crop Insurance Regulations, Tobacco Crop Insurance Provisions (RIN: 0563-AB98) received April 14, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1603. A letter from the Acting Chairman, Commodity Futures Trading Commission, transmitting the Commission's annual report for fiscal year 2008 on the Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Oversight and Government Reform.

1604. A letter from the Acting Officer for Civil Rights and Civil Liberties, Department of Homeland Security, transmitting the Department's annual report for fiscal year 2008 entitled, "No FEAR Act: Fiscal Year 2008 Annual Report to Congress", pursuant to Public Law 107-74; to the Committee on Oversight and Government Reform.

1605. A letter from the Deputy Assistant Secretary for Information Systems and Chief Information Officer, Department of the Treasury, transmitting the Department's annual report for fiscal year 2008, pursuant to Public Law 107-174; to the Committee on Oversight and Government Reform.

1606. A letter from the Chairman, Federal Mine Safety and Health Review Commission, transmitting the Commission's annual report for fiscal year 2008, pursuant to Public Law 107-174, section 203; to the Committee on Oversight and Government Reform.

1607. A letter from the Director Office of Civil Rights, International Broadcasting Bureau, transmitting the Bureau's annual report for fiscal year 2008 on the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Oversight and Government Reform.

1608. A letter from the Acting Chair, Occupational Safety and Health Review Commission, transmitting the Commission's annual report for fiscal year 2008 on the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, Public Law 107-174; to the Committee on Oversight and Government Reform.

1609. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's annual report for fiscal year 2008, pursuant to Public Law 107-174, section 203; to the Committee on Oversight and Government Reform.

1610. A letter from the Chief Administrative Officer, Patent and Trademark Office, transmitting the Office's annual report for fiscal year 2008 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Oversight and Government Reform.

1611. A letter from the Chief Financial Officer, United States Capitol Police, transmitting the semiannual report of receipts and expenditures of appropriations and other funds for the period October 1, 2008 through March 31, 2009, pursuant to Public Law 109-55, section 1005; (H. Doc. No. 111-36); to the Committee on House Administration and ordered to be printed.

1612. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Piper Aircraft, Inc. Models PA-46-350P and PA-46R-350T Airplanes [Docket No.: FAA-2009-0007; Directorate Identifier 2008-CE-072-AD; Amendment 39-15867; AD 2009-07-08] (RIN: 2120-AA64) received April 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1613. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model 717-200 Airplanes [Docket No.: FAA-2008-1155; Directorate Identifier 2008-NM-146-AD; Amendment 39-15866; AD 2009-07-07 R1] (RIN: 2120-AA64) received April 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1614. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Air Tractor, Inc. Models AT-400, AT-401, AT-401B, AT-402, AT-402A, and AT-402B Airplanes [Docket No. FAA-2006-23646; Directorate Identifier 2006-CE-005-AD; Amendment 39-15849; AD 2006-08-08] (RIN: 2120-AA64) received April 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1615. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; ATR Model ATR72 Airplanes [Docket No.: FAA-2008-1081; Directorate Identifier 2008-NM-143-AD; Amendment 39-15864; AD 2009-07-05] (RIN: 2120-AA64) received April 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1616. A letter from the Program Analyst, Department of Transportation, transmitting

the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No.: FAA-2007-0074; Directorate Identifier 2007-NM-151-AD; Amendment 39-15863; AD 2009-07-04] (RIN: 2120-AA64) received April 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1617. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF6-80A Series Turbofan Engines [Docket No.: FAA-2008-1206; Directorate Identifier 2008-NE-19-AD; Amendment 39-15869; AD 2009-07-10] (RIN: 2120-AA64) received April 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1618. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; DORNIER LUFTFAHRT GmbH Models Dornier 228-100, Dornier 228-101, Dornier 228-200, Dornier 228-201, Dornier 228-202, and Dornier 228-212 Airplanes [Docket No.: FAA-2009-0123 Directorate Identifier 2009-CE-005-AD; Amendment 39-15868; AD 2009-07-09] (RIN: 2120-AA64) received April 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1619. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-1A, -3A, -3A1, -3A2, -3B, and -3B1 Turbofan Engines [Docket No.: FAA-2007-0419; Directorate Identifier 2007-NE-52-AD; Amendment 39-15871; AD 2009-07-12] (RIN: 2120-AA64) received April 21, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1620. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Payments made to a REMIC pursuant to the Home Affordable Modification Program [Notice 2009-36] received April 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1621. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Asset Valuation under Section 430(g)(3)(B) as amended by WRERA [Notice 2009-22] received March 19, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1622. A letter from the Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule — Phase-out of Credit for New Qualified Hybrid Motor Vehicles and New Advanced Lean Burn Technology Motor Vehicles [Notice 2009-37] received April 15, 2009, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Ms. PINGREE of Maine: Committee on Rules. House Resolution 400. Resolution providing for the consideration of the bill (H.R. 1728) to amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices, to provide certain minimum standards for consumer mortgage loans, and for other purposes (Rept. 111-96). Referred to the House Calendar.

Mr. CONYERS: Committee on the Judiciary. H.R. 1788. A bill to amend the provisions of title 31, United States Code, relating to false claims to clarify and make technical amendments to those provisions, and for other purposes (Rept. 111-97). Referred to the Committee of the Whole House on the State of the Union.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. BUYER (for himself, Mr. WALZ, Mr. ROE of Tennessee, Mr. BACHUS, Mr. PIERLUISI, Mr. BOOZMAN, Mr. BURTON of Indiana, Mr. BUCHANAN, Mr. ROONEY, Mrs. BONO MACK, Mr. KLINE of Minnesota, Mr. PUTNAM, Mr. LINCOLN DIAZ-BALART of Florida, Mr. TAYLOR, Mr. MILLER of Florida, Mr. HALL of New York, Ms. CORRINE BROWN of Florida, Ms. JACKSON-LEE of Texas, Mr. CALVERT, Mr. MCMAHON, Mr. JONES, Ms. BORDALLO, Mr. GOHMERT, Mr. MICHAUD, and Mr. DONNELLY of Indiana):

H.R. 2243. A bill to amend title 38, United States Code, to provide for an increase in the amount of monthly dependency and indemnity compensation payable to surviving spouses by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

By Ms. ZOE LOFGREN of California (for herself and Mrs. BONO MACK):

H.R. 2244. A bill to amend the Internal Revenue Code of 1986 to allow an individual who is entitled to receive child support a refundable credit equal to the amount of unpaid child support and to increase the tax liability of the individual required to pay such support by the amount of the unpaid child support; to the Committee on Ways and Means.

By Mr. GRAYSON:

H.R. 2245. A bill to authorize the President, in conjunction with the 40th anniversary of the historic and first lunar landing by humans in 1969, to award gold medals on behalf of the United States Congress to Neil A. Armstrong, the first human to walk on the moon; Edwin E. "Buzz" Aldrin, Jr., the pilot of the lunar module and second person to walk on the moon; Michael Collins, the pilot of their Apollo 11 mission's command module; and the first American to orbit the Earth, John Herschel Glenn, Jr; to the Committee on Financial Services.

By Mr. MOORE of Kansas (for himself, Mrs. BIGGERT, and Ms. TITUS):

H.R. 2246. A bill to promote and enhance the operation of local building code enforcement administration across the country by establishing a competitive Federal matching grant program; to the Committee on Financial Services.

By Mr. COHEN (for himself, Mr. CONYERS, Mr. SMITH of Texas, and Mr. FRANKS of Arizona):

H.R. 2247. A bill to amend title 5, United States Code, to make technical amendments to certain provisions of title 5, United States Code, enacted by the Congressional Review Act; to the Committee on the Judiciary.

By Mr. BUTTERFIELD (for himself, Mr. YOUNG of Alaska, Mr. CHANDLER, Mr. RUSH, Ms. MCCOLLUM, Ms. CORRINE BROWN of Florida, Mr. COHEN, Mr. MILLER of North Carolina, and Ms. EDDIE BERNICE JOHNSON of Texas):

H.R. 2248. A bill to establish a grant program to assist States in inspecting hotel rooms for bed bugs, and for other purposes;

to the Committee on Energy and Commerce, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURGESS (for himself, Mr. GENE GREEN of Texas, Mr. CARTER, Mr. THORNBERRY, and Mr. CUELLAR):

H.R. 2249. A bill to amend title XIX of the Social Security Act to provide for increased price transparency of hospital information and to provide for additional research on consumer information on charges and out-of-pocket costs; to the Committee on Energy and Commerce.

By Mr. BURTON of Indiana:

H.R. 2250. A bill to immediately provide for domestic energy production and jobs and to pursue alternatives in renewable energy; to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, Science and Technology, Natural Resources, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CROWLEY (for himself, Mr. MEEK of Florida, Ms. CASTOR of Florida, and Mr. ENGEL):

H.R. 2251. A bill to amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DEGETTE:

H.R. 2252. A bill to improve the Federal infrastructure for health care quality improvement in the United States; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DELAHUNT (for himself and Mr. LATOURETTE):

H.R. 2253. A bill to establish a Financial Markets Commission, and for other purposes; to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER (for himself, Ms. CORRINE BROWN of Florida, Mr. KAGEN, Mr. LATHAM, Mr. ROE of Tennessee, Ms. BORDALLO, Mr. HALL of New York, Mr. KENNEDY, Mr. REYES, Mr. PASTOR of Arizona, Mr. ORTIZ, Ms. LORETTA SANCHEZ of California, Mr. MICHAUD, Mr. TIM MURPHY of Pennsylvania, and Mr. PLATTS):

H.R. 2254. A bill to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam; to the Committee on Veterans' Affairs.

By Ms. FOXX (for herself and Mr. CUELLAR):

H.R. 2255. A bill to amend the Unfunded Mandates Reform Act of 1995 to ensure that actions taken by regulatory agencies are subject to that Act, and for other purposes; to the Committee on Oversight and Government Reform, and in addition to the Committees on Rules, the Budget, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for con-

sideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY (for himself, Mr. MCHUGH, Mr. PLATTS, Mr. FATTAH, Ms. SLAUGHTER, Mr. BARROW, Mr. GORDON of Tennessee, Mr. LOEBSACK, Mr. GERLACH, Mr. MCGOVERN, Mr. POE of Texas, Mr. ARCURI, Mr. ACKERMAN, Mr. ISRAEL, Mrs. MALONEY, Mr. GONZALEZ, Mr. NADLER of New York, Mr. TONKO, Mrs. LOWEY, and Mr. CROWLEY):

H.R. 2256. A bill to authorize the Archivist of the United States to make grants to States for the preservation and dissemination of historical records; to the Committee on Oversight and Government Reform.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H.R. 2257. 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 Mr. KENNEDY (for himself, Mr. ELLISON, and Mr. MCMAHON):

H.R. 2258. A bill to adjust the immigration status of certain Liberian nationals who were provided refuge in the United States; to the Committee on the Judiciary.

By Ms. KOSMAS (for herself and Mr. POSEY):

H.R. 2259. A bill to amend title 18, United States Code, to strengthen the post-employment restrictions for Members of Congress; to the Committee on the Judiciary.

By Mrs. LOWEY:

H.R. 2260. A bill to provide the Secretary of Health and Human Services and the Secretary of Education with increased authority with respect to asthma programs, and to provide for increased funding for such programs; to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself, Mr. BILIRAKIS, Mr. MCMAHON, Mr. SARBANES, Mr. CAPUANO, Ms. BERKLEY, Mr. PASCRELL, Mr. MCGOVERN, Mr. SPACE, and Ms. TITUS):

H.R. 2261. A bill to designate Greece as a program country for purposes of the visa waiver program established under section 217 of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Ms. LINDA T. SANCHEZ of California (for herself, Ms. ROS-LEHTINEN, Mrs. MCCARTHY of New York, Ms. BALDWIN, Mr. BERMAN, Mr. BISHOP of New York, Ms. BORDALLO, Mrs. CAPPAS, Mr. CAPUANO, Mr. CARNAHAN, Ms. CLARKE, Mr. DAVIS of Illinois, Mr. DELAHUNT, Ms. DELAURO, Mr. DOYLE, Mr. ETHERIDGE, Mr. FARR, Mr. FRANK of Massachusetts, Mr. GORDON of Tennessee, Mr. AL GREEN of Texas, Mr. GRIJALVA, Mr. HINOJOSA, Mr. HOLT, Mr. KILDEE, Mr. KIRK, Mr. LANCE, Ms. MATSUI, Mr. MCGOVERN, Mr. MEEKS of New York, Mr. MORAN of Virginia, Mr. PAYNE, Mr. REYES, Ms. LORETTA SANCHEZ of California, Mr. SARBANES, Mr. SIREN, Ms. SLAUGHTER, Mr. STARK, Ms. SUTTON, Mr. TONKO, Mr. WEINER, and Mr. WEXLER):

H.R. 2262. A bill to amend the Safe and Drug-Free Schools and Communities Act to include bullying and harassment prevention programs; to the Committee on Education and Labor.

By Ms. SUTTON:

H.R. 2263. A bill to amend title II of the Social Security Act to eliminate the waiting

periods for people with disabilities for entitlement to disability benefits and Medicare, and for other purposes; to the Committee on Ways and Means.

By Mr. LARSON of Connecticut:

H.J. Res. 49. A joint resolution proposing an amendment to the Constitution of the United States concerning the election of the Members of the House of Representatives; to the Committee on the Judiciary.

By Mr. LINDER (for himself, Mr. COSTA, and Mr. STUPAK):

H. Con. Res. 118. Concurrent resolution supporting the goals of Smart Irrigation Month, which recognizes the advances in irrigation technology and practices that help raise healthy plants and increase crop yields while using water resources more efficiently and encourages the adoption of smart irrigation practices throughout the United States to further improve water-use efficiency in agricultural, residential, and commercial activities; to the Committee on Oversight and Government Reform.

By Mr. CLAY (for himself and Ms. FUDGE):

H. Con. Res. 119. Concurrent resolution expressing the sense of Congress that the United States Postal Service should issue a postage stamp in commemoration of Carl B. Stokes; to the Committee on Oversight and Government Reform.

By Mr. BOEHNER (for himself, Mr. CANTOR, Mr. PENCE, Mr. MCCOTTER, Mrs. MCMORRIS RODGERS, Mr. CARTER, Mr. SESSIONS, Mr. RANGEL, Mr. BLUNT, Mr. DREIER, Mr. MCCARTHY of California, Mr. ARCURI, Mr. BISHOP of New York, Ms. CLARKE, Mr. CROWLEY, Mr. ENGEL, Mr. ISSA, Mr. KING of New York, Mr. LEE of New York, Mr. DANIEL E. LUNGREN of California, Mr. MCHUGH, Mr. MURPHY of New York, Mr. TONKO, and Mr. MASSA):

H. Res. 401. A resolution honoring the life and recognizing the far-reaching accomplishments of the Honorable Jack Kemp, Jr; to the Committee on House Administration.

By Mr. FALEOMAVAEGA (for himself and Mr. SMITH of New Jersey):

H. Res. 402. A resolution condemning the transport of nuclear mixed-oxide (MOX) material by ship from France to Japan through international waters which endangers the marine environment and increases possible risks for destruction and likely attacks of such shipments by international pirates and terrorists; to the Committee on Foreign Affairs.

By Mr. KLEIN of Florida (for himself, Mr. ROSKAM, Mr. POLIS of Colorado, Mr. GRAVES, Mr. GRAYSON, Mr. KIRK, Ms. CORRINE BROWN of Florida, Mr. HOLT, Mr. MAFFEI, Mr. WEXLER, Ms. CASTOR of Florida, Mr. KIND, Mr. BURGESS, Mr. VAN HOLLEN, Mr. REYES, Mr. FOSTER, Mr. ENGEL, Mr. KENNEDY, Mr. PUTNAM, Ms. BORDALLO, Mr. BRIGHT, Mr. PETERSON, Mr. ABERCROMBIE, Ms. KOSMAS, Mr. WU, Ms. SHEA-PORTER, Mr. LEVIN, Mr. GRIJALVA, Mr. BERMAN, Mr. MCINTYRE, Mr. FILNER, Mr. SHERMAN, Mr. SABLAN, Mr. PATRICK J. MURPHY of Pennsylvania, Ms. JACKSON-LEE of Texas, Ms. MCCOLLUM, Ms. SUTTON, Mr. MILLER of North Carolina, Mr. HOLDEN, Ms. MATSUI, Mr. BOREN, Mr. HARE, Mr. HONDA, Mr. ETHERIDGE, Mr. GERLACH, Mr. BLUMENAUER, Mr. KISSELL, Ms. LORETTA SANCHEZ of California, Mr. RODRIGUEZ, Mr. CONYERS, Ms. WOOLSEY, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. SLAUGHTER, Mr. HEINRICH, Ms. KILPATRICK of Michigan, Mr. SIMPSON, Mr. PRICE of North Caro-

lina, Mr. FALEOMAVAEGA, Mr. MCNERNEY, Mr. PERLMUTTER, Ms. ZOE LOFGREN of California, Mr. STEARNS, Mr. WHITFIELD, Mr. LOBIONDO, Mr. MANZULLO, Mrs. BIGGERT, Mr. YOUNG of Florida, Mr. NYE, Mr. POSEY, and Ms. WATSON):

H. Res. 403. A resolution expressing the sense of the House of Representatives that there should be established a National Teacher Day to honor and celebrate teachers in the United States; to the Committee on Oversight and Government Reform.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. POLIS of Colorado introduced a bill (H.R. 2264) for the relief of Maria Carlota Tribaldo, Jose Vladimir Orellana-Hernandez, Bernardo Tribaldo, Yulieth Tribaldo, and Yedssi Aceneth Moreno Forero; which was referred to the Committee on the Judiciary.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. NYE and Mr. POMEROY.  
 H.R. 23: Mr. VISCLOSKEY, Mr. LANGEVIN, Mr. TERRY, Mr. PETERSON, Mr. WILSON of South Carolina, Mr. CUMMINGS, Mr. KAGEN, Ms. GINNY BROWN-WAITE of Florida, Mr. BROWN of South Carolina, Mr. ROTHMAN of New Jersey, and Mr. ARCURI.  
 H.R. 173: Mr. KAGEN.  
 H.R. 176: Ms. MCCOLLUM.  
 H.R. 179: Mr. LEVIN and Ms. CLARKE.  
 H.R. 182: Mr. RANGEL and Mr. SIRES.  
 H.R. 197: Mr. DAVIS of Alabama, Mr. ALEXANDER, and Mr. ADERHOLT.  
 H.R. 235: Mr. MOLLHOAN and Mr. QUIGLEY.  
 H.R. 333: Mr. HOLDEN, Mr. KIND, and Mr. WAMP.  
 H.R. 406: Mr. KUCINICH.  
 H.R. 413: Ms. ZOE LOFGREN of California.  
 H.R. 442: Mr. ROSS and Mr. JORDAN of Ohio.  
 H.R. 450: Mr. KLINE of Minnesota.  
 H.R. 463: Mr. MEEK of Florida.  
 H.R. 467: Mr. SCHIFF, Mr. Grayson, and Mr. PERLMUTTER.  
 H.R. 481: Ms. MCCOLLUM.  
 H.R. 504: Mr. LATOURETTE.  
 H.R. 509: Mr. SABLAN.  
 H.R. 510: Mr. CALVERT, Mr. BUCHANAN, and Mr. KLINE of Minnesota.  
 H.R. 556: Mr. SCHIFF.  
 H.R. 621: Mr. SHIMKUS, Mr. FILNER, Ms. BERKLEY, Mr. BOREN, Mr. LEWIS of Georgia, Mr. SMITH of Washington, Mr. PUTNAM, Mrs. Dahlkemper, Mr. SESTAK, Ms. FOX, Mr. ETHERIDGE, Mr. GONZALEZ, Mr. BISHOP of Georgia, Mr. CALVERT, Mr. CONNOLLY of Virginia, and Mr. MILLER of Florida.  
 H.R. 646: Mr. ABERCROMBIE and Mr. BURTON of Indiana.  
 H.R. 745: Ms. BALDWIN and Mr. BISHOP of New York.  
 H.R. 775: Mr. BERRY, Mr. MCGOVERN, and Mr. SOUDER.  
 H.R. 868: Mr. BOSWELL.  
 H.R. 890: Mr. LEVIN, Mr. COHEN, and Mr. GRIJALVA.  
 H.R. 949: Mr. PETERSON.  
 H.R. 958: Mr. CARNEY.  
 H.R. 1030: Mr. MCDERMOTT.  
 H.R. 1067: Mr. ELLISON.  
 H.R. 1074: Mr. DENT, Mr. JORDAN of Ohio, and Mr. ALEXANDER.  
 H.R. 1111: Mr. LAMBORN and Mr. BISHOP of Utah.  
 H.R. 1179: Mr. PERRIELLO, Mr. THOMPSON of California, Mr. VAN HOLLEN, and Ms. LEE of California.

H.R. 1193: Ms. DEGETTE.  
 H.R. 1203: Mr. JOHNSON of Illinois, Mr. GEORGE MILLER of California, and Mr. MEEK of Florida.  
 H.R. 1210: Mr. KILDEE.  
 H.R. 1214: Mr. SHERMAN.  
 H.R. 1247: Ms. LEE of California, Mr. SIRES, Mr. KISSELL, Mr. TOWNS, Ms. CLARKE, Mr. MARKEY of Massachusetts, and Mr. FILNER.  
 H.R. 1255: Ms. WOOLSEY.  
 H.R. 1269: Mr. LATTA.  
 H.R. 1277: Mr. THORNBERRY, Mr. GOODLATTE, Mr. LEE of New York, and Mr. WAMP.  
 H.R. 1289: Mr. GENE GREEN of Texas.  
 H.R. 1322: Mr. CUMMINGS, Mr. COURTNEY, Mr. JONES, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Ms. KAPTUR, Mr. MICHAUD, Mr. BOSWELL, Mrs. LOWEY, Mr. KUCINICH, Mr. BERMAN, and Mr. OBERSTAR.  
 H.R. 1325: Ms. CLARKE.  
 H.R. 1330: Mr. BISHOP of New York and Mr. CARDOZA.  
 H.R. 1343: Mr. MCCOTTER.  
 H.R. 1354: Mr. BISHOP of Utah.  
 H.R. 1378: Mr. PASCRELL, Mr. SARBANES, and Mr. ROSS.  
 H.R. 1380: Ms. EDDIE BERNICE JOHNSON of Texas and Ms. DEGETTE.  
 H.R. 1410: Mr. CLEAVER and Ms. EDWARDS of Maryland.  
 H.R. 1428: Mr. TIM MURPHY of Pennsylvania.  
 H.R. 1452: Mr. TERRY.  
 H.R. 1454: Mr. LEE of New York, Mr. MCNERNEY, Mr. FARR, Mr. BUCHANAN, and Ms. BALDWIN.  
 H.R. 1470: Mr. PITTS and Mr. LATHAM.  
 H.R. 1474: Ms. KILPATRICK of Michigan, Mr. DOYLE, Mr. MCGOVERN, Mr. ELLISON, and Mr. CONNOLLY of Virginia.  
 H.R. 1479: Mr. SERRANO.  
 H.R. 1503: Mr. GOODLATTE.  
 H.R. 1548: Ms. KOSMAS and Mr. HODES.  
 H.R. 1550: Mr. TURNER and Mr. ARCURI.  
 H.R. 1552: Mr. MILLER of Florida, Mr. FLEMING, Mr. MANZULLO, Mr. SCHOCK, Mr. TIBERI, Mrs. EMERSON, Mr. LATOURETTE, Mr. GERLACH, Mr. REICHERT, Mr. Cao, Mr. BARTLETT, Mr. DENT, Mr. KIRK, Mr. BARROW, and Mr. WEXLER.  
 H.R. 1558: Mr. LARSON of Connecticut and Ms. ESHOO.  
 H.R. 1571: Mr. SIRES.  
 H.R. 1625: Mr. GENE GREEN of Texas, Mr. PETERSON, Mr. GUTIERREZ, and Mr. WILSON of Ohio.  
 H.R. 1675: Ms. KILPATRICK of Michigan.  
 H.R. 1684: Mr. BOREN, Mr. BUCHANAN, Mr. MCCAUL, Mrs. BLACKBURN, Mr. ROSS, Mr. MINNICK, Mr. KLINE of Minnesota, Mr. JORDAN of Ohio, and Mr. ISSA.  
 H.R. 1689: Mrs. CAPITO, Mr. SPACE, and Mr. ROGERS of Kentucky.  
 H.R. 1698: Mr. MASSA.  
 H.R. 1721: Mr. BISHOP of Georgia.  
 H.R. 1723: Ms. NORTON.  
 H.R. 1727: Mr. SHERMAN.  
 H.R. 1735: Ms. ZOE LOFGREN of California, Mr. COURTNEY, and Mr. FATTAH.  
 H.R. 1740: Ms. MOORE of Wisconsin, Mr. BLUNT, Mr. HOEKSTRA, Mr. TERRY, and Mr. ENGEL.  
 H.R. 1751: Mr. JACKSON of Illinois.  
 H.R. 1761: Mr. KUCINICH.  
 H.R. 1788: Mr. SHERMAN and Mr. BRALEY of Iowa.  
 H.R. 1802: Mr. AUSTRIA.  
 H.R. 1816: Mr. KUCINICH.  
 H.R. 1826: Mr. KUCINICH and Mr. MURPHY of Connecticut.  
 H.R. 1835: Mr. NUNES, Mr. HALL of Texas, Mr. ROGERS of Alabama, Mr. FRANKS of Arizona, Mr. LOEBACK, and Mr. MASSA.  
 H.R. 1836: Mr. HARE and Mr. CONNOLLY of Virginia.  
 H.R. 1844: Mr. MASSA, Ms. ROS-LEHTINEN, and Mr. TERRY.  
 H.R. 1849: Mr. ORTIZ.

H.R. 1881: Mr. DEFAZIO, Mr. MICHAUD, Mr. ISRAEL, Ms. KILROY, Ms. CASTOR of Florida, and Mr. GRAYSON.

H.R. 1888: Mr. GRIJALVA.

H.R. 1908: Mr. GERLACH.

H.R. 1910: Mr. BOCCIERI.

H.R. 1912: Mr. BOCCIERI.

H.R. 1959: Mr. MICHAUD and Mr. DELAHUNT.  
H.R. 1985: Mr. FRANKS of Arizona and Mr. GARY G. MILLER of California

H.R. 1993: Mr. BOREN.

H.R. 2009: Mr. MILLER of Florida, Ms. FOXX, Mr. ROONEY, and Mr. HASTINGS of Washington.

H.R. 2014: Mr. INGLIS, Mr. COSTA, Mr. CARNAHAN, Mr. HENSARLING, Mr. MEEKS of New York, Mr. HARPER, Mr. SCHRADER, Mr. HALL of New York, Mr. GUTHRIE, and Mrs. HALVORSON.

H.R. 2017: Mr. HOLT.

H.R. 2027: Mr. PENCE, Mr. PAUL, Mr. SMITH of Texas, Mr. FLAKE, Mr. GOHMERT, Mr. GRIJALVA, Mr. WILSON of South Carolina, Mr. CAMPBELL, Mr. JONES, Mr. GUTHRIE, Mrs. LUMMIS, Mr. SCHOCK, Mr. KING of Iowa, Mr. LAMBORN, Mrs. BACHMANN, Mr. CARTER, Mr. TERRY, and Mr. MCCLINTOCK.

H.R. 2062: Mr. WAXMAN, Mr. BLUMENAUER, Mr. KIND, Ms. LEE of California, Mr. WEXLER, and Ms. HIRONO.

H.R. 2067: Mr. PIERLUISI.

H.R. 2097: Ms. ROYBAL-ALLARD, Mr. DAVIS of Illinois, and Mr. ROGERS of Alabama.

H.R. 2102: Mr. ORTIZ, Mr. BISHOP of New York, Mr. CRENSHAW, and Mr. HINOJOSA.

H.R. 2103: Mr. MCDERMOTT, Mr. CAPUANO, and Mr. MURPHY of Connecticut.

H.R. 2105: Mr. BARTON of Texas, Ms. KAPTUR, Mr. GINGREY of Georgia, Mr. CARNEY, Mr. BRADY of Pennsylvania, Mr. PAYNE, and Mr. WEXLER.

H.R. 2106: Mr. PAUL.

H.R. 2109: Mr. CARNEY, Mrs. MALONEY, Mr. KIND, Ms. BORDALLO, Mr. GRIJALVA, Mr. DAVIS of Illinois, and Mr. KING of New York.

H.R. 2113: Mr. PIERLUISI.

H.R. 2118: Mr. CALVERT.

H.R. 2119: Mr. CALVERT.

H.R. 2138: Mr. MASSA.

H.R. 2149: Mr. WITTMAN.

H.R. 2160: Mr. GUTHRIE.

H.R. 2194: Mr. WEXLER, Mr. ENGEL, Ms. WASSERMAN SCHULTZ, Mr. HASTINGS of Florida, Mr. MCMAHON, Mr. BILIRAKIS, Mr. MCHUGH, Mr. MEEK of Florida, Mr. MCCOTTER, Mr. GARY G. MILLER of California, Mr. HODES, Mr. SMITH of New Jersey, Mr. PLATTS, Mrs. LOWEY, and Mr. ROONEY.

H.R. 2196: Ms. WOOLSEY.

H.R. 2202: Mr. BARTLETT and Mr. WELCH.

H.R. 2239: Mr. HARE.

H. J. Res. 47: Ms. FALLIN and Mr. PAULSEN.

H. Con. Res. 29: Mr. HOLT.

H. Con. Res. 89: Mr. SHERMAN and Mr. CROWLEY.

H. Con. Res. 105: Mr. DELAHUNT, Mr. WILSON of South Carolina, Mr. OBERSTAR, Mrs. BONO MACK, Mr. MASSA, Mrs. CHRISTENSEN, and Mr. SKELTON.

H. Res. 111: Mr. CHANDLER and Mr. WHITFIELD.

H. Res. 156: Mr. MARIO DIAZ-BALART of Florida.

H. Res. 192: Ms. MOORE of Wisconsin, Mr. CUMMINGS, Mr. REYES, Mr. MCNERNEY, and Mr. WELCH.

H. Res. 209: Mr. BISHOP of New York.

H. Res. 232: Mr. DENT, Mr. THOMPSON of Pennsylvania, Mr. PAYNE, Mr. CALVERT, Mr. HINCHEY, Mr. SULLIVAN, and Mr. MORAN of Kansas.

H. Res. 248: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. RYAN of Ohio.

H. Res. 299: Mr. MCDERMOTT and Mr. PRICE of North Carolina.

H. Res. 331: Mr. CARDOZA.

H. Res. 360: Mr. TIM MURPHY of Pennsylvania and Mr. AUSTRIA.

H. Res. 363: Mr. STARK.

H. Res. 386: Mr. BARROW, Mr. MARSHALL, Mrs. MYRICK, Mr. MARCHANT, Ms. TITUS, Mr. WAMP, Mr. SHADEGG, Mr. WILSON of South Carolina, Mr. AKIN, Mr. LUETKEMEYER, Mr. GUTHRIE, Mr. POSEY, Mr. BONNER, Mr. ROE of Tennessee, Mr. BARRETT of South Carolina, and Mr. HELLER.

H. Res. 388: Mr. RUPPERSBERGER, Mr. COLE, Mr. CUMMINGS, Mr. MORAN of Kansas, Mr. CASTLE, Mr. CHILDERS, Mrs. CAPPS, Mr. CONAWAY, Mr. BOYD, Ms. ZOE Lofgren of California, Mr. HOLDEN, Ms. FUDGE, Mrs. CHRISTENSEN, Mr. BARTLETT, Mr. SMITH of Nebraska, and Mr. BLUMENAUER.

H. Res. 396: Mr. BECERRA, Mrs. DAVIS of California, Mr. LEWIS of Georgia, Ms. LEE of California, Mr. ROSS, Mr. TANNER, Mr. BOYD, Ms. WOOLSEY, Mr. MCCARTHY of California, Mr. WILSON of Ohio, and Mr. CALVERT.





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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, TUESDAY, MAY 5, 2009

No. 68

## Senate

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

### PRAYER

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

Let us pray.

O, Lord, our Redeemer, abide with our Senators through the passing hours of another day. Strengthen them to stand firm for those good and eternal values that keep a nation strong. Lord, give them the courage to do the right even when others are doing wrong. Remind them that You are the pilot of their lives who can guide them to a desired destination. Let discretion preserve them and understanding keep them, protecting them from the forces of evil. Save them from pride that mistakes their abilities for possessions, and keep them humble enough to see their need for You.

We pray in Your Holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 5, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a

Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will resume consideration of the Helping Families Save Their Homes Act. The time until 10:50 will be equally divided and controlled between Senators DODD and CORKER. At 10:50 a.m., the Senate will proceed to vote in relation to the Corker amendment.

The Senate will recess from 12:30 until 2:15 to allow for the weekly caucus lunches. We have still a large number of amendments that could possibly be debated and voted on today. But it appears that we should not have more than maybe six or seven votes, something like that.

The managers are working on the bill, and we should be able to finish it without a lot of trouble today. So there will be votes throughout the day. We do not expect any more votes until after the caucus.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader.

### REPLACING JUSTICE SOUTER

Mr. McCONNELL. Mr. President, Justice Souter's decision last week to retire from the Supreme Court presents us with an opportunity to prepare for

an important debate about the role of the courts and the meaning of the Constitution. Of all the Senate's duties, few have come to enliven our civic life as much as the consideration of a Supreme Court nominee.

Justice Souter never made a secret of the fact that he prefers New Hampshire to Washington, and the fact that he has served so long in spite of that preference speaks of a deep commitment to public service. As Justice Souter returns to New Hampshire, we thank him for his many years of dedicated service.

Now attention turns to the President's eventual nominee.

Republicans are hopeful that President Obama will choose someone with the same qualities that have always characterized a good judge: superb legal ability, personal integrity, sound temperament, and, above all, an evenhanded reading of the law.

These are the qualities Americans have always looked for in their judges. Any judge who has them can fulfill his or her judicial oath to "administer justice without respect to persons and do equal right to the poor and to the rich." And these are the qualities that we should expect of any nominee to the highest court in the land.

Over the years, there has been a growing tendency among some on the left to pick or promote judges based on policy and political preferences, and President Obama's past statements on judicial appointments strongly suggest that he shares this view.

As a candidate for President, he said that his criteria for a judicial nominee would be someone who would empathize with particular parties or particular groups. This viewpoint was evident again last week when, in describing a good nominee, the President seemed to stress empathy over and above a judge's role of applying the law without prejudice.

The problem with this philosophy is that it arises out of the misguided notion that the courts are simply an extension of the legislative branch rather

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



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than a check on it. Americans do not want judges to view any group or individual who walks into the courtroom as being more equal than any other group or individual. They expect someone who will apply the law equally to everyone, so everyone has a fair shake.

Americans expect, and should receive, equal treatment whether they are in small claims court or the Supreme Court. And any judge who pushes for an outcome based on their own personal opinion of what is fair undermines that basic trust Americans have always had and should always expect in an American court of law.

The President is free to nominate whomever he likes. But picking judges based on his or her perceived sympathy for certain groups or individuals undermines the faith Americans have in our judicial system. So throughout this nomination process, the impartiality of judges is a principle that all of us should strongly defend.

In a nation of laws, the question is not whether a judge will be on the side of one group or another. It is not "whose side," the judge is "on," as a senior Democrat on the Judiciary Committee framed the issue during another debate over a Supreme Court nominee. The issue is whether he or she will apply the law evenhandedly.

Once the President chooses his nominee, Senate Republicans will work to ensure the Senate can conduct a thorough review of their record, and a full and fair debate over his or her qualifications for the job. This is a responsibility we take seriously, and one that the American people expect us to carry out with the utmost deliberation.

#### RESERVATION OF LEADER TIME

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

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

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

Mr. DODD. What is the pending business before the Senate?

#### HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 896, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

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

Corker amendment No. 1019 (to amendment No. 1018), to address safe harbor for certain servicers.

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

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

Mr. DODD. Mr. President, my understanding is my friend and colleague from Tennessee has an amendment which is in order. I am prepared to defer to him. Then when he completes his remarks, I will respond.

I believe Senator MARTINEZ of Florida may be coming over as well. I understand we have an agreement to have a vote at 10:50. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DODD. I yield the floor.

#### AMENDMENT NO. 1019

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

Mr. CORKER. Mr. President, I rise to speak on amendment No. 1019. Let me start by saying I appreciate the work Senators DODD and SHELBY have done to bring the bill to the floor. I know they are trying to solve a number of problems that exist right now as relates to homeowners in our country trying to reposition where they are with their homes.

I know there are a number of issues with HOPE for Homeowners that was passed last summer that they are trying to solve. I say to the Senator from Connecticut, I appreciate his efforts. I appreciate the efforts of Senator SHELBY.

The amendment I am offering and on which we will be voting tries to make the safe harbor arrangement that exists in this bill something that is fair to all folks involved in these loans. Most people are aware of pooling arrangements where, in essence, there are servicers who take care of the indebtedness against a homeowner. They pool these together through the securitization that has taken place in the past in order to deal with homeowners. There has been great difficulty in the past in trying to move programs along so we can modify these mortgages.

The problem with this bill, though, is that under the safe harbor arrangement that has been put in place, it does not necessarily do what is best for the homeowner and doesn't necessarily do what is best for the investors, as many Americans have these in their 401(k)s. What it does do is an excellent job of taking care of the large four banks that do the bulk of the servicing: J.P. Morgan, Wells Fargo, Citigroup, and Bank of America. This bill actually

incentives them. We are paying them money to do what is in their best interest.

Most of these large banks actually hold the second mortgages, not the first mortgages. The first mortgages are the ones I think most of us realize have priority. Those are the loans that allowed you to go into and actually purchase the home in the first place. Then these banks came along, in some cases unwittingly, and participated in predatory-type lending. So these banks, in essence, own most of the second mortgages, the home equity loans. They also own a huge portion of the credit card debt that many of these consumers have. We are paying them in this bill to actually deal with these mortgages in a way that is in their best interest. They have the lesser amount of security, but they also have built-in conflicts of interest where, in essence, if they can do things to cause these consumers to have the secondary debt taken care of, it is in their best interest to do that.

I think this is a huge problem. I find it incredible that we, in essence, in this body would pass a bill where we, in essence, are paying the fox to guard a chicken house that is in their best interest. That is what this bill does.

What our amendment would do is say to these servicers, these people who are taking care of these mortgages, which is servicing the first and second mortgage—again, them owning mostly the second mortgages—what it would do is say they have to look at all options, not just the ones cited in the bill.

For instance, if a homeowner would be better served by having forbearance, meaning for reduction of principal or something such as that, or maybe a short sale, something else that might be in much better stead for the homeowner and for the investor, the servicer doesn't have to do that. All the servicer has to do in this bill is look at one of two programs—the Obama administration's modification program or the HOPE for Homeowners modification program, just one, not both—and compare it to foreclosure. If it is better off going with one of these two programs, they move it into those programs, even though it may not be in the homeowner's best interest and even though it may not be in those many Americans across our country who have these first mortgages in their 401(k)s, not in their best interest. Typically, though, it is going to be in the servicers' best interest, these four large banks that are being paid money by this bill to actually pursue this servicing in a manner that is in their best interest.

I hope everyone will join me in asking these servicers to not just look at what is in their best interest but to actually first look and see what is in the best interest of those people who own the first mortgages and for those people who actually are in these homes who are trying to stay in these homes. There are provisions here that actually

make it worse for the homeowner, in that, basically, much of the debt gets pushed off into 5 years and actually defers their paying, actually makes their situation even worse than it is today. But in the short term, it might make it better, again, for these four large banks.

I am somewhat surprised the sponsors of this bill, whom I have a lot of respect for and work with on a number of issues, are not accepting this commonsense amendment, which says to these servicers, who have a contract, by the way, for those people whom they are servicing these mortgages for, to say that they have to look at everybody's best interest, not their own self-interest, prior to making changes in these mortgages. It is pretty astounding to me. I am still not sure I understand.

Let me make one other point. Last week we, as a body, both sides of the aisle in a bipartisan way, turned away something called cram-down, which gave judges around the country the ability to change the terms of a first mortgage. This body, in a bipartisan way, said we should not be letting the courts change contracts. That is something that is foreign to an American way of thinking. By the way, courts, at least judges, are appointed or elected. They are in positions of public service. What this bill does instead is, it pays servicers, many of which have contributed to this problem in a huge way, to do things that in many cases are in their own self-interest, breaking contract law, and in many cases hurting the homeowner and hurting the investors.

I hope everybody will see the commonsense nature of this amendment. I hope we can pass this amendment and cause the work that Senators DODD and SHELBY have done to improve the situation that exists, to make it even fairer to all involved.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I see our colleague from Florida has arrived. I will take a few minutes and then ask unanimous consent that he be recognized as the original author of the safe harbor provision so he has a chance to explain his point of view.

Let me begin. Again, it is not necessarily the most compelling of arguments, but I think it is worthy of note that those organizations who are opposed to the amendment of the Senator from Tennessee include the Consumer Federation of America, the National Community Law Center, the National Association of Consumer Advocates, the Housing Policy Council, the Financial Roundtable, the Center for Responsible Lending, the Mortgage Insurance Corporation, mortgage bankers, and the ABA. This is a pretty rare collection, when we get the major consumer groups that watch all this stuff very carefully, as well as some of the major lending institutions. They never come together on anything. It is a unique moment on this proposal.

Let me say to my friend from Tennessee, I don't like the situation we are in either. This is not the ideal world because his point about contracts is a valid one. There is no question. I pointed out there are contracts with second homes and vacation homes and the like as well. We had no problem with the cram-down with mortgages involved there. We have a prohibition on primary residences, but we make the exception with other properties. Frankly, had we taken the Durbin amendment, that might have minimized the importance of what we have here.

Here is the problem: 10,000 people a day are losing their homes; 20,000 a day are losing their jobs. The question is, How can we possibly get the kind of incentives so the bankers, the servicers, the lenders, and the borrowers can modify these mortgages? We now have 11 million homes in this country where the mortgage exceeds the value of the property. If we don't step up soon, those numbers will explode. We have a moratorium on foreclosures in certain areas, and that is just building up a backlog that if we don't end up with some means by which that borrower and lender can work out an arrangement that they can modify the mortgage, we will face a cascading effect which most people agree is the root cause of our financial difficulties, beginning with predatory lending and subprime lending that helped create this problem with no-documentation loans, the liar loans and the like.

What we have crafted is a rather narrow answer. They have a safe harbor provision which is very broad and, frankly, it can be narrowed. That is what Senator MARTINEZ has done with his proposal. What we are talking about are loans in the private label securities. That represents about 16 percent of what we are talking about. Yet within that 16 percent, in excess of 62 percent of those loans, are seriously delinquent loans. So while it is a relatively small number compared to the total mortgages being written, in terms of delinquent mortgages, it represents a fairly significant majority. We are narrowly dealing with those.

Then we are talking about two circumstances in which they voluntarily can move. That is with the Obama plan or the HOPE for Homeowners. We are not limiting it. If people don't want to do it, there is no requirement that they do it. We are trying to remove one of the great barriers, and that is the fear of litigation. The servicers are saying: We would like to do this. We understand the value of it. We want to get paid. Banks want to get paid. Borrowers want to stay in their homes. Everybody seems to agree on that. Here is the problem: If we end up modifying this, the investor, not an illegitimate point, says: Wait a minute, we had a contract with you, Mr. Servicer. You are going to now modify this, violating our interests as an investor. Therefore, we are going to sue you.

That is the fear. So the servicer says: I am not going near this. I respect the

fact the borrower would like to get out of this situation in an affordable mortgage. I would like to get paid something in the process. But I will not go through the kind of litigation that will occur if there is not a safe harbor. Hence, the Martinez amendment.

In these narrow circumstances involving 16 percent of this market, and of which 62 percent are the delinquent mortgages, under two fact situations, the HOPE for Homeowners and the Obama mortgage modification plan, we provide for that safe harbor, saying to that servicer, if, in fact, you move forward, we will provide you with that harbor and avoid the potential of litigation, in some cases even frivolous litigation.

Again, in a perfect world, would I like to avoid that and do what my friend from Tennessee wants? Absolutely. But there are no perfect choices, and yet there are some potential dangers. I don't like setting a precedent. We narrowly define this in time and circumstance, only involving those that already occurred, and the problem dies or is sunsetted in December of 2012. So this is not a perpetual program. It is limited to the fact situation, limited to opportunities in order to try and provide some relief primarily to the consumer, to the person holding that mortgage or the person having that mortgage who runs the risk of losing their home.

We have tried, for a year and a half, all sorts of different ways. My friend from Tennessee and the former Secretary of Housing and Urban Development, Senator MARTINEZ, who knows something about these issues, will recall we tried, in the spring of 2007, to get these people together to try and work out things. They promised they would try. They never did. Then we drafted legislation, far from perfect because we are back today talking about it, called HOPE for Homeowners. We tried all sorts of means by which we could slow down the foreclosure problem.

Regretfully, we have not been as successful as we would like. There is no guarantee this will work as well as we would like either. I say that as a co-author of this bill overall, and I appreciate my colleague's fine comments about the effort. But it is an attempt to try and provide some space, in these very delinquent mortgages, to provide an opportunity for a modification so people can stay in their homes, borrowers can keep their homes, lenders get something back, rather than going to foreclosure in which the implications for everyone are devastating.

Again, the investor does not have an illegitimate complaint, but in the context of balancing these interests, where, again, no one is going to come out of this perfect, in a way I think it is in our interest to try and do what we can to keep people in their homes and have the lenders be able to get something back. Hence, that is why you see this very unique coming together of

various interest groups, from the consumer advocates to the major lending associations, saying on this point, they think this is the right—at least worthy of our attempt to get this right.

Again, I respectfully say to my colleague from Tennessee, I appreciate his points. He and I talked about this. But I honestly believe in this case this would be a mistake to accept this amendment and to run the risk of losing the opportunity to get that safe harbor opportunity.

With that, I yield to my colleague from Florida.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, if the Senator from Florida would allow me to speak for 1 minute.

Mr. DODD. Yes.

Mr. CORKER. Mr. President, I wish to make it clear because I think the Senator from Connecticut, in doing a good job in talking about his position, made it seem as if we are against loan modifications. Look, there were 134,000 loan modifications last month. I am all for loan modifications.

But what this bill does now is it gives those four largest banks, and many others, the ability—we are paying them, we are giving them the ability to do things that are in their self-interest and not in the homeowners' self-interest—let me say that one more time: not in the homeowners' self-interest—and be totally obligation free, with no legal recourse whatsoever against them.

What this amendment does is say we are giving them safe harbor, but they have to look at a variety of ways to make sure the homeowner and the investor both are being treated fairly. This bill is very narrow. It allows them to wash their hands and do things that are in their best interest alone, and we are paying them to do that with no legal recourse. To me, that is far, far, far more than we should be doing in legislation such as this.

I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, a quick response.

The homeowner gets to keep their home, hopefully, at a rate they can afford to pay. That is not insignificant, I say with all due respect. The idea there is nothing in here that benefits homeowners—and I am not interested in helping out the four big banks at all. I am interested in making it possible for this to avoid litigation. That is what the concern is; that if we are going to do this, we run the risk because it violates a contract potentially, and if you do that, you are subject to a lawsuit; hence, nothing happens.

That is the fear: nothing happens. If the servicers do not act, then you end up with the borrower losing their home, the lender ends up getting nothing out of it at all; and, hence, the reason why this safe harbor is designed to get us to the point where both the bor-

rower and the lender—again, we are not interested in anyone coming out of this situation with some enrichment, but the idea of slowing down this cascading problem of foreclosures, I think is in everyone's interest, as my colleague has pointed out.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Thank you, Mr. President.

Let me make one more point. I will be brief.

Mr. MARTINEZ. Point of order, Mr. President.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MARTINEZ. Mr. President, if I could inquire of the Chair—

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Tennessee has the floor.

Does the Senator from Tennessee yield to the Senator from Florida?

Mr. CORKER. Certainly. Yes.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. MARTINEZ. Mr. President, I would like to be heard and have an opportunity to join in the discussion regarding this very important issue. I appreciate the fact that the Senator from Tennessee has spoken, rebutted, and wants to speak again. I appreciate that. But I would like to have an opportunity to express my point of view at some point. If the Chair could keep that in mind, I would like to do that at some appropriate point.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, unless I am rebutted, this will be my final point.

I would like to make a point that from the standpoint of the homeowner, in many cases, they would be much better off if they were given the opportunity to refinance, given the opportunity to refinance at a lower rate and a longer amortization with organizations that provide that opportunity today.

The servicer has no obligation to even look at a refinancing such as that, for which in many cases the homeowner and the investor would be better off. That is not a part of this bill. I find that to be a major flaw.

I yield my time, Mr. President.

I thank the Senator from Florida for being so patient.

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

Mr. MARTINEZ. Mr. President, I did not want the opportunity to pass to be heard on this issue, and I would be pleased to have the Senator from Tennessee make a rebuttal after I make my comments. But at some point I did wish to have an opportunity to express my point of view on this issue.

Here is the situation we are in. As the chairman of the Banking Com-

mittee has said, this is not a perfect world. We are in a heck of a mess. The people in Florida, by the thousands, are having their homes foreclosed. Unemployment is almost 10 percent because about 25 percent of Florida's economy is dependent on building homes and on the construction industry, which is completely stopped, for the most part.

We are in a situation now where if I hold a forum in a city such as Fort Myers, 450 people show up desperate for a solution to their problem to stay in their home. We have some banks there, and we have some people from HUD, from HOPE for Homeowners—all these people coming together—to try to work things out, and many times it happens. It is not nearly keeping up with the rate of foreclosures going on across the country, but some are getting worked out.

How many more would be worked out if we had a safe harbor provision—balanced—that keeps the investor community from being able to bring legal action against the servicers? I think we would have thousands more. Would the country be better off? Absolutely. Would the homeowner be better off? Absolutely. Would everyone involved in the business of housing and housing finance be better off? I submit to you it would be so.

One of the reasons many of these loan modification programs we have had—and they began in the Bush administration; they have continued now in the Obama administration but they have not worked because of the safe harbor need, because of the legal ramifications once a servicer perceives the threat of litigation. The safe harbor provisions of this legislation remove that perceived risk.

This bill, which includes a safe harbor that is lots narrower than the one in the House version of this bill, makes it clear that so long as a mortgage servicer concludes that, from the perspective of the investors, an approved loan modification is better than foreclosure; that is, modification will yield greater value than foreclosure—in other words, the investor is protected to a degree—then the servicer cannot be held liable for choosing to modify the loan and not foreclose.

This legislation strengthens the current Federal loan modification guidelines to assure that only deserving homeowners benefit from a modification. Individuals with a net worth of more than \$1 million cannot qualify for a modification. Individuals who have been convicted of fraud would also be barred. Any participant must certify that he or she has not intentionally defaulted on any other debt before a modification is going to be permitted.

Unlike the safe harbor provision in the House bill, this bill's safe harbor would still permit investors to hold a servicer liable if the servicer acts unreasonably or improperly fails to maximize investor value through instigating a foreclosure. In other words,

there will still be a foreclosure if, in fact, it is in the best interest of the investor.

The safe harbor provisions in this bill would help to strike the proper balance between the future health of residential mortgage credit in this country and the rights of investors.

I think what we need to understand a little better is that the intent of the Corker amendment—while it is good; and I hate to disagree with the Senator from Tennessee, whom I so often find myself in full agreement with, but in this instance, I must because he requires that all potential alternatives to foreclosure be evaluated and to select the one that is best for the investor, regardless of whether that is in the best interest of the homeowner, before the safe harbor litigation protections are triggered. So before the safe harbor litigation protections are triggered, all other options would have to be reviewed and considered. Basically, there is no safe harbor at all. I do not think, if the Corker amendment was adopted, we would see a lesser number of foreclosures.

There are two problems with this amendment.

The language of the amendment appears to fail to achieve its stated intent. The current language appears to require that a servicer evaluate all possible alternatives to foreclosure but only provides a safe harbor if the servicer chooses a government-sponsored loan modification.

The second problem is it fails to strike the proper balance among the interests of the servicers, the investors, and the homeowners. We tried to strike a balance among all these competing interests in what we acknowledge is an imperfect world.

The current language of the bill is better because it forces servicers to make a reasonable determination about whether an investor would be better off with a loan modification or foreclosure. It allows the current loan modification efforts—that allow homeowners to remain in their homes—an opportunity to actually work.

This allows investors to benefit from a modification, where it is appropriate, while decreasing the number of foreclosures and increasing the number of families who can remain in their homes.

Some have alleged constitutional concerns about this legislation, and I have to tell you, in these kinds of moments, I think we do not want to violate our Constitution, but it is necessary sometimes we step outside a comfort zone, and it is undisputed Congress has the power to regulate the residential mortgage industry. We believe we are on safe legal grounds in that and that this does not constitute a taking or even come close to that.

I believe the well-intended Corker amendment would not improve the current situation as it relates to the number of workouts that are taking place, and foreclosure would still be the rule

of the day. I believe the language in the bill is superior. It strikes a better balance. It is not as broad as the House language, it is not as restrictive as the Corker language, but it hits it just about right.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Tennessee.

Mr. CORKER. Mr. President, I thank my colleague from Florida, who has served our country well both as a Senator but also as Secretary of HUD and has tremendous amounts of experience in this area. We disagree on this issue.

My amendment does not just seek to do what is best for the investor. It seeks to do what is best for the homeowner and asks the servicer to not just compare one alternative to foreclosure but an array of alternatives to foreclosure.

I have to tell you, I know of people in financial distress, as most of us do. I think I would like for these major banks that basically are servicing credit card debt and home equity loans, I would like for them to have to look after the interests of the homeowner and the investor in every way they can prior to moving to foreclosure. That is what this amendment does.

It is a commonsense amendment. I think we have moved ourselves into a situation now that is potentially worse, as I said before, than what we did the other day, which was that the other day we rejected giving judges the ability to unilaterally change contracts. Now we are going to be paying, in large portions, the four largest banks in the country, we are going to be paying them our money, taxpayer money to do things that in many cases are in their best interest and not in the homeowner's best interest and the investor's best interest. I find that problematic.

In years to come, if this legislation passes without this amendment, we are going to look back and realize we did some things that may have sounded great in the middle of a crisis but we did some things that 4 or 5 years from now we are going to wake up and realize have done great harm to the very homeowners this bill seeks to help.

Mr. President, I thank you for the time.

I thank the Senator from Florida and the Senator from Connecticut for the thoughtful conversations they have put forth. I think this legislation is flawed. I know there are some other components of this bill that are very good. As a matter of fact, I have authored, with the major proponent, the Senator from Connecticut, large portions of this bill. But this safe harbor agreement has many problems. I think it is a shame, if this amendment is not adopted, we are going to end up with a piece of legislation that does a lot of good but also does a lot of harm and sets precedents in this country we are going to live to regret.

Mr. President, I yield my time.

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

Mr. DODD. Mr. President, I will take a minute. Let me just say again that I have great respect for my colleague from Tennessee. He and I work closely together on a lot of issues. He is invaluable as a colleague, as is Senator MARTINEZ, former Secretary of Housing, who understands a lot of these issues well, not just from a senatorial perspective but from his previous job as Secretary of Housing and Urban Development in Washington.

Again, this is a program that is limited in time, limited in scope.

As both the Senator from Florida and I have said, this is far from a perfect world in terms of how we have to balance the various interests in all of this. I am not unmindful of the fact that we are in uncharted waters. We all recognize as well that we are in uncharted waters in a larger sense. We are in a time that none of us in this Chamber—with the exception of my colleague from West Virginia and a couple others—can recall. Our parents and grandparents talked to us about times like these almost a century ago.

While we are taking action here—and I hear my colleague from Tennessee, who made a legitimate point that we establish precedent here, and I understand that. People will look back, as we have looked back, to previous decades to seek ideas that might help us get back on track again and restore that optimism and confidence in our country. So we are moving into an area that is new, but as the Senator from Florida pointed out, we are in a time that is new as well.

We have tried, as we know, in numerous ways over the last many months to figure out ways to get at the root of this foreclosure problem. Every idea you can come up with has its shortcomings. We have yet to find the perfect one that everybody agrees on. If somebody has it, please let us know because we are looking for it to get us to the point where we can put the brakes on foreclosures, not because you impose a moratorium but because people can afford their mortgages, lenders are being paid, the economy is moving, credit is flowing, businesses are growing, and joblessness is no longer increasing but declining—all of the things we want to see.

This proposal we have advocated here, the safe harbor, in a narrowly crafted way, limited in time, scope, and circumstance, we believe will help in that regard. Is it perfect? Far from it. Is it necessary? Absolutely. That is why I think you see the collection of organizations. I don't want to over-emphasize this point, but they have come together to say this is an idea worth trying. Rarely do you get that kind of cooperation.

At least there is some indication that the other body might be willing to accept our language and take this bill, and the other provisions of the bill—

my colleague is correct—really are important and are needed immediately. We don't need to delay this further. That is not a reason to be for or against the amendment, but I just point out that the other side would agree to the Martinez idea.

I ask our colleagues to, at the appropriate time, oppose this amendment—and I say that respectfully—so that we can move on to the other amendment and see if we can reach a final vote this evening or sometime in the morning.

I yield the floor.

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

Mr. MARTINEZ. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Two minutes 16 seconds.

Mr. MARTINEZ. Mr. President, I wish to conclude and follow up on something the chairman said.

The situation we are in is critical. Striking some balance that reduces foreclosures is worth the risk. The corrosive effect of foreclosures—and all of the things we have tried have nipped at the issue but have not fixed it. The corrosive effect of foreclosures continues this downward spiral of home prices, which escalates the problem the banks have. Assets are becoming toxic yesterday, and are today and tomorrow, because of the decline in home values. There is a dramatic decline in my State, and the biggest reason for that is foreclosures.

The foreclosures set a new floor on what the prices in the neighborhoods are, and that floor then begins to be what other purchasers are willing to pay. That, in effect, then reduces home equities, reduces the opportunities for folks to stay in their homes, and it is a downward spiral we have to stop. This is an effort to try to stop it.

I am delighted to hear the Senator say that the House may take our language. I think their language is very broad, frankly. What Senator CORKER has raised in his concerns would be heightened by the House language. I think our language, in its imperfection, strikes a decent balance among the interests of all parties and perhaps will increase the number of workouts and reduce the number of foreclosures. I also speak in opposition to the Corker amendment, and I would be excited to see our bill move forward with this provision and the many others that are helpful.

I yield the floor.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. DODD. Mr. President, so the pending matter is the Corker amendment?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. DODD. Mr. President, I ask for the yeas and nays on the amendment.

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

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

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

The result was announced—yeas 31, nays 63, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—31

Alexander	Crapo	McConnell
Barrasso	DeMint	Murkowski
Bennett	Enzi	Risch
Bond	Graham	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hatch	Thune
Coburn	Inhofe	Vitter
Cochran	Johanns	Wicker
Corker	Kyl	
Cornyn	Lugar	

NAYS—63

Akaka	Feingold	Merkley
Baucus	Feinstein	Mikulski
Bayh	Gillibrand	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Hutchison	Pryor
Boxer	Inouye	Reed
Brown	Isakson	Reid
Burr	Kaufman	Sanders
Byrd	Kerry	Schumer
Cantwell	Klobuchar	Snowe
Cardin	Kohl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Chambliss	Leahy	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Voinovich
Dodd	Lincoln	Warner
Dorgan	Martinez	Webb
Durbin	McCaskill	Whitehouse
Ensign	Menendez	Wyden

NOT VOTING—5

Johnson	McCain	Shaheen
Kennedy	Rockefeller	

The amendment (No. 1019) was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 1036 TO AMENDMENT NO. 1018

Mr. DODD. Madam President, I ask unanimous consent that the pending amendments be set aside so I may call up, on behalf of Senator KERRY, amendment No. 1036.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. KERRY, for himself, Mrs. GILLIBRAND, and Mr. REID, proposes an amendment numbered 1036 to amendment No. 1018.

The amendment is as follows:

(Purpose: To protect the interests of bona fide tenants in the case of any foreclosure on any dwelling or residential real property, and for other purposes)

At the end of the amendment, add the following:

#### TITLE V—PROTECTING TENANTS AT FORECLOSURE ACT

##### SEC. 501. SHORT TITLE.

This title may be cited as the “Protecting Tenants at Foreclosure Act of 2009”.

##### SEC. 502. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.

(a) IN GENERAL.—In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1), except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor under the contract is not the tenant;

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

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

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

##### SEC. 503. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semi-colon in subparagraph (C) the following: “and in the case of an owner who is an immediate successor in interest pursuant to foreclosure—

“(i) during the initial term of the lease vacating the property prior to sale shall not constitute other good cause; and

“(ii) in subsequent lease terms, vacating the property prior to sale may constitute good cause if the property is unmarketable while occupied, or if such owner will occupy the unit as a primary residence”; and

(2) by inserting at the end of subparagraph (F) the following: “In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential



real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.”.

**SEC. 504. SUNSET.**

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

Mr. DODD. I thank the Chair, and let me just say to my colleagues—and I see my friend, Senator SHELBY, on the floor of the Senate as well—that we are open for business, as the expression goes. We have a number of amendments—a significant number—on which I think we might be able to reach agreement. We are not quite there on those, but we can do that. There are several that require votes, and the leadership would obviously like to complete this bill this evening, if it is possible.

My good friend from Alabama has been a good partner in all of this, in working on this, and so we invite all those with amendments to come over. We can offer them, debate them, and possibly reach agreement on them as well and adopt them as part of the bill. So I would just make that point.

I see one of my colleagues on the Senate floor but who is maybe not ready yet, so I will suggest the absence of a quorum until we get someone to show up.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho is recognized.

Mr. CRAPO. Madam President, I am coming to the floor to thank Chairman DODD for working with us on some important pieces of this legislation. Included in this legislation is the increased borrowing authority for both the FDIC and the NCUA, so they can immediately access the necessary resources to resolve failing banks and credit unions and provide timely protection for insured depositors. Earlier this year, Senator DODD and I joined in introducing legislation that would increase the borrowing authority of the FDIC, and since that time we have expanded that legislation to provide parallel authority for the NCUA, for credit unions, and to include an assumption in the budget resolution about the need to pass legislation to ensure adequate resources are available to the FDIC and the NCUA.

This legislation is similar to what is included in the Dodd-Shelby substitute

that was passed by the Banking Committee on a voice vote in an amendment to the credit card legislation we will be looking at later on.

I come to the floor simply to make note of how important it is that we continue to pursue this legislation and to thank Senator DODD for working so closely with me to make sure it happens. When you look at today’s economic climate and the threats facing us in the financial industry, we have to provide the necessary tools to our financial institution regulators so they can protect us as best they can. One important piece—and I am glad to say one of those pieces about which there is very little controversy—is the need to make sure we strengthen the FDIC and NCUA to make sure they can undertake their statutory responsibilities in the context of failing institutions.

I would be remiss if I didn’t say I wish to be sure that both the FDIC and NCUA are very careful in the exercise of these authorities, to make sure they do not do more harm than good and harm institutions that could otherwise have survived, by stepping in. But when the true need comes, they need to have the authority.

This language deals with significant reforms that need to be undertaken, and undertaken as soon as possible, so our regional banks do not face very significantly increased levies and requirements for funding the FDIC and NCUA operations.

It would permanently increase the Federal Deposit Insurance Corporation’s borrowing authority from their current level of \$30 billion to \$100 billion, with additional authority, that is temporary, to allow them to get up to \$500 billion in the case of emergency circumstances.

It would permanently increase the borrowing authority of the NCUA from the current \$100 million, with authority for a temporary increase up to \$30 billion. The temporary authority for both the FDIC and the NCUA could only be used if determined necessary in the FDIC Board of Directors’ written recommendation and support of two-thirds vote; the Board of Governors for the Federal Reserve system, with written recommendations and support of two-thirds vote; and the Secretary of the Treasury, in consultation with the President.

The FDIC and NCUA need to have access to sufficient resources to deal with the potential costs for seizing failing institutions we are facing in our country right now. Assets in the banking industry have increased since 1991 from \$4.5 trillion to \$13.6 trillion at the same time that no increases in this borrowing authority have been authorized. The assets in the credit union industry have also significantly increased since their borrowing authority levels were established.

It is important to note that this borrowing authority is not coming from taxpayer dollars. The levies and the assessments that are made on the par-

ticipants in the financial industry themselves, the depository institutions, are the source of the dollars that would cover this loan authority. I think most people understand, but what happens in the case of a failing institution is the FDIC steps in immediately and protects all depositors so the depositors can have that assurance of the Federal guarantee of their deposits in these depository-protected institutions. Then the FDIC basically works out the resolution of the remaining assets of the failed institution and the banking institution itself. Other depositors, through their assessments, pay for the cost of the operation of this program. We are simply increasing the borrowing authority to make sure the FDIC and the NCUA have the resources necessary to deal with these very difficult and challenging times.

In addition, the borrowing authority would allow the FDIC and the NCUA to lower their recent special assessments that went out to the banking and credit industry. In other words, this would allow us to kind of smooth out that process by which the depository institutions themselves fund this process and not create huge liquidity and financial pressures on the banks that are not facing the potential of any kind of FDIC intervention but which are being looked to to bear the cost of these problems as we move forward.

The language ensures that the FDIC and the NCUA have the resources necessary to address future contingencies and to fulfill the Government’s commitment to protect America’s depositories.

As I said at the outset, I wish to be sure the NCUA and the FDIC are very careful in the utilization of the authorities we have given them. There are some concerns already being raised about the fact that perhaps the stress test and some of the other analysis that is being put into place and the evaluation of the solvency of our banks need to be fine-tuned so we do not unnecessarily utilize these authorities where a better resolution, better activities can be pursued. But when it does become necessary, we need to be sure our depositors are protected. Once again, I thank Senator DODD for his strong support and work on this issue.

There is another issue I have been working on with Senator DODD. I wish to make it clear that the frustration I am going to share right now is not directed at him because he has been working very hard to address this same issue and trying to resolve it. But I do believe it needs to be said that there is another piece of the issue we must resolve.

Earlier, on previous legislation, language was included dealing with depository institutions that gave the FTC much broader jurisdiction than it should have had with regard to depository institutions. The language was intended to give broader jurisdiction and clarification of jurisdiction to the FTC’s regulation of other, nondepository institutions, but the way the

wording in the bill was written it included depository institutions—wrongly.

We identified that issue at the time. We stood on this floor, a number of us Senators stood on this floor and pointed out that was not intended by the bill and that we would correct it. In fact, we said we would correct it at the first available opportunity. Now we are seeing opportunities arrive, and we cannot reach a conclusion with regard to the necessary correction of the legislation that gives unnecessary and confusing dual jurisdiction to the FTC now over depository institutions, which was not intended by this Congress and which will not be helpful, in terms of creating a duplicate regulatory system with which our regulatory institutions must deal.

Again, I stand and call for us to do what we agreed to do, which is to fix the FTC issue and make sure we carefully clarify the jurisdiction of the appropriate committees and the jurisdiction of the appropriate regulators over depository institutions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, before my colleague leaves the floor, I thank him as well. He has been a senior Member of the Banking Committee and has been an invaluable asset and partner on these issues. He understands regulatory reform as well as anyone and has dedicated a good part of his service on the committee to that issue. It was a pleasure to work with him on the issues he has mentioned in this bill, dealing with the FDIC and the National Credit Union Association. We are providing these resources. We think we have built in some pretty good safeguards so these guidelines will not be exceeded, but the best safeguards are for the institutions themselves to be cautious and prudent in utilization of these resources as well.

I underscore and endorse his comments on that point and I thank him immensely for his work on the bill, making it possible for us to arrive where we are this morning.

Lastly, I join him as well in his concerns about the Federal Trade Commission issue that I thought we successfully resolved in the colloquies we had here. Unfortunately, that was not, apparently, the case. We are still working at this. I want you to know Senator CRAPO's office is directly involved with ours and others we are negotiating with and will obviously pursue this matter. I am hopeful we can resolve it amicably but, if not, there will be a moment in the not-too-distant future we will have to vote. I would like to work things out to everyone's satisfaction without that, but if that is the case, we will have to do that. I join with him. I think the jurisdiction is clear on that matter, and I think most agree with us, but, obviously, from time to time, you need to bring these matters to a head and actually have a

decision by the body. Again, I hope we can avoid that, but if not, I join him in that effort to provide that legislative effort. I thank him very much, and hopefully we will, this evening, complete work on this bill and send it off.

I am hopeful about the other body which, I am told, has looked on our efforts here with approving eyes, so we may be able to get it signed into law pretty quickly.

Mr. CRAPO. I thank the Chairman. I look forward to working with him.

Mr. DODD. 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. 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.

AMENDMENT NO. 1030 TO AMENDMENT NO. 1018

Mr. THUNE. Madam President, I ask unanimous consent to call up and make pending amendment No. 1030.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] proposes an amendment numbered 1030 to amendment No. 1018.

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

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

The amendment is as follows:

(Purpose: To require the Secretary of the Treasury to use any amounts repaid by a financial institution that is a recipient of assistance under the Troubled Asset Relief Program to reduce the reauthorization level under the TARP)

At the end of the amendment, add the following:

#### TITLE V—TARP REDUCTION PRIORITY ACT

##### SEC. 501. SHORT TITLE.

This title may be cited as the "TARP Reduction Priority Act".

##### SEC. 502. FINDINGS.

Congress finds the following:

(1) On October 7, 2008, Congress established the Troubled Asset Relief Program (TARP) as part of the Emergency Economic Stabilization Act (Public 110-343; 122 Stat. 3765) and allocated \$700,000,000,000 for the purchase of toxic assets from banks with the goal of restoring liquidity to the financial sector and restarting the flow of credit in our markets.

(2) The Department of Treasury, without consultation with Congress, changed the purpose of TARP and began injecting capital into financial institutions through a program called the Capital Purchase Program (CPP) rather than purchasing toxic assets.

(3) Lending by financial institutions was not noticeably increased with the implementation of the CPP and the expenditure of \$218,000,000,000 of TARP funds, despite the goal of the program.

(4) The recipients of amounts under the CPP are now faced with additional restrictions related to accepting those funds.

(5) A number of community banks and large financial institutions have expressed

their desire to return their CPP funds to the Department of Treasury and the Department has begun the process of accepting receipt of such funds.

(6) The Department of the Treasury should not reuse returned funds for additional lending for financial assistance.

(7) The United States Constitution provided Congress with the power of the purse hence any future spending of TARP funds, or other financial assistance, should be determined by Congress.

##### SEC. 503. TARP AUTHORIZATION REDUCTION.

Section 115(a)(3) the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by inserting "minus any amounts received by the Secretary for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any program enacted by the Secretary under the authorities granted to the Secretary under this Act," before "outstanding at any one time."

Mr. THUNE. Madam President, the amendment I offer today essentially follows along with the bill I introduced earlier called the TARP Reduction Priority Act. Essentially, this amendment reduces TARP authority by any amount of principal returned by a financial institution to the Treasury.

Again, by way of background, I spoke to this amendment a little bit last week. On October 7, 2008, as we all know, Congress passed the Troubled Asset Relief Program, or TARP, as part of the Emergency Economic Stabilization Act, authorizing \$700 billion for the purchase of toxic assets from banks with the goal of restoring liquidity to the financial sector and restarting the flow of credit in our markets.

The Department of the Treasury, without consultation with Congress, changed the purpose of TARP and began injecting capital into financial institutions through a program called the Capital Purchase Program rather than purchasing toxic assets.

Financial lending was not increased with implementation of the CPP, and \$218 billion, I believe, has been allocated thus far, despite the goal of the program. These institutions receiving funding through the CPP are now faced with additional restrictions related to accepting those funds.

A number of community banks and financial institutions have expressed their desire to return the CPP funds to the Department of the Treasury, and Treasury has begun the process of accepting receipt of these funds. However, because of the financial stress test that Treasury is currently conducting, it is possible Treasury will restrict banks from returning funds they received from the Capital Purchase Program.

In his testimony before the TARP Congressional Oversight Panel on April 21, 2009, Secretary Geithner stated that Treasury estimates \$134.6 billion of TARP funds are still available. In that figure, he includes \$25 billion which Treasury expects to receive back from banks under the CPP.

Geithner also stated that he believed the \$25 billion is a conservative number and that private analysts predict more

will eventually be returned. Section 120 of the Emergency Economic Stabilization Act terminates the authority for TARP funds on December 31, 2009, and the Secretary can request an extension to the deadline not later than 2 years after enactment, which was October of last year, 2008. So keep in mind this restriction applies only to Treasury's issuance of new loans and does not cover the reuse of previously issued assistance that was returned to the Treasury.

So, essentially, my argument for why this piece of legislation, this amendment, is important is, until the December 31, 2009, expiration date or possibly longer, as I said earlier, if the Secretary is granted an extension, without this legislation Treasury can continue to use TARP funds, including those repaid, in any manner they see fit.

This is certainly not what Members of Congress envisioned when this legislation passed last year. These are taxpayer dollars. They should not become a discretionary slush fund for Treasury. Under the Constitution, Congress controls the power of the purse, and there are major concerns regarding the Treasury's handling of TARP funding. If the Treasury Department believes it needs additional funding to address problems in the financial sector, they should come to Congress to get that authority.

The inspector general, Neil Barofsky, stated in his quarterly report to Congress that 12 separate programs are being funded under TARP involving up to \$3 trillion of Government and public funds. Amazingly, this is the equivalent to the size of the entire Federal budget, certainly not what Congress was told the funding would be used for.

Mr. Barofsky also mentioned on April 4, 2009, the CBO report which estimated that TARP will cost the Government \$356 billion, meaning the Treasury will only be able to recover about \$344 billion, or approximately 49 percent of the \$700 billion that was originally authorized. When this program, as I said earlier, was initially pitched to Congress, Secretary Paulson argued that the Government could end up making money once the toxic assets were sold, after the economy recovered.

Clearly, based on what the inspector general is saying, that does not appear to be the case.

Because if the numbers CBO is using are correct, they are estimating that TARP will cost the Government \$356 billion, and therefore only about \$344 billion or 49 percent of it will actually be recoverable of the original \$700 billion.

Barofsky's report spans 247 pages. It says that:

The very character of the program makes it inherently vulnerable to fraud, waste, and abuse, including significant issues related to conflicts of interest facing fund managers, collusion between participants, and vulnerabilities to money laundering.

It would seem irresponsible to continue recycling money in the TARP if

the very nature of the program makes it susceptible to fraud. In fact, the special investigator's office already has 20 criminal investigations underway.

What amendment No. 1030 does is amend the underlying bill to say that TARP funds that are repaid by financial institutions, if they choose to do it—and that is going to be in consultation with Treasury—if the funds come back in—and according to Secretary Geithner, about \$25 billion of the amount they say is available under TARP, still available to lend, consists of moneys being paid back by financial institutions—that when those moneys come back in, they should reduce the amount, the principal amount of TARP available to be used.

Again, I offered a similar amendment to the fraud recovery bill a couple weeks ago. In that case, I offered it with the intention of having any funds paid back under TARP by financial institutions to be dedicated to paying down the public debt—in other words, to debt reduction. Under that arrangement, it was considered not to be germane. So when cloture was filed, it fell postcloture. It was not, therefore, able to be voted on. We worked with folks who are involved in trying to make sure this is germane, that it fits within the parameters of the bill under consideration. It addresses it in a slightly different way; that is to say, whatever TARP funds are repaid, it reduces the amount of TARP authority available to be used.

I hope my colleagues will support this amendment. It is a responsible thing to do. These are taxpayer dollars. Many of us, when we supported this last fall, had an understanding about how the funds would be used. They were used differently. It would appear at this point that much of the moneys put out under the program, which at the time we were told would be paid back, that will not be the case. As much as half or more of this is probably going to be lost.

It seems to me the dollars that are paid back should not be recycled or reused. They ought to reduce the amount of TARP lending authority that is available.

It is a fairly straightforward amendment. I urge colleagues to support it. At the appropriate time, I will ask for the yeas and nays.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I thank my colleague from South Dakota. I appreciate his cooperation in getting the amendment up and having a chance to debate it. It is my understanding, even though the debate may not last long on this, there will be a vote probably sometime around 2:15. That is the plan right now. So while we may not exhaust a lot of time when we come back at 2:15, I ask unanimous consent that there be 2 minutes equally divided between the Senator from South Dakota and myself for the ben-

efit of our colleagues before a vote, to explain the amendment once again before we actually have a vote. I ask unanimous consent for that.

Madam President, I withhold that request.

Let me address the substance of the amendment. What all of us want, without exception, is to have this TARP money come back. This is taxpayer money that went out last fall to shore up the financial system, to make it possible for the financial system to get stabilized and provide resources to either purchase toxic assets or legacy assets, as well as to make capital investments in order to provide stability to institutions that were at risk of becoming completely insolvent or going out of business entirely. History will ultimately judge whether that decision was the right one or the wrong one. I happen to believe it was right. Most people concluded that it was, that had we not taken that step, as difficult as it was, with the warnings of the Federal Reserve Board and others that the financial system, in fact, globally, could melt down if we did not act quickly—it was awfully difficult in that environment to know exactly what was best. But given the time constraints and the importance of the issue, this body acted. I think we did so appropriately and properly.

The good news is that it is showing some glimmer of hope. I don't want to overstate the case, but there are some indications that this is beginning to work. Not that it will resolve itself overnight, but certainly it is beginning to show the possibility of getting credit once again moving.

The Senator from South Dakota offers an amendment that has a certain attractiveness, the idea that TARP money now coming back, as much as maybe \$25 billion, maybe more—certainly, we hope a lot more ultimately will come back into the coffers of the Government—what do we do with that TARP money at this juncture? If we adopt the amendment of the Senator from South Dakota, it would take those resources off the table. We couldn't use them. What does that mean? It would mean that just at a time when the so-called stress tests are being conducted—and none of us knows and won't know until this Thursday how many of these 19 institutions will actually need additional capital. We hope none do, but I suspect some will. If that is the case, where does it come from?

I know this much about our colleagues: Whether you serve on one side or the other, none of us would rather go back and have to vote again on yet another tranche of TARP money. Wouldn't it be wiser, since the previously passed legislation allows for any money that comes back into the Government from these institutions repaying the TARP money, to recycle that money rather than coming back again and asking for additional money, which we may very well be asked to do very quickly?

My concern with the amendment is, just at the very hour that we may need some additional resources to either further capitalize or purchase toxic assets, in either case to allow our economic recovery to move forward, we would be removing those resources altogether, once again forcing this institution to allocate additional resources. The more prudent step to take would be to utilize these resources coming back at this critical moment in order to get this program working.

Why is that important? It isn't just about the financial institutions. In fact, if it were only about that, I suspect I know where 99 or 100 of us would be on that issue. The question isn't so much what happens to these major institutions in and of themselves; it is what happens to the people who depend upon them, those small businesses, midsize businesses that need credit lines in order to buy inventory, to pay employees. What happens to people who are seeking a mortgage, buying an automobile, dealing with student loans, dealing with credit card debt? All of these issues are affected by what happens in the financial system as a whole. These are not separate entities disconnected to the overall well-being of the economy. If you could divorce them from the well-being of the economy, most would say amen and do so. But to suggest so is to not understand how the financial system has to operate.

At the very moment that we as a nation need to keep this ball moving in a direction that allows for the financial system to shed the toxic, clogging assets that are freezing up the circulatory system financially, we would be stepping back and forcing an institution to vote for additional resources. My political barometer tells me there are not the votes. I think most of my colleagues know that. At this juncture, we need to see a lot more about how this program is working before this institution is likely to vote again for an additional allocation of taxpayer money for the program. It may come to a point where the President will ask us for that. But I don't think we want to jump to that option, particularly if we have resources coming off the TARP program that could be recycled for the next 11 months or so and that we can properly use at a moment that it is needed.

That is the reason I will ask my colleagues to respectfully reject this amendment. At this very hour, the last thing we need to be doing is deny the Treasury Department and others the resource capacity to respond to a situation.

It is in one sense, on one level, about the financial institutions. But in a far more profound and important way, it is about the people who depend upon these institutions for their economic livelihood, their economic well-being, their economic survival. That is not an exaggeration. Most businesses need credit in order to operate. If you stran-

gle credit and it does not move, then the people whom we care most about—the small businesses on Main Street, that home purchaser, that other person out there struggling at this hour, when you are losing 20,000 jobs a day, 10,000 homes every day through foreclosure, not to mention retirement accounts and other problems—at the very hour that things seem to be just limping ever so slightly in the right direction, to deny these moneys to reinvest in the program and make it work and depend upon the outcome of a vote here to provide additional resources would be the wrong step in the wrong direction. The very people we want to see get back on their feet again would be the victims.

We have a tendency to focus on whether these institutions are deserving of help. My colleagues may be divided on that point. I don't think we are divided on whether we want to see the people who need the institutions get help. There, I think we all agree. So at the very hour we agree about helping them, we deny them the ability to get the help they need by depriving these resources to be reinvested in the acquisition of the very assets that are making it difficult for credit to move. That is the reason I am asking my colleagues to reject the amendment when the vote occurs at 2:15.

Again, we will know on Thursday how many of these lending institutions are so-called "passing the stress test." My hope is that a majority of them are and that there would be very few, if any, that need more capital. I suspect there will be some that do. Which is the better choice at that moment—to take some of this TARP money that has come back and put that to use or take that off the table and have to come back up here and seek a majority vote or a 60-vote margin? What is the likelihood of that occurring? If it is not likely to occur and we stall out in this recovery, all of us would regret that.

So I appreciate very much the spirit with which Senator THUNE offers the amendment. We all agree we would like this money back. We would like it back with interest. We would like to strengthen our economy, restore that confidence and optimism that is critical for the success of the Nation. But we also recognize, as do most Americans, that we have a time to go before this is going to result in the recovery we would all like to see. This decision, at this juncture, could stall or set that effort back, not just days and weeks but months. None of us wants to be a party to that.

With those thoughts, at the appropriate time I will ask my colleagues to vote against the Thune amendment and move on to the remaining amendments which we hope we can clean up this afternoon and finish voting on this very important bill. This is a bill that is very important to our community bankers, to our folks out there trying to resolve how they can stay in their homes. It is very important to the Federal Deposit Insurance Corporation,

the insurance fund, as well as to the national credit unions across the country. There are a lot of entities that do need this kind of help. It is a major step in getting our economy moving in the right direction. This amendment would set that effort back and jeopardize this legislation from being adopted quickly at a time when we need it. With respect to the author of the amendment, knowing his intentions and his motivations are certainly understandable, I think it is the wrong choice at this hour.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. GILLIBRAND. Mr. President, I commend the debate and the Presiding Officer's amendment and Senator KERRY for his amendment on addressing these issues of foreclosure. They are so significant in New York, and we need action from Congress and the leadership of President Obama on this issue.

This year, Congress and the administration have taken a number of actions to help our homeowners weather this housing crisis. We have worked to expand foreclosure counseling services, provide homeowners with incentives to write down their debts, and to give local governments and States the tools they need to tackle this housing crisis.

These efforts will help thousands of homeowners in my home State of New York avoid losing their home. Homeowners are also not the only folks affected by this housing crisis. Across the country, thousands of tenants who rent their homes have also been affected.

I remember talking to one friend up in Warren County, and he said to me: Can you please look out for the renters? We suffer in these times as well. And that is exactly right.

More than 30,000 renters across New York who are dutifully paying their rent on time every month may face eviction because they live in a building that is about to be foreclosed. It is estimated that as much as 50 percent of foreclosures have renters involved in those properties.

These tenants have almost no rights when a bank seizes their home. Families without the means to find temporary housing or to move into another unit can literally get kicked out on the street because the landlord has failed to meet his payments or his or her obligations.

For any family this is a horrible tragedy and something that is very difficult to manage. For a low-income family with limited resources and without another place to stay, it is catastrophic. Families without the means

to find a temporary housing arrangement or to move into another unit can be kicked onto the streets just because their landlord failed to pay on time.

This is wrong, and I am proud to partner with the Presiding Officer and Senator KERRY to pass new protections for those families. This amendment would allow any tenants in a foreclosed building the right to live out their lease, providing them with the same protections any other renter would have. For a family without a lease, the amendment would guarantee a minimum of 90 days' notice so that renters have the time and the resources to find a new home.

As the housing crisis becomes more and more widespread, we need to make sure we are not just helping homeowners stay in their homes but also helping the thousands of tenants who are hit just as hard or even worse as a result of this crisis.

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

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

Mr. DODD. Madam President, I ask unanimous consent that at 2:15 p.m. there be 2 minutes of debate equally divided between Senators THUNE and DODD or their designees; that upon the use or yielding back of time, the Senate proceed to a vote in relation to Thune amendment No. 1030 and that there be no amendments in order to the Thune amendment prior to the vote.

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

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

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

RECESS

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

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Acting President pro tempore.

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009—Continued

AMENDMENT NO. 1030

The ACTING PRESIDENT pro tempore. Under the previous order, there is

now 2 minutes of debate equally divided on amendment No. 1030 offered by the Senator from South Dakota, Mr. THUNE.

Who yields the time? The Senator from South Dakota.

Mr. THUNE. Mr. President, very briefly, to summarize, what my amendment does is reduce TARP authority by any amount of principal returned by a financial institution to the Treasury Department. This amendment, as I said before, is necessary because until the December 31, 2009, expiration date, and possibly longer if the Secretary is granted an extension without this legislation, Treasury can continue to use TARP funds, including those repaid, in any manner they see fit.

These are taxpayers' dollars. They should not become a discretionary slush fund. These are dollars that, when they are repaid to the Treasury by the financial institutions, ought to be used to reduce the amount of TARP funding authority that is available.

As of May 1, the new administration has accumulated \$580 billion of new debt. That is about \$5.5 billion new debt per day. I understand we should not be tying Treasury's hands when we are still in the midst of a financial crisis, but Congress has the responsibility to decide how the tax money is spent, not the administration. If more money is needed in the financial sector, then Treasury needs to present a plan to the Congress and let those of us elected by the taxpayers decide whether additional tax dollars should be placed at risk or spent.

That is what the amendment would do. I urge my colleagues to adopt it.

I ask for the yeas and nays.

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

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, I want to take 1 minute. Let me say to my colleagues, all of us would like to see the TARP money come back and we recapture all of it. The danger in all this right now, with the stress test coming out on Thursday, is to be utilizing the TARP money rather than having to appropriate more money, it seems to me, to utilize TARP money to buy toxic assets and make the capital investments is what we want to do. The last thing we want to do is come back here and vote for additional money. Here is a moment when it is critically important that we take advantage of the resources to continue the program, so that we buy the assets, invest the capital necessary to get us out of this mess. At the very moment we want to be doing that, we will be back here voting. I do not need to tell my colleagues, if we need new TARP money, how difficult that would be. To avoid going down that road, utilizing the money that has come back from these interests that have gotten their money makes a lot more sense to me, I re-

spectfully say to my friend from South Dakota.

This amendment could not come at a worse time. We are going to need the capital for institutions that need help. They need help. I am not interested in them. I am interested in their ability to provide credit to homeowners, small businesses, and student loans. The credit system is frozen. We need to unfreeze it. If you deny the ability to invest these TARP dollars into buying assets and providing capital, it seems to me you slow down or set back that process considerably.

For those reasons, I urge my colleagues to vote against the amendment. I thank my colleague for the intention behind it.

Have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered.

The question is on agreeing to amendment No. 1030. The clerk will call the roll.

The legislative clerk called the roll.

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

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

The result was announced—yeas 47, nays 48, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—47

Alexander	Dorgan	McCain
Barrasso	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Feingold	Nelson (NE)
Brownback	Feinstein	Pryor
Bunning	Graham	Risch
Burr	Grassley	Roberts
Cantwell	Gregg	Sessions
Chambliss	Hatch	Shelby
Coburn	Hutchison	Snowe
Cochran	Inhofe	Tester
Collins	Isakson	Thune
Corker	Johanns	Vitter
Cornyn	Kyl	Voinovich
Crapo	Lincoln	Wicker
DeMint	Martinez	

NAYS—48

Akaka	Hagan	Mikulski
Bayh	Harkin	Murray
Begich	Inouye	Nelson (FL)
Bennet	Kaufman	Reed
Bingaman	Kerry	Reid
Boxer	Klobuchar	Sanders
Brown	Kohl	Schumer
Burris	Landrieu	Shaheen
Byrd	Lautenberg	Specter
Cardin	Leahy	Stabenow
Carper	Levin	Udall (CO)
Casey	Lieberman	Udall (NM)
Conrad	Lugar	Warner
Dodd	McCaskill	Webb
Durbin	Menendez	Whitehouse
Gillibrand	Merkley	Wyden

NOT VOTING—4

Baucus	Kennedy
Johnson	Rockefeller

The amendment (No. 1030) was rejected.

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

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, we are waiting for someone to come with an amendment. In the meantime, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. I ask to be permitted to speak as in morning business for up to 6 minutes.

Mrs. BOXER. Reserving the right to object, and I will not object, if the Senator could amend that to say Senator BOXER will be called on to talk about a couple of amendments following his remarks, I would really appreciate it.

Mr. BOND. Mr. President, it will be an honor to ask that Senator BOXER, the chair of the EPW Committee on which I am proud to serve, be recognized after my remarks are completed.

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

Mrs. BOXER. I thank the Senator.

#### GUANTANAMO BAY

Mr. BOND. Mr. President, keeping the American people safe is the Government's highest priority. Keeping our Nation safe should not be a political issue; it is an American one. That is why I was disappointed when the White House made an early national security decision based on politics and not what is in the best interests of keeping Americans safe. I am talking about the President's plan to close the terrorist detention center at Guantanamo Bay without a backup plan.

I have been sounding the alarm over this rash decision since the President announced it in January. But it is not just my side of the aisle, the Republicans, who are questioning the President's decision to close Guantanamo with no plan on how to handle the detainees, the terrorists housed there. Yesterday, Democratic House Appropriations Committee chairman DAVID OBEY said, "So far as we can tell there is no concrete program." That is my point exactly.

This is a classic example of "ready, fire, aim." That is a strategy we cannot afford. I prefer aiming before shooting, which is why I keep calling on the President to tell the American people how his plan to close Guantanamo without any plans right now to deal with the detainees will make our Nation safer.

The President needs to honor his pledge of transparency and provide the American people with answers to these questions. How the President answers these questions is even more important now that some of the terrorists could be coming soon to a neighborhood near you. That is right. Some of the ter-

rorist-trained detainees could be coming to American communities.

Last week the Obama administration admitted as much. Defense Secretary Gates testified before our Senate Appropriations Defense Subcommittee that as many as 100 Guantanamo detainees could be coming to the United States. Whether these terrorists are coming to a prison in nearby Kansas or a halfway house in a city in Missouri or any other State, I can tell you this: Americans do not want terrorists in their neighborhoods.

That is why, when we put it to a vote, the Senate voted 94 to 3 against importing detainees to American soil, even if that meant deporting them to a maximum security prison.

Americans also do not want these terrorists sent back to the battlefield to kill our troops. We know the terrorists detained at Guantanamo have gone back to fight even the ones who were supposed to be less dangerous, less likely to do so. The Pentagon has confirmed that at least 18 detainees who were released have gone back to the fight, and 43 more are suspected of doing the same.

There are no easy solutions. So instead of meeting an arbitrary deadline to close Guantanamo Bay, I sincerely hope the White House will reconsider. I hope the President will realize that closing Guantanamo Bay without having a plan to deal with the terrorists currently there and future terrorists captured on the battlefield is not in our Nation's best interest. Closing Guantanamo with no plan, no plan, is one campaign promise that cannot hold up to national security priorities.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 1035

Mrs. BOXER. Mr. President, I will be offering two amendments, one of which is going to be second-degree by Senator ENSIGN, a friendly amendment we have worked with him on. So we will have a vote on that amendment.

Then the final vote on the other Boxer amendment can be a voice vote without problem. But these are two amendments that are very important to the financial security of the country. One deals with the toxic asset purchase program, the other one deals with making sure our people can actually renegotiate their mortgages if they are in trouble. I will start with that one first.

It seems like common sense if you have a mortgage on your home, you ought to know who holds the mortgage. But in today's real estate market, where the original lender often

sells the loan to another entity, you can lose track and not know who actually owns your mortgage. So we are doing a very simple amendment—and I thank Senator DODD and staff, because they have worked so closely with us to draw this up in a good way. It is very easy: When your mortgage is sold or transferred, the homeowner must be informed who owns that mortgage. This is the way it used to be years ago. I remember many times receiving those notices but suddenly it stopped happening.

I want to give you the example of James and Mary Meyers, who took out a high-rate home loan with Argent Mortgage in 2004. Because the loan violated the truth-in-lending laws, they later attempted to exercise their Federal rights to cancel the loan. But the servicer, who happened to be Countrywide at the time, refused to identify who owned the loan. So by the time the Meyers discovered that the current noteholder was Deutsche Bank, the deadline for canceling the loan had passed. The court dismissed the Meyers' claim, even though it found that there were grounds, legitimately, for the Meyers to cancel the loan.

So this kind of hide-and-peek situation has real-life ramifications. It certainly does with the President's plan now that says, if someone has a mortgage that is under water, they can renegotiate, they have a chance. But if they do not know who holds the mortgage, it is a hollow kind of plan. We know that current law does require homeowners be informed when the servicer of their loan has changed. That is in the law. And Federal law does require that the servicer tell the homeowner the identify of the person holding their mortgage.

But servicers routinely ignore requests from homeowners for information on the noteholder. So this is pretty simple. Simply put, it is worth saying, if someone new is holding your mortgage, the servicer has 30 days to inform you as to who that person is.

While servicers are required to disclose this information, there are no penalties in the law for noncompliance and no remedies for a homeowner faced with a recalcitrant servicer.

The law has also failed to protect homeowners because there is no specific requirement that servicers identify the agent or party with the authority to act on behalf of the note holder.

The Boxer amendment provides borrowers with the basic right to know who owns their loan by requiring that any time a mortgage loan is sold or transferred, the new note owner shall notify the borrower within 30 days of the following: the identity, address, and telephone number of the new creditor; the date of transfer; how to reach an agent or party with the authority to act on behalf of the new creditor; the location of the place where the transfer is recorded; and any other relevant information regarding the new creditor.



To be clear, the amendment does not require borrowers to receive a notification every time a mortgage backed security with a slice of their mortgage changes hands. Those are transactions between investors and do not involve a change in ownership of the physical note.

This amendment only provides transparency and gives borrowers an additional tool to fight illegitimate foreclosures or to negotiate loan modifications that would keep them in their homes.

I do not understand why we have to have a vote on this. I know Senator DODD has signed off on this. It is a very important amendment. I will read into the RECORD a list of those supporting this. It is a whole list of consumer groups. I want to list who has endorsed this amendment: the National Consumer Law Center, the National Association of Consumer Advocates, Consumer Action, the Consumer Federation of America, Consumers Union, the National Association of Neighborhoods, the National Council of La Raza, and the National Fair Housing Alliance.

This is a very narrowly targeted amendment with little cost to the industry. But the benefit to homeowners and communities would be absolutely enormous. So it is a simple amendment, common sense. I hope we will have an overwhelming vote for it.

I want to make my statement at this time, and however the chairman wants to dispose of the amendment, if it is accepted by voice, that is fine with me. But if we have to do to a rollcall because we cannot clear it, I ask that we have a rollcall vote.

AMENDMENT NO. 1038

The second amendment I will be offering is one that Senator ENSIGN will be offering a second-degree amendment to. It is a very friendly second-degree amendment. Again, I thank the Banking staff on both sides of the aisle for working with us—Senator DODD, in particular—to make this a very good amendment.

What we are basically saying is, as we go into a new program which is the Public-Private Investment Program, which basically says that when we take toxic assets off the books of the banks, we want the private sector to come in and give a value to those assets, we do not want the Government doing it.

The private sector plays a very important role. What Senator ENSIGN and I believe is very important, and Chairman DODD has agreed, is to make sure it is a very clean process, and there is not a process for collusion between the parties, and no chance to defraud, frankly, the taxpayers.

How could that happen? Hypothetically, you can have a bank that is trying to unload a toxic asset. They want the most they can get for it. They can go to a private party and say: Hey, between us, bid a little bit more for this toxic asset, we will give you a kickback later. They could not call it that. We will take care of you later.

That is clearly a no-no. You cannot do that.

Under the Boxer-Ensign language, that would not be allowed. The Treasury would put forward regulations to make sure it is not allowed. We would give the TARP inspector general \$15 million to perform audits of selected recipients so we can make sure we are following up with audits and making sure there is no collusion.

We would guarantee there is access to financial data from the Public-Private Investment fund that is necessary to perform these audits, and we would require regulations that are very clear, so that—listen to this—the private sector cannot use money they have borrowed from other Federal programs to pump into the system.

They might be able to use some loans, but we do not want 100 percent of that money being recycled again. In other words, they could take a loan from the Government, then they go buy an asset, and all of the money being used in the program is Government money.

The Boxer-Ensign amendment, which is endorsed by Senator DODD, and I believe Senator SHELBY, I believe has been signed off by both. If I misspeak, I am sure I will be told that. It is a very “good government” amendment.

It essentially says as we begin to buy these toxic assets from the banks, we are going to make sure there is no collusion, no fraud, no conflict of interest. We are going to give the inspector general the ability to get the information he or she needs to go in, perform an audit, and keep this program clean.

The last thing taxpayers want is another scandal that revolves around these banks and all of the things they did before. So this is an important amendment.

At this time, I think I have explained both of my amendments. I await hearing from the chairman as to a time to come back and speak for perhaps a minute to generally summarize both of them.

Again, my deepest thanks to Senator DODD. He has worked so hard. Without his help, we could not be at this point on both these important amendments.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Let me first thank our colleague from California for her leadership on this issue. They are very commonsense, straightforward proposals that we think can improve the legislation.

And it is almost, in a way—I was thinking, as my colleague and friend was talking, it is almost sad that we have to have an amendment such as this. You would almost think that there has got to be some law someplace that would say what she is suggesting by her amendment would be covered.

In a way it is a tragic commentary on the times we are in, the idea where we have to say that, by the way, collusion is not permissible. I did not think it was anyway. But her amendment

makes it certain in this legislation that that is the case.

I am not sure the of order, but the first comments my colleague gave regarding information about their mortgages, again this is pretty straightforward.

I see Senator ENSIGN is on the floor, and I will be brief, because I want him to be able to offer his amendment so we can move forward.

But the idea that you can find out who owns the mortgage is pretty straightforward. Those of us with a little gray hair on our head—and my colleague from California has none, I want the RECORD to show.

Mrs. BOXER. It turned blond.

Mr. DODD. I do remember when I bought my first home, an old 1710 center chimney cape house in Connecticut. I went down to the Old Stone Bank and got a mortgage. I could go down every day for as long as that mortgage was around and look at it, see it, and pick it up if I wanted to and hold it and do whatever I wanted to do with that mortgage.

Today, of course, because the world has changed, people buy a home—and, of course, put aside the issue of predatory lending and subprime mortgages and the rest—and that mortgage, within 8 to 10 weeks, on average, is sold off. It is securitized, as they call it. This is true of a lot of debt. It is student loans, it is credit cards, it is all kind of debt that gets securitized.

By the way, that is not a bad thing, because that provides liquidity, that provides assets for people so more people can afford to buy homes.

But the Senator from California has pointed out that you ought to know who that is. That seems to me a logical request. If that mortgage has been sold off, who owns it? So if a borrower wants to be able to do something with it, you ought not to have to go through and hire a private investigatory agency to find out who holds your mortgage.

So while we respect the idea that securitization can actually be beneficial to the community at large, if it deprives that owner of the mortgage the opportunity to determine who is the holder of that mortgage, obviously then we have lost something in the process. The Senator from California has proposed a very worthwhile amendment.

The New York Times story of April 24, 2009, notes:

Advocates wanting to engage lenders “face a challenge even finding someone with whom to begin the conversation,” according to a report by NeighborWorks America. . . .

That is exactly what the Senator from California addresses with her amendment. With whom do you begin the conversation? The conversation ought to be with the person who is holding that instrument.

I endorse her amendment and urge my colleagues to do so as well.

Regarding the second amendment, the other amendment offered by Senator BOXER deals with the collusion

issue. I briefly addressed that previously by saying, in a way, I was almost sad to hear her offering the amendment. I was under the impression that was against the law anyway. The idea we are offering an amendment to further corroborate that collusion in these matters ought to be against the law. If it is not, it ought to be.

I commend the Senator from California and her colleague from Nevada for offering the amendment, along with Senators PRYOR and SNOWE. This amendment is clearly a step in the right direction from where we were last week. I do want to say the administration has some concerns. My colleagues know that. They have talked about them. I have listened to them.

I am not suggesting their concerns are illegitimate, but I believe the value of the amendment trumps their concerns. I think we have done enough to continue to move forward, and it is the right step to be taking. This is an important effort. I support the Ensign second-degree amendment to the Ensign-Boxer amendment however that amendment is described.

With that, I yield the floor.

AMENDMENT NO. 1038 TO AMENDMENT NO. 1018

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, my understanding is we are ready to go on the Ensign second-degree amendment. So is it not appropriate for me to send the Boxer amendment to the desk at this time?

Mr. DODD. Certainly.

Mrs. BOXER. I call up my amendment.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1038 to amendment No. 1018.

Mrs. BOXER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for oversight of a Public-Private Investment Program, and to authorize monies for the Special Inspector General for the Troubled Asset Relief Program to audit and investigate recipients for non-recourse Federal loans under the Public Private Investment Program and the Term Asset Loan Facility)

At the appropriate place, insert the following:

**SEC. — PUBLIC-PRIVATE INVESTMENT PROGRAM; ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.**

(a) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Troubled Asset Relief

Program, impose strict conflict of interest rules on managers of public-private investment funds that specifically describe the extent, if any, to which such managers may conduct transactions involving public-private investment funds that affect the value of assets—

(i) that are not part of such public-private investment funds; and

(ii) in which managers or significant investors in such funds have a direct or indirect financial interest;

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury that discloses the 10 largest positions of such fund;

(C) require each manager of a public-private investment fund to report to the Secretary of the Treasury any holding or transaction by such manager or a client of such manager in the same type of asset that is held by the public-private investment fund;

(D) allow the Special Inspector General of the Troubled Asset Relief Program, access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form;

(E) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(F) require each manager of a public-private investment fund to acknowledge a fiduciary duty to both the public and private investors in such fund;

(G) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(H) require investor screening procedures for public-private investment funds that include “know your customer” requirements at least as rigorous as those of a commercial bank or retail brokerage operation; and

(I) require each manager of a public-private investment fund to identify for the Secretary of the Treasury each investor whose interest in the fund totals at least 10 percent, in the aggregate;

(2) REPORT.—Not later than 45 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General of the Troubled Asset Relief Program shall submit to Congress a report on the implementation of this section.

(b) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL OF THE TROUBLED ASSET RELIEF PROGRAM.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), \$15,000,000 shall be made available to the Special Inspector General of the Troubled Asset Relief Program (in this section referred to as the “Special Inspector General”), which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that

may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(c) DEFINITION.—In this section, the term “public-private investment fund” means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System.

AMENDMENT NO. 1043 TO AMENDMENT NO. 1038

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, I call up the Ensign second-degree amendment, No. 1043, at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. PRYOR, Mrs. BOXER, and Ms. SNOWE, proposes an amendment numbered 1043 to amendment No. 1038.

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

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

The amendment is as follows:

(Purpose: To make perfecting changes)

On page 1, strike line 6 and all that follows through page 6 line 5, and insert the following:

(a) SHORT TITLE.—This section may be cited as the “Public-Private Investment Program Improvement and Oversight Act of 2009”.

(b) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Troubled Asset Relief Program (in this section referred to as the “Special Inspector General”), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section referred to as the “Secretary”) that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books,

documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private investment fund to identify for the Secretary each investor that, individually or together with its affiliates, directly or indirectly holds equity interests in the fund acquired as a result of—

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

(ii) any other investment decision by such investor or any of its affiliates to directly or indirectly invest in the fund that, in the aggregate, equal at least 10 percent of the equity interests in such fund.

(2) INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) REPORT.—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(C) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), \$15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) DEFINITION.—In this section, the term “public-private investment fund” means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or the Federal Deposit Insurance Corporation.

(f) OFFSET OF COSTS OF PROGRAM CHANGES.—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$2,331,000,000,” after “\$700,000,000,000”.

Mr. ENSIGN. I rise to talk about the Ensign-Boxer-Pryor-Snowe amendment. The four of us have worked on this amendment. It is a second-degree amendment, but it is a friendly second-degree amendment to the Boxer amendment. I commend all four offices and our staffs that did superwork over the last several days to come up with the language. It is not compromising language; it is strengthening language. This is great bipartisan work to increase the oversight of this program known as the Public-Private Investment Program or as some call it, PPIP. The special inspector general of TARP has stated that PPIP is “inherently vulnerable to fraud, waste, and abuse.” Our amendment would go a long way to protect taxpayers from such fraud, waste, and abuse.

Most of my colleagues would agree Congress gave far too long of a leash to the Treasury when it created TARP. I know few people who believe the program has been completely successful so far. The PPIP would represent the most ambitious and complex undertaking yet for TARP and by far the riskiest use of TARP funds to date. Let’s not make the same mistakes with PPIP that we have made with the rest of the TARP fund so far.

Our amendment would establish key oversight, transparency, and conflict-of-interest safeguards before the program begins, not after. Our amendment will impose strict conflict of interest rules to prevent PPIP fund managers from inappropriately using the program to benefit themselves or their clients. It will require these rules be in place before any Government funds can be used in the new program. The amendment requires rigorous investor screening procedures and robust ethics policies for the Public-Private Investment Program funds. It will require Treasury to issue regulations governing how the program and the Federal Reserve’s TALF Program can interact to avoid excessive and dangerous over-leveraging.

Lastly, our amendment calls for significant and improved oversight and transparency of PPIP. The amendment also preserves the language from the underlying Boxer-Snowe amendment that provides the special inspector gen-

eral of TARP with an additional \$15 million to conduct audits and investigations of this new program.

The American people are demanding more accountability and transparency from their Government. President Obama campaigned over and over on change and promised to lead the most open administration ever. Let’s send a message to the country that we are backing up that rhetoric with action. Let’s shine sunlight on the TARP’s newest program from its inception, not once mistakes have been made. Let’s put the safeguards in place from the start of PPIP to protect against fraud and waste rather than waiting until after abuses occur.

I urge my colleagues to vote in support of the Ensign-Pryor-Boxer-Snowe amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. I yield the floor.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1026 TO AMENDMENT NO. 1018

Mr. DEMINT. Mr. President, I ask unanimous consent to set aside the pending amendment and bring up DeMint amendment No. 1026.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 1026 to amendment No. 1018.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of Troubled Asset Relief Program funds for the purchase of common stock, and for other purposes)

At the appropriate place, insert the following:

**SEC. . . LIMITATION ON USE OF TARP FUNDS.**

Notwithstanding any other provision of law, on and after April 22, 2009, no funds made available to carry out the Troubled Asset Relief Program may be used for the acquisition of ownership of the common stock of any financial institution assisted under title I of the Emergency Economic Stabilization Act of 2008, either directly or through a conversion of preferred stock or future direct capital purchases.

Mr. DEMINT. Mr. President, I would like to take a few moments to explain this amendment. I appreciate the chairman allowing me to offer this amendment. It relates to what we call

TARP funds or troubled asset funds we passed last year.

If I can take my colleagues through a little bit of history on how this happened, at the end of last year, the President and the Secretary of the Treasury came to us and explained a very dire crisis, not only in the United States but the world, that the whole financial system was on the verge of collapse, and if we did not pass this \$700 billion Troubled Asset Recovery Program, it was very likely we would have financial chaos and even depression in the United States and around the world.

It was a pretty stunning presentation. It curiously lacked a lot of facts. There were no PowerPoint slides or statistics or graphs. It was more: Trust us, we know this is going to happen. We need to pass this immediately.

What they were going to do with the funds—and Secretary Paulson was very specific—was they were going to take this money and buy troubled assets in financial organizations that were too big to fail, that if they failed, it would cause severe problems all around the world. We were being told that unless we pass this money and use it immediately—and they were talking within 24 to 48 hours—to buy troubled assets, the financial system in this country so many depended on would collapse.

At this point, after hearing a number of stories, we started this time last year mailing out checks, mortgage bailouts, all kinds of spending programs. None of it worked. None of it had been done exactly like they said it would. I did not trust the whole process. This was a Republican President. I voted against it, but many of my colleagues voted to pass the troubled asset funds to buy toxic assets, troubled assets in this country and around the world.

It passed, and the President signed it. Not one of these troubled assets has been purchased. Not one. A funny thing happened. The world financial system did not collapse. The people who told us it would either did not have the facts or they were not telling us the truth.

What they did with the money was loan some to the banks. Some of the banks had to have it immediately, apparently, or they would fail. They were too big to fail. We had to have the money.

What our Government did was go to a whole lot of other banks that were doing OK and say: You have to take this too. If you don't take it, then it will be harder for these other banks to take it. We need to have this money spread around. They did not buy the toxic assets. They loaned it to banks and put a lot of pressure on other banks to take it. As soon as they did, we got more and more involved with their business, regulators on the banks' backs. Some of the banks want to give it back. Guess what. We won't let them unless they pass some kind of test.

The Government has moved closer and closer—it kind of reminds me of

the children's story, "The Gingerbread Man." It is was one of my favorite stories growing up. If you remember, an older couple did not have any children. The husband was out working in the garden. The wife was making some gingerbread. She had a little left over and made a gingerbread man and put him in the oven. An hour or so later, she heard some rattling in the oven, opened it, and out jumped a gingerbread man. The gingerbread man ran around. She couldn't catch it. It ran out of the house. The husband tried to catch him. All they heard from the gingerbread man was: Run, run, run as fast as you can, you can't catch me, I am the gingerbread man.

Long story. The gingerbread man ran through the whole community. The townspeople were chasing him. The horses and the mules and everyone were chasing the gingerbread man, who kept saying: Run, run, as fast as you can, you can't catch me, I am the gingerbread man.

The gingerbread man came to a wide river and not accustomed to swimming—gingerbread probably doesn't hold up real well in a river—he was stuck with all the town running behind him. Then appeared a fox that offered to give him a ride across the river. The gingerbread man was real suspicious. He knew that fox would probably eat him. The fox said: Don't worry, you can sit way back on my back on my tail way away from my mouth. No trouble, not to worry. Gingerbread man didn't have a lot of choice. He jumped right on his back.

As the fox got out farther and farther in the river, he sank a little deeper and deeper. Gingerbread man howled and jumped up a little closer on his neck. Out a little farther, the fox went down a little bit deeper. Gingerbread man jumped right up on his head. As he got close to the other side, he started sinking his head down and gingerbread man jumped right up on his nose, and as soon as he did, slap, gingerbread man was in the mouth and gone.

Gingerbread man is a lot like our free market system, free enterprise system, and what our whole free market system is in America—fast, dynamic, made our country exceptional and prosperous. Our banking system is the same way. Some of the greatest people in our communities are running banks.

With this TARP program, what we did is similar to a fox. We invited our whole financial system to jump on the back of the Federal Government. What they told us they were going to do they did not do, and each time the Government took another step, a different step, like the gingerbread man and the fox, the gingerbread man jumped closer and closer to the mouth.

What our whole free market system is doing now is sitting on the nose of the fox, the Federal Government, which keeps taking us deeper and deeper into this river. The Federal Government did not buy toxic assets. They kind of pushed loans out into the market. They said they had to do that.

Now we see where they are, telling us this does not look good on the books of banks for it to be a loan. So we are going to just change the balance sheet from a loan to an asset. We are going to turn these loans into common stock, equity, which will make the Federal Government owners in the banks, voting owners.

Folks, there is kind of a sacred line in this country we had not crossed. There is a separation between what the Government does and what the private sector does, and this Government does not own private companies. But just like this fox, we have been led into this thing with misinformation—I hope that is all it is and not outright deception—but we are at the point where the Government is now telling us they are going to own a lot of these banks. They will not let them give it back. They are going to convert it to ownership. All these private companies out there are going to be owned, in part, by the Federal Government.

What we are hearing from investors—Chairman Bernanke said it at lunch today—is when they are trying to get people to invest in financial institutions, what they are finding is a strange thing. The private investors, smart investors, do not want to get in bed with the Federal Government because they do not know what we are going to do. They have every reason not to know what we are going to do because we have yet to do what we said we were going to do with this \$700 billion, which will ultimately be over \$1 trillion, with which we are now playing in the private stock market.

As we pass this bill that is supposed to protect homeowners, I am offering an amendment. It is an amendment that would force this Government to do at least part or keep it from going further than it already has into the private sector. It would prohibit the Government from converting these loans, which are sometimes referred to as preferred stock now. It is not voting. It would prohibit them from converting this to common stock, to ownership, to equity in these banks.

It should not surprise anyone. We were told this would not happen in the first place. We were told the money was going to buy these toxic assets. This amendment would at least put up a firewall that says: You cannot go any further, fox; you cannot take over private enterprise in America.

A lot of my colleagues are going to give a lot of excuses why they cannot vote for this amendment, but I hope America is looking in at this and remembering that it was not this Government that made this country great, that made us exceptional and prosperous and good, that put us on the top of the world in a lot of ways, the envy of the world. It was not this Government. It was a limited government. It was free markets and free people.

This Government now has pushed and pushed and intervened in the private market to the point where it is not

working. We wonder why people are not investing and why the markets are erratic. Because no one knows what the Federal Government is going to do once it starts playing in the stock market in this country, once it starts arbitrarily converting loans that were for a crisis to own our banks, to own our private companies.

They took the TARP money and made loans to General Motors. What are they going to do with that? They are going to convert it to common stock so this Federal Government owns General Motors.

That is not America. That is not free markets. That is not free enterprise. That is not what we signed up for, and we shouldn't allow it.

This amendment is pretty simple: Government, you cannot go any further. Enough is enough. You cannot convert these loans to common stock. We are going to have a firewall between where you are now and where you want to go.

Folks, we cannot let them go any further. We have lost the line between Government and the private sector. The Government is not set up to manage things and control things. Everything we try to do, we mess up. What we are here for is to develop a framework of law and predictable regulations so free markets and free people can operate. We are not set up to manage auto companies.

I was in a meeting this morning talking about how we were going to manage General Motors and Chrysler. I have been in a lot of boardrooms because I have done a lot of strategic planning for private companies in my lifetime. It is so obvious, we do not have the capability to manage a dynamic, complex, global marketplace. That is central planning. That is what Karl Marx thought we could do. But every time it has been tried in the history of the world, it has failed because there is no way a legislative body and a large national government such as this can manage the private sector.

What happens, though, is we get involved, we make things worse, and then we say we need more government to solve the problem. We are doing that now with AIG, the largest insurance company in the country. We have gotten in, we own most of the stock, mismanagement is rampant, and we are talking about we need more government, we need more money. Folks, it doesn't work.

I would encourage my colleagues to consider what I think we are hearing from all across America: Enough is enough. We can't do this under the guise of one crisis after another. Let's stop this rampage of the Federal Government into our private lives, the free markets, the whole concept of America. Please support this amendment that would stop the conversion of loans—TARP money—into common stock. It is a simple concept. We shouldn't be able to excuse our way around this one.

I thank the Chair, I yield back, 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. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### CLIMATE CHANGE

Mr. BARRASSO. Mr. President, a recent Wall Street Journal op-ed highlighted a dangerous game that is being played right now by this administration and by the Environmental Protection Agency, and it is a game that is being played with the American public about which I have great concerns. The piece in the Wall Street Journal was entitled "Reckless Endangerment: The Obama EPA plays 'Dirty Harry' on cap and trade." The article refers to the Russian roulette style of negotiating that is going on right now by cap and tax advocates who want to pass the President's energy tax in this Congress.

The administration and the majority of the leadership in the House and the Senate have created a regulatory ticking timebomb. It is called the Environmental Protection Agency's endangerment finding. Well, they want to use this ticking timebomb as a threat to get the President's energy tax passed. They are putting this regulatory timebomb on the kitchen table of Americans all across the country. The message to Americans: Your tax money or your livelihood. This is not an idle threat. If allowed to proceed, the irresponsible use of the Clean Air Act will require the EPA to regulate any building, any structure, any facility, any installation that emits above a certain amount of carbon dioxide. The result would be thousands of lost jobs, with no environmental benefit to be seen from it. Hospitals, schools, farms, commercial buildings, and nursing homes will be required to obtain preconstruction permits for their activities.

Further, when you talk to the legal scholars, they will tell you that the statutory language is mandatory and does not leave any room for the EPA to exercise discretion or to create any exceptions. That is the problem. The only jobs this option will create are in law firms, as the litigation bonanza begins. EPA is going to be sued by environmental groups wanting to eliminate exempted sectors. The EPA will also be sued by industries that are not exempted. How is the EPA going to respond to all these legal challenges? I asked EPA Administrator Jackson. She says she can target what she taxes. She claims she is only going to target cars and trucks. Well, that really is setting a precedent of choosing winners and losers. We don't know what standards will be applied to make those decisions. We do not know what role politics will play in the decisions. Jackson's state-

ment also ignores the regulatory cascade that the endangerment finding in the motor vehicle emission standards will trigger. Litigators and courts will drive much of this job-killing regulation.

We now have a nominee to head up the EPA's Air Office—Mrs. Regina McCarthy. We have an Administrator of the EPA and a climate and energy czar who is supposed to coordinate climate change policy for the administration. Well, Carol Browner, the climate and energy czar, has not been confirmed by Congress—not by this Congress—at all. We do not know who is developing this roadmap for how to hijack the Clean Air Act to regulate climate change. What jobs and what industries will be penalized? Who will be held accountable for making the decisions? The American people—the people at home in Wyoming whom I talk to—are demanding answers to these questions.

The economic consequences will be devastating. By the EPA's own estimate, the typical preconstruction permit in 2007 cost each applicant \$125,000. And how much time do they have to put into this work? Well, on average, 866 hours just to fill out the paperwork. If you are a small business, a farm, or a private nursing home, you have no background in this area. It takes a lot of time and effort, so you need to hire lawyers and you need to hire experts. That costs thousands of dollars that are nowhere in your budget. You are taking time out of the day to figure out all this redtape. While you are spending that time and that money, you are not running your business.

This is going to create such a fog of uncertainty—uncertainty with investors, uncertainty with small businesses. It is going to make it that much harder for small businesses to borrow money, to get a business loan. Nobody is going to know how much this is going to cost their business. If you take a look at our economic situation, with lending in this country having slowed down significantly, this is hardly the right move now for our country and for our economy.

According to the U.S. Chamber of Commerce, there are 1.2 million schools, hospitals, nursing homes, farms, small businesses, and other commercial entities that are not currently covered under these preconstruction permits, and they are going to be vulnerable to the new controls, to new monitoring, to new paperwork, and to new litigation. If even 1 percent of these 1.2 million have to get preconstruction permits, well, that would mean 12,000 new preconstruction permits this year. By the EPA's own analysis, if permitting is increased by just 2,000 to 3,000, that would impose what they call significant new costs and an administrative burden on permitting authorities. How much of a burden? How much cost? Those permitting authorities are the EPA and the 43 States that participate in the program.

The EPA said that the burden “could overwhelm permitting authorities.”

The net result of all of this is going to be thousands of jobs lost. According to the Heritage Foundation, the job losses are estimated to reach 800,000. Well, if Carol Browner, Administrator Jackson, or Mrs. McCarthy cannot tell us how they will protect American jobs from court challenges, if they can't tell us by what legal authority—legal authority—they can pick the winners and losers, if they cannot provide economic certainty to lenders and small businesses, if they do not know how they will process all the thousands of new preconstruction permits, then they should take this option—this option they have proposed, this option that kills jobs—and they should take it off the table.

I have tried to get answers to these questions from the nominee who will most directly oversee this process—Mrs. McCarthy. I placed a hold on her nomination because these are questions that still need to be answered. I am committed to working with her in a constructive way to get answers to the questions because I believe we do need to chart a new course, a course that makes America's energy as clean as we can, as fast as we can, without hurting small businesses and without raising energy prices on American families.

We should start by not taking any clean energy source off the table. That means fossil fuels fitting with new carbon capture technology. That means exploring for oil and natural gas in an environmentally friendly way, using new technologies. That means promoting carbon-neutral nuclear energy. That means funding renewable energies—wind and solar, geothermal, and hydropower. We need it all. An all-of-the-above energy approach is the key to solving our energy problem for this Nation. I look forward to working with my colleagues on both sides of the aisle to achieve this goal for America.

Mr. President, I yield floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I was listening to what my colleague, Senator BARRASSO, said about the Environmental Protection Agency, and I know it is a little bit off the work Senator DODD is doing, but I hope he won't mind if I take about 3 minutes to respond.

I think what is so interesting is that under the Bush administration, the Environmental Protection Agency drafted the endangerment finding. They found that pollution in the form of greenhouse gas emissions—this is the Bush administration—was absolutely an endangerment to the American people. That is the Bush administration.

You may say: Gee, why didn't I hear about that? I will tell you why. The EPA sent that endangerment finding, that proposed endangerment finding, over to the White House, and it was labeled, as you get your e-mails, “pro-

posed endangerment finding.” There was advice immediately from the lawyers over at the Bush White House not to open the endangerment finding—not to read it, not to look at it, not to consider it, not to open it because, they said, once it was open, it was in the public domain and the public would learn that, indeed, climate change is an endangerment to the people of this country. We are talking about extreme weather events. We are talking about organisms that do not live in cold waters, but when the waters get warm, they carry disease to our kids. We saw a case in Arizona where that happened: organisms that never lived in these rivers and streams are now living there. Heat stroke. And that is not to mention the issue of the rising waters, that is not to mention the national security issues, and that is not to mention the fact that the way out of this economic mess is to say: We are going to look at this challenge and we are going to respond to it in a way that will create clean jobs, in a way that will lead us out of this morass and lead us to economic prosperity.

Anyone who has read Thomas Friedman's book “Hot, Flat, and Crowded” knows that the country that gets on top of this issue of clean energy and clean energy jobs will lead the world. So for my colleague to get up and say: I am holding up the Obama nominees—that is the party of no. That is the party of no, no, no. They want to keep this information from the American people.

Then they talk about lawsuits and the rest. Well, the fact is that the old EPA was sued repeatedly by community groups and environmental groups because they weren't following the law, and every single time, they lost. So the Supreme Court comes down on the side of cleaning up pollution. I am not afraid of lawsuits because the fact is, the people will win the lawsuits.

My message to the EPA is very simple. It is very different from Senator BARRASSO, who is holding up qualified nominees—Republicans. They are Republicans they are holding up whom President Obama wants to put into his circle of advisers on the environment. This one particular woman I believe served, Senator DODD, your State for Republican Governor Rell, and they are holding her up. They are holding her up.

Why? Because they want to continue being the party of no. No, don't open up the endangerment finding; no, don't trust the people with the information; no, don't think about making polluters pay; no, we are not going to go to clean energy and clean jobs and all the prosperity that will come forward with that. It is a sad day.

My friend and I, JOHN BARRASSO and I, are very good friends. We like each other. We work together when we can. But on this one he will admit and I will admit we do not share a common view. My view is that science should dictate what we do on the health front and the

revival of this economy should dictate what we invest in here, so we invest in these high technologies and we create good, clean jobs. I am very sad to hear that my friend will be holding up, and saying no, to some good people.

I understand his point of view. He has every right to do it. But I hope we will file a cloture motion and I hope we will be able to say to the party of no: Please, there was an election. President Obama won. He deserves to have the people in place that he thinks will give him good advice. If you do not like the advice, then legislate against it. But don't hold up good people.

They are doing it every day. The party of no, no, no, no. The American people want us to work together for their benefit and the benefit of their children and their grandchildren. My message to the EPA is do not be bullied into not doing your job. The endangerment finding you have made provisionally is very close to the same endangerment finding the scientists made under George W. Bush. The difference is, this administration is not going to hide it from the American people. We are going to look at it and we are going to figure out a way to respond to it in such a manner that jobs will be created, exports will be created, technologies will come to the fore. To the party of no, I say look inside yourself. The days of the old energy are coming to an end. They are too polluting, they are too costly, they are subject to the whims of foreign dictators.

I remember when George W. Bush went over and kissed the Saudi prince—I was a little surprised at that—begging, begging Saudi Arabia: Oh, please, please, let us have more oil. And the price went up and up and up. Frankly, it was not until the Democrats here demanded that there be some remedy for price fixing—it was not until then that the prices started going down, because there was manipulation. We know that.

I am disappointed that Senator BARRASSO, an important member of the Environment Committee—this is the Environment Committee he is from. It is not the polluting committee. Let's get on with our work. Let's do what is right for the health of the American people. Let's do what is right for the workers in America. Let's develop the technologies. Let's not stand up here, hold decent people up, don't let them get a vote, stop them because you are a little angry that, yes, you did lose the election; and yes, times are changing; and yes, you have to recognize that Lisa Jackson is not Stephen Johnson—who came from a pesticide background, for God's sake.

One thing I found as I look at this administration that I admire—and I do not agree with every single thing they do or say—but I have to say this, they are putting people in place who care about the issue they are supposed to care about. You remember what happened over there with, “Brownie, you



are doing a great job at FEMA," and we had Hurricane Katrina. Brownie had come from the Arabian horses industry. That was his expertise.

Stephen Johnson, EPA, came from a pesticide background. That was his background to head up the Environmental Protection Agency.

Then you had others. You had Spencer Abraham, a nice man. He voted to eliminate the Department of Energy when he was a Senator, and he got to be put in charge of—you got it—the Department of Energy.

I have a great committee I am privileged to chair, but I am distressed that we have to file cloture and stop a filibuster on perfectly well-qualified people, some of whom are Republicans, who are being stopped here by my friend. It is discouraging. But I am optimistic and I know we will get these important nominees through, even though we have to take the time to fight a filibuster and file cloture and get 60 votes. I am convinced we can do it—in closing—because the American people do not want us to be the party of no, no, no. They want us to be the Senate that is going to bring about positive change for the American people.

I say to Senator DODD, thank you for your indulgence here.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 1026

Mr. DODD. Mr. President, I am going to respond, if I may, to our colleague from South Carolina, Senator DEMINT, who offered an amendment, No. 1026, a few minutes ago. Senator BARRASSO and Senator BOXER were talking about the Environment Committee and the work that goes on there a little bit, and I digressed a little bit when that subject matter came up, but I want to bring it back to his amendment which we will vote on, I hope, in a few minutes—maybe a couple of amendments. I notify my colleagues we will try to get at least two votes together so we don't bring people over for just one vote, if we can do that.

The amendment of the Senator from South Carolina, as I think I understand it—but correct me here—would prohibit the Federal Government from either purchasing or converting preferred stock to common stock. This is not a mandate as in present law, it is the option of converting preferred to common stock.

Why is that an important issue? My colleague from South Carolina went on at some length to talk about the over-riding issue, going back to last fall, as to whether there should be any program at all of the so-called Emergency Economic Stabilization Act that provided the resources to try to get our financial system on its feet again. That was a very significant debate. Seventy-five of our colleagues in this Chamber, Democrats and Republicans, agreed with President Bush at the time. Candidate Obama and our colleague JOHN MCCAIN, as well as many others, on a

bipartisan basis, called for the support of that effort. They accepted the notion as we were told by the chairman of the Federal Reserve Board, Mr. Bernanke, along with the Secretary of the Treasury and others across the political spectrum, that acting at that point was critically important if we were going to stabilize this economy and try to get it back on its feet.

History will probably write for many decades to come about that decision-making process, of the wisdom of it or the lack thereof. I am confident as I stand here today that, while certainly not a well-managed program for a good many weeks, the absence of doing anything, just doing nothing at the time, I think would have created a far bigger problem, a far more serious problem, probably a problem it would be almost difficult to imagine how it would be overcome had that action not been taken. That in no way minimizes how the program was managed, for those who raised serious issues, and still is the subject of significant debate here.

My friend from South Carolina says the Treasury Department should not be allowed to convert preferred stock to common stock. Why is that an important issue in the context of what we are talking about?

First, understanding what preferred stock is, and common stock—preferred stock is almost a debt obligation on which dividends are paid. The whole point is the value of it is in the dividend. With common stock, of course, the value changes based on how well the company is doing. If the company is doing well, the common stock goes up. If they are not doing well, the common stock goes down, unlike preferred shares. So in terms of what is real capital, what is real capital is common stock. Preferred shares are not seen as being real capital.

I gather we have had today, as the Presiding Officer knows we have every Tuesday, the respective two parties gather in our respective rooms to have lunch to talk about the issues of the day. I am told by several of my friends on the Republican side that Chairman Bernanke was the guest at the Republican Conference lunch today and answered questions from our Republican colleagues. I gather one of the questions was—and certainly it was a question he received from us when we met, either alone or together—why aren't banks lending more? We put all this capital up. Why aren't they putting more money out the door to small business and others to help our economy get moving?

I gather Chairman Bernanke expressed the same frustration, that the regulators are being overly restrictive, in some ways threatening these lending institutions, not doing enough to encourage them that they ought to step up and get that capital out, get that credit moving again.

My colleagues on the Republican side heard from the Chairman of the Federal Reserve today and raised a very

good question, raised by one of my colleagues—I don't know which one it was who raised the issue—but a very good question: Why aren't the banks lending more?

It seems to me if we accept the DeMint amendment we are going to make the answer even more difficult because what our lending institutions need is obviously capital—whether private capital or otherwise, they need capital. This is not a requirement under existing law that is mandating converting preferred to common, but at a time when we want lending institutions to get more capital, allowing the Treasury to make that conversion where and if they see it as appropriate exactly addresses the question that was raised at the luncheon today: Why aren't banks lending more? Why aren't they providing that kind of assistance to small businesses and others?

This is not about the Government taking over these entities. I don't know of anyone who supports that idea. We are taking positions in these companies far larger than most of us would like, and I hope and I believe it to be the case that as soon as the moment is appropriate we are going to be selling this off and getting out of it as fast as we can. My colleague from South Carolina is correct—I think all of us agree with him—it is not the business of Government to become bank managers or to run automobile companies or to run commercial enterprises. This country has not grown and prospered and done as well as it has in two-and-a-quarter centuries because Government has run these entities. Quite the opposite.

But at a critical time such as this, when our economy is facing the worst crisis since the Great Depression, in almost 100 years, taking positions, getting capital moving on these legacy assets or toxic assets is absolutely essential if we are going to get back on track again.

I am not suggesting that every idea we have had is one that is working. But the idea of saying in this case you have no right, I am going to prohibit you, absolutely mandate that the Treasury Department cannot convert any preferred shares to any common shares, seems to me the kind of overreaching, in a way, in a moment such as that, that my colleague from South Carolina is arguing against and I agree with him. We should not be restricting, in a sense, the ability of people to have the flexibility to respond to a situation and allow this situation to improve.

There is a second reason. We are talking about TARP moneys here. What are TARP moneys? TARP money is taxpayer money. That is the American taxpayers' money. That is what TARP money is. We want to get back this money. We have been told these are loans. We hope they are, that we are actually going to get money back.

You don't get money back necessarily with preferred shares. You get it back with common shares. In any

case, if we are looking to see the Government realize any gain on the sale of its common shares after the economy recovers, as we all hope and believe it will, the Government's upside potential is far greater with common shares than it would be under an amendment offered by the Senator from South Carolina where we would not be allowed to convert preferred to common.

I want to make it clear I am not necessarily advocating this be the case, but I don't want to so restrict the Treasury from making those moves to adversely affect the taxpayer when we could have a far greater benefit if in fact there are common shares coming back in. If that company or entity improves its value, the taxpayer is the clear beneficiary of that if in fact we are holding common shares.

Not allowing the Treasury to make that conversion could directly have an adverse reaction for the American taxpayer who is expecting some return on this—not to mention, of course, the ability to get capital into these entities which is essential if lending is going to occur.

We can go back and debate September and October and I presume history will debate that. But we made that decision and these resources are being far better managed today than they were in the first 60 days or so of that program. Today, to restrict this Department, this Treasury from making these kinds of decisions would be a major blow at the very hour we are going to maybe need this capital in order to get these entities back on their feet.

Why is that important? It has little or nothing to do with the entities themselves. If that were the only argument, I would not be standing here and making it. It is not about the institutions we are getting the capital to, it is about the facilities, the businesses that require capital in order for credit to flow. So we spend a lot of time talking about the capital that goes into these larger institutions. The only reason we talk about it is because the financial system requires that if credit is going to move to small businesses, to homeowners and the like, when that small business shows up at their bank and says: Look, I have a great idea of expanding. I think the economy is improving. I would like to get a loan. I would like some credit. I have some people I need to hire. I have some inventory I need to purchase. I have some improvements to expand my space, and the bank says: I am sorry, we cannot. No capital. Well, if we adopt the DeMint amendment, that will be one of the reasons the answer is no because we absolutely prohibited the Treasury Department of our country from converting, where they think it is wise to do so, preferred shares to common shares. Not because we are requiring it but because we have the flexibility to do it.

When the American taxpayer wants to get a greater return on the invest-

ment we have made to get these institutions back on their feet again, and all we were allowed to hold was preferred shares paying a dividend instead of the common shares that could be the upside benefit to the American taxpayer, we would have to look back on this amendment and say: That is the reason we are not doing better than we ought to be doing.

That is really the argument I would give to my colleagues about why I think the DeMint amendment is an unwise move at this juncture. Again, it is more ideological. If you, in a sense, believe we should not be doing anything at all, let the market work its way through all of this—and there is a school of thought that embraces that. I happen to believe that is a dangerous policy to follow, in my view. I think many who looked at this issue from across the spectrum would agree. So that is the alternative. That is why I hope this amendment would be rejected when the time comes for a vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

AMENDMENT NO. 1040 TO AMENDMENT NO. 1018

(Purpose: To amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes)

Mr. REED. First, let me commend Chairman DODD for his leadership on this very important legislation that is going to address one of the most significant issues facing America today; that is, restoring the value in our homes, but also giving people the hope that they can stay in their homes and helping those people who are displaced from their homes to find adequate, suitable housing.

I hope to be able to offer an amendment which would address the issue of homelessness in the United States.

Mr. President, I ask unanimous consent to call up amendment No. 1040 to S. 836 and ask that it be made pending.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, and Mr. BOND, proposes an amendment numbered 1040 to amendment No. 1018.

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

Mr. REED. This legislation is cosponsored by Senator KIT BOND, Senator BOXER, Senator COLLINS, Senator DURBIN, Senator KERRY, Senator LAUTENBERG, Senator LEVIN, Senator LIEBERMAN, Senator SCHUMER, and Senator WHITEHOUSE. It embodies legislation I introduced earlier this year, along with Senator KIT BOND, the Saving the Homeless Emergency Assistance and Rapid Transition to Housing Act, known in short as the HEARTH Act.

I want to particularly commend Senator BOND for his support, help, and leadership in this effort. He has been

an advocate for sensible housing programs, not only on the floor of the Senate but particularly in his duties as a member of the Appropriations Committee and as the Ranking Member of the Subcommittee on Transportation and Housing and Urban Development.

He has been a great leader in advocating for the sensible, sound, and efficient use of taxpayers' resources to help people to find affordable housing. I thank him very much for his assistance, along with all of the other cosponsors.

This legislation is endorsed by the National Alliance to End Homelessness, U.S. Conference of Mayors, the League of Cities, NACo, Habitat for Humanity International, National Association of Local Housing Finance Agencies, LIISC, Enterprise, National Low Income Housing Coalition, Corporation for Supportive Housing, the National Equity Fund, NAMI, the Housing Assistance Council and the National Community Development Association. It enjoys widespread support.

According to the Homelessness Research Institute at the National Alliance to End Homelessness, 2.5 to 3.5 million Americans experience homelessness each year. On any one night, approximately 672,000 men, women, and children are without homes.

While strides have been made to reduce homelessness over the last couple of years, the current economic decline has halted such progress.

Today I saw a front page article with a photograph in USA Today of a tent city going up. This is a phenomenon we thought was an artifact of history. Too often people are using any means to shield themselves from the elements.

Organizations such as Amos House, a shelter in my home State of Rhode Island, are seeing an increased demand for their services, while at the same time they are facing budget cuts and the economic downturn has curbed charitable donations.

I don't need to tell anybody in this Chamber how urgent this crisis is.

Across the country, we have already seen tent cities forming; shelters turning away people in need; and most major cities reporting double-digit increases in the numbers of families experiencing homelessness.

There is a tendency to view homelessness as something that happens to a few adults, men and women. But too many children are without homes.

As foreclosure and unemployment rates continue to rise, more families are being pushed out of their homes. Not everyone ends up on the streets. Some are able to move in with friends or family members, but they can not afford a home of their own and they can not find a job to get back on their feet.

America has not seen this level of displacement since the Great Depression and we simply cannot afford to ignore this problem.

That is why I am offering the Homeless Emergency Assistance and Rapid

Transition to Housing, HEARTH, Act of 2009 as an amendment to the Helping Families Save Their Homes Act.

The Banking Committee, of which I am a member, has worked long and hard on this legislation, which I believe has resulted in a very strong piece of legislation.

This amendment invests \$2.2 billion for targeted homelessness assistance grant programs and provides local communities with greater flexibility to spend money on preventing homelessness.

While strides have been made to reduce homelessness over the last couple of years, the current economic decline has halted that progress and threatens to overwhelm it.

As a result of the recession, 1.5 million additional Americans nationwide are likely to experience homelessness over the next 2 years according to estimates by the National Alliance to End Homelessness. In Rhode Island, the latest numbers show homelessness is up 43 percent since February of 2008. And the number of shelter residents who cited foreclosure as their reason for becoming homeless tripled in the last 8 months.

This means more trauma for children and adults, more dislocation from schools and communities, and more of a drain on local community services.

In addition to the \$2.2 billion for HUD homeless assistance programs, the HEARTH Act would also provide up to \$440 million to be used to serve people who are not homeless yet, but are at risk of homelessness. That, I think, is in accord with the spirit of the legislation Senator DODD proposed; to prevent people from losing their homes.

It would allow cities and towns to serve people who are about to be evicted, live in severely overcrowded housing, or otherwise live in an unstable situation that puts them at risk of homelessness. The money could be used to make utility payments, security deposits, and provide short- and medium-term rental assistance.

The HEARTH Act would increase the emphasis on performance by measuring applicants' progress at reducing homelessness and providing incentives for proven solutions like rapid re-housing for families and permanent supportive housing for chronically homeless people.

This is a measure not only to provide resources but also to insist upon accountability.

Today, more families than ever are living on the edge, but the national safety net is not as big or as durable as it used to be.

This bipartisan legislation combines federal dollars with new incentives to help local communities assist families on the brink of becoming homeless. It is a wise investment of federal resources that will save taxpayers money in the long run by preventing homelessness, promoting the development of permanent supportive housing, and optimizing self-sufficiency.

Finally, I wanted to briefly talk about the definition of homelessness.

The HEARTH Act expands the HUD definition of homelessness, which determines eligibility for much of the homeless assistance funding, to include people who will lose their housing in 14 days; any family or individual fleeing or attempting to flee domestic violence, or other dangerous or life threatening situations; and families with children and unaccompanied youth who have experienced a long term period without living independently, have experienced persistent housing instability, and can be expected to continue in such status for an extended period due to a number of enumerated factors, such as a disability.

It also allows grantees to use up to an additional 10 percent of competitive funds to serve families defined as homeless under the Education Department homeless definition, but not so defined under the HUD definition. For areas with low levels of homelessness, up to 100 percent of funds may be used for such purposes.

The HEARTH Act also provides communities with greater flexibility in using funds to prevent and end homelessness. Whether it is the new Emergency Solutions Grant or the new Rural Housing Stability Assistance Program, that would grant rural communities greater discretion in addressing the needs of homeless people or those in the worst housing situations in their communities, this bill allows people to help people who are not technically homeless, and keep them from becoming so.

I recognize there have been tensions on the definition issue. All of us want to be sure that we are providing services to homeless children and families, and those at risk of homelessness.

Our amendment does not change the definition of homelessness in the No Child Left Behind Act for education programs that serve homeless children, nor does it seek in any way to hinder or limit these services.

In fact, our amendment strives to reach an appropriate balance to make sure that there are HUD funds available to help these families.

I hope that my colleagues can join Senator BOND and me, and support this important amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am very pleased to work with our colleague from Rhode Island on this matter and strongly urge the support of this amendment as well. This is a good bill. We have an underlying bill that is a better bill because of what Senator REED and Senator BOND have added to it. This is a value added to the issue.

It is one that our colleague from Rhode Island has been involved in for virtually the entire time he has been in the Senate, and cared about. His earlier partner, Senator Allard of Colorado, worked with him on the issue. Senator Allard retired from the Sen-

ate, so Senator REED reached out to Senator BOND, who has a strong interest in housing issues, and became his partner, along with others. I am proud to call myself one of those partners, as chairman of the Banking Committee.

As we move forward, I know in my own State of Connecticut, we have had a 13-percent increase in homeless families in the last year and a half—that is really beginning in 2007 before this issue of foreclosures exploded in our communities. So I think those numbers are up beyond that.

The number of homeless children and families is now increasing. The fastest growing part of the population that is homeless is children in our country, and this is no longer just that person we see on a street corner who is struggling in their lives. Shelters are jam-packed. You can only stay so long. I know many of my colleagues have visited these facilities and seen families who, only weeks before, owned a home or had a place to live, are out of that situation and now are part of a growing number of people. So the timeliness of this legislation could not be more important. We are talking about trying to stop foreclosures.

What an important corollary to that to make sure we are simultaneously providing—Lord forbid people fall into that situation—an opportunity to have decent shelter.

So I thank my colleague from Rhode Island for his leadership. I applaud those of his cosponsors. This amendment would consolidate existing HUD McKinney-Vento homeless assistance programs and make several improvements to cost effectively end homelessness.

I have to take note because I mentioned McKinney-Vento. Both individuals are great friends of mine.

Stu McKinney was a Congressman from Connecticut for many years and took on the issue of homelessness. He passed away many years ago. He had a wonderful family. His son John is one of the Republican leaders in the Connecticut State legislature. His wife Lucy is a wonderful friend. Stu McKinney was a remarkable human being.

Of course, Bruce Vento was a great champion. I served with him in the House as well. McKinney-Vento, we throw these names around, but know that McKinney and Vento were two wonderful Members of Congress who cared deeply about what happened to people who fall on hard times.

We can add the name REED to that group as well. I compliment my friend and urge adoption of his amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I thank the chairman for his kind words and support. I do also recognize Senator Wayne Allard of Colorado. Wayne and I worked together on this legislation for a number of years. In fact, we sort of rotated between subcommittee chairman of the Housing Subcommittee. Consistently and in a very bipartisan

fashion, we worked together. We have been joined by Senator BOND whose leadership on the Appropriations Committee is remarkable when it comes to housing issues. We benefited immensely by the contributions of Senators Allard and BOND. I did not have the fortune of knowing Stuart McKinney. I knew him only by reputation. He was known as a sterling man who worked hard when the issue of homelessness was not as central to our consciousness as it is today.

Bruce Vento was extraordinarily decent. These two gentlemen sort of pointed the way. Now we have to take up the task and move it forward and further. I think we can with this legislation.

I thank the chairman for his support and urge all colleagues to join us in support of the amendment.

I suggest the absence of 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, we understand how busy everyone is, but we have to finish this bill tonight. We have people who have amendments they say they want to have a vote on. If they want to debate the issue, they will have to do it soon. We have two votes coming up. I have suggested to the manager of the bill that if people don't come over and there are amendments pending, he move to table them. If they don't want to bring the matters before the Senate, then we will move to third reading. We will finish this tonight. It is not fair for people to stand around waiting for all these great ideas to not come forward. If people want to have their amendments debated and voted on, they better do it pretty soon. We have two votes scheduled forthwith. After that, I hope the people who have amendments will come and speak to the manager of the bill and say: Here is how much time I would like or at least give some indication, just don't ignore us because we will not be ignoring them.

We have to move on. We have many things to do. After we finish this week, we have 2 weeks until the Memorial Day recess. I have mentioned there are certain days we will not have votes, but during the recess, we will not have votes. We have things we have to finish. We have to finish the procurement, credit cards, the supplemental, and this bill and some nominations. I hope everyone will cooperate with the managers of the bill. This is extremely important legislation. The longer we delay in passing it, the more harm it will do to communities all over America.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I believe this request has been agreed to by both the majority and minority.

I ask unanimous consent that there now be 2 minutes prior to a vote in relation to the Ensign second-degree amendment No. 1043 to the Boxer amendment No. 1038; that prior to the vote, the Ensign amendment be modified with the changes at the desk; that upon the use or yielding back of the time, the Senate proceed to vote in relation to the Ensign amendment, as modified; that if the Ensign amendment is not agreed to, then the Senate vote in relation to the Boxer amendment; provided further that if the Ensign amendment is agreed to, the Boxer amendment, as amended, be agreed to and the motion to reconsider be laid upon the table; that there then be 2 minutes of debate prior to a vote in relation to the DeMint amendment No. 1026, with the time equally divided and controlled between Senators DODD and DEMINT or their designees; that after the first vote in this sequence, the second vote be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, I wished to respond to Senator REID and ask a question to the chairman. I have another amendment that has to do with simply letting a homeowner know when his mortgage has been sold. We have objection on the other side. I wished to make it clear to everyone, I am willing to take that on a voice vote and not have to go through a recorded vote. I wished to make that comment. I hope Senator SHELBY and his side will allow us to move forward on that.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Without objection, it is so ordered.

#### FARM LOAN RESTRUCTURING

Mr. FEINGOLD. Mr. President, the Treasury Department has committed to provide almost \$250 billion in financial assistance to banks and financial institutions as part of TARP, which has become more commonly known as the bank bailout. Based on 2007 figures, 40 percent of all small farm loans come from banks and financial institutions that received more than \$1 billion each under TARP. Those loans represent a third of the monetary value of commercial farm credit in these types of loans. So it is clear that a sizable portion of farm loans have been provided by entities that received significant TARP funding.

The Treasury Department's Making Home Affordable program that was detailed on March 4 requires TARP recipients that provide home loans to take steps to avoid unnecessary foreclosures. The idea behind the program is that institutions that benefit from taxpayer funds should, in turn, be required to help home owners as much as possible, by making foreclosure the last resort when loan modification is not a viable alternative. This plan does not apply to farm loans, even though most family farmers and ranchers reside on their farms, and their homes are commonly listed as security on

their farm loans. So a foreclosure on a farm loan is also commonly a foreclosure on a home.

Like many other businesses, farmers and ranchers are struggling due to the ongoing economic troubles. The prices they receive have dropped by as much as 50 percent since last year. At the same time, input prices for many farmers remain relatively high. This squeeze from both sides has impacted dairy farmers in Wisconsin and across the country especially hard but is a growing concern in other segments of agriculture as well. Even when national prices have held up, in some localized areas the closure of animal processing facilities has virtually eliminated the market for some farmers' production. These factors beyond their control have meant it is increasingly difficult for many farmers to keep up with their payments, including farm loans.

Given that TARP has injected almost \$250 billion to support the financial stability of lenders, it seems reasonable to expect them to offer restructuring as an alternative to foreclosure for farm loans—just as they are required to do already for home loans and similar to the existing requirements for the farm credit system and direct Federal farm loans.

While Senator GILLIBRAND and I believe our amendment to extend requirements to provide loan restructuring as an alternative to foreclosure for farm loans is a sensible approach, we are willing to review the issue further and work with Chairman DODD on the issue. I appreciate the chairman's willingness to accept an alternative amendment we crafted to require a special report by the TARP Congressional Oversight Panel on farm loan restructuring. This report will analyze the current loan modification policies used by TARP recipients and examine the alternatives that could be used for a farm loan. Additionally, Chairman DODD has agreed to work with Senator GILLIBRAND and me to pull together a meeting of USDA and Treasury officials to hear from farm groups and farmer advocates to explain the growing need and how the existing restructuring program works currently under USDA direct loans and the farm credit system.

Mr. DODD. I appreciate the Senator from Wisconsin raising this issue and I will be pleased to work with him to arrange such a meeting, and to ensure that the Treasury Department looks into the concerns raised in the Senator's amendment.

Mr. FEINGOLD. I appreciate the chairman's support and assistance. I just want to note that this is an issue where instead of running from crisis to crisis, we have a chance to be a little proactive and get ahead of what could become a serious crisis in farm country if conditions do not improve. That is why there was such extensive support for my initial amendment from across the spectrum of agriculture-related organizations including the American

Farm Bureau Federation, Dairy Farmers of America, Midwest Dairy Coalition, National Farmers Union, National Family Farm Coalition, National Milk Producers Federation, National Sustainable Agriculture Coalition, Rural Advancement Foundation International—RAFI—USA—and almost 60 others. I will continue working to ensure that their concerns about farm loans are addressed.

AMENDMENT NO. 1032, AS MODIFIED

Mr. DODD. On behalf of Senator FEINGOLD, I call up amendment No. 1032 and ask that the amendment be modified with the changes at the desk; that upon modification, the amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 1032), as modified, was agreed to, as follows:

(Purpose: To require the Congressional Oversight Panel to submit a special report on farm loan restructuring)

At the end, add the following:

**TITLE —FARM LOAN RESTRUCTURING**  
**SEC. 01. CONGRESSIONAL OVERSIGHT PANEL**  
**SPECIAL REPORT.**

Section 125(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5233(b)) is amended by adding at the end the following:

“(3) SPECIAL REPORT ON FARM LOAN RESTRUCTURING.—Not later than 60 days after the date of enactment of this paragraph, the Oversight Panel shall submit a special report on farm loan restructuring that—

“(A) analyzes the state of the commercial farm credit markets and the use of loan restructuring as an alternative to foreclosure by recipients of financial assistance under the Troubled Asset Relief Program; and

“(B) includes an examination of and recommendation on the different methods for farm loan restructuring that could be used as part of a foreclosure mitigation program for farm loans made by recipients of financial assistance under the Troubled Asset Relief Program, including any programs for direct loan restructuring or modification carried out by the Farm Service Agency of the Department of Agriculture, the farm credit system, and the Making Home Affordable Program of the Department of the Treasury.”

AMENDMENT NO. 1043, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the Ensign amendment No. 1043 is modified by the changes at the desk.

The amendment (No. 1043), as modified, is as follows:

On page 1, strike line 6 and all that follows through page 6 line 5, and insert the following:

(a) SHORT TITLE.—This section may be cited as the “Public-Private Investment Program Improvement and Oversight Act of 2009”.

(b) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Troubled Asset Relief Program (in this section referred to as the “Special Inspector General”), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased

in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section referred to as the “Secretary”) that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private investment fund to identify for the Secretary each investor that, individually or together with its affiliates, directly or indirectly holds equity interests in the fund acquired as a result of—

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

(ii) any other investment decision by such investor or any of its affiliates to directly or indirectly invest in the fund that, in the aggregate, equal at least 10 percent of the equity interests in such fund.

(2) INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) REPORT.—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(c) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), \$15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under

the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insurance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) DEFINITION.—In this section, the term “public-private investment fund” means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or funds appropriated under the Emergency Economic Stabilization Act of 2008.

(f) OFFSET OF COSTS OF PROGRAM CHANGES.—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$2,331,000,000,” after “\$700,000,000”.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, there is now 2 minutes equally divided on the Ensign amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. BOXER. Mr. President, I am here to say this is a very friendly amendment to the underlying Boxer amendment. I hope everyone will support it. I am very proud of the work we did in a bipartisan way. I thank our staffs for doing this. It is a very significant amendment. What we are saying is, as we begin this new program, this Public-Private Partnership to buy toxic assets from the banks, Senator ENSIGN and I wish to make sure there is no collusion in the dealing, that there is no conflict of interest as this goes by. We wish to make sure the inspector general has the funding required to audit this program in a timely fashion. I am very pleased we have had this bipartisan coming together because we were a little bit far apart. But we worked hard for actually a couple weeks on this.

I urge everyone to vote for the Ensign-Pryor-Boxer second-degree amendment, and then we will move for adoption of the Boxer amendment, as amended.

I yield back the time. I do not see Senator ENSIGN here, but I know he believes very strongly in this second-degree amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. BOXER. I ask for the yeas and nays.

The PRESIDING OFFICER. They are already ordered.

Who yields time in opposition?

If there is no further debate on the Ensign amendment, the question is agreeing to amendment No. 1043, as modified.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—96

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

NOT VOTING—3

Johnson Kennedy Rockefeller

The amendment (No. 1043), as modified, was agreed to.

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

AMENDMENT NO. 1038

The PRESIDING OFFICER. Under the previous order, amendment No. 1038, as amended, is agreed to, and the motion to reconsider is considered made and laid upon the table.

AMENDMENT NO. 1026

Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 1026, offered by the Senator from South Carolina.

Who yields time?

The Senator from South Carolina is recognized.

Mr. DEMINT. Mr. President, if I could have my colleagues' attention, the next amendment is one that would prohibit the Federal Government from converting TARP loans to common equity. Millions of Americans are telling us that enough is enough. We were told that the TARP money would be used one way, and it hasn't been used that way. It has been used for loans. We cannot let it go further to let these loans convert to common stock.

I urge my colleagues to support at least some firewall between what the Federal Government does and the private sector. We didn't approve TARP funds so the Government could become common equity shareholders in banks across the country. Let's let them give this back when they are capitalized, but let's not get the Government in the business of owning banks.

My amendment would prohibit the conversion of these loans to common equity. I encourage my colleagues to support it.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, briefly, let me thank my colleague from South Carolina. The reason I oppose this amendment is because we ought to have the flexibility. It is not a mandate. Today, the Treasury has the right to be able to convert preferred shares to common shares. There is a reason for that. The markets react in terms of real capital to common shares, not preferred shares. Preferred shares are a form of debt. If you are trying to get capital into lending institutions, which is critical to be able to provide loans, you need to have capital. Common shares allow you to make that determination.

Secondly, on the upside for taxpayers, and TARP money coming back, there is a greater likelihood we will benefit if we have common shares. I am not advocating that kind of conversion, but you ought to have the flexibility to move from preferred to common. You may want to bifurcate that in some of these tranches. The Senator's amendment would prohibit that in any case. I think that is the wrong move to make.

I oppose the amendment and urge my colleagues to vote against it.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 1026.

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

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

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from

West Virginia (Mr. ROCKEFELLER), are necessarily absent.

The result was announced—yeas 36, nays 59, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—36

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

NAYS—59

Akaka	Feinstein	Mikulski
Baucus	Gillibrand	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bennett	Hatch	Pryor
Bingaman	Inouye	Reed
Boxer	Kaufman	Reid
Brown	Kerry	Sanders
Burriss	Klobuchar	Schumer
Byrd	Kohl	Shaheen
Cantwell	Landrieu	Specter
Cardin	Lautenberg	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Corker	Lincoln	Warner
Dodd	Martinez	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Merkley	

NOT VOTING—4

Bayh Kennedy  
Johnson Rockefeller

The amendment (No. 1026) was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 1036

Mr. KERRY. Mr. President, I call up amendment No. 1036, with a possible modification, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is pending and, without objection, it is the pending amendment.

Mr. KERRY. I thank the Chair.

Mr. President, I am offering this amendment to address the needs of renters in properties that have been foreclosed. This amendment is cosponsored by Majority Leader REID, Senate Banking Committee Chairman DODD, and Senators KENNEDY, BOXER, GILLIBRAND, and MERKLEY.

Congress has already taken extraordinary measures to help troubled borrowers in communities where they have abandoned foreclosed properties, but Congress has done very little to help renters who have been paying their rent regularly on time but, unfortunately, they have landlords who are losing their property to foreclosure. So these renters are absolutely blameless victims in the foreclosure catastrophe that has hit the country.

It is estimated that as many as one in every six mortgages in America is going to be lost to foreclosure in the



next 4 years. In Massachusetts, more than 12,000 homeowners lost their homes to foreclosure last year, an increase of 62 percent in just 1 year. About 3,300 of those foreclosures involved homes with two or three units, and most of those homes had tenants who were evicted.

These renters often have absolutely no idea that their home is about to be foreclosed. Depending on the State they live in, they may be evicted with absolutely no notice. Obviously, this could be particularly difficult for low-income renters who don't have the resources to relocate or even to do so very quickly.

Under this amendment, tenants in any federally related mortgage loan or any dwelling or residential real property with a lease have a right to remain in the unit until the end of the existing lease. If a new purchaser intends to use the property as a primary residence, then the lease may be terminated, but the tenant has to receive 90 days' notice to vacate.

So what we believe is that this provides an appropriate level of protection. It doesn't take away the right of someone who takes over the home in foreclosure to be able to then transition that property or it decides if that person is going to keep the property as a rental property, the person who already has a legitimate lease has a right to be able to stay.

The provisions of this amendment would sunset. I wish to make that clear. This sunset is based on the notion that this is to deal with the current crisis, and it would sunset on December 31, 2012. Furthermore, it states specifically that none of the provisions here would affect any State and local law that provides a longer time period or other additional protections to renters. So there is nothing here that reduces the protection renters get.

Let me give my colleagues a couple graphic examples. A landlord should not be allowed to come in, change the locks, and force out tenants who were there completely legitimately, with an expectation that they were coming home to their same old home. A recent story in the Boston Globe shows how devastating and, frankly, absurd this can be at times.

A Dorchester, MA, man returned to the home he had been renting for the past 4 years. He found that the locks had been changed and a foreclosure notice had been placed on the door. With a neighbor's help, he managed to crawl through a second-floor window to get into the apartment. When the police arrived, he had to beg them not to be arrested. Fortunately, he was not but only because he was able to show proof he rented the apartment. Then for the next 4 months, he had to battle with the bank that then owned the building, enduring no heat, no electricity, and no water while he went through that 4-month process.

This is disgraceful. Unfortunately, it is not an isolated incident. In early

January, a 45-year-old former factory worker from China came home to her third-floor walkup in east Boston to find a crew of moving men removing all of her furniture. She thought she was being robbed. She didn't speak English. She pleaded with them in Chinese to stop. She ended up on the street with all of her possessions until a city clerk noticed that the eviction paperwork, which the renter had never received, had expired. A judge issued an order that allowed her to move back. But for how long and under what circumstances?

These kinds of incidents show how completely vulnerable renters are to this foreclosure cycle we are witnessing. It is well documented how foreclosure is already overpowering countless numbers of homeowners who are unable to pay their mortgages, but foreclosure is also causing a rampage of sudden evictions of renters. My amendment would stop that rampage and help unsuspecting renters from falling victim to foreclosure in which they played absolutely no part.

I thank the Senate Banking Committee chairman, Senator DODD, for his support of this amendment. It will very plainly help families stay in their homes. It is a way of preventing an already grave situation being turned into one that is even more egregious and more insulting. I think Senator DODD understands this. No one has worked harder than he has to fight against the level of foreclosures that are taking place.

I appreciate his leadership and his support for the families across the Nation who are facing this kind of foreclosure problem.

I yield the floor.

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

AMENDMENT NO. 1033 TO AMENDMENT NO. 1018

Mr. CASEY. Madam President, I call up amendment No. 1033.

The PRESIDING OFFICER. Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. CASEY], for himself and Mr. LEAHY and Mr. SPECTER and Mrs. GILLIBRAND, proposes an amendment numbered 1033 to amendment No. 1018.

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

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

The amendment is as follows:

(Purpose: To enhance State and local neighborhood stabilization efforts by providing foreclosure prevention assistance to families threatened with foreclosure and permitting Statewide funding competition in minimum allocation States)

At the end of title I of the amendment, add the following:

**SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.**

(a) IN GENERAL.—Section 2301 of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

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

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

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

“(4) FORECLOSURE PREVENTION AND MITIGATION.—

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

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

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

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

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

Mr. CASEY. Madam President, this amendment deals with the Neighborhood Stabilization Program, a very important part of our strategy to fight the battle against foreclosure throughout the country. So many States have had a terrible time with record numbers of foreclosures. The State I am from, the State of Pennsylvania, fortunately has not had as big a problem as some States, but we still have a major challenge on our hands.

The good news is we have strategies to deal with it and we have a lot of locally grown, so to speak, strategies in big cities such as Philadelphia and smaller communities where people at the local level are dealing with it on the front end and the back end.

On the front end, that means having strategies in place for counseling and other ways to prevent people from getting into a problem of foreclosure.

This amendment is very simple. What it says is that dollars allocated under this program, some of those dollars should be allowed to be used for foreclosure prevention, as well as mitigation. Basically, what we are asking for in this amendment and what it would do is allow up to 10 percent of the funding under the Neighborhood Stabilization Program to be used for foreclosure prevention programs, activities, and services, and then, secondly, in another category, foreclosure mitigation programs, activities, and services.

I believe it is critically important to give local officials and people running programs at the local level the discretion—a very limited amount of discretion but some discretion—on how they spend those dollars. We hear a lot of discussion in this Chamber all the time

about empowering people at the local level. This is one way to do it. They know how to fight this battle. They have strategies in place to prevent people from falling into foreclosure, but also how to mitigate it if foreclosure comes about.

That is what this amendment is all about. I ask my colleagues to support it. It is the right thing to do for a lot of local communities. It is also the right thing to do for people who are expert at dealing with foreclosure prevention, as well as mitigation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I ask unanimous consent that the Reed amendment be the pending amendment.

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

AMENDMENT NO. 1042 TO AMENDMENT NO. 1040

(Purpose: To establish a pilot program for the expedited disposal of Federal real property)

Mr. COBURN. Madam President, I call up my amendment to the Reed amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 1042 to amendment No. 1040.

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

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

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

AMENDMENT NO. 1036

Mr. COBURN. Madam President, I am going to spend a minute talking about the Kerry amendment. I am sitting over here listening to him. There is no question he is right on what should happen in terms of notifications on evictions. But we are about to make the same mistake we make all the time. That is a State issue. State laws apply, and we are going to pull that in and make it a Federal issue. Anybody who has any connection with Federal insurance, FHA, anything else, we are now going to start writing the laws on contract law in my State, in his State, and every other State. That is exactly how we got into the trouble we are in today.

I hope the American people will look at how we got where we are. We got where we are because we are putting our nose into States' business. We think we have a nexus, no matter what the problem is, we ought to be solving it, which means why have State legislatures anymore? Why have Governors? Why not solve all the problems?

AMENDMENT NO. 1042

Now to the amendment at hand. You cannot help but be discouraged about the Congress. We have all these grand ideas and new programs to expand the

size and scope of the Federal Government, but we never want to pull it back in when it is not effective and when it is not working. So what do we do? We create a new program or we renew a new authorization, not looking at the facts, not looking at the downside consequences of it. What we do is just reauthorize it with a good goal in mind.

Helping homeless people is great for us to do. The McKinney-Vento Act in the past has made a great contribution to 250 homeless shelters in this country. But nobody pays attention to the fact that we spent \$300 million and went through 30,000 properties to fund 250 homeless shelters.

The other thing that is not recognized is that we have all these pieces of property we cannot get rid of. It is actually 69,850 properties that the Federal Government owns that it is not using. Some of them need to be razed, but they are costing us billions every year to maintain because we have a bureaucracy that we cannot get through to sell the property.

We have \$89 billion of cash sitting there right now—right now, \$89 billion. That is conservative appraisal values today on properties. We could put that money into the Federal Treasury. That is \$89 billion we would not borrow against our grandchildren if, in fact, we had a commonsense, cogent way to dispose of excess Federal properties.

All this amendment does is say let's create a pilot program for 5 years. Let's offset anything 100,000 square feet or less. Anything bigger let's go around it. We are not going to have 100,000-square-foot homeless shelters. And let's incentivize the agencies to get rid of their property by leaving 20 percent of the money they would get from selling those properties in the agency.

The GAO says one of our biggest at-risk programs is our real property management. Peter Orszag testified in his hearings on confirmation that it is a giant problem. So now we come up with an amendment that is common sense. It is a pilot project. All it does is say let's test it on a limited number of properties for 5 years and see if we can't move some of this property, can't lower the cost of Government for the American people, and let's do it in a way that is smart.

We have over 10,000 properties that need to be razed, need to be torn down, that we are expending tons of money to guard or protect or to maintain in a small fashion that is absolutely wasteful. Yet this body does not want to do that. It does not want to approach a commonsense program.

This does not do anything to homeless people. This does not take any opportunities away from them. There is a very set guideline in here on how they get to perform against the properties under the pilot project. But we are going to claim—because the homeless groups that support McKinney-Vento are not happy with it, we are going to claim we cannot do anything. So we

are not going to accept this amendment. They are going to raise a point of order because it costs \$20 million. But when CBO scored it, they did not count any of the funds coming from the properties.

It is a net gain of billions, and we are going to get a point of order. Why? Because we would rather satisfy completely an interest group than do what is best for the country as a whole. We would rather spend more money than save money. We would rather look good in one area than protect the future in the long term.

One cannot read this amendment and not say it doesn't make common sense for us to be doing it. It is absolute common sense. What the American people know, better than we do, is there is not much of that up here; otherwise, we would have solved this problem 4 years ago when I started offering amendments on it. But we don't want to do it. We don't want to take on the established, connected lobbyists and interest groups that say: No, we don't want that to happen.

We had an offer from the House to do five properties over 5 years. That was the offer from the House—5 out of 69,000 properties—69,000 pieces of property the Federal Government has that it wants to get rid of and we cannot do it because we are afraid we might miss one opportunity to put a piece of property in the hands of good people who want to do the right thing for those less fortunate.

Yet we sit here and we deny common sense. If we sold \$89 billion worth of properties, compound that interest over what we are borrowing right now over the next 5 years. Think about how that could offset some of our difficulties today. If we just did half of it, what would happen? The first thing the American people would say is, Hey, they are starting to get it. They are starting to understand what we are going through, making priorities.

The risk of missing an opportunity for a homeless shelter versus getting rid of a high-risk problem that this Federal Government has—not denying but maybe missing one opportunity as small compared to how it is going to impact the future homeless people in this country, who are going to be our grandkids who will never be able to afford to buy a home because we are strangling them with debt.

It will be fine to challenge this on a point of order. I will make a motion to waive the point of order. We can have a vote in the Senate about whether we are going to take commonsense actions that actually help our kids and our grandkids at the same time we are helping the homeless or we are going to say: No, we are not going to do anything new. We are not going to do common sense. We are not going to apply what the ordinary man would do with their own money. We are just going to reject it.

The fact that this is not even considered to be accepted in this bill is a

statement about this body that is unbelievable. There is no legitimate complaint with this pilot program. The only complaint is, those who lobby on the other side do not want it or the only complaint is they are afraid we will not get everything we want if you do that.

This Nation needs to learn right now; if we are going to get out of these problems, we are all going to have to sacrifice something. Everybody is going to have to sacrifice. That means we can't have everything we want. So the very idea that we won't address this issue at this time on housing, when we have a big, large, overburdening problem with real property in the Federal Government, says: What are we thinking about? Why does this not fit within the bounds of what we are supposed to be doing right now? Who are we going to hurt if we create a pilot program to get rid of properties over 100,000 square feet? How much money are we going to save just on maintenance every year? It has to be seen in the light of the whole picture, not just in the light of the homeless. If we fail to do that, we fail to think about the long-term benefits that will come from having common sense in real property reform. We ought to be doing this. We ought to be helping the next two generations.

I am reminded that I did 27 townhall meetings while we were on break. And I will never forget, this guy came up to me and said: I don't care what you do to me, quit hurting my children. Quit hurting my children.

Not accepting this amendment hurts everybody's kids. It is money we could save if we wanted to, but we won't because we don't have the backbone or the courage to do what is the best right thing for the country right now. I have no doubt we will do the politically expedient thing. We won't work on real property. We won't solve this big issue that costs us billions every year just in maintenance costs. We will do the easy thing.

I will have more to say about this as it is challenged on the point of order, and also before the vote, but I hope my colleagues start becoming partisan for our kids, partisan for our children. We can help the homeless and help our kids too. We can help the homeless and create a better future for our kids, but we can't if we won't take a risk. So my challenge to my colleagues is to at least look at the amendment and say: If it was my money, what would I be doing? And the fact is, if it was your money, you wouldn't be sitting on \$89 billion worth of property that is costing us billions every year to maintain, that we are not using, and that we can't get through the process to get rid of.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, Senator COBURN has been working very diligently over the last several years to deal with the issue of property disposi-

tion. We have established over many decades now certain priorities to access Federal properties, and included in those are very low-priority agencies that provide shelter for homeless people. Prior to these, in my recollection of the distribution of the properties, is the right of State and local governments to buy property at a discounted price.

Madam President, as Governor, you have probably considered this option many times. It is my understanding that this underlying bill would exempt a number of the properties from the Federal Property Act provisions that would allow, in fact, State and local governments to access these properties at prices that are reasonable, particularly now, given the budget pressures of local governments. But, in addition, this 5-year pilot program would encompass the largest and potentially most valuable properties that are held in surplus by the United States.

It is far from a pilot program. What our colleagues in the House are talking about is a true pilot program—a limited number of properties to validate and really legitimize the approach Senator COBURN and others are suggesting. I know the Senator has been working very diligently and sincerely with colleagues on both sides of the aisle, but this represents a version, an early version, I believe, that, at least in terms of discussion with others, has been changed somewhat.

One point I wish to make with respect to the underlying amendment that is important is that we are not attempting to deal with the issue of property distribution, which cuts across the entire spectrum of Federal properties—practically every agency in the Federal Government. That encompasses not only the rights—very limited rights—of homeless groups to acquire property but fundamentally the rights of State and local communities to acquire this property. In fact, for many State and local communities, this program is a major source of economic development.

Again looking at the Chair, who was the Governor of the State of New Hampshire, Pease Air Force Base was surplus property which is now a dynamic economic development tool. My guess, again, was that it was obtained by the State, probably using at least in part some of these powers. All of that would be altered in this pilot program that would give, in fact, public lands managers wide discretion to dispose of properties. Again, it is a pilot program, but it is so long term. Five years is not exactly a short-term, let's do an experiment, evaluate it, and see what can be done.

Our legislation, the underlying amendment, is the result of many years of bipartisan effort to deal with the issue of homelessness, not the distribution or disposition of public property. I think it would represent an extraordinary improvement in the current system. It is more efficient, it consolidates applications, it gives

flexibility to local communities, and it deals with the problem that I think is equally compelling for the children of today. There are thousands of children who don't have a home. We have to be cognizant of the future. We have to take prudent steps—and I wish, looking back over the last 8 years, some of my colleagues on this side would have been much more prudent in their fiscal policies that took a surplus in 2001 and turned it into a huge deficit in 2008, 2009. So the ability to look ahead is not exclusive to one side of the aisle. But the legislation I have proposed, along with Senator BOND, represents a reauthorization of McKinney-Vento, which will give the States and localities better tools to deal with the current crisis of countless families who are without homes.

My concern is not only with the breadth of this amendment, with its focus on one part of a much more complicated puzzle, but also the fact that I think it could seriously jeopardize the passage of what is important legislation—the McKinney-Vento reauthorization.

I do believe, because of the Senator's efforts, because of his sincere and energetic and consistent advocacy of this, that this issue is resonating on both sides—both with our colleagues in the House and here in the Senate. I would be extraordinarily disappointed if we were to miss a great opportunity to fundamentally reform the program.

We worked with the Senator last Congress. We had bipartisan support, led by Senator Allard. We had, in fact, the clear endorsement of President Bush and the Housing and Urban Development Department under the Bush administration for our homelessness proposal, but it failed because this legislation, the Reed amendment, was embroiled in this controversy of property disposition which spans every agency of the Federal Government. It is not just HUD, it is the Department of Defense, the Department of Agriculture, the Department of the Interior.

I think if we are going to do something this comprehensive, let's not single out the homelessness initiative as sort of the wedge or the fulcrum or the lever. Let's step back, work collectively, collaboratively, and pass legislation that will apply across the board and will do so in a principled and practical way. There is no opposition to that.

I would also note, as the Senator alluded to, that at an appropriate moment there will be a point of order raised on the legislation. But I would hope that, again, we could move through this proposed second degree, pass the underlying amendment, and not forget but in fact redouble our efforts to approach this in a comprehensive way. I know many colleagues—not only Senator COBURN but Senator CARPER—are sincerely and enthusiastically interested in having reform of the way we dispose of property.

I am certainly also in a position to say personally that I think if we do

this, we have to take into consideration the equities of all the parties. This is not just about homeless groups that get grants, this is about State and local governments, this is about the way we have established over many years the disposition of Federal property. Can it be improved? Yes, it can. Should we improve it? Yes, we should. But I think to essentially target the homeless population as sort of the lever for this change is the wrong approach. So I would, at the appropriate moment, either myself or the manager, raise a point of order.

With that, I yield the floor.

Madam President, I do have another amendment which I would like to call up, but I see the Senator from Oklahoma is here, and he should have an opportunity to speak.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. I appreciate Senator REED's understanding of our effort, but the question arises: We have 69,850 properties. This isn't a big pilot. It only allows 750 properties to be disposed of. Think about that—750. It is barely over 1 percent. It is going to be \$800 million to \$1 billion, and we are going to block everything—a pilot—because it is too big, too expansive—750 properties out of 69,850. We don't think we ought to attach that now?

We put in extra provisions to make sure the homeless can have these, but most of them aren't good for anything. In fact, most of them will probably be razed. But the fact is, to say we can't do it—we have been saying we can't do it for 4½ years. Can't do it. Can't do it. When can we do it? And 750 properties to look at over a 5-year period is just 150 properties a year. How small does it need to be for us to have a pilot—out of 750, 150 properties a year? A total of 69,850. One hundred fifty, and we can't do that? And because we can't do that, that becomes a symbol for the rest of our failures. We can't sell 750 properties and protect the homeless while we do it and lower some of the burden of the excess real property this Government has. If we can't do that on this bill, a small number of properties, I am wondering what we can do.

It confounds me. It doesn't fit with any sort of common sense. It doesn't fit with any reason. It doesn't fit with any long-term view of how do we get out of the mess we are in. What it fits with is that we don't want to do it because it is hard. We don't want to do it because somebody might yell, somebody might scream. But how do we do the best right thing—not the best thing, the best right thing—for the country? I can tell you that letting another year go by when we have 73,000 properties and \$98 billion worth of money and \$8 billion a year to maintain it isn't the best right thing.

I am used to standing up and losing, but I am not going to stop putting forward ideas that we shouldn't be rejecting, that make a difference in the outcome for the future of this country.

This doesn't have a liberal or conservative slant to it. It is just plain old, good old Oklahoma common sense, good old Connecticut common sense, good old Rhode Island common sense. The fact we would reject it says that our motives have to be somewhat suspect on the reasons we would reject it at this time, especially when we are in the trouble we are in.

It is so discouraging to go home and hear people say, why are you doing what you are doing? Why aren't we fixing this? Why aren't we making the small steps that create a big step that create a yard that create a mile that secures the future?

It is amazing to me that you can have a real objection to this amendment—not 150 properties a year. That isn't going to impact anybody except our kids in the long term, and it is going to impact them positively. But we are going to have a parochial reason why we might not do it? I think that is what I might have heard implied. A parochial protection? We are going to die of parochialism. It is going to kill us. Eighty-plus billion dollars sitting there and we could take and lower the impact of this tremendous downturn and make a difference. Yet we are going to say no.

As they say in Oklahoma—go figure.

Mr. DODD. Will my colleague yield?

Mr. COBURN. I am happy to yield.

Mr. DODD. I understand what my colleague from Rhode Island is talking about, but I must say our colleague from Oklahoma is making a lot of sense. He often does so. Who has jurisdiction over this? Does it depend upon the Federal property, where it is located? Which of the committees?

Mr. COBURN. Homeland Security.

Mr. DODD. People say debates here don't have an effect on anybody. I will make a commitment to you as chairman of the Banking Committee, I will work with you on this.

Mr. COBURN. I appreciate the Senator's offer.

Mr. DODD. I am intrigued by what the Senator is saying. I suspect a lot of other people don't disagree with what he is driving at here. We need to pull some people together to see if we might get something done.

At this late hour of the night I might not be listening to this debate were I not chairing the committee and managing the bill on the floor, but my colleague from Oklahoma I think has raised a very valuable point and it is worthy of our consideration and I would like to sit with him and see if I can't help.

Mr. COBURN. I am happy to take the Senator up on that offer as soon as I lose my amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I want to give my colleague from Rhode Island a chance to be heard but—let him offer his amendment.

Mr. REED. Madam President, there will be an amendment that I propose

that will help qualify the status of warrants that are currently held by the Department of Treasury with respect to TARP. It will give the Secretary of the Treasury discretion to dispose of those warrants when he feels it is appropriate. Right now, under language that was adopted in the context of our debates over the recent amendments to TARP, there is a mandatory requirement for the Secretary to surrender or dispose of the warrants if the TARP funds are returned by a financial institution.

I believe the Secretary should have the discretion to hold these warrants if he thinks it is in the best interests of the taxpayers. The whole point of the warrants, and a point I insisted upon in the original legislation for the TARP bill last September, indeed a point that I found to resonate with many of our colleagues on the Republican side—SPENCER BACHUS, the ranking Republican on the House Financial Affairs Committee cited this specifically as one of the reasons why the TARP program could be supported—and that is, in addition to our investment in preferred stock which pays dividends, the Government would also have the right to obtain warrants; that would be the right to acquire stock in the future.

Interestingly enough, at the time we were debating the TARP bill, Warren Buffett, who was a very sophisticated and is a very sophisticated investor, made a preferred stock investment in a large financial institution and also received warrants. So this is typically how many of these deals are done.

At this juncture the institutions receiving TARP funds have the right at any time to pay it back. That is an issue that has been settled. It is the policy of the United States. But I believe the Secretary of the Treasury should have the discretion, because these are separate instruments, to hold those warrants, to maximize, if he can, the market price that he will receive on behalf of the taxpayers.

This, again, is an issue that was very critical to many of us in the initial adoption of the TARP legislation. We are not mandating that the Secretary of the Treasury surrender the warrants, nor are we mandating that he keep them. It will be discretionary. He and his colleagues have, and I believe must exercise, the judgment when it is an appropriate time to surrender these warrants or to take other actions under the contracts under which they were issued, to ensure value for taxpayers.

We have made very significant investments in the financial system through the TARP program. The premise, again, was that not only would the direct investment be repaid, but taxpayers would benefit from the recovery of these institutions. We are seeing that recovery now. We have a ways to go but we are seeing some encouraging signs. I believe, again, that having assumed risks, taxpayers should benefit from the rewards of a revived

financial institution and in that case we are simply making this discretionary with the Secretary of the Treasury so that he can judge whether and when the appropriate time is to surrender the warrants, to receive fair market price for the warrants, and to ultimately help benefit the taxpayers who have put up the money to deal with a huge financial crisis.

At the appropriate time I believe there will be a consent to move forward on this amendment. I hope it would be supported and adopted, but I wanted to make that point at this juncture.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I rise and offer my support for the amendment of the Senator from Rhode Island that repeals the requirement for the Secretary of the Treasury to liquidate warrants under repayment of obligations under the Troubled Asset Relief Program. The Senator from Rhode Island I think has laid out the rationale for this, but the point is under existing law it was rather restrictive and required a specific action without consideration of what the values may be. What the Senator is suggesting is moving from a "shall" requirement to a "may" gives flexibility, which is exactly what we have been arguing for today in a number of these amendments, giving flexibility dealing with preferred and common shares—flexibility. Some of the other amendments earlier reflect on this flexibility, which is critical.

These warrants change over time. It doesn't suggest by holding back you will necessarily get a better value. It doesn't mean by releasing them earlier you will do better. It is obviously a judgment call and you want to give people the opportunity to make the judgment calls. The beneficiary of all of this ultimately will be the American taxpayer and that is ultimately what we are trying to achieve.

I think my colleague has once again offered a very wise and worthwhile amendment to this bill. It strengthens it, in my view. I thank him for it. I don't know if there is any objection to this at all.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Madam President, I believe they are working on an appropriate consent to adopt it.

Mr. DODD. As soon as that happens, we will move this along and see if we can't get this agreed to.

AMENDMENT NO. 1036

I want to mention a few words about the amendment offered by Senator KERRY from Massachusetts and Senator GILLIBRAND from New York and Senator REID from Nevada, if I may.

This is a very good amendment. My hope is my colleagues will support it. We offered an amendment on earlier legislation dealing with rental properties that were affected under the Government-sponsored enterprise. Under that legislation, we prohibited

those properties from evicting tenants who were current in their rental obligations when a property was foreclosed or purchased by a new buyer, the thought being, if a tenant is current in their obligations, they should not be evicted unless they are on a month to month, in which case at the end of the month the landlord would have that right. But if there are leases of longer duration, these tenants ought to be respected under the contracts they have.

I can say in my own State of Connecticut, we do not have a great supply of affordable rental stock. This is not unique in my State. I think this is true in most States. As you are watching more and more foreclosures occurring and as people lose their homes, the demand for rental stock is increasing. The cost of it is prohibitive. In the State of Connecticut—I believe these numbers are correct—I think you need an hourly income of close to \$21 an hour to afford the average two-bedroom apartment. Obviously that could fluctuate to some degree, but that gives you some idea of the cost, and that is close to three minimum wage jobs, in effect, in a day to pick up that kind of income.

It is important that we do what we can to protect people in this situation. That is exactly what Senator KERRY does, in that the measure requires at least 90-days' notice for all renters in federally related housing, but would honor the full term of any existing lease unless a new owner will occupy the home. The amendment also amends the housing voucher statute to preserve section 8 contracts at foreclosure. These provisions would be in effect during the foreclosure crisis, sunset at the end of December 2012.

This is a very worthwhile proposal. We are protecting an awful lot of good people out there. Frankly, I am somewhat perplexed that there are those who object to this. It seems to me it would be in the interests of a new owner to want to keep people in paying rents, current in those obligations, rather than evicting them and beginning another process unless they are looking for some extremely—higher rents coming in. But it seems to me, given the amount of people out of work, given the declining value of properties, you are probably acquiring these properties at a lot less cost than the previous owner may have had which means the rents you would have to secure wouldn't have to be as expensive to maintain it.

At the very hour people are worrying about where they are going to live—we just heard a discussion by Senator REED about homeless families. The largest increase in homeless families is children in our country.

Again, imagine that family tonight—10,000 tonight, as there were last night, as there will be tomorrow night and every night—who has discovered they are in such default their home is on the auction block or has been lost. That is a pretty compelling moment to know

you have lost your home. It further compounds that problem by not knowing where you are going to live, where you are going to take your family—showing up tonight and looking at your children and suggesting you are going to move, going to have to find a different place to live.

What Senator KERRY is saying here, at least for tenants who are in good standing on their properties, they should not be affected because the property ended up in foreclosure through whatever rationale that may have happened to the landlord. It seems to me, putting people out on the street is not what we ought to be doing at a time such as this. Whatever your views are about whether these programs are working as effectively as they should, I think all of us agree the innocent who are being confronted with these decisions should not be left in a more precarious position than they are already in, and that is exactly what would happen in the absence of the Kerry amendment, the Kerry-Gillibrand-Reid amendment.

Once again the majority leader, Senator REID, has taken a strong position on these matters and is making a difference, as he has, by allowing these matters to come up and being as supportive as he has of the various efforts we are making here to complete this work.

I thank Senator KERRY of Massachusetts, his colleagues Senator REID of Nevada and Senator GILLIBRAND of New York, for offering this idea. It is one deserving of our support and will make a real difference.

People have asked whether this bill is going to make a real difference for real people. This amendment makes a real difference for real people, and is exactly what we ought to be doing. These were not the people who caused the problems they are in. These are the victims of what is occurring. If we care about what is happening to them, this is a wonderful way to say we understand it, we are stepping up and making a difference in their lives.

With that, I yield the floor.

Ms. SNOWE. Madam President, I rise in strong support of the Boxer-Snowe amendment, which would be modified by an Ensign-Pryor-Boxer-Snowe second-degree perfecting amendment, to provide for additional oversight of the Public-Private Investment Program—PPIP—which the Treasury Department has established to help remove toxic securities from bank balance sheets and restore the flow of credit.

With up to \$100 billion of Troubled Asset Relief Program—TARP—dollars at stake for PPIP alone, it is critical that we take every step at our disposal to safeguard taxpayer dollars. To that end, I am pleased to have collaborated with Senators ENSIGN and PRYOR to modify the amendment Senator BOXER and I initially offered. I hope that the Senate will now approve our consensus language overwhelmingly.

One common feature of PPIP, which will work in conjunction with the

Term Asset-Backed Loan Securities Loan Facility—TALF—that Treasury has established to get small business and consumer credit flowing once again, is that both programs match dollars put forth by private investors with money from TARP, the Federal Reserve, and Federal Deposit Insurance Corporation. One concern that has been raised by private observers and the Special Inspector General for TARP Neil Barofsky in his April 21 report to Congress is the potential for fraud. Indeed, Mr. Barofsky's assessment could not be clearer, as he wrote, "Many aspects of PPIP could make it inherently vulnerable to fraud, waste, and abuse."

Unfortunately, the potential for fraud appears widespread. For example, as private funds with access to taxpayer dollars will be created to purchase and manage toxic assets under PPIP, conflicts of interest between what is best for the fund manager and the taxpayer could easily arise. In cases in which a fund already owns or manages the same types of assets it is proposing to purchase on behalf of taxpayers, that could give it the incentive to overpay. The reason is that it could make more money if the price of the assets it already owned were bid up. At the same time, the taxpayer will have overpaid for assets and forfeited an investment fee to the fund managers.

To ensure that taxpayers are not bilked, the original Boxer-Snowe amendment had two objectives. First and foremost, it would require Treasury to work with Special Inspector General for TARP Barofsky to write stringent conflict of interest rules. Second, it would provide Mr. Barofsky's office an additional \$15 million to audit transactions under PPIP to ensure taxpayers do not get fleeced. As I mentioned, that Senator BOXER and I were able to work with Senators ENSIGN and PRYOR to strengthen the taxpayer protections contained in our initial amendment. The result is a consensus amendment that will ensure PPIP is subject to strict safeguards that will still allow it to get underway and begin to clear toxic assets from bank balance sheets, thereby, spurring the flow of credit.

Turning to specifics, our consensus amendment will require the Treasury Department to impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests.

Second, each public-private investment fund would be required to disclose quarterly to the Secretary of the Treasury the value of the 10 largest positions of each fund manager.

Third, each manager of a public/private investment fund would be obliged to acknowledge a fiduciary duty to both the public and private investors in

such a fund, as well as develop a robust ethics policy and methods to ensure compliance.

Fourth, our amendment would mandate that Special Inspector General Barofsky would have access to all books and records of a public-private investment fund, as well as each fund manager to retain all relevant books, documents, and records to facilitate investigations.

Last but not least, our amendment would add critical legislation proposed by Senators ENSIGN and PRYOR that would require the Secretary of the Treasury to work with Special Inspector General Barofsky to issue regulations governing the interaction of PPIP with the Term-Asset Backed Securities Loan Facility to address concerns regarding the potential for excessive leverage that could result from interactions between the programs. The issue here, is that although both programs would match private funds with public dollars, the government's stake is generally several times higher. For example, in the case of PPIP alone, private funds may only have to put up \$7 for each \$100 invested. Given that it is always easier to play with other people's money than your own, I am pleased that this language has been added to the underlying Boxer-Snowe amendment.

I ask my colleagues to support this commonsense amendment that would safeguard taxpayer funds on both the front end by mandating critically necessary conflict of interest rules on PPIP and on the back end as well by providing Inspector General Barofsky with additional resources to investigate those who would seek to enrich themselves at taxpayer expense.

#### AMENDMENT NO. 1039, AS MODIFIED

Mr. DODD. Madam President, I am going to make a series of unanimous consent requests dealing with modifications.

On behalf of Senator REED of Rhode Island, I call up his amendment No. 1039 and ask that the amendment be modified with the changes at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. REED, proposes an amendment numbered 1039, as modified.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment, as modified, is as follows:

In lieu of the matter proposed to be inserted, insert the following:

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

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended by striking "shall liquidate warrants associated with such assistance at the current market price" and inserting ", at the market price, may liquidate warrants associated with such assistance".

#### AMENDMENTS NOS. 1020 AND 1021, AS MODIFIED

Mr. DODD. On behalf of Senator GRASSLEY, I ask unanimous consent

that his amendments Nos. 1020 and 1021 be modified with the changes at the desk.

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

The amendments, as modified, are as follows:

#### AMENDMENT NO. 1020

At the end of the bill, add the following:

#### TITLE V—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM SEC. 501. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.

Section 116 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking "and" at the end;

(B) in clause (iv), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act."; and

(2) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (F); and

(B) by striking subparagraphs (A) and (B) and inserting the following:

"(A) DEFINITION.—In this paragraph, the term 'governmental unit' has the meaning given under section 101(27) of title 11, United States Code, and does not include any insured depository institution as defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 8113).

"(B) GAO PRESENCE.—The Secretary shall provide the Comptroller General with appropriate space and facilities in the Department of the Treasury as necessary to facilitate oversight of the TARP until the termination date established in section 5230 of this title.

"(C) ACCESS TO RECORDS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, any entity that is established by a Federal reserve bank and receives funding from the TARP, or any entity (other than a governmental unit) participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

"(ii) VERIFICATION.—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

"(iii) COPIES.—The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.

"(D) AGREEMENT BY ENTITIES.—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity (other than a governmental unit) participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.



**“(E) RESTRICTION ON PUBLIC DISCLOSURE.—**

“(i) **IN GENERAL.**—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

“(ii) **EXCEPTION FOR CONGRESSIONAL COMMITTEES.**—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over a private or public entity referred to under subparagraph (C).

“(iii) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, section 714(c) of title 31, United States Code, or other applicable provisions of law.”.

## AMENDMENT NO. 1021

At the appropriate place insert the following:

**TITLE —COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES****SEC. —. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.**

(a) **BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.**—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking “Federal Reserve Board,” and inserting “Board of Governors of the Federal Reserve System (in this section referred to as the ‘Board’),”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “Federal Reserve Board,” and inserting “Board”; and

(B) in paragraph (4), by striking “of Governors”.

(b) **CONFIDENTIAL INFORMATION.**—Section 714(c) of title 31, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

“(4) This subsection shall not—

(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.”.

(c) **ACCESS TO RECORDS.**—Section 714(d) of title 31, United States Code, is amended—

(1) in paragraph (1), by inserting “The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.” after the first sentence;

(2) in paragraph (2), by inserting “, copies of any record,” after “records”; and

(3) by adding at the end the following:

“(3)(A) For purposes of conducting audits and examinations under subsection (e), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

“(i) any entity established by any action taken by the Board described under subsection (e);

“(ii) any entity receiving assistance from any action taken by the Board described under subsection (e), to the extent that the access and request relates to that assistance; and

“(iii) the officers, directors, employees, independent public accountants, financial advisors and any and all representatives of any entity described under clause (i) or (ii) to the extent that the access and request relates to that assistance;

“(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request.

“(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) shall provide for access by the Comptroller General in accordance with this paragraph.”.

(d) **AUDITS OF CERTAIN ACTIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.**—Section 714 of title 31, United States Code, is amended by adding at the end the following:

“(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under—

“(1) the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) with respect to a single and specific partnership or corporation.

## AMENDMENT NO. 1035 TO AMENDMENT NO. 1018

Mr. DODD. On behalf of Senator BOXER, I call up amendment No. 1035.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mrs. BOXER, proposes an amendment numbered 1035 to amendment No. 1018.

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

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

The amendment is as follows:

(Purpose: To require notice to consumers when a mortgage loan has been sold, transferred, or assigned to a third party)

At the appropriate place, insert the following:

**SEC. —. NOTIFICATION OF SALE OR TRANSFER OF MORTGAGE LOANS.**

(a) **IN GENERAL.**—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following:

“(g) **NOTICE OF NEW CREDITOR.**—

“(1) **IN GENERAL.**—In addition to other disclosures required by this title, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

“(A) the identity, address, telephone number of the new creditor;

“(B) the date of transfer;

“(C) how to reach an agent or party having authority to act on behalf of the new creditor;

“(D) the location of the place where transfer of ownership of the debt is recorded; and

“(E) any other relevant information regarding the new creditor.

“(2) **DEFINITION.**—As used in this subsection, the term ‘mortgage loan’ means any consumer credit transaction that is secured by the principal dwelling of a consumer.”.

(b) **PRIVATE RIGHT OF ACTION.**—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended by inserting “subsection (f) or (g) of section 131,” after “section 125.”.

## AMENDMENT NO. 1031, AS MODIFIED, TO AMENDMENT NO. 1018

Mr. DODD. On behalf of Senator SCHUMER, I call up amendment No. 1031 and ask unanimous consent that the amendment be modified with the changes at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. SCHUMER, proposes an amendment numbered 1031, as modified, to amendment No. 1018.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

(Purpose: To establish a multifamily mortgage resolution program)

At the end of title I of the amendment, add the following:

**SEC. 105. MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.**

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding at the end the following:

**“SEC. 137. MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.**

“(a) **ESTABLISHMENT.**—The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall develop a program to stabilize multifamily properties which are delinquent, at risk of default or disinvestment, or in foreclosure. The Secretary may use any existing authority to carry out the program.

“(b) **FOCUS OF PROGRAM.**—The program developed under this section shall be used to ensure the protection of current and future tenants of at risk multifamily properties by—

“(1) creating sustainable financing of such properties that is based on—

“(A) the current rental income generated by such properties; and

“(B) the preservation of adequate operating reserves;

“(2) maintaining the level of Federal, State, and city subsidies in effect as of the date of enactment of this section; and

“(3) facilitating the transfer, when necessary, of such properties to new owners, provided that the Secretary of the Treasury determines such new owner to be responsible.

“(c) **COORDINATION.**—The Secretary of the Treasury shall in carrying out the program developed under this section coordinate with the Secretary of Housing and Urban Development, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Agency, and any other Federal Government agency that the Secretary considers appropriate.

“(d) **DEFINITION.**—For purposes of this section, the term ‘multifamily properties’ means a residential structure that consists of 5 or more dwelling units.”.

## AMENDMENT NO. 1036, AS MODIFIED

Mr. DODD. On behalf of Senator KERRY, I ask unanimous consent that his amendment be modified with the changes at the desk.

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

The amendment, as modified, is as follows:

At the end of the amendment, add the following:

**TITLE V—PROTECTING TENANTS AT FORECLOSURE ACT**

**SEC. 501. SHORT TITLE.**

This title may be cited as the “Protecting Tenants at Foreclosure Act of 2009”.

**SEC. 502. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.**

(a) IN GENERAL.—In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor under the contract is not the tenant;

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

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

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

**SEC. 503. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.**

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semicolon in subparagraph (C) the following: “and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the initial term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner—

“(i) will occupy the unit as a primary residence; and

“(ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.”; and

(2) by inserting at the end of subparagraph (F) the following: “In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential

real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.”.

**SEC. 504. SUNSET.**

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

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

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

AMENDMENT NO. 1021

Mr. GRASSLEY. Madam President, I rise to speak on an amendment I have offered, 1021. It will have Democratic and Republican cosponsors. This substitute amendment gives the Government Accountability Office authority to audit the Federal Reserve.

However, this version limits the Government Accountability Office’s new authority to matters involving the Federal Reserve’s participation in the TARP or its emergency action under section 13(3) authority.

This is a much narrower version of the original amendment. It is intended to address the Federal Reserve’s concern that its core monetary policy functions remain independent of the Government Accountability Office scrutiny.

For over 90 years, the Fed has conducted monetary policy through a combination of open-market operations and changes in banking reserve requirements. On rare occasions, the Fed has invoked its authority under section 13(3) to take extraordinary action to address what they would decide was a very short-term crisis. While these actions are intended to be temporary, they can have a lasting impact on specific institutions and on the long-term credibility of the Fed.

The Fed has created a number of facilities that are making nonrecourse loans or buying and selling assets through a subsidiary of the Fed. These transactions involve undisclosed counterparties. Without adequate oversight, no one will ever know the terms or conditions of these transactions: Who received what from the Fed and what did the Fed receive in return? How much did each of those entities profit and how much did the taxpayers lose?

This amendment is simply about accountability, not monetary policy, be-

cause I do not want to interfere in Fed monetary policy. But I do think that when we are helping out businesses, the way we are, sometimes through appropriations from Congress, sometimes through facilities and powers of the Fed, we are talking about taxpayers’ money.

If you think the Fed does not have anything to do with taxpayers’ money, remember that last year they returned, I think it was, \$38 billion to the Federal Treasury—I know it was in the mid-30s that it returned to the Federal Treasury in year-end operations.

They are not going to be able to do that this year, but that \$38 billion goes into the general fund to be used, like money being fungible. It is not seen by the taxpayers any differently from the income tax or the payroll taxes that are paid. There is an interest in protecting the taxpayers’ money. It is not an interest in doing anything with the independence of the Fed, it is just a matter of knowing who is getting helped, what is being helped, are they profiting, how much are they profiting, and the extent to which the taxpayers are being protected, the instruments the Fed takes in as collateral. These are things that it is good to know. We need to know. We need to know them. Why? Because there are a lot of facilities, institutions, companies being helped that would be belly up—well, I guess you would say they are belly up or they would not need the help—but belly up and they exist because of either Congress appropriating money or because of the Fed intervening.

All good reasons maybe but they operate. So, in my judgment, the public’s business ought to be public. Oh, there are some exceptions, such as intelligence information, national security, some privacy. But everything else ought to be public. That is what this amendment is all about. It is all about making sure money is handled responsibly.

The Fed is only supposed to lend money against good collateral. Their authority to conduct monetary policy must not be allowed to degenerate into a taxpayer-funded bailout for those who engage in reckless lending.

I hope people who are going to be voting on this amendment tomorrow will consider what we are trying to do. We are trying to do everything this President said in his campaign—the President has not spoken on this issue, but I am speaking in a general way about what the President said in his campaign—that he wanted more transparency in Government, he wanted more accountability in Government.

For the most part, the President, through various things, maybe not completed yet, has tried to deliver on that promise—putting TARP expenditures on the Internet, for instance, so anybody in the United States can know, maybe not today but eventually, where every penny went—because it is the taxpayers’ money. This Government belongs to the American people.

What this Government does that affects the pocketbooks of Americans ought to be made public.

This amendment is not something to try to destroy anything. It is not something trying to get involved in that which affects the monetary policy of the Fed. We are just trying to get information out and make sure people are accountable. We have to have this information to know that. It doesn't hurt one iota to make sure the public has access to this information. I hope Members will support amendment No. 1021 tomorrow.

There is another amendment which, it is my understanding, the managers will accept. But 1021 we will have to have a vote on. I have given my reasons. I may take a minute in the morning to expand on that and remind Senators, but I hope we can move forward and get this agreed to.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my friend from Iowa. He has been a consistent advocate over the years for transparency and accountability. I am pleased to work with him on these amendments. I am fairly confident the committee will accept these amendments as part of the underlying bill. It strengthens what we are trying to achieve. I regret we couldn't arrange to do that this evening while the Senator was here, but there are other powers that my colleague and I are well aware of that need to make sure they pour over everything before we go forward. I thank him for his counsel and his advice and this recommendation.

Mr. GRASSLEY. I thank the Senator.

Mr. DODD. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

#### CREDIT CARD INDUSTRY

Mr. SANDERS. Mr. President, I wanted to take a couple minutes to talk about an issue that will be on the Senate floor next week, and that is the outrageous way that the credit card industry is treating millions and millions of Americans. Last week, 2 weeks ago, I sent an e-mail out to my mailing list, which is about 135,000 people, and I said: Tell me how credit card companies are treating you. Within a few days, we had 1,000 responses, many from Vermont but, in fact, from all over the country.

Essentially, what people were saying, as they described the treatment they are receiving at the hands of these credit card companies: We are disgusted that at the same time we as taxpayers are bailing out Wall Street and these large financial institutions, at the same exact time as the big banks are receiving zero interest loans from the Fed, the response of the credit card companies and the banks is to double or triple the interest rates we are paying on our credit cards.

The stories that came in were heart-breaking, appalling, and they spoke to

the greed and the callousness of many of these financial institutions. We put a couple dozen of these responses into a little booklet called "Enough is Enough, How Credit Card Companies Are Abusing Americans, Letters from Vermont and the Nation." They are available on my Web site at sanders.senate.gov.

What I want to do for the moment is read some of the comments we received from Vermont and around the country and also invite any viewer who has a problem to correspond with us and we will read them right here in the Senate. I think it is time that some of my colleagues in the Senate understood what is going on in the real world.

Yes, I do understand that the financial interests have put \$5 billion into lobbying and campaign contributions over the last 10 years. And, yes, I do understand that despite the fact that they have pushed this country, through their greed and recklessness, into a recession, they still have enormous power on Capitol Hill. But maybe it is time that we started listening to the American people rather than the lobbyists from the large banks.

I will read a few of the comments, excerpts from some of the responses we received from all over the country. This is from Donna from New Jersey:

I want to know why consumers are not protected in any way from these predatory lenders who were bailed out with my taxpayer dollars and then turn around and raise my interest rate from 7 percent to 27 percent because of "difficult economic times" for the credit industry. This is outrageous! I have not missed a payment and my credit rating is in the high 800's. How can they keep getting away with this?

Well, that is a good question. How can they keep getting away with this? And they continue to get away with it.

This is from James in Highgate Center, VT:

I once had Bank of America charge me 27.99 percent interest when I had only a \$53 balance on one of their cards. I of course paid it in full, then closed out the card to avoid doing business with those crooks!

The next one is from Los Angeles, CA, from Jennifer:

I have personally had three separate credit cards raise the APR to 29.99 percent—when I have paid my bills on time (Citicard, Chase and [Bank of America]). Then just last billing cycle, another card I am in perfect standing with doubled my APR—no apparent reason (Chase).

Well, I think Jennifer raises a good question. What are we doing about it? How can companies get away with doubling or tripling the interest rates on people who have always paid their bills on time?

This is from Sheila in Wilder, VT:

I am tired of being the one who has to pay! The executives of these credit card companies mess up and the little people pay. The government messes up and the little people pay. Now my oldest child is going off to college and I can't even get financial help except for loans. Yes, more interest! So now I have to pay more interest on my credit cards. When will I get help?

Well, Sheila, I guess you will have to contribute a whole lot of money into

the political system because apparently Congress is not listening to you.

Susan and John in Sea Cliff, NY:

Capital, Chase, and Bank of America all doubled and tripled their rates despite a life-long perfect payment record, with no excuse (we phoned them) except that they could. This is nothing but breach of promise and a flat-out theft. A good reason for severe, retroactive rollbacks or simple seizure of banks. . . .

Theft? Not bad.

Anne from Brattleboro, VT:

I live in a small town in Vermont. I feel that the credit card companies need to have a ceiling on interest rates and fees they are stealing from us. We pay for the bail out and we pay the interest increases. They must think we are stupid.

And on and on it goes. This is just a couple of dozen. We received 1,000. There are millions of people out there who are sick and tired of being ripped off.

What is the solution? I think the House has made some progress. I guess the Senate committee is making some progress. Ultimately, what we have to do is call a spade a spade and say that when you are charging people 25, 30 percent in interest rates, that is usury. That is outrageous. It should be illegal in America.

As many people know, for a number of years individual States had usury rates. They said loans could not be made out above whatever the rate may be, depending on the State. Then what happened in 1978, the Supreme Court made a decision in the Marquette case which basically said if a credit card company did business in a State without any usury rates, other States could not stop them from charging any interest rates whatsoever. That is, in fact, what has happened.

I have introduced legislation and will bring up an amendment when we debate the credit card issue. I hope we can get some support in the Senate to pass a national usury law. The rate we have decided upon is 15 percent, with some exceptions. The reason we chose that as the ceiling is that is exactly what credit unions have been existing under for 30 years. A lot of people don't know that. But a credit union cannot charge 25, 30 percent interest rates. It is illegal for them to do that by law. So I think if we have a regulatory ethic with credit unions that has been working quite well for the last 30 years—credit unions are not marching into Washington for bailouts—I think we can apply it to the private sector as well.

What we are proposing is a cap on interest rates of 15 percent; under exceptional circumstances, which is currently the case for credit unions, another 3 percent. That would be it.

I think that is sensible legislation. Whether we can get much support here and take on the banking interests, I don't know. But I think it is what the American people want. I certainly hope we can pass legislation like that.

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

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

Mr. DODD. Mr. President, I ask unanimous consent that no further amendments be in order to S. 896, and that on Wednesday, May 6, following a period of morning business, the Senate resume consideration of S. 896, and proceed to vote in the order listed on the pending amendments, with no amendment in order to any amendment listed; that prior to each vote, there be 2 minutes of debate equally divided and controlled in the usual form; that after the first vote, any succeeding votes be limited to 10 minutes each: Senator Reed of Rhode Island No. 1039, as modified; Boxer No. 1035; Casey No. 1033; Grassley No. 1020, as modified; Coburn second degree No. 1042; Reed of Rhode Island No. 1040, as amended, if amended; Kerry No. 1036, as modified; Schumer No. 1031, as modified; Grassley No. 1021, as modified; provided further, that upon disposition of the listed amendments, the substitute amendment, as amended, be agreed to and the motion to reconsider be laid upon the table; the bill be read a third time, and the Senate then proceed to vote on passage of the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. DODD. Mr. President, I have a series of unanimous consent requests to make.

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

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

#### FOREIGN AID REFORM

Mr. LEAHY. Mr. President, as the administration considers ways to reform our foreign aid programs, I want to call attention to a recent Op Ed piece by a Vermont friend who has over 30 years of experience dealing with these issues.

Dr. George Burrill founded Associates in Rural Development—ARD—in Burlington in 1977 and since then he has brought Vermont common sense and values to international aid and development work. Since its founding, it has implemented some 600 projects around the world including extensive work with the U.S. Agency for International Development. Today ARD, a for-profit international development firm, has \$100 million in annual revenue operating out of 43 field offices around the world.

Throughout his career, Dr. Burrill has thought long and hard about ways

to make foreign aid more effective. In his recent piece in the Burlington Free Press, a copy of which I will ask to be printed in the RECORD, Dr. Burrill calls for a “modernization” of our thinking about foreign aid; the creation of a global development strategy to give U.S. foreign aid agencies a way to effectively evaluate past actions and determine what reform is needed; and tools for evaluating progress. Beyond that, he proposes developing a “coherent strategy that will foster economic opportunity” in the developing world, enacting legislation that “elevates development as a foreign policy pillar equal with diplomacy and military defense,” and creating an independent executive agency bringing together the relevant Federal agencies and departments into a single group “giving the executive branch the authority it needs to develop solutions to 21st century problems while providing accountability to Congress.”

Foreign aid reform means many things to different people, but there is one thing we all agree on—it is overdue. Dr. Burrill’s voice is one that should be listened to, and I commend him for speaking out.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Burlington Free Press, Apr. 30, 2009]

MY TURN: INVESTING IN SMART POWER IS  
FOREIGN AID WELL SPENT  
(By George Burrill)

During his campaign, Barack Obama called for salvaging America’s international reputation. Rebuilding international respect and trust, he correctly maintained, is vital to our future security and economic well-being. The president’s new budget proposal indicates that he intends to follow through with this promise. Americans should be encouraged and relieved that the budget supports an increased emphasis on nonmilitary responses to our security and foreign policy interests.

A major component of nonmilitary response is our foreign assistance and development programs. They are critical in the struggle against global poverty, open markets for our products, spread our basic values, and help address global environmental and economic problems. In the 21st century, America needs smart power, as robust a diplomatic and international development capability as it has military strength. Now is the time to modernize our thinking about how to relate to the developing world.

There are several steps the Obama administration must take in order to achieve the promise of a bold makeover. These steps are consistent with the effort to make government more efficient and to ensure that the American public is getting more services and impact for the dollar. And they won’t cost anything.

First, along with the redesign of our national security and foreign policy, which the president has already vigorously embarked upon, government needs to simultaneously create a global development strategy. We need a coherent strategy that will foster increases in economic opportunity for the bottom billion of Earth’s residents and help eliminate the conditions that foster conflict

in the developing world. When the United States leads on international development and relief issues, it enhances our international standing and strengthens our relationships with allies. It creates improved possibilities for America’s global agenda.

Second, the White House needs to work with Congress and representatives of the broader development community in crafting new legislation that elevates development as a foreign policy pillar, equal with diplomacy and military defense. We currently have an outdated, inadequate set of legislation; international foreign assistance efforts that are spread across at least 20 different agencies (which has created competing fiefdoms and inefficiency). No single person or authority is clearly in charge that the president and Congress can hold accountable. New legislation would provide the congressional mandate for streamlined organizational structures and coherent policies, and give the executive branch the clear authority it needs to develop solutions to 21st-century challenges while providing accountability to Congress.

Third, a modernized set of foreign assistance policies and operations must be placed in a single, streamlined, consolidated and empowered U.S. development agency. The ideal option for streamlining and eliminating the current, inefficient, multi-agency situation would be to create a new Cabinet-level department for global development, as is the case in England. Or the White House could work with the Congress and create a new subcabinet, independent executive agency. Either option should merge all international development and humanitarian programs into a single entity. Agencies such as the U.S. Agency for International Development, the Millennium Challenge Corp., the President’s Emergency Plan for AIDS Relief and all the international development programs of various agencies including those in the Department of Defense should be merged.

As a candidate, Obama indicated his support for these actions, but there have been no recent public comments by the administration about any planned reorganization. Efficiency calls for it.

America cannot afford an uncoordinated, confused or second-best approach to our relations with the developing world. Our foreign assistance programs have immense importance in addressing global poverty, eliminating the environments that help create terrorists and fostering the advancement of a sound global economy. The Obama administration and Congress must not miss this opportunity to modernize our foreign assistance infrastructure. Getting the most out of the new budget demands it.

#### 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:

First I want to thank you for your e-mail up-dates. I am very concerned about this so called "energy crisis". I find it very interesting that as soon as the subprime crisis hit, the banks, fund managers, and speculators found another way to [profit from] the American people. Anyone who reads widely can see what is happening here. [Those who] stole our money, ran up the cost of housing and property, and overcharged homebuyers are not going to be held responsible. Yes, the good old taxpayers paid the price of the high cost of housing and now we are taking it again as we see the overinflated housing market take a dive. The banks and mortgage companies lent money to the vulnerable that never should have been able to buy such high-priced property. Then they covered [the risky practice] by bundling their risk and selling it to all of us as "good investments." But no matter, now the good old simple-minded taxpayers can pick up the tab—cannot let those poor old bankers, land speculators, loan companies, realtors, and land developers take a financial hit. Personally, I think they should all be rounded up, their money and land taken from them, and sent directly to jail for the rest of their lives!

Now, how is all of this changing my life? My home value has gone down, my investments are in the tank, the cost of food is off the chart, the cost of gas is so high that I only go to town once a week, and the vacation plan is gone. I once drove to Nampa, Caldwell, or Boise to go shopping occasionally, and now that is out of the question. We live near Ontario, Oregon, and it only has a Wal-Mart and Kmart store. If I want a nice pair of shoes, a dress, or a nice set of towels, I have to go to Boise, but cannot afford that now. I would buy online, but you never see a sale and the cost of shipping has gone out of sight. Besides, when the item does not fit or is not what you want, the cost of return shipping is too high. Then you keep what you do not want and try not to have a fit.

My only extravagance now is my Wall Street Journal, so that I can keep up on what [what is happening] in business and government. I see that the energy package faltered when the House failed to pass the law that would allow the FTC to investigate and punish motor fuels price gougers. Lawmakers also postponed a measure that would crack down on excessive speculation in energy futures trading markets. Our Congress working for the best interest of the American people again! The House passed the Medicare bill that would prevent cuts in Medicare payment to physicians. However, members of the Senate failed to invoke cloture and did not vote on the issue. The senior citizens can just find doctors that will take Medicare or do without. I was not surprised when the House failed to act on two major domestic spending bills. [It is unfortunate that partisan politics drive the agenda in Congress, rather than the needs of the American people.]

I could go on, but I really have spent too much time on venting my opinion which I know, of course, will have no meaning. I encourage you to keep trying to do what is right for the American people as a whole. I know that the answers are not easy, but you

must keep trying or we will ultimately lose our democracy. Thank you for all of your efforts.

LYNDA, *Fruitland.*

We had to cancel our trip to Ohio to see my parents whom I have not seen in six years. We also are now driving sixty miles an hour to save on gas. We need to lift all restrictions on drilling and refineries and start drilling ASAP and building more refineries. Also start building nuclear power plants. [Stop delaying over partisan arguments and] start doing something good for Americans.

RANDY.

My family just celebrated my son's graduation from high school. Because of the high gas prices, his aunt in Seattle, Washington, and uncle in Denver, Colorado, could not attend with their families. My oldest daughter has a family in Wyoming that I cannot see but only once this year because of the gas prices. Last year I was able to see my grandchildren only twice. There are a couple of things we are still planning to do but because of the gas we will not be contributing as much to our local services like Salvation Army or even our Church. Instead we have to take care of our family first. It affects us financially as we will not be able to save as much for our retirement which is hopefully in another 12–15 years. At this rate, we will have nothing to live on because of the cost of living has taken a hold of our paychecks and the jobs are not increasing in revenue at the same rate. We are not poor nor are we extremely wealthy. We are your working class people.

By allowing another country to put a stranglehold on us in such a manner, you will see a rise in unemployment, more foreclosures, small business closures, children in foster care, divorce, crime and suicide. If our government cared about our way of life, it would take care of us first and not allow another country dictate what we have on our dinner table at night or when we can see our family members again. Congress not allowing for the drilling and refineries to be built is affecting us as a nation. I am ashamed of the direction our Congress is taking us. I believe our forefathers would be too, if they could see what is taking place. Have we not learned anything?

There is only two solutions for this. Sometimes you have to grab the bull by the horns and hold on but the rewards are there. Do not allow another country to have control of our lives. As Americans, we are tired of it.

CAROL SUE.

You are right when you say on your website that we have no other choice but to keep driving and pay the high prices of oil. We live in the country, and we realize that is our choice. Carpooling and public transportation are very limited. We figure it is costing us \$35–\$60 per day just to get to work. And our vehicles get 27–35 mpg! We drive an economy car and a motorcycle, but we also have a family and sometimes have to drive a larger vehicle. We have looked into carpooling, which we are doing and saving about \$20 per day, and we are also looking into growing our canola to burn as fuel. We have also stayed home as much as we can, which on a larger scale is hurting the economy (everyone stays home, no one goes out and spends money).

It is hard when you have to work two hours per day just to pay for the gas to get there. We firmly believe that we should drill our own oil in America and not give our money to other countries. I would rather pay high prices to American workers than to terrorists who want to harm us physically and fiscally.

Still grateful to live in the greatest place on Earth,

JEREMY and KRISTINA.

You asked for our story how gas prices affect us. All I can say is the only people I know who pay \$200 a month are the ones that live in town. As you said, this is a rural state and we do not have any options. I live 18 miles north of Sandpoint; for my car alone we pay over \$200 a month. My husband is a heavy equipment operator. He works all over north Idaho and into Washington around the Spokane area. We pay \$900 a month for his vehicle in gas. We have talked about how he might have to take a lower-paying job in Sandpoint if the gas prices continue to go up. It is becoming very difficult to make ends meet when you are spending \$1,100 a month on just gas. The most frustrating part is when you read in the news that it is speculators driving the price up. There is no shortage—just greedy men, bankrupting this nation.

So my question is why do you want our stories? What do you see needs to be done? From where I sit, I do not see any politicians doing much about it. We just wonder when or if it is going to stop.

DANIELLE, *Sandpoint.*

Thank you for your invite to share my story on how energy prices are affecting me, my family and life. However, I am not going trouble you with my woes. With all due respect, stories mean little; action means everything and it is high time that Congress addressed the problem seriously and in place of rhetoric.

You are correct—we do need to consider alternate energy. The trouble is we need to start doing something about it instead of talking about doing so. In Idaho, we do two things well—we produce abundant sunshine and wind! Take a listen to a maverick oil man and his five-minute plan; he makes a ton of sense and it is worth your time. One cannot say that T. Boone Pickens is a fool. Being a pilot, I have flown the man; I know for a fact. Video: T. Boone Pickens 5 Minute Plan, <http://link.brightcove.com/services/link/bcpid1641244028/bclid1641831933/bctid1653634930>.

However, as well you know, alternate energy is not going to happen overnight, and it will take years to transition from where we are today to where we need to go tomorrow especially if we continue jawboning about it. Until then, until we actually start a real transitional journey, we are going to continue to be dependent upon oil, which is in and of itself not a problem since there is an abundance of oil within the confines of our very own borders that dwarfs that which is in the Middle East. It is high time we stopped worrying about the caribou and goodness knows what else. These are times for action and not words. And again, we need Congress to face facts and stop blocking vital resources of oil.

The Arctic National Wildlife Refuge and the oil shale of Colorado, Utah and Wyoming are reported to dwarf the oil reserves of the Middle East and, if you throw in the Athabasca oil sands north of Ft. McMurray in Alberta that the Canadians are exploiting (they say one third of the world's known oil reserves reside there) then in essence if it were not for the [arrangements] that we have with Saudi Arabia we could in essence tell the Arabs to go pound sand and be free of anyone's oil but our own. Or, at the very least the supposed energy crisis would be just what it is in reality, a NON-crisis with artificially high prices that are crippling our economy.

Please, if you truly care about Idaho, Idahoans and indeed, the rest of the country,

and, I believe you are one of the few in [Congress] that do, then take a listen to T. Boone Pickens, do some research into the oil shale in our neighboring states, research the minuscule coastal area that would be affected by drilling in the ANWR and convince the rest of Congress to [move ahead with realistic and lasting solutions.]

Thanks for giving me the opportunity to give my 2 cents worth or, in my case, more like a quarters worth.

MARCUS, *Bellevue.*

We installed propane heating in our home when it was the energy-saving thing to do! The cost of propane then was under 30 cents a gallon. We knew it would not stay that low, but in the last five years we have seen the cost go up to over \$2 a gallon. This past year, our heating cost went over \$2,000 for a heating season. With the high energy prices, we get to choose, wrap up in blankets to keep warm so we can buy gas to go to the store and buy a loaf of bread and gallon of milk or buy heating fuel to stay warm and not eat. Some choice!

UNSIGNED.

My story may be coming from a different angle; you see, I am nearly 62, working for Boeing trying to get enough money to retire and move back to Idaho. My investments have lost \$130,000 in the last six months. My portfolio is fairly conservative or I would have lost much more. I am not wealthy by any means, so that much of a loss will set me back several years in my retirement plans.

All the while I am looking at Congress to come up with an energy policy that makes sense so our economy can flourish. At this point I am so tired of hearing that we cannot drill in ANWR or offshore that I have considered retiring early just to spend my senior years trying to [make a difference on how the Congress represents the people]. With [the] current approval rating of 9%, [Congress should recognize that the public does not approve of its work.] If my approval rating was less than 75% I would be fired on the spot. Think about it—would you fly on a Boeing airplane that worked 75% of the time?

RULON.

The astonishing increases in fuel prices this year are hitting everyone on a national basis very hard indeed. We are a nation that runs on fuel. Everything we buy, be it a necessity such as food or the very fuel we use in our vehicles is shipped in, and the vehicles that ship those goods to us run on diesel, and guess what fuel is priced the highest.

Why this is I have no idea, but I do know that, at the rate that the cost of diesel is increasing, it will not be long until buying food will be something akin to if not worse than the Great Depression of the 1930s. Already I have been hearing of farms all over the USA that cannot afford the fuel it takes to harvest their crops. As a result, the crops are left to rot in the fields.

My own family is rapidly approaching the point of deciding between food, the mortgage, and fuel to get to work. Personally, I drive a diesel pick-up and, in July of last year, 28 gallons (1 tankful) of diesel would cost me \$65-\$70. Now it costs me close to \$140 for the same amount of diesel, despite my diesel pick-up getting amazing economy. I am still getting hit hard by these prices, which have more than doubled in one year.

One thing in particular that I cannot figure out is why the Western states are paying much higher fuel prices than other states. Where I am coming from on this is a interesting innovation on fuel price tracking called the "Gas Temperature Map" [http://](http://gasbuddy.com/gb_gastemperaturemap.aspx)

gasbuddy.com/gb\_gastemperaturemap.aspx. See for yourself, Western States are paying significantly higher prices than many southern & eastern states are. Why, I have no idea nor do I have the time and resources to research it effectively, but I am sure a lot of other Idahoans would also be interested in why this is the case.

There is much more I could say on this, but I realize you are a busy man, so I will save it for another time. It is my sincere hope that yourself and other Representatives like you can find a way to somehow turn this nightmare around.

DAN.

Thank you for the opportunity to tell you how the high cost of fuel is affecting me. I live on the west side of Idaho Falls. I work on the east side of the city. I realize that people in bigger cities have much bigger commutes, but we have no real public transit so I have to drive. I own a Honda Civic, but am considering a scooter. Because of the winters in Idaho, that is not a practical option. With the price of fuel, food and health insurance going up every day, all I can afford to do is drive to work and back. I have had to cut out movies, trips, and dining out. I received a letter from Delta airlines that was titled "An Open Letter To All Airline Customers." I hope you have seen it and are in a position to do something to stop unnecessary price gouging. Nuclear fuel is very clean and safer than most other forms of fuel, why are we not looking into that more closely? Thank you again for this opportunity.

KAREN.

The energy issue in the state of Idaho is out of hand, and one that families cannot afford. The state government should be offering land for development of wind energy, and renewable recourses, Just make them paint the towers with camo about halfway up. There should be far more incentives for home owners to add solar power to their homes, and incentives for companies that do that kind of work to come into Idaho. Allowing logging companies to go into our forests and do selective harvest makes a win-win situation for everyone man and animal. A lot of the social services done in this area do not require a car and should be revoked from those who abuse the use of city, county, and state cars. That ticks me off more than the price of fuel.

LYLE and FAMILY, *Idaho Falls.*

Tax credits for clean energy are absolutely essential to our energy future and to our economy. Society suffers from the lack of alternatives while oil companies reap large profits. In spite of all the tax benefits that oil companies receive, they show a reluctance to make investments in a timely fashion and realize large profits, which they return to investors and management.

MARY.

I am a 68-year-old taxpaying American citizen, and military veteran. I live in Coeur d'Alene and work in Spokane, Washington. It is getting increasingly more difficult to afford the gas to drive to and from work. Car-pooling or the use of public transportation is out of the question as I work in the construction industry on various jobs throughout the Spokane area.

The time has come to start drilling for oil in Alaska, Colorado, Wyoming, and offshore. From what has been in the news and from what we read in various publications, all from very intelligent engineers and scientists, we know the oil is there. We have shale deposits in several states that we could be using. We need to work harder on wind and nuclear power. The states want to drill, and we need to lift the federal bans.

We should either sell or give the abandoned military bases to companies willing to build refineries on them. The time has come to quit asking—it is time to demand that this be done. We have the resources, let us use them. The United States of America should not have to go begging to other countries for oil when we have it within our own shores.

We, the people, should not be suffering these exorbitant prices due to the incompetence in all areas of our government, and speculators in the stock market.

WAYNE, *Coeur d'Alene.*

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

#### SPECIAL OTIS BOWEN LECTURES

• Mr. KENNEDY. Mr. President, I ask unanimous consent that remarks by Ralph Neas be printed in the RECORD.

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

REMARKS OF RALPH G. NEAS, CEO OF THE NATIONAL COALITION ON HEALTH CARE, THE SPECIAL OTIS BOWEN LECTURE, UNIVERSITY OF NOTRE DAME, MARCH 26, 2009

Thank you. It is truly an honor and a privilege to be here with you today as a participant in the Otis Bowen lecture series.

I want to express my appreciation to Dr. Mark Walsh for inviting me, and commend all the conveners and hosts of this gathering. I congratulate Indiana University and the University of Notre Dame for the collaboration that brought IU's medical school to the Notre Dame campus.

I want to especially thank Otis "Doc" Bowen, the 44th Governor of Indiana, and the Secretary of Health and Human Services during the Reagan Administration. His leadership, commitment to the public interest, and his contributions to Indiana and the Nation are exemplary and should serve as a model for us all to emulate.

Dr. Bowen, both Dr. Henry Simmons, the visionary founder and president of the National Coalition on Health Care (NCHC), and former Governor Robert Ray of Iowa, the Co-Chair of NCHC, send their warm regards. Dr. Simmons was one of President Richard Nixon's top health care advisors in the early 1970s and worked on the Grace Commission which in the 1980s found that one-third of all income taxes were consumed by waste and inefficiency. He has devoted his professional life to improving health care for all Americans. And Governor Ray worked with Dr. Simmons and you many times over the past several decades. I am so proud to be working with them.

Our timing is propitious. Indeed, the conveners of this event were prescient. We gather tonight at an extraordinary moment in history: The Nation is facing the worst economic crisis in more than seven decades and Americans urgently need a better health care system; our health care system is dysfunctional and represents an unsustainable drain on our economy as a whole. It is inefficient and inequitable; urgent action is required to systematically address what is an incredibly challenging and morally troubling policy problem affecting every American.

In short, the health care system in the United States is in desperate need of significant reform. However, we should emphasize at the beginning that we need an American solution. We can and should borrow from the best of what works elsewhere. But we should recognize our unique history and the special characteristics of the American people.

The good news is that the President and Congress are seriously considering health



care reform. In fact, in just the past month we have seen a presidential address to a joint session of Congress, a presidential budget, and a presidential summit, all prominently featuring systemic, systematic health care reform. In addition, the Senate and House of Representatives have already commenced comprehensive hearings.

We must succeed. Too much is at stake: the health and well-being of millions of American families, and the future of the Nation's economic and fiscal health. Also at stake, I believe, is whether we can help restore the trust and confidence of the American people in their government.

So I cannot imagine a better time for us to be having this conversation. And I couldn't be happier that it is happening here. The University of Notre Dame, and people connected to Notre Dame, have been central to my life in more ways than I can count.

I was a student here during the 1960s. As a young person I had watched on television as Bull Connor turned dogs and fire hoses on civil rights marchers. I had watched Martin Luther King champion human dignity in the face of bigotry and violence.

Early on, I wondered whether I had a vocation to the priesthood, but I found in Dr. King and the Kennedys an inspiration to public service as a different kind of vocation. And that brought me to Notre Dame. Father Ted Hesburgh became the first of many Notre Dame role models, teachers, and mentors who have sustained and guided me ever since.

The last time I spoke at Notre Dame was about 25 years ago, in 1983. I was just a short time into my tenure as executive director of the Leadership Conference on Civil Rights, and I was asked to address a conference for Catholic laity on work and faith in society sponsored by the U.S. Conference of Catholic Bishops. I believe, like the late Senator Phil Hart of Michigan, that politics can be a high vocation—that a politician can be a lay priest of society.

In preparing for that speech, I realized that I had learned about human dignity and equality before God from my church and my family long before I learned about the legal principle of equality under the law from my college and law school professors. Those principles have guided my life's work and are central to what I am here to talk about today.

Another principle that has guided my political life is bipartisanship. I had the extraordinary good fortune to work for two remarkable Republican senators early in my public service career—Edward W. Brooke of Massachusetts, and David Durenberger of Minnesota. They were politicians and public servants who were less interested in ideology and political positioning, and more interested in moving the Nation forward, in finding workable solutions to the Nation's problems. They weren't just willing to work across the partisan aisle; it was central to who they were.

These principles were at the core of my decision last month to accept the position as CEO of the National Coalition on Health Care. After I decided to step down as president of People For the American Way, I had spoken with many other health care coalitions and institutions. But I had a keen personal and professional interest in working to achieve health care reform in the most non-ideological and most non-partisan way possible. And I was impressed by what a great fit there was between the National Coalition and my skills, background, and approach to public policy.

The National Coalition on Health Care is the largest, broadest, most diverse coalition working to achieve comprehensive health care reform. It is an alliance of 79 organiza-

tions representing business, unions, health care providers, associations of religious congregations, minorities, people with disabilities, pension and health funds, insurers, and groups representing patients and consumers. Our member organizations represent more than 150 million Americans. They speak for a cross-section, and a majority, of our population.

Our board includes Frank Carlucci, who served several Republican and Democratic presidents in a range of intelligence, national security, and ambassadorial positions, and Israel Gaither, the National Commander of the Salvation Army. It includes John Sweeney, the president of the AFL-CIO, and William Novelli, the CEO of AARP. It includes John McArthur, dean emeritus of the Harvard Business School, Cheryl Heaton, President of the American Legacy Foundation, and John Seffrin, CEO of the National Cancer Society. These are organizations and leaders who individually play a major role in our society and in public policy making. Together they represent an extraordinary breadth of expertise and resources.

The Coalition is rigorously nonpartisan. Former Presidents George H. W. Bush and Jimmy Carter are our honorary co-chairs. Former Iowa Governor Robert Ray, a Republican, and former Congressman Bob Edgar, a Democrat from Pennsylvania are its co-chairmen. We believe it is essential to make reform a bipartisan process and a bipartisan achievement.

I am especially proud of two of the pillars of the Coalition.

One of those pillars is religious organizations. The U.S. Conference of Catholic Bishops is a member of the National Coalition on Health Care because the Catholic tradition affirms that access to health care is a basic human right and a requirement of human dignity. The Catholic bishops are joined in that belief, and in our coalition, by the Salvation Army, the Religious Action Center of Reform Judaism, the Presbyterian and Episcopal Churches, the United Methodist General Board of Church and Society, and the National Council of Churches.

The backing and active participation of these religious communities gives us access to their networks of local religious leaders and lay people. We are well equipped to engage policymakers and the public on the moral poverty of leaving millions of Americans without access to quality affordable health care, and on the moral urgency of tackling that problem.

Another especially significant pillar of our coalition is the medical societies, which together represent hundreds of thousands of doctors. They include the American College of Cardiology, the American Academy of Pediatrics, the American College of Surgeons, the American Academy of Family Physicians, and the American College of Emergency Physicians. Also included are the American Dental Education Association, the Duke University Medical Center and Johns Hopkins Medicine. And just yesterday the Association of American Medical Colleges, along with the Council of Teaching Hospitals, joined our Coalition. This is a very serious brain trust of physicians, medical educators, and their advocates.

During the last major health care reform effort in 1993 and 1994, many of the medical societies opposed that effort. But they working with us now, I think, for several reasons. First, the need for reform has become increasingly obvious and urgent to everyone who cares about making sure that people have access to quality health care. Second, I believe that doctors have a better view than anyone of the current system's problems, inefficiencies, and distortions. I remember a time in the 1980s when a rallying cry from

conservative pundits was "let Reagan be Reagan." Part of what we're trying to accomplish here is to "let doctors be doctors!" More than just about anything else, doctors want to practice medicine.

Also, this year, everyone has been invited to the table. My own experience tells me that is how lasting progress is made. In the early 1980s, I was selected to lead the Leadership Conference on Civil Rights, the Nation's oldest and largest civil rights coalition. Working with Republican and Democratic leaders, with business and labor and public interest advocates, we accomplished great things. The passage of the life- and culture-changing Americans with Disabilities Act. The strengthening of every major civil rights law with huge bipartisan congressional majorities, and often with the support of the business community.

That could only be accomplished by building active alliances across party lines, engaging business and nonprofit leaders, public officials and community activists. We had to find ways to address each community's needs with a pragmatic and principled eye on the ultimate goal of advancing the common good.

The members and board of the National Coalition on Health Care understand that all the elements of our health care system are interdependent. So are the health care sector and the broader economy. That is why any solution must be systemic and system-wide if it is to be meaningful and effective.

And that's also why reform must be accomplished now.

Let me make a case for urgency by discussing the nature of our health care problem.

There is no question that our system produces and includes extraordinarily gifted medical professionals. I am alive today because 30 years ago I had access to some of the best medical care the world has to offer.

But millions of Americans do not have affordable access to that care. Indeed, nearly 50 million Americans do not have health insurance—a number that grows with every layoff, or with every employer who cuts health coverage to avoid cutting jobs. Every 2 years, some 90 million Americans go without health coverage. Another 20 million are underinsured.

What does that mean to individuals and families? It can be disastrous for their physical and financial health.

People without insurance—or without sufficient insurance—are less likely to get preventive care that will keep them healthy. They are less likely to go to a doctor when they become ill. Their serious illnesses are diagnosed when they are more advanced and harder to treat. They put off treatments they need but cannot afford.

And when they do face serious injury or illness, the cost of treatment can be devastating to their families.

There are a lot of numbers and statistics that we use to analyze and describe the current state of our health care system. One that really leaps out to me—that is especially heartbreaking—is that currently one-half of all personal bankruptcies, and one half of all foreclosures, are caused by an inability to pay medical expenses.

Think about what that means.

Thousands and thousands of families, already traumatized by serious illness or tragic accident, are punished even further. They go through a medical crisis and are forced into a financial crisis. They say good-bye to a loved one—and are forced out of their home. And there is no telling the toll on communities of citizens who are sidelined—or worse—by a condition that could have been treated less expensively and more effectively if the cost of care had not kept people away.

These are not just tragic stories. They are evidence of an unforgivable level of cruelty in our current health care system.

And, of course, all these consequences are not limited to the uninsured and underinsured. The consequences are shared; the burden is shared, by everyone. The costs of emergency room care for the uninsured are shifted to other parts of the system, to other payers. According to a study by Emory University health care economist Kenneth Thorpe, the cost of providing uncompensated care to uninsured patients adds more than \$1,000 per year to the average cost of employer-sponsored family coverage.

And that leads us to the second part of the problem we must address—the staggering cost of health care in this country, which is growing in ways that Americans and America cannot afford.

The cost of insurance is an increasingly heavy burden even for those who have it. Over the past decade, employers and workers have seen their health care costs rise 120 percent. On the other hand, wages only increased 34 percent during the same period (while inflation rose 29 percent). The average cost to families rose from just over \$6,000 per year to about \$12,000 per year. That is a huge amount for many middle class families. It is an insurmountable burden for working families.

And unless we act, it will only get worse. Richard Johnson and Rudolph Penner of the Urban Institute projected that in 2030, out-of-pocket health care costs will consume more than 35 percent of after-tax income for older married couples. That is more than double the 16 percent that health care costs took from those couples in 2000.

As a Nation, we spend \$2.5 trillion in health care costs every year. That is a sixth of our national economy, or about \$6,000 per capita. That is twice as much as the average of all industrialized countries, and 50 percent more than the next Nation on the list. (And remember, those countries cover all their citizens, while 15 percent of Americans have no coverage at all.)

Costs have been consistently rising at a much higher rate than the consumer price index. We as a Nation simply cannot afford double-digit growth in health care costs year after year. They make it harder for businesses to provide health care coverage for their employees—and those employees find it harder to pay the growing share they are asked to contribute to that coverage.

The increasing cost to small and large businesses is a dire challenge to their profitability, competitiveness and survival. It drains funds from research and development, makes it more expensive to hire new employees, and makes it less affordable to offer workers increased wages. Increasing costs undermine the viability of pension funds. And they increasingly put American businesses at a competitive disadvantage to companies abroad who have much lower health care costs.

And the fiscal drain to state and federal governments is ruinous. It has been estimated that by 2050, Medicare and Medicaid combined will consume more than double their current share of our gross national product. Our country's financial health—as well as that of individuals, families, and companies—requires that we get costs under control.

Closely connected to the problem of runaway costs is the national epidemic of substandard care. It may be hard to believe, but every year 100,000 Americans die from preventable medical mistakes. Another 100,000 die from infections contracted in U.S. hospitals. Millions of others are injured or affected, with cascading consequences for their families, their employers, their commu-

nities. It has been estimated that preventable health care accidents, errors, and poor quality of care are the Nation's third leading cause of death after cancer and heart disease.

A few years ago a major study by the RAND Institute examined the medical records of thousands of patients from 12 metropolitan areas and evaluated the care they received using indicators of quality developed by specialty expert panels. They found that patients got about 55 percent of recommended care. We should not be willing to accept or tolerate this mismatch between standards and actual practices.

And here is more evidence of the interconnected nature of these problems. Two different research studies have estimated that dealing with defects in the quality of our health care could reduce the total cost of health care by 30 percent. 30 percent. That's \$750 billion per year. That is a huge financial incentive to deal with the quality of care and the waste and inefficiencies of our current system.

So that is the outline of the health care challenge we face—uncontrolled costs, unacceptable quality of care, and unconscionable lack of access to care for millions of Americans.

Acting urgently is both a moral and financial imperative.

The current economic crisis is putting more families out of work, putting greater strain on companies that struggle to provide health care, and putting enormous fiscal strains on Federal and State budgets.

President Obama has called for lawmakers to take action this year. In response, some pundits and critics have suggested that the Obama administration is putting too much on its plate—that it should hold off on health care reform while it figures out how to deal with the financial crisis.

But that is not possible. Health care is such an enormous part of the economy, is so interwoven with individual, corporate, and governmental crises, that it is not possible to address our economic woes without taking up health care reform. We have reached the point where the public's most pressing domestic concerns—economic growth, jobs, and retirement security, and health care—are fundamentally intertwined. The first three concerns cannot be addressed effectively unless health care costs are contained. The cost of doing nothing far exceeds the costs of taking action now. And if we implement real systemic reforms now, we will save trillions of dollars in the long run.

As economist Peter Orzag says, the road to fiscal sustainability runs through health care reform. Ben Bernanke, the chairman of the Federal Reserve System, puts it this way:

“The decision we make about health care reform will affect many aspects of our economy, including the pace of economic growth, wages and living standards, and government budgets, to name a few . . . As the public interest in these issues testifies, the stakes associated with health care reform, both economic and social, are very high.”

So, act we must. But how?

It is easy to be dismayed at the size and complexity of the problem—and by past failures to address it. But we cannot shy from reform. Nor can we let a political stalemate grind the process to a halt.

I am a veteran of many difficult battles in Washington. I've been part of them for 35 years. And I've never seen a bigger challenge, substantively or politically.

But I am cautiously optimistic about the possibilities for real reform this year. There exists a rare confluence of economic, political, and historic circumstances. There is a much broader consensus on the need for am-

bitious reform. And we are seeing all the stakeholders coming to the table, not with the goal of turning the table over and maintaining the status quo, but to seek some kind of resolution to the systemic problems that can no longer be denied or rationalized away.

That's what the National Health Care Coalition is committed to doing this year.

And, I'm proud to say, we're ready because we've already done our homework. I've been talking a lot about the problem. Let's talk about the solution.

The Coalition spent 18 months working with our board, member organizations, and health care experts to reach a consensus on principles and specifications for reform. There's no more detailed or comprehensive proposal on the table that I'm aware of.

The overarching requirement is that reform be both systemic and system-wide. With that as an understanding, we have laid out five principles for reform and specific and achievable approaches within each category.

The first principle is coverage for all Americans. We believe coverage should be defined clearly and comprehensively. It should include emergency care, acute care, prescription drugs, oral health care, early detection and screening, preventative care (including smoking cessation programs), care for chronic conditions, and end-of-life care. There should be no exclusion for pre-existing conditions.

We recognize a range of options—and possible combinations of options—can be used to achieve this goal: employer mandates, supplemented with individual mandates as necessary; expansion of existing public programs that cover subsets of the uninsured; creation of new public programs targeted at groups of the uninsured; or establishment of a universal publicly financed system.

Participation must be universal, and there must be subsidies provided for those least able to afford coverage. But none of these options requires a government-run system.

The second principle is cost management. The numbers that I talked about earlier make it clear that it will not be possible to achieve sustainable reform without tackling the cost issue head-on.

Cost management must be a multi-faceted undertaking. It should include: a plan to make health insurance premiums easier to compare by requiring insurers to establish separate premiums for the core benefit package and any supplemental coverage; a rational mechanism for increasing the cost-effectiveness of capital spending; cost-sharing and other tools to provide more and better information and incentives for patients to make good choices about health maintenance and care, and reduce over-use and under-use; an increased emphasis on prevention and early detection of disease; a commitment to improving quality of care; investment in a health care information infrastructure; and steps to modernize and simplify the administration, and dramatically reduce the administrative costs of the health care system.

It is true that successful reform of all the areas we have talked about will produce significant long-term savings. But it is also essential to begin immediately to bend the cost curve and slowing those double-digit increases that are outstripping our ability to pay for them. The increases in health care costs and insurance premiums for the core package of benefits should be brought into line with percentage increases in per-capita gross domestic product. And we should aim to achieve that goal within 5 years after the enactment of legislation.

There must be short-term cost constraints that would include rates for reimbursing providers for care encompassed by the core benefit package, and limits in increases in insurance premiums for the core benefit package. We are not advocating for cuts in reimbursement rates. But slowing the rate of increase is vital—and will reduce the likelihood of sudden cuts made under the stress of financial crisis.

We recommend that these efforts to manage costs be established and administered by an independent board chartered and overseen by Congress.

The third basic principle is one I just mentioned in terms of cost containment—that is a national effort to improve the quality and safety of care.

This includes accelerated development of a national information technology infrastructure, as well as increased emphasis on prevention and early detection of disease, and research on comparative effectiveness and practice guidelines to reduce waste and improve the safety and effectiveness of health care.

The members of the National Coalition on Health Care recommend that national practice guidelines be developed by panels of leading health care professional based on reviews of research on the effectiveness and impact of technologies and treatment. Conforming to these best practice guidelines could not only reduce unnecessary treatment and costs, but could also help protect medical professionals against frivolous or marginal lawsuits.

Fourth, we must make the financing of health care more equitable and reduce or eliminate cost-shifting.

Again in this area we have identified a range of mechanisms that could be used, individually or in some combination, to fund the costs of necessary reforms and assuring that every American is covered: general revenues, earmarked taxes or fees, required contributions from employers, required contributions from individuals and families, which would include co-payments, deductibles, and contributions toward premiums.

Subsidies should be provided, or financial obligations varied, based on relative ability to pay for less affluent individuals, families, and employers.

And fifth, we must simplify the administration of health care. The United States spends more than any other Nation—hundreds of billions of dollars every year—to administer our health care system. Administrative expenses incurred by private health insurers rose 52 percent between 1999 and 2002.

Our system's complexity is not only expensive; it is also confusing and frustrating for patients and doctors. And its lack of transparency undermines both accountability and the ability of individuals and organizations to make market-based decisions.

Assuring coverage for all Americans, and establishing a core benefit package, would create a consistent set of ground rules for patients, providers and payers.

An integrated technology infrastructure would not only reduce administrative complexity and costs, but help to reduce medical errors, protect patients' safety, and improve outcomes.

These principles—coverage for all, cost containment, quality and effectiveness of care, simplified administration, and equitable financing—are interdependent. And we must deal with them that way.

Taken together, the National Coalition on Health Care specifications provide an ambitious and achievable guide to our Nation's lawmakers. We know what investments and policy changes we need to make now in order

to improve access and quality of health care in a way that the Nation can afford.

We have a road map. Now we need to keep policymakers focused on the journey.

President Obama, who recently hosted a bipartisan summit on health care reform at the White House—has urged Congress to give him reform legislation this year. He has put a significant down payment for reform in his budget.

While I do not think the Administration has yet been ambitious enough—dealing, for example, in a realistic way with the need to contain costs—I believe the White House has learned important lessons from the experience of 1993 and 1994. They are including all stakeholders from the beginning. They are putting forward broad principles and counting on Congress to write the legislation. And they are moving in a bipartisan fashion, inviting Republican and Democratic congressional leaders into their conversations.

I believe bipartisanship is essential not just because we need 60 votes in the Senate, but because a bipartisan consensus would be good for the country as we move forward in this enormous, and enormously important, undertaking.

We must understand fully that time is our most formidable foe. We must achieve health care reform now, not only to protect and advance Americans' health, but to shore up our reeling economy. We must take advantage of the political momentum for change. We must overcome those who might be tempted to see the failure of reform as a political opportunity.

Reform must be enacted this year—and as of today the year is already almost one-quarter behind us.

In Congress, there are at least seven major committees that have some jurisdiction and will be involved in crafting reform legislation. That means multiple subcommittee hearings and markups, full committee markups, House and Senate floor debates and votes, and the House-Senate conference committee. All of this takes time. As I tell my law school legislative process classes, there are 100 decision-making points in the legislative process, and each of them is a point at which compromise can take place.

If we are to have reform enacted this year, we must have a bill through the Senate with a bipartisan consensus by Labor Day. So each day is enormously consequential. We have no time for ideological warfare or partisan posturing. This truly is a time for pragmatism to trump ideology. We need to be focused on what works. And we cannot allow the perfect to be the enemy of the good.

We can do this.

A few years ago, my father-in-law was in Rome. He was at the Vatican when he collapsed with a heart problem. He was attended to by the Pope's doctor—the finest care he could have asked for. And when he had recovered and asked how much he owed, the answer was “nothing!” His health care in Italy was free. I know it's a simple story, and our quest for an American solution is anything but simple, but there's no reason we cannot achieve the same kinds of access to affordable quality care that other nations provide.

There is another story that explains why I am so committed to making this work—and why I have faith that it can.

In 1979, as a young man of 32, I was diagnosed with Guillain-Barré Syndrome, a disease that paralyzes the nerves and muscles. Over a period of weeks I became completely paralyzed, unable to breathe on my own or move a muscle. I was put on a respirator for 75 days, and was eventually given general anesthesia when it was not clear that I would survive.

Three of my doctors in St. Mary's hospital in Minneapolis, Minnesota, were Notre Dame graduates, including chief of staff Pat Barrett, who was the football team's doctor on the road. They helped me survive and recuperate. But no one was more important than my mother, who traveled to Minneapolis from a suburb of Chicago and sat at my bedside, holding my hand, for 50 of my first 100 days in the intensive care unit. And then there was Sister Margaret Francis Schilling, a nun who had survived Guillain-Barré 25 years earlier, and who was celebrating her 50th anniversary as a nun in 1979, who talked to me every day, who prayed with me every night, and who helped save my life and renew my faith.

You can probably understand why, when given the opportunity to be transferred to the Mayo Clinic, I told my parents that I wanted to stay at St. Mary's. Sometimes the appearance of near-mystical serendipity trumps all other considerations.

The experience taught me many things, most notably how vulnerable each of us is, and how dependent we are on each other. I had been a young hot-shot on a fast track congressional career. I thought I could do anything. As long as I worked hard and never gave up, I would not need anybody. I learned the hard way how wrong I was. I learned first-hand how quickly our lives and health can take a turn. I came out of that experience with a renewed commitment to public service, and with a sense of how interdependent different vocations—like Sister Margaret's, my doctors', and mine—could be.

After I finished my physical rehabilitation, and recovered my physical and mental stamina, I began interviewing for jobs. My parents, Senator Brooke, and Senator Durenberger were all advocating that I join a law firm and begin a more traditional way of life.

In the middle of my deliberations, John Sears, a Notre Dame grad, a lawyer, and the former campaign manager for Ronald Reagan, gave me contrary advice. He told me that I could join a law firm at any time. But the Nation in 1981 was about to begin a historic debate about civil rights, social justice, and the role of the Federal Government. He told me that if I had an opportunity to have a leadership position, I should seize the moment. He told me how important it was to be on “the front lines of history.” Only then could you make a dramatic difference for your family, your community, and your country.

And that is the opportunity and the challenge that we all face at this moment.

The great Irish poet Seamus Heaney has written:

History says, Don't hope  
On this side of the grave.  
But then, once in a lifetime  
The longed-for tidal wave  
Of justice can rise up,  
And hope and history rhyme.

We all have a chance, working together, to make hope and history rhyme.

Regardless of where you stand on the health care issues before us, I urge you to get involved. This is a time for all of us—of whatever vocation—to come together. We must all be willing to sacrifice for an accomplishment that would address a great moral failing, that would strengthen our Nation's economy as well as its social fabric, that could point the way toward dealing constructively with other systemic challenges ahead.

I hope you will support the principles of the National Coalition on Health Care. But the most important thing, in the words of Oliver Wendell Holmes, is to “share the passion and action” of one's time.

Please do not sit on the sidelines. Immerse yourself, passionately, in this historic moment.

Please know how much it has meant to me to be here. I am profoundly grateful for the opportunity to be with you tonight.

Thank you.●

#### HAYES NOMINATION

● Ms. MURKOWSKI. Mr. President, I ask that my letter to Senator McCONNELL, dated May 4, 2009, with its attachment, be printed in the RECORD.

The material follows.

U.S. SENATE, COMMITTEE ON ENERGY  
AND NATURAL RESOURCES,

Washington, DC, May 4, 2009.

Senator MITCH McCONNELL,  
Republican Leader, U.S. Senate, Washington,  
DC.

DEAR SENATOR McCONNELL, Under the provisions of the Honest Leadership and Open Government Act of 2007 (section 512 of P.L. 110-81), attached please find a notice of my intent to object to proceedings on the nomination of David Hayes, Calendar number 31, reported by the Committee on Energy and Natural Resources on March 18, 2009. The reasons for my objection are included in the notice.

Sincerely,

LISA A. MURKOWSKI,  
Ranking Republican Member.

#### NOTICE OF INTENT TO OBJECT

Under the provisions of the Honest Leadership and Open Government Act of 2007 (section 512 of P.L. 110-81), I, Senator Lisa A. Murkowski, intend to object to proceedings on the nomination of David Hayes, Calendar number 31, reported by the Committee on Energy and Natural Resources on March 18, 2009, for the following reasons:

During conversations with the nominees at meetings and hearings, they have generally expressed very reasonable views, including an affirmation of the need for continued energy production in the United States.

However, actions speak louder than words, and I am disappointed and troubled by the lack of connection between the rhetoric from the Administration and its nominees, and the reality of the Administration's actions. Rarely a week goes by that the Department of the Interior doesn't issue a pronouncement, that, taken together, add up to a wholesale assault on domestic natural resource development. A few examples are: Cancellation of the Utah leases; 180-day delay of the 5-year plan; delay of the new round of oil shale research, demonstration, and development leases; listing of the yellow billed loon; Monday's determination that the mountaintop coal mining rule is "legally defective," and, most recently, the potential application of Endangered Species Act consultation requirements to all activities that may increase carbon output.

Further, I have not been satisfied with the responses to questions we have submitted on these matters to nominees that have previously come before this Committee.

Therefore, I will add my name to the list of those who intend to object to the confirmation of Deputy Secretary-nominee David Hayes, until we can get some assurance that we will see the actions of the Department of the Interior comport with the transparency and process and policy that they have promised.

I will soon be sending a letter to the Department of the Interior with detailed questions regarding my concerns.

These are questions of huge significance to not only American energy security, but to our ability to maintain our Nation's entire infrastructure, and grow our economy.●

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO COMMANDANT CHARLES BALDWIN

● Mr. CARPER. Mr. President, this spring, the fourth class will graduate from the Delaware Military Academy, and I would like to take this opportunity to recognize Commandant Charles W. Baldwin for his years of dedicated service to the school.

The Delaware Military Academy, DMA, is a unique public charter school affiliated with the Red Clay School District. Cofounded in 2003 by Commandant Baldwin and opened that year with only grades 9 and 10, the DMA has quickly found success.

Today, in addition to being a Middle States fully accredited school, the academy has grown to enroll 525 students in grades 9 through 12 and has a waiting list of more than 200 applicants. Since 2006, DMA has earned a superior rating every year from the Delaware Department of Education. In 2008, the school was named a Superstars in Education Award Winner by the Delaware Chamber of Commerce.

Designated by the United States Navy as a Distinguished Unit with Academic Honors, the academy has the unique privilege and responsibility of naming nine nominations among the Naval Academy, Air Force Academy and West Point Military Academy.

The unique school offers students a tuition-free, 4-year high school program. The entire school is incorporated within the Navy Junior Reserve Officer Training Corps, and as the first school of this nature, has become the model high school for this Navy Training Corps.

The Delaware Military Academy's college preparatory academic curriculum is supplemented with courses that include naval operations, navigation, leadership, seamanship and oceanography. With its cadet hierarchy, students are placed in leadership positions and given responsibilities rarely found in a civilian high school. As a result, they emerge from the academy better prepared to meet the demanding challenges of the adult world.

In just 6 short years, the academy, under the leadership of Commandant Baldwin, has done what takes some schools more than 20 years to accomplish. It has built and maintained a successful system that instills values and responsibility into our children while providing them an excellent education. Moreover, the commitment of DMA and its student body to community service is widely known and appreciated in the State of Delaware.

While success in such a short period is certainly a credit to the faculty and students of the academy, Commandant Baldwin has indeed played a critical leading role.

A 24-year Navy veteran himself, Commandant Baldwin has dedicated his life to training, teaching and recruiting,

including a tour of duty as principal of the George V. Kirk Middle School in Delaware's Christiana School District. Before cofounding the Delaware Military Academy, Commandant Baldwin established NJROTC programs in Delaware's Seaford and Christiana School Districts. During this time, he has received both military and civilian awards for excellence, including the Meritorious Service Medal, the Military Order of the Purple Heart, Christiana Teacher of the Year and the Christiana School District Citizenship Award. In addition, he twice received Presidential awards for management excellence.

On a personal note, I have known and admired Commandant Baldwin for more than a decade. My sincere hope is that as he steps down from his leadership role at the Delaware Military Academy, he will consider leading an effort to establish other public charter schools in the state that are based on the DMA's unique model.

I want to personally thank Commandant Baldwin for his commitment to Delaware, to the education of its young people, and to preparing them for lives of service. I warmly wish him the best.●

#### DRAFT LIST OF SITES, LOCATIONS, FACILITIES, AND ACTIVITIES IN THE UNITED STATES FOR DECLARATION TO THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA), UNDER (THE "U.S.-IAEA ADDITIONAL PROTOCOL"), AND CONSTITUTES A REPORT THEREON, AS REQUIRED BY SECTION 271 OF PUBLIC LAW 109-401—PM 15

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

*To the Congress of the United States:*

I transmit herewith a list of the sites, locations, facilities, and activities in the United States that I intend to declare to the International Atomic Energy Agency (IAEA), under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna on June 12, 1998 (the "U.S.-IAEA Additional Protocol"), and constitutes a report thereon, as required by section 271 of Public Law 109-401. In accordance with section 273 of Public Law 109-401, I hereby certify that:

(1) each site, location, facility, and activity included in the list has been examined by each department and agency with national security equities with respect to such site, location, facility, or activity; and

(2) appropriate measures have been taken to ensure that information of direct national security significance will

not be compromised at any such site, location, facility, or activity in connection with an IAEA inspection.

The enclosed draft declaration lists each site, location, facility, and activity I intend to declare to the IAEA, and provides a detailed description of such sites, locations, facilities, and activities, and the provisions of the U.S.-IAEA Additional Protocol under which they would be declared. Each site, location, facility, and activity would be declared in order to meet the obligations of the United States of America with respect to these provisions.

The IAEA classification of the enclosed declaration is "Highly Confidential Safeguards Sensitive"; however, the United States regards this information as "Sensitive but Unclassified."

Nonetheless, under Public Law 109-401, information reported to, or otherwise acquired by, the United States Government under this title or under the U.S.-IAEA Additional Protocol shall be exempt from disclosure under section 552 of title 5, United States Code.

BARACK OBAMA,  
THE WHITE HOUSE, May 5, 2009.

#### MESSAGE FROM THE HOUSE

At 2:21 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 concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 103. Concurrent resolution supporting the goals and ideals of Malaria Awareness Day.

H. Con. Res. 111. Concurrent resolution recognizing the 61st anniversary of the independence of the State of Israel.

#### MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 111. Concurrent resolution recognizing the 61st anniversary of the independence of the State of Israel; to the Committee on Foreign Relations.

#### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 5, 2009, she had presented to the President of the United States the following enrolled bill:

S. 735. An act to ensure States receive adoption incentive payments for fiscal year 2008 in accordance with the Fostering Connections to Success and Increasing Adoptions Act of 2008.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BAUCUS for the Committee on Finance.

\*Alan B. Krueger, of New Jersey, to be an Assistant Secretary of the Treasury.

\*William V. Corr, of Virginia, to be Deputy Secretary of Health and Human Services.

\*Demetrios J. Marantis, of the District of Columbia, to be a Deputy United States Trade Representative, with the rank of Ambassador.

By Mr. KERRY for the Committee on Foreign Relations.

\*Johnnie Carson, of Illinois, to be an Assistant Secretary of State (African Affairs).

\*Ivo H. Daalder, of Virginia, to be United States Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Nominee: Ivo H. Daalder.  
Post: NATO.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:  
1. Self: \$500, 01/29/2008, Barack Obama; \$500, 12/28/2007, Barack Obama; \$500, 03/08/2006, Harris Miller.

2. Spouse: Elisa D. Harris: \$250, 03/28/2008, Hillary Clinton; \$250, 03/06/2008, Hillary Clinton; \$500, 03/08/2006, Harris Miller.

3. Children and Spouses: Marc H. Daalder—none; Michael H. Daalder—none.

4. Parents: Hans Daalder—none; Anneke Daalder—deceased.

5. Grandparents: Dirk Daalder—deceased; H. H. Daalder-Oversteegen—deceased; Rose Neukircher—deceased; Ivan Neukircher—deceased.

6. Brothers and Spouses: Eric Daalder—none; Helmi de Ruiter—none.

7. Sisters and Spouses: Martine Daalder—none; Sandro Bartolini—none.

\*Luis C. de Baca, of Virginia, to be Director of the Office to Monitor and Combat Trafficking, with rank of Ambassador at Large.

Nominee: Luis C. de Baca.  
Post: G/TIP.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:  
1. Self: 10/08, Obama For America, \$250, 5/30/05, CHC-BOLD PAC, \$250.

2. Spouse: 10/18/08, Anne Barth for Congress, \$250; 10/08, Obama for America, \$250; 6/12/07, Hillary Clinton for President, \$250; 11/1/06, Leadership of Today and Tomorrow PAC, \$1,000; 3/31/06, Menendez for Senate, \$2,000.

3. Children and Spouses: None.

4. Parents: Mary de Baca, 8/13/08, Citizens for Harkin, \$250; 2008, Becky Greenwold for Congress, \$150; 8/29/07, Citizens for Harkin, \$200; 2006, Citizens for Harkin, \$250; 2006, Spencer for Congress, \$100; 2005, Citizens for Harkin, \$250; Robert C. de Baca, deceased.

5. Grandparents: Luis C. de Baca, deceased; Maria Antonia C. de Baca, deceased; Ephraim Joseph Marchino, deceased; Dorothy Elizabeth Marchino, deceased.

6. Sisters and Spouses: Monica de Baca, 9/9/08, Obama for America, \$100; Suzanna de Baca, None; Ron Weatherman, None.

Mr. KERRY. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

\*Foreign Service nominations beginning with Gregory D. Loose and ending with Gregory M. Wong, which nominations were received by the Senate and appeared in the Congressional Record on April 2, 2009.

\*Foreign Service nominations beginning with Laszlo F. Sagi and ending with Daniel E. Harris, which nominations were received by the Senate and appeared in the Congressional Record on April 2, 2009.

\*Foreign Service nominations beginning with John M. Kowalski and ending with Jeremy Terrill Young, which nominations were received by the Senate and appeared in the Congressional Record on April 2, 2009.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY:

S. 969. A bill to amend the Public Health Service Act to ensure fairness in the coverage of women in the individual health insurance market; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU (for herself, Mr. MARTINEZ, Mr. JOHNSON, and Mr. LIEBERMAN):

S. 970. A bill to promote and enhance the operation of local building code enforcement administration across the country by establishing a competitive Federal matching grant program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER:

S. 971. A bill to implement a pilot program to establish truck parking facilities; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself and Mrs. HAGAN):

S. 972. A bill to amend the Food, Conservation, and Energy Act of 2008 to provide funding for successful claimants following a determination on the merits of Pigford claims related to racial discrimination by the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. NELSON of Florida (for himself, Mr. REID, and Mr. SCHUMER):

S. 973. A bill to amend title XVIII of the Social Security Act to provide for the distribution of additional residency positions, and for other purposes; to the Committee on Finance.

By Mr. MARTINEZ:

S. 974. A bill to amend title XIX of the Social Security Act to require the Secretary of Health and Human Services to make certain de-identified information collected under the Medicaid Statistical Information System publicly available on the Internet; to the Committee on Finance.

By Mr. MARTINEZ (for himself, Mr. CORNYN, Ms. COLLINS, Mr. NELSON of Florida, Mr. ALEXANDER, Mr. GRAHAM, Mr. VITTER, Mr. DEMINT, and Mr. CORKER):

S. 975. A bill to amend title XVIII of the Social Security Act to reduce fraud under the Medicare program; to the Committee on Finance.

By Mr. GRASSLEY:

S. 976. A bill to provide that certain provisions of subchapter I of chapter 35 of title 44,

United States Code, relating to Federal information policy shall not apply to the collection of information during any investigation, audit, inspection, evaluation, or other review conducted by any Federal office of Inspector General, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. MURRAY:

S. 977. A bill to amend title 38, United States Code, to provide improved benefits for veterans who are former prisoners of war, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN (for herself and Mr. HATCH):

S. 978. A bill to amend the Internal Revenue Code of 1986 to increase the limitation on capital losses applicable to individuals; to the Committee on Finance.

By Mr. DURBIN (for himself, Ms. SNOWE, and Mrs. LINCOLN):

S. 979. A bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible; to the Committee on Finance.

By Ms. MURKOWSKI (for herself, Mr. INOUE, Mr. AKAKA, and Mr. BEGICH):

S. 980. A bill to direct the Secretary of Commerce to establish a demonstration program to adapt the lessons of providing foreign aid to underdeveloped economies to the provision of Federal economic development assistance to certain similarly situated individuals, and for other purposes; to the Committee on Indian Affairs.

By Mr. REID:

S. 981. A bill to support research and public awareness activities with respect to inflammatory bowel disease, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. DODD, Ms. COLLINS, Mr. HARKIN, Ms. SNOWE, Mr. DURBIN, Mr. LUGAR, Ms. MIKULSKI, Mr. REED, Mrs. MURRAY, Mr. REID, Mr. BINGAMAN, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mr. MERKLEY, Mr. WHITEHOUSE, Mr. LEAHY, Mr. LAUTENBERG, Mr. KERRY, Mr. SCHUMER, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. LEVIN, Mr. BAUCUS, Mr. WYDEN, Mr. AKAKA, Mr. NELSON of Florida, Ms. LANDRIEU, Mr. CARPER, Mrs. GILLIBRAND, Mr. BENNET, Mr. BEGICH, Mr. BURRIS, Mr. KAUFMAN, Mr. UDALL of New Mexico, Mr. UDALL of Colorado, Mr. KOHL, Mr. FEINGOLD, Ms. CANTWELL, and Mrs. LINCOLN)):

S. 982. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

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

S. Res. 128. A resolution recognizing the historical significance of the Mexican holiday of Cinco de Mayo; considered and agreed to.

By Ms. LANDRIEU (for herself, Mr. VITTER, and Mr. McCONNELL):

S. Res. 129. A resolution commending Louisiana jockey Calvin Borel for his victory in

the 135th Kentucky Derby; considered and agreed to.

By Mr. REID:

S. Res. 130. A resolution to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen; considered and agreed to.

By Mr. McCONNELL:

S. Res. 131. A resolution making minority party appointments for certain committees for the 111th Congress; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 46

At the request of Mr. ENSIGN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 46, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 243

At the request of Mr. CARDIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 243, a bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to establish the standard mileage rate for use of a passenger automobile for purposes of the charitable contributions deduction and to exclude charitable mileage reimbursements for gross income.

S. 296

At the request of Mr. CHAMBLISS, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 296, a bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States.

S. 348

At the request of Mr. NELSON of Nebraska, his name was added as a cosponsor of S. 348, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 348, *supra*.

S. 454

At the request of Mr. LEVIN, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 454, a bill to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems, and for other purposes.

S. 456

At the request of Mr. DODD, the names of the Senator from Hawaii (Mr. INOUE) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of 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.

S. 526

At the request of Mrs. McCASKILL, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 526, a bill to provide in personam jurisdiction in civil actions against contractors of the United States Government performing contracts abroad with respect to serious bodily injuries of members of the Armed Forces, civilian employees of the United States Government, and United States citizen employees of companies performing work for the United States Government in connection with contractor activities, and for other purposes.

S. 535

At the request of Mr. NELSON of Florida, the names of the Senator from Vermont (Mr. SANDERS), the Senator from Montana (Mr. TESTER) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 597

At the request of Mrs. MURRAY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 597, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 614

At the request of Mrs. HUTCHISON, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots ("WASP").

S. 619

At the request of Mr. REED, his name was added as a cosponsor of S. 619, a bill to amend the Federal Food, Drug, and Cosmetic Act to preserve the effectiveness of medically important antibiotics used in the treatment of human and animal diseases.

S. 645

At the request of Mrs. LINCOLN, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from North Carolina (Mrs. HAGAN) were added as cosponsors of S. 645, a bill to amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program.



S. 649

At the request of Mr. KERRY, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 649, a bill to require an inventory of radio spectrum bands managed by the National Telecommunications and Information Administration and the Federal Communications Commission.

S. 662

At the request of Mr. CONRAD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 662, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

S. 696

At the request of Mr. CARDIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 696, a bill to amend the Federal Water Pollution Control Act to include a definition of fill material.

S. 701

At the request of Mr. KERRY, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 701, a bill to amend title XVIII of the Social Security Act to improve access of Medicare beneficiaries to intravenous immune globulins (IVIG).

S. 715

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 715, a bill to establish a pilot program to provide for the preservation and rehabilitation of historic lighthouses.

S. 717

At the request of Mr. REED, his name was added as a cosponsor of S. 717, a bill to modernize cancer research, increase access to preventative cancer services, provide cancer treatment and survivorship initiatives, and for other purposes.

At the request of Mrs. GILLIBRAND, her name was added as a cosponsor of S. 717, *supra*.

S. 718

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 718, a bill to amend the Legal Services Corporation Act to meet special needs of eligible clients, provide for technology grants, improve corporate practices of the Legal Services Corporation, and for other purposes.

S. 738

At the request of Ms. LANDRIEU, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 738, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 816

At the request of Mr. CRAPO, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 816, a bill to preserve the rights granted under second amendment to the Constitution in national parks and national wildlife refuge areas.

S. 830

At the request of Mr. WHITEHOUSE, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 830, a bill to modify the definition of children's hospital for purposes of making payments to children's hospitals that operate graduate medical education programs.

S. 831

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 838

At the request of Mr. LUGAR, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 838, a bill to provide for the appointment of United States Science Envoys.

S. 841

At the request of Mr. KERRY, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 843

At the request of Mr. LAUTENBERG, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 843, a bill to establish background check procedures for gun shows.

S. 908

At the request of Mr. BAYH, the names of the Senator from Illinois (Mr. BURRIS), the Senator from Illinois (Mr. DURBIN), the Senator from Kansas (Mr. ROBERTS), the Senator from Alaska (Mr. BEGICH) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 909

At the request of Mr. BURRIS, his name was added as a cosponsor of S. 909, a bill to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes.

At the request of Mr. SANDERS, his name was added as a cosponsor of S. 909, *supra*.

S. 945

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 945, a bill to require the Secretary of the Treasury to mint coins in commemoration of Robert M. La Follette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States.

S. 954

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 954, a bill to authorize United States participation in the replenishment of resources of the International Development Association, and for other purposes.

S. 955

At the request of Mr. KERRY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 955, a bill to authorize United States participation in, and appropriations for the United States contribution to, the African Development Fund and the Multilateral Debt Relief Initiative, to require budgetary disclosures by multilateral development banks, to encourage multilateral development banks to endorse the principles of the Extractive Industries Transparency Initiative, and for other purposes.

S. 964

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 964, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Robert M. LaFollette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States.

S. 968

At the request of Mr. REID, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 968, a bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce.

S. RES. 49

At the request of Mr. LUGAR, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S. Res. 49, a resolution to express the sense of the Senate regarding the importance of public diplomacy.

S. RES. 121

At the request of Mrs. FEINSTEIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Res. 121, a resolution designating May 15, 2009, as "Endangered Species Day".

S. RES. 125

At the request of Mr. LAUTENBERG, the name of the Senator from Delaware

(Mr. KAUFMAN) was added as a cosponsor of S. Res. 125, a resolution in support and recognition of National Train Day, May 9, 2009.

## AMENDMENT NO. 1021

At the request of Mr. GRASSLEY, the names of the Senator from Alabama (Mr. SHELBY), the Senator from North Dakota (Mr. DORGAN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of amendment No. 1021 proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

## AMENDMENT NO. 1036

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 1036 proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

## AMENDMENT NO. 1038

At the request of Mrs. BOXER, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 1038 proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

## AMENDMENT NO. 1040

At the request of Mr. REED, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 1040 proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 969. A bill to amend the Public Health Service Act to ensure fairness in the coverage of women in the individual health insurance market; to the Committee on Health, Education, Labor, and Pensions.

Mr. KERRY. Mr. President, there continues to be discrimination against women in the individual insurance market. As you know, the individual insurance market is often the last resort for health coverage for individuals who do not have access to an employer-sponsored plan or who earn too much to qualify for Medicaid.

To assist these women, I am today introducing the Women's Health Insurance Fairness Act of 2009, a bill that would end the discrimination against women who seek to purchase an insurance policy on the individual market.

According to the Kaiser Family Foundation, of the 94.7 million women between the ages of 18 and 64 in 2007, 64 percent had insurance through an employer, 18 percent were uninsured, 13 percent were enrolled in Medicaid or another type of public insurance, and 6 percent were in the individual market. In other words, about 5.7 million American women in 2007 received health insurance on the individual market. With rising unemployment, it is likely that

more women will rely on individual insurance market for coverage in the future.

This market is too often a problem for women for a number of reasons. First, women are often charged more than men for insurance in the individual market. Gender rating is a common insurance practice under which most women are charged higher premiums than men for identical coverage. Federal civil rights law prevents employers with more than 15 employees from charging different premiums based on gender and other factors. This protection is not extended to policies sold in the individual insurance market.

According to a recent report entitled "Nowhere to Turn: How the Individual Health Insurance Market Fails Women" by the National Women's Law Center, a 25 year old woman can pay up to 45 percent more than a 25 year old man for the same coverage. A 40 year old woman can pay up to 48 percent more than a 40 year old man for the same coverage. A 55 year old woman can pay up to 37 percent more than a 55 year old man for the same coverage.

Today, only 10 states prohibit and 2 States limit gender rating in the individual market. I am pleased that Massachusetts is one of the 10 States that prohibit insurers from charging different premiums based on gender. But, we should make sure that this prohibition is extended to every state in the nation.

A second problem facing women on the individual market is that insurers may delay, deny, or limit coverage to women due to pregnancy or delivery method. Over 30 years ago with the passage of the Pregnancy Discrimination Act of 1978, Federal civil rights law established as sex discrimination denial of coverage for pregnancy, childbirth and related conditions in employer-based insurance policies. Unfortunately, this protection is not extended to policies sold in the individual insurance market.

Individual market insurers can deny coverage to women based on a "pre-existing condition". If the insurer discovers that a woman applying for coverage had a Cesarean section in the past, they can: charge a higher premium; impose a waiting period during which it refuses to cover another C-section or pregnancy; or deny coverage unless the woman has been sterilized or is no longer of childbearing age.

Currently, there are only 5 States which prohibit insurance carriers from refusing to sell individual health insurance coverage to applicants who have health conditions or problems. Massachusetts is one of the five states which require insurers to accept applicants regardless of health status. Again, this prohibition should be extended to every state in the nation.

A third problem facing women is that the vast majority of policies do not provide coverage for maternity care. The 1978 Pregnancy Discrimination Act

specified that employers with more than 15 employees must cover pregnancy on the same basis as other medical conditions. Once again, similar protections do not exist in the individual insurance market.

The National Women's Law Center recently analyzed over 3,500 individual insurance market policies and found that just 12 percent included comprehensive maternity coverage and another 9 percent provided coverage for maternity care that is not comprehensive. They also found that a limited number of insurers sell separate maternity coverage for an additional fee known as a "rider", but this supplemental coverage is often expensive and limited in scope.

Currently, 5 States, including Massachusetts, have enacted laws requiring insurers to include coverage for maternity services in all individual health insurance policies sold in their state. Every woman should have access to these services.

That is why I am introducing the Women's Health Insurance Fairness Act of 2009, to end the discrimination against women who seek to purchase an insurance policy on the individual market. It has three basic parts.

First, the bill prevents insurers in the individual market from charging women higher premiums than men. Gender rating is insurance discrimination based on sex and should not be tolerated. Over 40 years ago, the insurance industry voluntarily abandoned its practice of using race as a rating factor and now it is time to end rating discrimination against women. Gender rating hurts women's health by inflating premiums and creating substantial financial barriers for women seeking to obtain health care coverage.

Second, the bill prevents insurers in the individual market from denying or limiting coverage based on a current or past pregnancy or a past or future method of delivery. No longer will insurance companies be able to deny coverage to women simply by treating a pregnancy like a pre-existing condition. Similarly, they will not be able to impose waiting periods relating to a pregnancy. They will no longer be able to impose higher premiums or deductibles on women with prior Cesareans.

Finally, the bill will require all insurance policies offered on the individual market to provide comprehensive maternity coverage for the full scope of maternity services from pre-conception through postpartum. There is a huge cost to our society by denying maternity coverage. In 2005, the costs associated with preterm birth, one of the most expensive pregnancy complications linked to lack of prenatal care, totaled over \$26.2 billion. Yet, for every \$1 spent on preconception care saved anywhere from \$1.60 to \$5.19 in maternal care costs.

If women do not have the necessary maternity coverage, they will be exposed to substantial out of pocket

costs. Too many women are unable to pay these costs. The average U.S. hospital cost for an uncomplicated vaginal delivery ranges from \$7,500 to \$15,000 and from \$11,000 to \$19,000 for a caesarean delivery. I believe comprehensive maternity coverage will save money and improve maternal and child health outcomes. Those currently without coverage often turn to our public safety net for assistance. Today, forty percent of all pregnancies are covered by Medicaid. We need to do everything possible to increase health outcomes for our children.

The bill would provide the Secretary of Health and Human Services with the authority to monitor compliance with the requirements of this act. It gives the Secretary the ability to assess fines of at least \$10,000 against any health insurance company that fails to submit the required data. Additionally, the bill directs the Government Accountability Office to issue a report by December 31, 2010 about problems any remaining for women on the individual insurance market in all 50 States.

I would like to thank a number of organizations who have already endorsed the legislation including the American College of Obstetricians and Gynecologists, Children's Defense Fund, Consumers Union, Families USA, the National Partnership for Women & Families, and OWL—The Voice of Midlife and Older Women.

During the Senate's consideration of comprehensive health care reform, I will work with Senate Finance Committee Chairman BAUCUS, Ranking Member GRASSLEY to make sure that discriminatory insurance practices against women are ended. I will also work with my Massachusetts colleague, Senate Committee on Health, Education, Labor and Pensions Chairman TED KENNEDY to make sure this legislation is enacted into law. As in other areas of health reform, Massachusetts is already leading the way in preventing insurers from engaging in practices that harm women. I believe the rest of the country should benefit from our experience.

I find it especially appropriate to introduce this legislation as we approach Mother's Day on Sunday, May 10th and National Women's Health Week on May 10th-16th. I can think of no better gift to our mothers, daughters, and sisters than the gift of affordable and accessible insurance that meets their health needs.

By Mr. GRASSLEY (for himself and Mrs. HAGAN):

S. 972. A bill to amend the Food, Conservation, and Energy Act of 2008 to provide funding for successful claimants following a determination on the merits of Pigford claims related to racial discrimination by the Department of Agriculture, to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, I want to first start off by thanking the Senate and in particular the Senate

Agriculture Committee for addressing a new cause of action in Federal court for those African-American farmers who may have been discriminated against and who were denied entry in the Pigford v. Glickman Consent Decree. The Food, Conservation, and Energy Act of 2008 including a provision entitled Determination on Merits of Pigford Claims.

For those who do not know, the Consent Decree was a settlement that resulted from a class action lawsuit initiated by a class of African-American farmers who had for decades been discriminated against by the U.S. Department of Agriculture in the administration of its FSA loan program. The discriminatory treatment was well-documented by both the USDA's own Inspector General and an internal task force appointed by then USDA Secretary Glickman.

We had some unanticipated consequences in the Consent Decree's implementation. There was denial of approximately 77,000 African-American farmers into the Decree even though these farmers filed petitions by the late-claim deadline. More than half of these late-claim petitioners didn't even know about the Consent Decree. The Court said the lack of notice was not a sufficient reason to allow them into the Consent Decree. Thus, these individuals were denied entry and their discrimination complaints went unresolved. This was not a fair outcome for farmers or those attempting to farm at that time.

The farm bill did the right thing by allowing late filers to have their claims heard and judged on the merits. These farmers deserve justice and at least the opportunity to have their claims heard.

Unfortunately, it has been very difficult to determine how many of the 77,000 actually have valid claims. Lots of different folks have lots of different calculations. Either way, it's likely to be expensive. Because of the budget constraints, the Farm Bill only could put \$100 million towards the endeavor.

I think we can and must do better than that. That is why today I am introducing bipartisan legislation with Senator HAGAN of North Carolina. This bill will make 3 changes to the farm bill. First it will allow the claimants to access the \$100 million already appropriated in the farm bill, but once that is expended gain access to the Department of Treasury permanent appropriated judgment fund. Second, it will allow reasonable attorney fees, administrative costs, and expenses to be paid from the judgment fund in accordance with the 1999 consent decree. Finally, it includes a section making fraud related to claims a criminal offense with punishment of a fine or up to 5 years in prison or both.

The claimants, who were able to timely file, were allowed access to the judgment fund and so it makes sense that we treat these new claimants the exact same way. The Department of

Justice was treating the \$100 million included in the farm bill as a cap, but Congress simply viewed it as a down payment to rectify the damage done.

The farm bill we passed last year does one thing right. It focuses a considerable amount of resources on new and beginning farmers and ranchers. Well, many of the Pigford claimants were in that same boat 20 years ago. It is time to rectify that.

The farm bill has simply opened up the door so that claims can be heard. If a person brings a claim and can not meet the burden of proof, then no award will be given. However, we know USDA has admitted that the discrimination occurred, and now we are obligated to do our best in getting those that deserve it, some relief. That is why I am introducing this legislation with Senator HAGAN and I urge my colleagues to support the bill. It is time to make these claimants right and move forward into a new era of civil rights at the Department of Agriculture.

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. 972

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. FUNDING FOR PIGFORD CLAIMS.**

Section 14012 of the Food, Conservation, and Energy Act of 2008 (122 Stat. 2209; Public Law 110-246) is amended—

(1) by striking subsection (c) and inserting the following:

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—It shall be unlawful for any person to—

“(A) knowingly execute, or attempt to execute, a scheme or artifice to defraud, or obtain money or property from any person by means of false or fraudulent pretenses, representations, or promises, relating to the eligibility or ability of a person to—

“(i) file a civil action relating to a Pigford claim;

“(ii) submit a late-filing request under section 5(g) of the consent decree;

“(iii) obtain a determination on the merits of a Pigford claim; or

“(iv) recover damages or other relief relating to a Pigford claim; and

“(B) for the purpose of executing the scheme or artifice or attempting so to do, or obtaining the money or property—

“(i) place or deposit, or cause to be placed or deposited, any matter or thing to be sent or delivered by the Postal Service or any private or commercial interstate carrier;

“(ii) take or receive any matter or thing sent or delivered by the Postal Service or any private or commercial interstate carrier;

“(iii) knowingly cause to be delivered by the Postal Service or any private or commercial interstate carrier any matter or thing according to the direction on the matter or thing, or at the place at which the matter or thing is directed to be delivered by the person to whom it is addressed; or

“(iv) transmit, or cause to be transmitted, any writings, signs, signals, pictures, or sounds by means of wire, radio, or television communication in interstate or foreign commerce.

“(2) PENALTY.—Any person who violates paragraph (1) shall be fined under title 18,

United States Code, imprisoned for not more than 5 years, or both.”; and

(2) in subsection (i), by striking paragraph (2) and inserting the following:

“(2) PERMANENT JUDGMENT APPROPRIATION.—

“(A) IN GENERAL.—After the expenditure of all funds made available under paragraph (1), any additional payments or debt relief in satisfaction of claims against the United States under subsection (b) and for any actions under subsection (f) or (g) shall be paid from amounts appropriated under section 1304 of title 31, United States Code.

“(B) AUTHORIZATION OF CERTAIN EXPENSES.—Reasonable attorney’s fees, administrative costs, and expenses described in section 14(a) of the consent decree and related to adjudicating the merits of claims brought under subsection (b), (f), or (g) shall be paid from amounts appropriated under section 1304 of title 31, United States Code.

“(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available under this subsection, there are authorized to be appropriated such sums as are necessary to carry out this section.”.

By Mr. GRASSLEY:

S. 976. A bill to provide that certain provisions of subchapter I of chapter 35 of title 44, United States Code, relating to Federal information policy shall not apply to the collection of information during any investigation, audit, inspection, evaluation, or other review conducted by any Federal office of Inspector General, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. GRASSLEY. Mr. President, the Federal Inspectors General are the frontline of protection for taxpayer dollars, ensuring that Federal agencies spend taxpayer dollars in an effective, efficient, economical manner that is in accordance with all applicable law. The Inspectors General root out fraud, waste, and abuse in Government programs by auditing, evaluating, and investigating how Federal agencies spend taxpayer dollars and how Government programs utilize funds. The Inspectors General occupy a unique position within our government. Created by the Inspector General Act of 1978 and by various subsequent statutes, the Inspectors General at Executive Branch agencies also report directly to the Legislative Branch. They were created to keep tabs on the government bureaucracy to make sure that agencies follow the spirit and intent of the laws while protecting taxpayer dollars.

I have been an outspoken advocate for Inspectors General during my time in the Senate and I was proud to be a cosponsor of the Inspector General Reform Act of 2008, which was signed into law by President Bush last year. That legislation ensures that Inspectors General are truly independent of the Federal agencies they oversee. The independence of Inspectors General is a critical requirement to their ability to get the job done. If Inspectors General lack independence from the agency they oversee, the quality of their work is impacted negatively and their reputation as independent watchdogs is tarnished.

Over the years, I have seen a number of Inspectors General come and go. It is a tough job to be an Inspector General. You can not go along to get along. You must buck the system, dig deep into the books of the agency, find where the secrets are hidden, and then report the truth to Congress, the President, and the American people. Unfortunately, Inspectors General must do all this with the agencies that often fight their every move. These entrenched bureaucracies have an interest in not seeing Inspectors General succeed—they do not want egg on their face. That is why we in Congress must make sure they have all the tools they need to get the job done and ensure that there is accountability for the billions in taxpayer dollars that are spent annually on the operation of the Executive Branch.

One growing area of concern I have seen over the years is procedural roadblocks being placed before Inspectors General to limit or prohibit their ability to do their job of protecting taxpayer dollars. One recent example relates to the Special Inspector General for the Troubled Asset Relief Program SIGTARP, Neil Barofsky. Inspector General Barofsky notified me on January 22, 2009, that he intended to begin an oversight initiative that would have improved the transparency of the Troubled Asset Relief Program, TARP. Inspector General Barofsky’s plan was to collect data from TARP recipients asking them for a response outlining the use of TARP funds, copies of support documents, a description of plans to comply with executive compensation restrictions, and certification by a senior executive officer of the accuracy of the statements they make. This sounded like a legitimate plan from the Inspector General tasked by Congress with ensuring that the \$700 billion handed out by the TARP program wasn’t lost to fraud or abuse. However, it was shortly after this letter that Mr. Barofsky ran into procedural hurdles erected by the Office of Management and Budget, OMB.

On January 30, 2009, I asked the Inspector General for an update on his initiative when he informed me that OMB had advised the SIGTARP that he could not initiate his effort due to the restrictions in the Paperwork Reduction Act of 1980, PRA. As a result, SIGTARP requested “emergency processing” by OMB to consider the impact of its letter to TARP recipients. It is my understanding that OMB initially responded favorably finding that SIGTARP would not be limited by the PRA. However, OMB reversed course and withdrew the emergency approval right after it was granted.

OMB then informed SIGTARP that the PRA required he post his proposed letter online for TARP recipients to review for 15 days, wait for comments from the recipients, and then require that the SIGTARP justify to OMB that it has taken into account all the public comments. This was a significant, un-

necessary roadblock that was erected at a time when American Taxpayers were asking everyone “where did the money go.” This type of procedural hurdle to an audit and investigation by the SIGTARP is unacceptable. Can you imagine what the very corporations that took taxpayer money would write during the comment period? It is my view that corporations that took Government money should be subjected to oversight by Inspectors General and they should not have a say in drafting or amending a letter from the Inspector General that they must respond to. This is exactly what OMB was asking of the SIGTARP.

I am glad to report that later that same week SIGTARP Barofsky was given approval from OMB to send the letter requests to the TARP recipients without delay. However, around the same time that the letters were approved and sent, the Department of Treasury posted a comment request in the Federal Register about the SIGTARP request. Those responses were due to Treasury by April 13, 2009. While SIGTARP Barofsky was ultimately able to send his request, this uncertainty about the application of the PRA to audits, evaluations, inspections, or investigations by Inspectors General remains a significant question. This whole saga was a wakeup call for many Inspectors General. As a result, many Inspectors General have reached out to my office about this issue and the dangers the PRA could pose to their audits and investigations.

That is why I am here today to introduce legislation that will clarify the impact the PRA has on official audits, evaluations, inspections, and investigations conducted by Inspectors General. This legislation is narrowly tailored to ensure that Inspectors General are not subject to bureaucratic hurdles erected by OMB, which could be used to limit the independence and authority of Inspectors General, and most importantly information that we can garner through their work.

Specifically, the PRA currently states that agencies must receive approval for each collection request before it is implemented. Failure to get this approval provides the recipient of the request the protection to not comply with the request without penalty. The current PRA does not apply to criminal investigations, administrative actions, or investigations involving an agency against a specific individual or entities. However, it does apply to “general” investigations. The PRA is also silent as to whether it was intended to apply to Inspectors General and defines agency as any “executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government including the Executive Office of the President, or any independent regulatory agency. The PRA does expressly exclude the Government Accountability Office and the Federal

Election Commission, but not the Inspectors General.

The PRA was passed with the noble goal of reducing the impact Federal Government regulatory agencies have on small businesses and other private individuals. However, over the years the investigative and audit roles of the Inspectors General have expanded to ensure that taxpayer dollars are not lost to fraud, waste, or abuse. As a result, the important work of the Inspectors General may run directly into the PRA resulting in a slower process for audits, evaluations, and investigations, as well as potentially tipping off those being investigated by the Inspectors General and providing them time to, for example cover-up potential wrong doing.

The legislation I'm introducing today is designed to protect the PRA as well as the Inspectors General by trying to head off a potential conflict among the two statutes before it has to be decided by the courts. It simply states that the PRA shall not apply to the collection of information "during the conduct of any investigation, audit, inspection, evaluation, or other review conducted by" any Federal office of Inspector General. It further defines the definition of Inspector General to include: statutory Inspectors General, Federal entity Inspectors General, and any Special Inspector General. This definition also includes the Council of the Inspectors General on Integrity and Efficiency, CIGIE, created by the Inspector General Reform Act, and the Recovery, Accountability, and Transparency Board created by the stimulus bill signed into law earlier this year. These two entities have some audit and evaluation roles provided to them and should also not face procedural hurdles under the PRA when they are overseeing the various Inspectors General or Recovery programs.

All in all, this is a simple piece of legislation that I encourage all my colleagues to support. It picks up on the great work of the Inspector General Reform Act to ensure that Inspectors General are independent and free from any undue influence—procedural or substantive—when conducting audits, evaluations, inspections, or audits on behalf of the American people. I hope this legislation will receive expedited consideration and swift passage.

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. 976

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. INVESTIGATIONS, AUDITS, INSPECTIONS, EVALUATIONS, AND REVIEWS CONDUCTED BY INSPECTORS GENERAL.**

Section 3518(c) of title 44, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2)" and inserting "paragraph (3)";

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

(3) by inserting after paragraph (1) the following:

"(2) Notwithstanding paragraph (3), this subchapter shall not apply to the collection of information during the conduct of any investigation, audit, inspection, evaluation, or other review conducted by—

"(A) any Federal office of Inspector General, including—

"(i) any office of Inspector General of any establishment, Federal entity, or designated Federal entity as those terms are defined under sections 12(2), 8G(a)(1), and 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.), respectively; or

"(ii) any office of Special Inspector General established by statute;

"(B) the Council of the Inspectors General on Integrity and Efficiency established under section 11 of the Inspector General Act of 1978 (5 U.S.C. App.); or

"(C) the Recovery Accountability and Transparency Board established under section 1521 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 289)."

By Mr. DURBIN (for himself, Ms. SNOWE, and Mrs. LINCOLN):

S. 979. A bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible; to the Committee on Finance.

Mr. DURBIN. Mr. President, I rise today to introduce legislation with Senators SNOWE and LINCOLN to make healthcare more affordable and accessible for our nation's small businesses and self-employed individuals. This bipartisan legislation is known as the Small Business Health Options Program Act, or the SHOP Act, and I am working with the Finance and HELP Committees to incorporate it into the broader healthcare reform bill the Senate is developing.

Health reform is a priority of the American people and a central element of this Congress's agenda. While more must be done, we have taken some small but important steps already.

We expanded the CHIP program to provide healthcare to an additional 4 million children who are uninsured today.

We provided assistance to laid-off workers to help them pay for health insurance under the COBRA continuation program, so that families receiving an average monthly unemployment check of \$1,300 aren't expected to pay \$1,100 in insurance premiums.

We included in the Recovery Act \$87 billion for the Medicaid program over the next 2 years.

We provided \$2 billion for community health centers, which serve more than 18 million patients.

But we have more to do. Overall, 46 million Americans are uninsured. At the beginning of this decade, fewer than 40 million people were uninsured. Over the same period, health insurance premiums have risen 4 times faster than wages.

This is the year to enact reforms to reduce healthcare costs, expand coverage, and improve the quality of the healthcare we receive.

It is not easy for small businesses and the self-employed to afford health insurance. Without the benefits of large group purchasing, double-digit rate increases are not uncommon.

The recession has made it worse. The Main Street Alliance recently polled nearly 500 small businesses in a dozen states and found that 35 percent have reduced coverage and 12 percent have dropped it altogether in the past 2 years.

More than 50 percent of the uninsured in America are in households led by someone who is either self-employed or works for a business with fewer than 100 employees.

Workers in the smallest businesses are almost three times likely to be uninsured as those who work for the largest businesses. That is not because small businesses don't want to offer health insurance; it is because insurance is more expensive for them than for large companies.

Administrative costs for health insurance are higher for small businesses than larger businesses. About 20–25 percent of a small business's premium goes to administrative expenses, compared to about 10 percent for large employers.

Small businesses are less able than large employers to spread the risk that someone will get sick. Even a single employee with a serious medical condition can cause a dramatic increase in a small business's health insurance premium.

Small businesses are also more likely to have lower wages and narrower profit margins than large businesses, making it more difficult for these employers and employees to cover the cost of health coverage.

Small business owners like Doug Mayol of Springfield, IL, and David Borris, of Northbrook, IL, know all too well the difficulty of maintaining health insurance in this struggling economy.

Since 1988, Doug Mayol has owned and operated a small business in downtown Springfield that sells cards, gifts, and other knick-knacks. He has found that his profits are at the mercy of the rising costs of healthcare. He is fortunate that his only employee is over 65 and qualifies for Medicare and also receives spousal benefits from her late husband. If this were not the case, Doug does not think he would be able to provide her with coverage.

In terms of his own insurance, Doug has a preexisting condition and fears the real possibility of becoming uninsured. Almost 30 years ago, Doug was diagnosed with a congenital heart valve defect. He has no symptoms, but without regular healthcare he is at risk of developing serious problems.

Like most Americans, his healthcare premiums have risen over the years, but recently the increases have been

dramatic. In 2001, he paid \$200 a month. By 2005, he was paying \$400 a month. The next year, after he turned 50, his rate shot up to \$750 a month.

Trying to work within the system, he chose a smaller network of providers and a higher deductible to bring his premium back down to \$650. Unfortunately, last year it jumped to \$1037 a month. Only by taking the highest deductible allowed, \$2500, was he able to bring it down to \$888. And these rates will continue to rise.

Ironically, Doug is not even a costly patient. With his high deductible, his insurance rarely kicks in, as he has never made a claim for illness or injury and has received only routine primary care. Yet more affordable insurance carriers reject him due to his pre-existing condition.

Meanwhile, Doug avoids seeing a cardiologist, even though periodic visits would be a good idea, because he fears it would add another red flag to his already imperfect health record.

What kind of healthcare system is it that causes even those with coverage to avoid care? Americans need the peace-of-mind that comes with knowing that health insurance companies will not be able to reject you, or keep raising your rates, because you have a preexisting condition.

David Borris faces another dilemma. David is the owner of Hel's Kitchen Catering, an off-premise catering company located along suburban Chicago's north shore in Northbrook, IL. Over 2 decades ago, David and his wife opened their business in a 900 square foot storefront with a handful of recipes from his mother and his wife. Both David and his wife left good-paying jobs in the hospitality industry to take their shot at the American dream of owning their own business.

David now employs 25 full-time employees and has offered health insurance to them since 1992. At first, David offered to contribute 50 percent of the premium in an employee's first year and 100 percent thereafter. The company had 8 full-time employees and David felt a moral obligation to offer insurance to the people who were helping to grow his business.

Around 2002, the company started to see staggering premium increases. In 2004, the premium jumped 21 percent. In 2005, it increased by 10 percent. In 2006, the increase was 16 percent. In 2007, he was quoted a 26 percent rate hike, and only a change of carriers allowed him to hold the increase to 17 percent. In total, his premiums have doubled since 2002, forcing him to ask longtime employees to contribute toward the cost of the premiums.

Today, David insures only 13 of his 25 full-time employees—the other 12 cannot afford their 50 percent share of the premium in the first year, and the company cannot afford to pay more.

David spent almost 13 percent of his covered employees' payroll on health insurance premiums last year, and he expects he will have to ask employees to contribute more again next year.

He knows that one employee's wife has a kidney problem and another employee's son receives an expensive treatment for a health condition. Trying to maintain health coverage for his loyal workers has become a major complication as he tries to grow his business.

Both Doug and David are living the American dream as small business owners. Providing health insurance for their employees should not destroy that dream.

As Congress works to reform the healthcare system, we need to keep in mind the struggle of small business owners like Doug and David. Small businesses are the backbone of the American economy. They need to be able to count on health insurance premiums that are reasonable and predictable. They need something better than our current system offers.

That is why I am reintroducing the SHOP Act with Senators SNOWE and LINCOLN. Our legislation offers new hope for entrepreneurs who struggle to afford health insurance. It will make health insurance more accessible and more affordable for small businesses and the self-employed.

Our bill has three core elements: purchasing pools for small businesses and the self-employed; health insurance rating reforms; and tax credits.

Our bill would create incentives for States to establish purchasing pools and would create a national pool that we call SHOP, the Small Business Health Options Program, for small businesses with up to 100 employees and for the self-employed.

Purchasing pools will lower administrative costs, give employers and employees more private health insurance plans to choose from, and enhance competition by making it easier to compare plans.

Our bill would prohibit insurers from setting premiums based on health status in both the national SHOP pool and in States' small group markets, and would gradually reduce other sources of premium variation. These rating changes will make premiums more stable from year to year and make coverage more affordable for those who need it most.

To lower the cost of providing health coverage, our bill would provide a tax credit to small businesses with up to 50 workers who pay at least 60 percent of their employees' premiums.

The size of the tax credit would be targeted to the size of the business. A full tax credit of \$1,000 for self-only coverage and \$2,000 for family coverage would be available to the smallest businesses, with the value of the tax credit phased down as the size of the employer increases.

Employers who cover more than 60 percent of the premium would be rewarded with a bonus credit.

In addition, we would move to a system where individual employees can choose their own health plan instead of having their employer choose it for

them. Where rating rules permit it, each worker would be able to enroll in the health plan in SHOP that best meets his or her needs.

The bill we have introduced reflects our commitment to find reasonable compromises and address the challenges faced by small employers and the self-employed. This bipartisan legislation has the support of a range of business, labor, and consumer groups.

We have worked closely with the National Federation of Independent Business, the National Association of Realtors, and SEIU in the development of the bill, and we also have the support of Families USA, the National Restaurant Association, and the Partnership for Women and Families.

We have received valuable input from the National Association of Insurance Commissioners and have taken the hard steps they have recommended to address rating issues and ensure that the approach is viable over the long haul.

Although each group that supports SHOP has its own priorities for broader health reform, this diverse coalition of stakeholders from across the political spectrum came together to address the needs of small businesses as one important component of reform.

Everyone understands that this bill is not comprehensive health reform, and none of us would stop with SHOP. However, the renewed focus on broader reform has given us an opportunity to offer SHOP as a carefully-crafted component of broader reform that addresses the specific needs of the small business community. We believe our approach is consistent with the broader conversation and can help the greater reform effort move forward on a bipartisan basis, and we look forward to including the features of SHOP in the broader bill.

In a town hall meeting in March this year, the President spoke to a crowd about the new mindset of this Administration. He talked about "understanding that we're all in this together and that if the middle class is working well, if working people are doing well, then everybody does well."

This bill is consistent with that thinking. Its seemingly disparate supporters may disagree on many things, but they have worked together to develop this legislation because they agree on a greater principle: that our current system is hurting everyone—families, businesses, and our economy.

We must keep working together on a bipartisan basis to try to enact legislation that will give all Americans access to affordable health insurance, and solving the healthcare challenges faced by small businesses is an important part of that process.

I look forward to working with my colleagues to enact such legislation and ensure that the healthcare needs of small businesses and all Americans are met.

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. 979

*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 “Small Business Health Options Program Act of 2009” or the “SHOP Act”.

**SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.**

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

**“TITLE XXXI—SMALL BUSINESS HEALTH OPTIONS PROGRAM**

**“SEC. 3101. DEFINITIONS.**

“(a) IN GENERAL.—In this title:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator appointed under section 3102(a).

“(2) SMALL BUSINESS HEALTH BOARD.—The term ‘Small Business Health Board’ means the Board established under section 3102(d).

“(3) EMPLOYEE.—The term ‘employee’ has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)). Such term shall not include an employee of the Federal Government.

“(4) EMPLOYER.—The term ‘employer’ has the meaning given such term under section 3(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(5)), except that such term shall include employers who employed an average of at least 1 but not more than 100 employees (who worked an average of at least 35 hours per week) on business days during the year preceding the date of application, and shall include self-employed individuals with either not less than \$5,000 in net earnings or not less than \$15,000 in gross earnings from self-employment in the preceding taxable year. Such term shall not include the Federal Government.

“(5) HEALTH INSURANCE COVERAGE.—The term ‘health insurance coverage’ has the meaning given such term in section 2791.

“(6) HEALTH INSURANCE ISSUER.—The term ‘health insurance issuer’ has the meaning given such term in section 2791.

“(7) HEALTH STATUS-RELATED FACTOR.—The term ‘health status-related factor’ has the meaning given such term in section 2791(d)(9).

“(8) PARTICIPATING EMPLOYER.—The term ‘participating employer’ means an employer that—

“(A) elects to provide health insurance coverage under this title to its employees; and

“(B) is not offering other comprehensive health insurance coverage to such employees.

“(b) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of subsection (a)(3):

“(1) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

“(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence for the full year prior to the date on which the employer applies to participate, the determination of whether such employer meets the requirements of subsection (a)(4) shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the employer’s first full year.

“(3) PREDECESSORS.—Any reference in this subsection to an employer shall include a

reference to any predecessor of such employer.

“(c) WAIVER AND CONTINUATION OF PARTICIPATION.—

“(1) WAIVER.—The Administrator may waive the limitations relating to the size of an employer which may participate in the health insurance program established under this title on a case by case basis if the Administrator determines that such employer makes a compelling case for such a waiver. In making determinations under this paragraph, the Administrator may consider the effects of the employment of temporary and seasonal workers and other factors.

“(2) CONTINUATION OF PARTICIPATION.—An employer participating in the program under this title that experiences an increase in the number of employees so that such employer has in excess of 100 employees, may not be excluded from participation solely as a result of such increase in employees.

“(d) TREATMENT OF HEALTH INSURANCE COVERAGE AS GROUP HEALTH PLAN.—Health insurance coverage offered under this title shall be treated as a group health plan for purposes of applying the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) except to the extent that a provision of this title expressly provides otherwise.

“(e) APPLICATION OF HIPAA RULES.—Subject to the provisions of this title, parts A and C of title XXVII shall apply to health insurance coverage offered under this title by health insurance issuers. Subject to section 2723, a State may modify State law as appropriate to provide for the enforcement of such provisions for health insurance coverage offered in the State under this title. Part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181 et seq.) shall continue to apply to group health plans offering coverage under this title. Subtitle K of the Internal Revenue Code of 1986 shall continue to apply to covered employers and group health plans offering coverage under this title.

**“SEC. 3102. ADMINISTRATION OF SMALL BUSINESS HEALTH INSURANCE POOL.**

“(a) OFFICE AND ADMINISTRATOR.—The Secretary shall designate an office within the Department of Health and Human Services to administer the program under this title. Such office shall be headed by an Administrator to be appointed by the Secretary.

“(b) QUALIFICATIONS.—The Secretary shall ensure that the individual appointed to serve as the Administrator under subsection (a) has an appropriate background with experience in health insurance, healthcare management, or health policy.

“(c) DUTIES.—The Administrator shall—

“(1) enter into contracts with health insurance issuers to provide health insurance coverage to individuals and employees who enroll in health insurance coverage in accordance with this title;

“(2) maintain the contracts for health insurance policies when an employee elects which health plan offered under this title to enroll in as permitted under section 3107(d)(7);

“(3) ensure that health insurance issuers comply with the requirements of this title;

“(4) ensure that employers meet eligibility requirements for participation in the health insurance pool established under this title;

“(5) enter into agreements with entities to serve as navigators, as defined in section 3103;

“(6) collect premiums from employers and employees and make payments for health insurance coverage;

“(7) collect other information needed to administer the program under this title;

“(8) compile, produce, and distribute information (which shall not be subject to review

or modification by the States) to employers and employees (directly and through navigators) concerning the open enrollment process, the health insurance coverage available through the pool, and standardized comparative information concerning such coverage, which shall be available through an interactive Internet website, including a description of the coverage plans available in each State and comparative information, about premiums, index rates, benefits, quality, and consumer satisfaction under such plans;

“(9) provide information to health insurance issuers, including, at the discretion of the Administrator, notification when proposed rates are not in a competitive range;

“(10) conduct public education activities (directly and through navigators) to raise the awareness of the public of the program under this title and the associated tax credit under the Internal Revenue Code of 1986;

“(11) develop methods to facilitate enrollment in health insurance coverage under this title, including through the use of the Internet;

“(12) if appropriate, enter into contracts for the performance of administrative functions under this title as permitted under section 3109;

“(13) carefully consider benefit recommendations that are endorsed by at least two-thirds of the members of the Small Business Health Board;

“(14) establish and administer a contingency fund for risk corridors as provided for in section 3108;

“(15) coordinate with State insurance regulators to ensure timely and effective consideration of complaints, grievances, and appeals; and

“(16) carry out any other activities necessary to administer this title.

“(d) LIMITATIONS.—The Administrator shall not—

“(1) negotiate premiums with participating health insurance issuers; or

“(2) exclude health insurance issuers from participating in the program under this title except for violating contracts or the requirements of this title.

“(e) SMALL BUSINESS HEALTH BOARD.—

“(1) IN GENERAL.—There shall be established a Small Business Health Board to monitor the implementation of the program under this title and to make recommendations to the Administrator concerning improvements in the program.

“(2) APPOINTMENT.—The Comptroller General shall appoint 13 individuals who have expertise in healthcare benefits, financing, economics, actuarial science, or other related fields, to serve as members of the Small Business Health Board. In appointing members under the preceding sentence, the Comptroller General shall ensure that such members include—

“(A) a mix of different types of professionals;

“(B) a broad geographic representation;

“(C) not less than 3 individuals with an employee perspective;

“(D) not less than 3 individuals with a small business perspective, at least 1 of whom shall have a self-employed perspective;

“(E) not less than 1 individual with a background in insurance regulation; and

“(F) not less than 1 individual with a patient perspective.

“(3) TERMS.—Members of the Small Business Health Board shall serve for a term of 3 years, such terms to end on March 15 of the applicable year, except as provided in paragraph (4). The Comptroller General shall stagger the terms for members first appointed. A member may be reappointed after the expiration of a term. A member may

serve after expiration of a term until a successor has been appointed.

“(4) **SMALL BUSINESS REPRESENTATIVES.**—Beginning on March 16, 2013, 3 of the individuals the Comptroller General appoints to the Small Business Health Board shall be representatives of the 3 navigators through which the largest number of individuals have enrolled for health insurance coverage over the previous 2-year period. Such appointees shall serve for 1 year. The Comptroller General shall consider for appointment in years prior to the date specified in this paragraph, individuals who are representatives of entities that may serve as navigators.

“(5) **CHAIRPERSON; VICE CHAIRPERSON.**—The Comptroller General shall designate a member of the Small Business Health Board, at the time of appointment of such member, to serve as Chairperson and a member to serve as Vice Chairperson for the term of the appointment, except that in the case of a vacancy of either such position, the Comptroller General may designate another member to serve in such position for the remainder of such member’s term.

“(6) **COMPENSATION.**—While serving on the business of the Small Business Health Board (including travel time), a member of the Small Business Health Board shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member’s regular place of business, a member may be allowed travel expenses, as authorized by the Chairperson of the Small Business Health Board.

“(7) **DISCLOSURE.**—The Comptroller General shall establish a system for the public disclosure, by members of the Small Business Health Board, of financial and other potential conflicts of interest.

“(8) **MEETINGS.**—The Small Business Health Board shall meet at the call of the Chairperson. Each such meeting shall be open to the public.

“(9) **DUTIES.**—The Small Business Health Board shall—

“(A) provide general oversight of the program under this title and make recommendations to the Administrator;

“(B) monitor, review, seek public input on, and make recommendations to the Administrator on the benefit requirements for nationwide plans in this title;

“(C) make recommendations concerning information that the Administrator, health plans, and navigators should distribute to employers and employees participating in the program under this title; and

“(D) monitor and make recommendations to the Administrator on adverse selection within the program under this title and between the coverage provided under the program and the State-regulated health insurance market.

“(10) **APPROVAL OF RECOMMENDATIONS.**—A recommendation shall require approval by not less than two-thirds of the members of the Board.

“(11) **PUBLIC NOTICE AND COMMENT ON RECOMMENDATIONS.**—The Administrator shall—

“(A) publish recommendations by the Small Business Health Board in the Federal Register;

“(B) solicit written comments concerning such recommendations; and

“(C) provide an opportunity for the presentation of oral comments concerning such recommendations at a public meeting.

**“SEC. 3103. NAVIGATORS.**

“(a) **IN GENERAL.**—The Administrator shall enter into agreements with private and public entities, beginning a reasonable period prior to the beginning of the first calendar

year in which health insurance coverage is offered under this title, under which such entities will serve as navigators.

“(b) **ELIGIBILITY.**—To be eligible to enter into an agreement under subsection (a), an entity shall demonstrate to the Administrator that the entity has existing relationships with, or could readily establish relationships with, employers or employees and self-employed individuals, likely to be eligible to participate in the program under this title. Such entities may include trade, industry and professional associations, chambers of commerce, unions, small business development centers, and other entities that the Administrator determines to be capable of carrying out the duties described in subsection (c).

“(c) **DUTIES.**—An entity that serves as a navigator under an agreement under subsection (a) shall—

“(1) coordinate with the Administrator on public education activities to raise awareness of the program under this title;

“(2) distribute information developed by the Administrator on the open enrollment process, private health plans available through the program under this title, and standardized comparative information about the health insurance coverage under the program;

“(3) distribute information about the availability of the tax credit under section 36 of the Internal Revenue Code of 1986 as added by the Small Business Health Options Program Act of 2009;

“(4) provide referrals to the applicable State agency or agencies for any enrollee with a grievance, complaint, or question regarding their health insurance issuer, their coverage or plan, or a determination under such coverage or plan;

“(5) assist employers and employees in enrolling in the program under this title; and

“(6) respond to questions about the program under this title and participating plans.

“(d) **SUPPLEMENTAL MATERIALS.**—In addition to information developed by the Administrator under subsection (c)(2), a navigator may develop and distribute other information that is related to the health insurance program established under this title, subject to review and approval by the Administrator and filing in each State in which the navigator operates.

“(e) **STANDARDS.**—

“(1) **IN GENERAL.**—The Administrator shall establish standards for navigators under this section, including provisions to avoid conflicts of interest. Under such standards, a navigator may not—

“(A) be a health insurance issuer; or

“(B) receive any consideration directly or indirectly from any health insurance issuer in connection with the participation of any employer in the program under this title or the enrollment of any eligible employee in health insurance coverage under this title.

“(2) **FAIR AND IMPARTIAL INFORMATION AND SERVICES.**—The Administrator shall consult with the Small Business Health Board concerning the standards necessary to ensure that a navigator will provide fair and impartial information and services. An agreement between the Administrator and a navigator may include specific provisions with respect to such navigator to ensure that such navigator will provide fair and impartial information and services. If a navigator, or entity seeking to become a navigator, is a party to any arrangement with any health insurance issuer to receive compensation related to other healthcare programs not covered under this title, the entity shall disclose the terms of such compensation arrangements to the Administrator, and the Administrator shall take such information into account in deter-

mining the appropriate standards and agreement terms for such navigator.

**“SEC. 3104. CONTRACTS WITH HEALTH INSURANCE ISSUERS.**

“(a) **IN GENERAL.**—The Administrator may enter into contracts with qualified health insurance issuers, without regard to section 5 of title 41, United States Code, or other statutes requiring competitive bidding, to provide health benefits plans to employees of participating employers and self-employed individuals under this title. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party. In entering into such contracts, the Administrator shall ensure that health benefits coverage is provided for an individual only, 2 adults in a household, 1 adult and 1 or more children, and a family.

“(b) **ELIGIBILITY.**—A health insurance issuer shall be eligible to enter into a contract under subsection (a) if such issuer—

“(1) is licensed to offer health benefits plan coverage in each State in which the plan is offered; and

“(2) meets such other reasonable requirements as determined appropriate by the Administrator, after an opportunity for public comment and publication in the Federal Register.

“(c) **COST-SHARING AND NETWORKS.**—The Administrator shall ensure that health benefits plans with a range of cost-sharing and network arrangements are available under this title.

“(d) **REVOCAION.**—Approval of a health benefits plan participating in the program under this title may be withdrawn or revoked by the Administrator only after notice to the health insurance issuer involved and an opportunity for a hearing without regard to subchapter II of chapter 5 and chapter 7 of title 5, United States Code.

“(e) **CONVERSION.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), a contract may not be made or a plan approved under this section if the health insurance issuer under such contract or plan does not provide to each enrollee whose coverage under the plan is terminated, including a termination due to discontinuance of the contract or plan, the option to have issued to that individual a nongroup policy without evidence of insurability. A health insurance issuer shall provide a notice of such option to individuals who enroll in the plan. An enrollee who exercises such conversion option shall pay the full periodic charges for the nongroup policy.

“(2) **EXCEPTIONS.**—A health insurance issuer shall not be required to offer a nongroup policy under paragraph (1) if the termination under the plan occurred because—

“(A) the enrollee failed to pay any required monthly premiums under the plan;

“(B) the enrollee performed an act or practice that constitutes fraud in connection with the coverage under the plan;

“(C) the enrollee made an intentional misrepresentation of a material fact under the terms of coverage of the plan; or

“(D) the terminated coverage under the plan was replaced by similar coverage within 31 days after the effective date of such termination.

“(f) **PAYMENT OF PREMIUMS.**—

“(1) **IN GENERAL.**—Employers shall collect premium payments from their employees through payroll deductions or other payments from employees and shall forward such payments and the contribution of the employer (if any) to the Administrator. The Administrator shall develop procedures through which such payments shall be received and forwarded to the health insurance issuer involved.

“(2) FAILURE TO PAY.—The Administrator shall establish—

“(A) procedures for the termination of employers that fail for a consecutive 2-month period (or such other time period as determined appropriate by the Administrator) to make premium payments in a timely manner; and

“(B) other procedures regarding unpaid and uncollected premiums.

**“SEC. 3105. EMPLOYER PARTICIPATION.**

“(a) PARTICIPATION PROCEDURE.—The Administrator shall develop a procedure for employers and self-employed individuals to participate in the program under this title, including procedures relating to the offering of health benefits plans to employees and the payment of premiums for health insurance coverage under this title. For the purpose of premium payments, a self-employed individual shall be considered an employer that is making a 100 percent contribution toward the premium amount.

“(b) ENROLLMENT AND OFFERING OF OTHER COVERAGE.—

“(1) ENROLLMENT.—A participating employer shall ensure that each eligible employee has an opportunity to enroll in a plan of the employer’s choice or a plan of the employee’s choice in accordance with section 3107(d)(7).

“(2) PROHIBITION ON OFFERING OTHER COMPREHENSIVE HEALTH BENEFIT COVERAGE.—A participating employer may not offer a health insurance plan providing comprehensive health benefit coverage to employees other than a health benefits plan offered under this title.

“(3) PROHIBITION ON COERCION.—An employer shall not pressure, coerce, or offer inducements to an employee to elect not to enroll in coverage under the program under this title or to select a particular health benefits plan.

“(4) OFFER OF SUPPLEMENTAL COVERAGE OPTIONS.—

“(A) IN GENERAL.—A participating employer may offer supplementary coverage options to employees.

“(B) DEFINITION.—In subparagraph (A), the term ‘supplementary coverage’ means benefits described as ‘excepted benefits’ under section 2791(c).

“(C) REGULATORY FLEXIBILITY.—In developing the procedure under subsection (a), the Administrator shall comply with the requirements specified under the Regulatory Flexibility Act under chapter 6 of title 5, United States Code, consider the economic impacts that the regulation will have on small businesses, and consider regulatory alternatives that would mitigate such impact. The Administrator shall publish and publicly disseminate a small business compliance guide, pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act, that explains the compliance requirements for employer participation. Such compliance guide shall be published not later than the date of the publication of the final rule under this title, or the effective date of such rules, whichever is later.

“(d) RULE OF CONSTRUCTION.—Except as provided in section 3104(f), nothing in this title shall be construed to require that an employer make premium contributions on behalf of employees.

**“SEC. 3106. ELIGIBILITY AND ENROLLMENT.**

“(a) IN GENERAL.—An individual shall be eligible to enroll in health insurance coverage under this title for coverage beginning in 2012 if such individual is an employee of a participating employer described in section 3101(a)(4) or is a self-employed individual as defined in section 401(c)(1)(B) of the Internal Revenue Code of 1986 and meets the definition of a participating employer in section

3101(a)(8). An employer may allow employees who average fewer than 35 hours per week to enroll.

“(b) LIMITATION.—A health insurance issuer may not refuse to provide coverage to any eligible individual under subsection (a) who selects a health benefits plan offered by such issuer under this title.

“(c) TYPE OF ENROLLMENT.—An eligible individual may enroll as an individual or as an adult with 1 or more children regardless of whether another adult is present in the enrollee’s household or family.

“(d) OPEN ENROLLMENT.—

“(1) IN GENERAL.—The Administrator shall establish an annual open enrollment period during which an employer may elect to become a participating employer and an employee may enroll in a health benefits plan under this title for the following calendar year.

“(2) OPEN ENROLLMENT PERIOD.—For purposes of this title, the term ‘open enrollment period’ means, with respect to calendar year 2012 and each succeeding calendar year, the period beginning on October 1, 2011, and ending December 1, 2011, and each succeeding period beginning October 1 and ending December 1. Coverage in a health benefits plan selected during such an open enrollment period shall begin on January 1 of the calendar year following the selection.

“(3) NEWLY ELIGIBLE EMPLOYERS AND EMPLOYEES.—Notwithstanding the open enrollment period provided for under paragraph (2), the Administrator shall establish an enrollment process to enable a newly eligible employer or an employer with an existing health benefits plan whose term is ending to become a participating employer and for an employee of such employer, or a new employee of a participating employer, to enroll in a health benefits plan under this title outside of an open enrollment period subject to 2701(f). The Administrator may establish a process for setting the renewal date for the participation of an employer that initially becomes a participating employer outside of the open enrollment period to coincide with a subsequent open enrollment period.

“(4) LIMITATION OF CHANGING ENROLLMENT.—An employer or employee (as the case may be) may elect to change the health benefits plan that the employee is enrolled in only during an open enrollment period.

“(5) EFFECTIVENESS OF ELECTION AND CHANGE OF ELECTION.—An election to change a health benefits plan that is made during the open enrollment period under paragraph (2) shall take effect as of the first day of the following calendar year.

“(6) CONTINUATION OF ENROLLMENT.—An employee who has enrolled in a health benefits plan under this title is considered to have been continuously enrolled in that health benefits plan until such time as—

“(A) the employer or employee (as the case may be) elects to change health benefits plans; or

“(B) the health benefits plan is terminated.

“(e) PROVIDING INFORMATION TO PROMOTE INFORMED CHOICE.—The Administrator shall compile, produce, and disseminate information to employers, employees, and navigators under section 3102(c)(8) to promote informed choice that shall be made available at least 30 days prior to the beginning of each open enrollment period.

“(f) TERMINATION OF EMPLOYMENT.—

“(1) IN GENERAL.—With respect to an employee who is enrolled in a health plan through the program under this title and who is terminated or separated from employment, such employee may remain enrolled in such health plan for the period described in paragraph (2) if the employee pays 102 percent of the monthly premium for such plan for such period as provided for under paragraph (3).

“(2) PERIOD DESCRIBED.—The period described in this paragraph is the longer of—

“(A) the period provided for in the COBRA continuation provisions (as such term is defined in section 3001(a)(10)(B) of division B of the American Recovery and Reinvestment Act of 2009) beginning on the date of the termination or separation involved; or

“(B) the period permitted under any applicable continuation of coverage provisions of the State in which the employee resides.

“(3) ADMINISTRATION.—The Administrator shall develop guidelines for administering the provision of health plan coverage for employees under this subsection. Such guidelines shall address the rating rules for such continuation coverage in the calendar years prior to 2014 and shall provide for the administration of this section in a manner similar to the manner in which the COBRA continuation provisions (as such term is defined in section 3001(a)(10)(B) of division B of the American Recovery and Reinvestment Act of 2009) are administered, including the collection of premiums by the Administrator.

“(4) NONAPPLICATION OF PROVISIONS.—The COBRA continuation provisions (as such term is defined in section 3001(a)(10)(B) of division B of the American Recovery and Reinvestment Act of 2009) shall not apply to an employee to which this subsection applies.

“(g) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to prohibit a health insurance issuer providing coverage through the program under this title from using the services of a licensed agent or broker.

**“SEC. 3107. HEALTH COVERAGE AVAILABLE WITHIN THE SMALL BUSINESS POOL.**

“(a) PREEXISTING CONDITION EXCLUSIONS.—Section 2701 shall apply to coverage under this title, except that with respect to such coverage, the reference to ‘12 months (or 18 months in the case of a late enrollee)’ in subsection (a)(2) of each such section shall be deemed to be ‘6 months’. The period involved shall be reduced by the aggregate of 1 day for each day that the individual was covered under creditable health insurance coverage (as defined for purposes of section 2701(c)) immediately preceding the date the individual submitted an application for coverage under this title.

“(b) RATES AND PREMIUMS; STATE LAWS.—

“(1) IN GENERAL.—Rates charged and premiums paid for a health benefits plan under this title—

“(A) shall be determined in accordance with subsection (d);

“(B) may be annually adjusted; and

“(C) shall be adjusted to cover the administrative costs of the Administrator under this title and the office established under section 3102.

“(2) BENEFIT MANDATE LAWS.—With respect to a contract entered into under this title under which a health insurance issuer will offer health benefits plan coverage, State mandated benefit laws in effect in the State in which the plan is offered shall continue to apply, except in the case of a nationwide plan.

“(3) LIMITATION.—Nothing in this subsection shall be construed to preempt any State or local law (including any State grievance, claims, and appeals procedure laws, State provider mandate laws, and State network adequacy laws) except those laws and regulations described in subsection (b)(2), (d)(2)(B), and (d)(5).

“(c) TERMINATION AND REENROLLMENT.—If an individual who is enrolled in a health benefits plan under this title voluntarily terminates the enrollment, except in the case of an individual who has lost or changes employment or whose employer is terminated for failure to pay premiums, the individual shall not be eligible for reenrollment until

the first open enrollment period following the expiration of 6 months after the date of such termination.

“(d) RATING RULES AND TRANSITIONAL APPLICATION OF STATE LAW.—

“(1) YEARS 2012 AND 2013.—With respect to calendar years 2012 and 2013 (open enrollment period beginning October 1, 2011, and October 1, 2012), the following shall apply:

“(A) In the case of an employer that elects to participate in the program under this title, the State rating requirements applicable to employers purchasing health insurance coverage in the small group market in the State in which the employer is located shall apply with respect to such coverage, except that premium rates for such coverage shall not vary based on health-status related factors.

“(B) State rating requirements shall apply to health insurance coverage purchased in the small group market in the State, except that a State shall be prohibited from allowing premium rates to vary based on health-status related factors.

“(2) SUBSEQUENT YEARS.—

“(A) NAIC RECOMMENDATIONS.—

“(i) STUDY.—Beginning in 2010, the Administrator shall contract with the National Association of Insurance Commissioners to conduct a study of the rating requirements utilized in the program under this title and the rating requirements that apply to health insurance purchased in the small group markets in the States, and to develop recommendations concerning rating requirements. Such recommendations shall be submitted to the appropriate committees of Congress during calendar year 2012.

“(ii) STATE LAW HARMONIZATION.—Beginning in calendar year 2011, the Administrator shall contract with the National Association of Insurance Commissioners to conduct a study of administrative procedures, including rate and form filing, standards of external review, and standards of internal review, that apply to the program under this title and to health insurance purchased in the small group markets in the States.

“(iii) CONSULTATION.—In conducting the study under clause (i), the National Association of Insurance Commissioners shall consult with key stakeholders (including small businesses, self-employed individuals, employees of small businesses, health insurance issuers, healthcare providers, and patient advocates).

“(iv) RECOMMENDATIONS.—During calendar year 2012, the recommendations of the National Association of Insurance Commissioners shall be submitted to Congress (in the form of a legislative proposal), and shall concern—

“(I) rating requirements for health insurance coverage under this title for calendar year 2014 and subsequent calendar years; and

“(II) a maximum permissible variance between State rating requirements and the rating requirements for coverage under this title that will allow State flexibility without causing significant adverse selection for health insurance coverage under this title.

“(B) APPLICATION OF REQUIREMENTS.—If, pursuant to this subsection, an Act is enacted to implement rating requirements pursuant to the recommendations submitted under subparagraph (A), or alternative rating requirements developed by Congress, such rating requirements shall apply to the program under this title beginning in calendar year 2014 (open enrollment periods beginning October 1, 2013, and thereafter).

“(3) FAILURE TO ENACT LEGISLATION.—If an Act is not enacted as provided for in paragraph (2)(B), the fallback rating rules under paragraph (5) shall apply beginning in calendar year 2014 (open enrollment periods beginning October 1, 2013, and thereafter).

“(4) EXPEDITED CONGRESSIONAL CONSIDERATION.—

“(A) INTRODUCTION AND COMMITTEE CONSIDERATION.—

“(i) INTRODUCTION.—A legislative proposal submitted to Congress pursuant to paragraph (2) shall be introduced in the House of Representatives by the Speaker, and in the Senate by the majority leader, immediately upon receipt of the language and shall be referred to the appropriate committees of Congress. If the proposal is not introduced in accordance with the preceding sentence, legislation may be introduced in either House of Congress by any member thereof.

“(ii) COMMITTEE CONSIDERATION.—Legislation introduced in the House of Representatives and the Senate under clause (i) shall be referred to the appropriate committees of jurisdiction of the House of Representatives and the Senate. Not later than 45 calendar days after the introduction of the legislation or February 15th, 2013, whichever is later, the committee of Congress to which the legislation was referred shall report the legislation or a committee amendment thereto. If the committee has not reported such legislation (or identical legislation) at the end of 45 calendar days after its introduction, or February 15th, 2013, whichever is later, such committee shall be deemed to be discharged from further consideration of such legislation and such legislation shall be placed on the appropriate calendar of the House involved.

“(B) EXPEDITED PROCEDURE.—

“(i) CONSIDERATION.—Not later than 15 calendar days after the date on which a committee has been or could have been discharged from consideration of legislation under this paragraph, the Speaker of the House of Representatives, or the Speaker's designee, or the majority leader of the Senate, or the leader's designee, shall move to proceed to the consideration of the committee amendment to the legislation, and if there is no such amendment, to the legislation. It shall also be in order for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the legislation at any time after the conclusion of such 15-day period. All points of order against the legislation (and against consideration of the legislation) with the exception of points of order under the Congressional Budget Act of 1974 are waived. A motion to proceed to the consideration of the legislation is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the legislation, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the legislation in accordance with the Standing Rules of the House of Representatives or the Senate, as the case may be, without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of, except as provided in clause (iii).

“(ii) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the legislation that was introduced in such House, such House receives from the other House legislation as passed by such other House—

“(I) the legislation of the other House shall not be referred to a committee and shall immediately displace the legislation that was introduced in the House in receipt of the legislation of the other House; and

“(II) the legislation of the other House shall immediately be considered by the receiving House under the same procedures applicable to legislation reported by or discharged from a committee under this paragraph.

“Upon disposition of legislation that is received by one House from the other House, it shall no longer be in order to consider the legislation that was introduced in the receiving House.

“(iii) SENATE VOTE REQUIREMENT.—Legislation under this paragraph shall only be approved in the Senate if affirmed by the votes of  $\frac{3}{5}$  of the Senators duly chosen and sworn. If legislation in the Senate has not reached final passage within 10 days after the motion to proceed is agreed to (excluding periods in which the Senate is in recess) it shall be in order for the majority leader to file a cloture petition on the legislation or amendments thereto, in accordance with rule XXII of the Standing Rules of the Senate. If such a cloture motion on the legislation fails, it shall be in order for the majority leader to proceed to other business and the legislation shall be returned to or placed on the Senate calendar.

“(iv) CONSIDERATION IN CONFERENCE.—Immediately upon a final passage of the legislation that results in a disagreement between the two Houses of Congress with respect to the legislation, conferees shall be appointed and a conference convened. Not later than 15 days after the date on which conferees are appointed (excluding periods in which one or both Houses are in recess), the conferees shall file a report with the House of Representatives and the Senate resolving the differences between the Houses on the legislation. Notwithstanding any other rule of the House of Representatives or the Senate, it shall be in order to immediately consider a report of a committee of conference on the legislation filed in accordance with this subclause. Debate in the House of Representatives and the Senate on the conference report shall be limited to 10 hours, equally divided and controlled by the Speaker of the House of Representatives and the minority leader of the House of Representatives or their designees and the majority and minority leaders of the Senate or their designees. A vote on final passage of the conference report shall occur immediately at the conclusion or yielding back of all time for debate on the conference report. The conference report shall be approved in the Senate only if affirmed by the votes of  $\frac{3}{5}$  of the Senators duly chosen and sworn.

“(C) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This paragraph is enacted by Congress—

“(i) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of legislation under this paragraph, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

“(ii) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

“(5) FALLBACK RATING RULES.—For purposes of paragraph (3), the fallback rating rules are as follows:

“(A) PROGRAM.—

“(i) RATING RULES.—A health insurance issuer that enters into a contract under the program under this title shall determine the amount of premiums to assess for coverage under a health benefits plan based on a community rate that may be annually adjusted only—

“(I) based on the age of covered individuals (subject to clause (iii));

“(II) based on the geographic area involved if the adjustment is based on geographical divisions that are not smaller than a metropolitan statistical area and the issuer provides evidence of geographic variation in cost of services;

“(III) based on industry (subject to clause (iv));

“(IV) based on tobacco use; and

“(V) based on whether such coverage is for an individual, 2 adults in a household, 1 adult and 1 or more children, or a family.

“(ii) LIMITATION.—Premium rates charged for coverage under the program under this title shall not vary based on health-status related factors, gender, class of business, or claims experience or any other factor not described in clause (i).

“(iii) AGE ADJUSTMENTS.—

“(I) IN GENERAL.—With respect to clause (i)(I), in making adjustments based on age, the Administrator shall establish not more than 5 age brackets to be used by a health insurance issuer in establishing rates for individuals under the age of 65. The rates for any age bracket shall not exceed 300 percent of the rate for the lowest age bracket. Age-related premiums may not vary within age brackets.

“(II) AGES 65 AND OLDER.—With respect to clause (i)(I), a health insurance issuer may develop separate rates for covered individuals who are 65 years of age or older for whom the primary payor for health benefits coverage is the Medicare program under title XVIII of the Social Security Act, for the coverage of health benefits that are not otherwise covered under Medicare.

“(iv) INDUSTRY ADJUSTMENT.—With respect to clause (i)(III), in making adjustments based on industry, the rates for any industry shall not exceed 115 percent of the rate for the lowest industry and shall be based on evidence of industry variation in cost of services.

“(B) STATE RATING RULES.—State rating requirements shall apply to health insurance coverage purchased in the small group market, except that a State shall not permit premium rates to vary based on health-status related factors.

“(6) STATE WITH LESS PREMIUM VARIATION.—Effective beginning in calendar year 2014, in the case of a State that provides a rating variance with respect to age that is less than the Federal limit established under paragraph (2)(B) or (3) or that provides for some form of community rating, or that provides a rating variance with respect to industry that is less than the Federal limit established under paragraph (2)(B) or (3), or that provides a rating variance with respect to the geographic area involved that is less than the Federal limit established in paragraph (2)(B) or (3), premium rates charged for health insurance coverage under this title in such State with respect to such factor shall reflect the rating requirements of such State.

“(7) EMPLOYEE CHOICE.—

“(A) CALENDAR YEARS 2012 AND 2013.—With respect to calendar years 2012 and 2013 (open enrollment periods beginning October 1, 2011, and October 1, 2012), in the case of a State that applies community rating or adjusted community rating where any age bracket does not exceed 300 percent of the lowest age bracket, employees of an employer located in that State may elect to enroll in any health plan offered under this title.

“(B) SUBSEQUENT YEARS.—Beginning in calendar year 2014 (open enrollment periods beginning October 1, 2013, and thereafter), employees of an employer that participates in the program under this title may elect to en-

roll in any health plan offered under this title.

“(C) EXCEPTION.—In any State or year in which an employee is not able to select a health plan as provided for in subparagraph (A) or (B), the employer shall select the health plan or plans that shall be made available to the employees of such employer.

“(8) STATE APPROVAL OF RATES.—State laws requiring the approval of rates with respect to health insurance shall continue to apply to health insurance coverage under this title in such State unless the State fails to enforce the application of rates that would otherwise apply to health insurance issuers under the program under this title.

“(e) BENEFITS.—

“(1) STATEMENT OF BENEFITS.—Each contract under this title shall contain a detailed statement of benefits offered and shall include information concerning such maximums, limitations, exclusions, and other definitions of benefits as the Administrator considers necessary or reasonable.

“(2) NATIONWIDE PLANS.—

“(A) IN GENERAL.—In the case of contracts with health insurance issuers that offer a health benefit plan on a nationwide basis, the benefit package shall include benefits established by the Administrator.

“(B) PROCESS FOR ESTABLISHING BENEFITS FOR NATIONWIDE PLANS.—The benefits provided for under subparagraph (A) shall be determined as follows:

“(i) Not later than 30 days after the date of enactment of this title, the Secretary shall enter into a contract with the Institute of Medicine to develop a minimum set of benefits to be offered by nationwide plans.

“(ii) In developing such minimum set of benefits, the Institute of Medicine shall convene public forums to allow input from key stakeholders (including small businesses, self-employed individuals, employees of small businesses, health insurance issuers, insurance regulators, healthcare providers, and patient advocates) and shall consult with the Small Business Health Board.

“(iii) The Institute of Medicine shall consider—

“(I) the clinical appropriateness and effectiveness of the benefits covered;

“(II) the affordability of the benefits covered;

“(III) the financial protection of enrollees against high healthcare expenses;

“(IV) access to necessary healthcare services, including preventive health services; and

“(V) benefits similar to those available in the small group market on the date of enactment of this title.

“(iv) The benefits package shall not be discriminatory or be likely to promote or induce adverse selection.

“(v) The Administrator shall publish the benefits recommended by the Institute of Medicine for public comment.

“(vi) Based on the comments received, the Administrator may make changes only to the extent that the recommendation from the Institute of Medicine is not consistent with the criteria contained in clause (iii) or there is a compelling need for the changes to ensure the effective functioning of the program.

“(vii) The Administrator shall submit a report to Congress on the benefits included in the nationwide package.

“(C) CHANGES TO BENEFITS.—

“(i) IN GENERAL.—By a vote of a two-thirds majority, the Small Business Health Board may recommend to the Administrator changes to the benefit package for nationwide plans under this paragraph for years subsequent to the first year in which such benefits are in effect.

“(ii) REDUCTION IN BENEFITS.—The Administrator may reduce benefits that were previously covered under this paragraph only if—

“(I) two-thirds of the Small Business Health Board recommend such change; or

“(II) there is a compelling need for the change to prevent a substantial reduction in participation in the program under this title.

“(f) ADDITIONAL PREMIUM FOR DELAYED ENROLLMENT.—

“(1) IN GENERAL.—A self-employed individual who is eligible to participate in the program under this title, who does not reside in a State where a self-employed individual is eligible for coverage in the small group market, and who does not elect to enroll in coverage under such program in the first year in which the self-employed individual is eligible to so enroll, shall be subject to an additional premium for delayed enrollment.

“(2) AMOUNT.—The Administrator shall establish the amount of the additional premium under paragraph (1), which shall be the amount determined by the Administrator to be actuarially appropriate, to encourage enrollment, and to reduce adverse selection. The amount of the additional premium shall be calculated by the Administrator based on the number of years specified in paragraph (4).

“(3) PAYMENT.—A self-employed individual shall pay the additional premium under this subsection, if any, for a period of time equal to the number of years specified in paragraph (4). After the expiration of such period the additional premium for delayed enrollment shall be terminated.

“(4) YEARS.—The number of years specified in this paragraph is the number of years that the self-employed individual involved was eligible to participate in the program under this title but did not enroll in coverage under such program and did not otherwise have creditable coverage (as defined for purposes of section 2701(c)).

“(g) STATE ENFORCEMENT.—

“(1) STATE AUTHORITY.—With respect to the enforcement of provisions in this title that supersede State law (as described in paragraph (2)), a State may require that health insurance issuers that issue, sell, renew, or offer health insurance coverage in the State in the small group market or through the program under this title, comply with the requirements of this title with respect to such issuers.

“(2) PROVISIONS DESCRIBED.—The provisions described in this paragraph shall include the following:

“(A) Prohibitions on varying premium rates based on health-status related factors (subsections (d)(1)(A) and (B) of section 3107).

“(B) The implementation of rating requirements that shall apply to the program under this title beginning in calendar year 2014 (subsections (d)(2)(B) and (d)(3) of section 3107).

“(C) Benefit requirements for nationwide plans available in the program under this title (subsection (e)).

“(3) FAILURE TO IMPLEMENT OR ENFORCE PROVISIONS.—In the case of a determination by the Secretary that a State has failed to substantially enforce a provision (or provisions) described in paragraph (2) with respect to health insurance issuers in the State, the Secretary shall enforce such provision (or provisions).

“(4) SECRETARIAL ENFORCEMENT AUTHORITY.—The Secretary shall have the same authority in relation to the enforcement of the provisions of this title with respect to issuers of health insurance coverage in a State as the Secretary has under section 2722(b)(2) in relation to the enforcement of the provisions of part A of title XXVII with

respect to issuers of health insurance coverage in the small group market in the State.

“(h) STATE OPT OUT.—A State may prohibit small employers and self-employed individuals in the State from participating in the program under this title if the Administrator finds that the State—

“(1) defines its small group market to include groups of 1 (so that self-employed individuals are eligible for coverage in such market);

“(2) prohibits the use of health-status related factors and other factors described in subsection (d)(5)(A);

“(3) has in effect rating rules that—

“(A) in calendar years 2012 and 2013, comply with subsection (d)(5)(A); and

“(B) in calendar year 2014 and thereafter, comply with subsection (d)(2)(B) or (d)(3), whichever is in effect for such calendar year; except that such rules may impose limits on rating variation in addition to those provided for in such subsection;

“(4) maintains a State-wide purchasing pool that provides purchasers in the small group market a choice of health benefits plans, with comparative information provided concerning such plans and the premiums charged for such plans made available through the Internet; and

“(5) enacts a law to request an opt out under this subsection.

**“SEC. 3108. ENCOURAGING PARTICIPATION BY HEALTH INSURANCE ISSUERS THROUGH ADJUSTMENTS FOR RISK.**

“(a) APPLICATION OF RISK CORRIDORS.—

“(1) IN GENERAL.—This section shall only apply to health insurance issuers with respect to health benefits plans offered under this Act during any of calendar years 2012 through 2014.

“(2) NOTIFICATION OF COSTS UNDER THE PLAN.—In the case of a health insurance issuer that offers a health benefits plan under this title in any of calendar years 2012 through 2014, the issuer shall notify the Administrator, before such date in the succeeding year as the Administrator specifies, of the total amount of costs incurred in providing benefits under the health benefits plan for the year involved and the portion of such costs that is attributable to administrative expenses.

“(3) ALLOWABLE COSTS DEFINED.—For purposes of this section, the term ‘allowable costs’ means, with respect to a health benefits plan offered by a health insurance issuer under this title, for a year, the total amount of costs described in paragraph (2) for the plan and year, reduced by the portion of such costs attributable to administrative expenses incurred in providing the benefits described in such paragraph.

“(b) ADJUSTMENT OF PAYMENT.—

“(1) NO ADJUSTMENT IF ALLOWABLE COSTS WITHIN 3 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for a calendar year are at least 97 percent, but do not exceed 103 percent, of the target amount for the plan and year involved, there shall be no payment adjustment under this section for the plan and year.

“(2) INCREASE IN PAYMENT IF ALLOWABLE COSTS ABOVE 103 PERCENT OF TARGET AMOUNT.—

“(A) COSTS BETWEEN 103 AND 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for the year are greater than 103 percent, but not greater than 108 percent, of the target amount for the plan and year, the Administrator shall reimburse the issuer for such excess costs through payment to the issuer of an amount equal to 75 percent of the difference between

such allowable costs and 103 percent of such target amount.

“(B) COSTS ABOVE 108 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for the year are greater than 108 percent of the target amount for the plan and year, the Administrator shall reimburse the issuer for such excess costs through payment to the issuer in an amount equal to the sum of—

“(i) 3.75 percent of such target amount; and

“(ii) 90 percent of the difference between such allowable costs and 108 percent of such target amount.

“(3) REDUCTION IN PAYMENT IF ALLOWABLE COSTS BELOW 97 PERCENT OF TARGET AMOUNT.—

“(A) COSTS BETWEEN 92 AND 97 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for the year are less than 97 percent, but greater than or equal to 92 percent, of the target amount for the plan and year, the issuer shall be required to pay into a contingency reserve fund established and maintained by the Administrator, an amount equal to 75 percent of the difference between 97 percent of the target amount and such allowable costs.

“(B) COSTS BELOW 92 PERCENT OF TARGET AMOUNT.—If the allowable costs for the health insurance issuer with respect to the health benefits plan involved for the year are less than 92 percent of the target amount for the plan and year, the issuer shall be required to pay into the contingency fund established under subparagraph (A), an amount equal to the sum of—

“(i) 3.75 percent of such target amount; and

“(ii) 90 percent of the difference between 92 percent of such target amount and such allowable costs.

“(4) TARGET AMOUNT DESCRIBED.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘target amount’ means, with respect to a health benefits plan offered by an issuer under this title in any of calendar years 2012 through 2014, an amount equal to—

“(i) the total of the monthly premiums estimated by the health insurance issuer and accepted by the Administrator to be paid for enrollees in the plan under this title for the calendar year involved; reduced by

“(ii) the amount of administrative expenses that the issuer estimates, and the Administrator accepts, will be incurred by the issuer with respect to the plan for such calendar year.

“(B) SUBMISSION OF TARGET AMOUNT.—Not later than December 31, 2011, and each December 31 thereafter through calendar year 2013, an issuer shall submit to the Administrator a description of the target amount for such issuer with respect to health benefits plans provided by the issuer under this title.

“(c) DISCLOSURE OF INFORMATION.—

“(1) IN GENERAL.—Each contract under this title shall provide—

“(A) that a health insurance issuer offering a health benefits plan under this title shall provide the Administrator with such information as the Administrator determines is necessary to carry out this subsection including the notification of costs under subsection (a)(2) and the target amount under subsection (b)(4)(B); and

“(B) that the Administrator has the right to inspect and audit any books and records of the issuer that pertain to the information regarding costs provided to the Administrator under such subsections.

“(2) RESTRICTION ON USE OF INFORMATION.—Information disclosed or obtained pursuant to the provisions of this subsection may be used by the office designated under section 3102(a) and its employees and contractors

only for the purposes of, and to the extent necessary in, carrying out this section.

**“SEC. 3109. ADMINISTRATION THROUGH REGIONAL OR OTHER ADMINISTRATIVE ENTITIES.**

“(a) IN GENERAL.—In order to provide for the administration of the benefits under this title with maximum efficiency and convenience for participating employers and healthcare providers and other individuals and entities providing services to such employers, the Administrator—

“(1) shall enter into contracts with eligible entities, to the extent appropriate, to perform, on a regional or other basis, activities to receive, disburse, and account for payments of premiums to participating employers by individuals, and for payments by participating employers and employees to health insurance issuers; and

“(2) may enter into contracts with eligible entities, to the extent appropriate, to perform, on a regional or other basis, 1 or more of the following:

“(A) Collect and maintain all information relating to individuals, families, and employers participating in the program under this title.

“(B) Serve as a channel of communication between health insurance issuers, participating employers, and individuals relating to the administration of this title.

“(C) Otherwise carry out such activities for the administration of this title, in such manner, as may be provided for in the contract entered into under this section.

“(b) APPLICATION.—To be eligible to receive a contract under subsection (a), an entity shall prepare and submit to the Administrator an application at such time, in such manner, and containing such information as the Administration may require.

“(c) PROCESS.—

“(1) COMPETITIVE BIDDING.—All contracts under this section shall be awarded through a competitive bidding process on a biennial basis.

“(2) REQUIREMENT.—No contract shall be entered into with any entity under this section unless the Administrator finds that such entity will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, and other matters as the Administrator finds pertinent.

“(3) PUBLICATION OF STANDARDS AND CRITERIA.—If the Administrator enters into contracts under subsection (a), the Administrator shall publish in the Federal Register standards and criteria for the efficient and effective performance of contract obligations under this section, and opportunity shall be provided for public comment prior to implementation. In establishing such standards and criteria, the Administrator shall provide for a system to measure an entity’s performance of responsibilities.

“(4) TERM.—Each contract under this section shall be for a term of at least 2 years, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term, except that the Administrator may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the entity involved as the Administrator may provide in regulations) if the Administrator finds that the entity has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of the program established by this title.

“(d) TERMS OF CONTRACT.—A contract entered into under this section shall include—

“(1) a description of the duties of the contracting entity;



“(2) an assurance that the entity will furnish to the Administrator such timely information and reports as the Administrator determines appropriate;

“(3) an assurance that the entity will maintain such records and afford such access thereto as the Administrator finds necessary to assure the correctness and verification of the information and reports under paragraph (2) and otherwise to carry out the purposes of this title;

“(4) an assurance that the entity shall comply with such confidentiality and privacy protection guidelines and procedures as the Administrator may require;

“(5) an assurance that the entity does not have, and will continue to avoid, any conflicts of interest relative to any functions it will perform; and

“(6) such other terms and conditions not inconsistent with this section as the Administrator may find necessary or appropriate.

**“SEC. 3110. PUBLIC EDUCATION CAMPAIGN AND REPORT.**

“(a) IN GENERAL.—In carrying out this title, the Administrator shall develop and implement an educational campaign with interagency participation (including at a minimum the Small Business Administration, the Department of Labor, and employees of the office established under section 3102 who oversee the provision of information through navigators) to provide information to employers and the general public concerning the health insurance program developed under this title, including the contact information relating to an individual or individuals who will be available to resolve various types of problems with health insurance coverage provided under this title.

“(b) PUBLIC EDUCATION CAMPAIGN.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2009 through 2011.

“(c) REPORTS TO CONGRESS.—Not later than 1 year and 2 years after the implementation of the campaign under subsection (a), the Administrator shall submit to the appropriate committees of Congress a report that describes the activities of the Administrator under subsection (a), including a determination by the Administrator of the percentage of employers with knowledge of the health benefits program under this title.

**“SEC. 3111. APPROPRIATIONS.**

“There are authorized to be appropriated to the Administrator such sums as may be necessary in each fiscal year for the development and administration of the program under this title.

**“SEC. 3112. EFFECTIVE DATE.**

“This title shall take effect on the date of enactment of this title.”.

**SEC. 3. AMENDMENT TO ERISA.**

Section 514(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(2)) is amended by adding at the end the following:

“(C) Notwithstanding subparagraph (A), the provisions of subsections (d)(1)(B) and (g)(2)(A) of section 3107 of the Public Health Service Act (relating to the prohibition on health-status related rating and the Federal enforcement of such provisions) shall supercede any State law that conflicts with such provisions.”.

**SEC. 4. CREDIT FOR SMALL BUSINESS EMPLOYEE HEALTH INSURANCE EXPENSES.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits) is amended by inserting after section 45N the following new section:

**“SEC. 45O. SMALL BUSINESS EMPLOYEE HEALTH INSURANCE CREDIT.**

“(a) DETERMINATION OF CREDIT.—In the case of a qualified small employer, there

shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the credit amount described in subsection (b).

“(b) GENERAL CREDIT AMOUNT.—For purposes of this section—

“(1) IN GENERAL.—The credit amount described in this subsection is the product of—

“(A) the amount specified in paragraph (2),

“(B) the employer size factor specified in paragraph (3), and

“(C) the percentage of year factor specified in paragraph (4).

“(2) APPLICABLE AMOUNT.—For purposes of paragraph (1)—

“(A) IN GENERAL.—The applicable amount is equal to—

“(i) \$1,000 for each employee of the employer who receives self-only health insurance coverage through the employer,

“(ii) \$2,000 for each employee of the employer who receives family health insurance coverage through the employer, and

“(iii) \$1,500 for each employee of the employer who receives health insurance coverage for 2 adults or 1 adult and 1 or more children through the employer.

“(B) BONUS FOR PAYMENT OF GREATER PERCENTAGE OF PREMIUMS.—The applicable amount otherwise specified in subparagraph (A) shall be increased by \$200 in the case of subparagraph (A)(i), \$400 in the case of subparagraph (A)(ii), and \$300 in the case of subparagraph (A)(iii), for each additional 10 percent of the qualified employee health insurance expenses exceeding 60 percent which are paid by the qualified small employer.

“(3) EMPLOYER SIZE FACTOR.—For purposes of paragraph (1), the employer size factor is the percentage determined in accordance with the following table:

“If the employer size is:	The percentage is:
10 or fewer full-time employees	100%
More than 10 but not more than 20 full-time employees	80%
More than 20 but not more than 30 full-time employees	60%
More than 30 but not more than 40 full-time employees	40%
More than 40 but not more than 50 full-time employees	20%
More than 50 full-time employees	0%

“(4) PERCENTAGE OF YEAR FACTOR.—For purposes of paragraph (1), the percentage of year factor is equal to the ratio of—

“(A) the number of months during the taxable year for which the employer paid or incurred qualified employee health insurance expenses, and

“(B) 12.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) QUALIFIED SMALL EMPLOYER.—

“(A) IN GENERAL.—The term ‘qualified small employer’ means any employer (as defined in section 3101(a)(4) of the Public Health Service Act) which—

“(i) either—

“(I) purchases health insurance coverage for its employees in a small group market in a State which meets the requirements under subparagraph (B), or

“(II) with respect to any taxable year beginning after 2011, is a participating employer (as defined in section 3101(a)(8) of such Act) in the program under title XXX of such Act,

“(ii) pays or incurs at least 60 percent of the qualified employee health insurance expenses of such employer or is self-employed, and

“(iii) employed an average of 50 or fewer full-time employees during the preceding taxable year or was a self-employed individual with either not less than \$5,000 in net

earnings or not less than \$15,000 in gross earnings from self-employment in the preceding taxable year.

“(B) STATE SMALL GROUP MARKET REQUIREMENTS.—A State meets the requirements of this subparagraph if—

“(i) during calendar years 2010 and 2011, the State—

“(I) defines its small group market to include groups of one (so that self-employed individuals are eligible for coverage in such market),

“(II) prohibits the use of health-status related factors and other factors described in section 3107(d)(5)(A) of such Act, and

“(III) has in effect rating rules that comply with section 3107(d)(5)(A) of such Act (except that such rules may impose limits on rating variation in addition to those provided for in such section),

“(ii) during calendar years 2012 and 2013, the State—

“(I) meets the requirements under clause (i), and

“(II) maintains a State-wide purchasing pool that provides purchasers in the small group market a choice of health benefit plans, with comparative information provided concerning such plans and the premiums charged for such plans made available through the Internet, and

“(iii) for calendar years after 2013, the State—

“(I) meets the requirements under clauses (i)(I), (i)(II), and (ii)(II), and

“(II) has in effect rating rules that comply with paragraph (2)(B) or (3) of section 3107(d) of such Act, whichever is in effect for such calendar year (except that such rules may impose limits on rating variation in addition to those provided for in such section).

“(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified employee health insurance expenses’ means any amount paid by an employer or an employee of such employer for health insurance coverage under such Act to the extent such amount is attributable to coverage—

“(i) provided to any employee (as defined in subsection 3101(a)(3) of such Act), or

“(ii) for the employer, in the case of a self-employed individual.

“(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

“(3) FULL-TIME EMPLOYEE.—The term ‘full-time employee’ means, with respect to any period, an employee (as defined in section 3101(a)(3) of such Act) of an employer if the average number of hours worked by such employee in the preceding taxable year for such employer was at least 35 hours per week.

“(d) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—For each taxable year after 2010, the dollar amounts specified in subsections (b)(2)(A), (b)(2)(B), and (c)(1)(A)(iii) (after the application of this paragraph) shall be the amounts in effect in the preceding taxable year or, if greater, the product of—

“(A) the corresponding dollar amount specified in such subsection, and

“(B) the ratio of the index of wage inflation (as determined by the Bureau of Labor Statistics) for August of the preceding calendar year to such index of wage inflation for August of 2009.

“(2) ROUNDING.—If any amount determined under paragraph (1) is not a multiple of \$100, such amount shall be rounded to the next lowest multiple of \$100.

“(e) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this section—

“(1) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—All persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as 1 employer.

“(2) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence for the full preceding taxable year, the determination of whether such employer meets the requirements of this section shall be based on the average number of full-time employees that it is reasonably expected such employer will employ on business days in the employer's first full taxable year.

“(3) PREDECESSORS.—Any reference in this subsection to an employer shall include a reference to any predecessor of such employer.

“(f) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—With respect to any taxable year, the amount which would (but for this subsection) be allowed as a credit to the taxpayer under subsection (a) shall be reduced by the aggregate amount paid on behalf of such taxpayer under section 7527A for months beginning in such taxable year. If the amount determined under this subsection is less than zero, the taxpayer shall owe additional tax in such amount under this chapter.

“(g) CREDITS FOR NONPROFIT ORGANIZATIONS.—Any credit which would be allowable under subsection (a) with respect to a qualified small business if such qualified small business were not exempt from tax under this chapter shall be treated as a credit allowable under this subpart to such qualified small business.”

(b) ADVANCE PAYMENTS OF CREDIT.—Chapter 77 of the Internal Revenue Code of 1986 is amended by inserting after section 7527 the following new section:

**“SEC. 7527A. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS FOR QUALIFIED SMALL EMPLOYERS.**

“(a) GENERAL RULE.—Not later than December 31, 2009, the Secretary shall establish a program for making monthly payments on behalf of qualified small employers to the program established under title XXX of the Public Health Service Act. The amount of the monthly payment for a qualified small employer shall be one-twelfth of the amount of the credit for the tax year to which the qualified small employer is entitled under section 36. If a monthly payment is made by the Secretary for which the employer is not entitled to a corresponding credit, the employer shall owe additional tax in such amount under this chapter.

“(b) QUALIFIED SMALL EMPLOYER.—For purposes of this section, the term ‘qualified small employer’ has the meaning given such term in section 36(c)(1).”

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart D of part IV of subchapter A of chapter 1 of the

Internal Revenue Code of 1986 is amended by adding at the end the following new items:

“Sec. 450. Small business employee health insurance credit.”

(2) The table of sections for chapter 77 of such Code is amended by inserting after the item relating to section 7527 the following new item:

“Sec. 7527A. Advance payment of credit for health insurance costs for qualified small employers.”

(d) DEDUCTIBILITY.—The payment of premiums by a participating employer under this Act shall be considered to be an ordinary and necessary expense in carrying on a trade or business for purposes of the Internal Revenue Code of 1986 and shall be deductible.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2009.

By Mr. REID:

S. 981. A bill to support research and public awareness activities with respect to inflammatory bowel disease, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. 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. 981

*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 “Inflammatory Bowel Disease Research and Awareness Act”.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Crohn's disease and ulcerative colitis are serious inflammatory diseases of the gastrointestinal tract.

(2) Crohn's disease may occur in any section of the gastrointestinal tract but is predominately found in the lower part of the small intestine and the large intestine. Ulcerative colitis is characterized by inflammation and ulceration of the innermost lining of the colon. Complete removal of the colon in patients with ulcerative colitis can potentially alleviate and cure symptoms.

(3) Because Crohn's disease and ulcerative colitis behave similarly, they are collectively known as inflammatory bowel disease. Both diseases present a variety of symptoms, including severe diarrhea, abdominal pain with cramps, fever, arthritic joint pain, inflammation of the eye, and rectal bleeding. There is no known cause of inflammatory bowel disease, or medical cure.

(4) It is estimated that up to 1,400,000 people in the United States suffer from inflammatory bowel disease, 30 percent of whom are diagnosed during their childhood years.

(5) Children with inflammatory bowel disease miss school activities because of bloody diarrhea and abdominal pain, and many adults who had onset of inflammatory bowel disease as children had delayed puberty and impaired growth and have never reached their full genetic growth potential.

(6) Inflammatory bowel disease patients are at high risk for developing colorectal cancer.

(7) The total annual medical costs for inflammatory bowel disease patients are estimated at more than \$2,000,000,000.

(8) The average time from presentation of symptoms to diagnosis in children is 3 years.

(9) Delayed diagnosis of inflammatory bowel disease frequently results in more-active disease associated with increased morbidity and complications.

(10) Congress has appropriated \$3,480,000 from fiscal year 2005 to fiscal year 2009 for epidemiology research on inflammatory bowel disease through the Centers for Disease Control and Prevention.

(11) The National Institutes of Health National Commission on Digestive Diseases issued comprehensive research goals related to inflammatory bowel disease in its April 2009 report to Congress and the American public entitled; “Opportunities and Challenges in Digestive Diseases Research: Recommendations of the National Commission on Digestive Diseases”.

**SEC. 3. ENHANCING PUBLIC HEALTH ACTIVITIES ON INFLAMMATORY BOWEL DISEASE AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION.**

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 320A the following: **“SEC. 320B. INFLAMMATORY BOWEL DISEASE EPIDEMIOLOGY PROGRAM.**

“(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall conduct, support and expand existing epidemiology research on inflammatory bowel disease in both pediatric and adult populations.

“(b) GRANTS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award grants to, and enter into contracts and cooperative agreements with, a patient or medical organization with expertise in conducting inflammatory bowel disease research to develop and administer the epidemiology program.

“(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Centers for Disease Control and Prevention to support a pediatric inflammatory bowel disease patient registry.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$1,500,000 for each of the fiscal years 2010 through 2014.

**“SEC. 320C. INCREASING PUBLIC AWARENESS OF INFLAMMATORY BOWEL DISEASE AND IMPROVING HEALTH PROFESSIONAL EDUCATION.**

“(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall award grants to eligible entities for the purpose of increasing awareness of inflammatory bowel disease among the general public and health care providers.

“(b) USE OF FUNDS.—An eligible entity shall use grant funds under this section to develop educational materials and conduct awareness programs focused on the following subjects:

“(1) Crohn's disease and ulcerative colitis, and their symptoms.

“(2) Testing required for appropriate diagnosis, and the importance of accurate and early diagnosis.

“(3) Key differences between pediatric and adult disease.

“(4) Specific physical and psychosocial issues impacting pediatric patients, including stunted growth, malnutrition, delayed puberty, and depression.

“(5) Treatment options for both adult and pediatric patients.

“(6) The importance of identifying aggressive disease in children at an early stage in order to implement the most effective treatment protocol.

“(7) Complications of inflammatory bowel disease and related secondary conditions, including colorectal cancer.

“(8) Federal and private information resources for patients and physicians.

“(9) Incidence and prevalence data on pediatric and adult inflammatory bowel disease.

“(c) ELIGIBLE ENTITY.—For purposes of this section, the term ‘eligible entity’ means a patient or medical organization with experience in serving adults and children with inflammatory bowel disease.

“(d) REPORT TO CONGRESS.—Not later than September 30, 2010, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Appropriations of the House of Representatives and the Senate, a report regarding the status of activities carried out under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated such sums as may be necessary for each of fiscal years 2010 through 2014.”

**SEC. 4. EXPANSION OF BIOMEDICAL RESEARCH ON INFLAMMATORY BOWEL DISEASE.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health and the Director of the National Institute of Diabetes and Digestive and Kidney Diseases (in this section referred to as the Institute), should aggressively support basic, translational, and clinical research designed to meet the research goals for inflammatory bowel disease included in the National Institutes of Health National Commission on Digestive Diseases report entitled “Opportunities and Challenges in Digestive Diseases Research: Recommendations of the National Commission on Digestive Diseases”, which shall include—

(A) establishing an objective basis for determining clinical diagnosis, detailed phenotype, and disease activity in inflammatory bowel disease;

(B) developing an individualized approach to inflammatory bowel disease risk evaluation and management based on genetic susceptibility;

(C) modulating the intestinal microflora to prevent or control inflammatory bowel disease;

(D) effectively modulating the mucosal immune system to prevent or ameliorate inflammatory bowel disease;

(E) sustaining the health of the mucosal surface;

(F) promoting regeneration and repair of injury in inflammatory bowel disease;

(G) providing effective tools for clinical evaluation and intervention in inflammatory bowel disease; and

(H) ameliorating or preventing adverse effects of inflammatory bowel disease on growth and development in children and adolescents;

(2) the Institute should support the training of qualified health professionals in biomedical research focused on inflammatory bowel disease, including pediatric investigators; and

(3) the Institute should continue its strong collaboration with medical and patient organizations concerned with inflammatory bowel disease and seek opportunities to promote research identified in the scientific agendas “Challenges in Inflammatory Bowel Disease Research” (Crohn’s and Colitis Foundation of America) and “Chronic Inflammatory Bowel Disease” (North American Society for Pediatric Gastroenterology, Hepatology and Nutrition).

(b) BIENNIAL REPORTS.—As part of the biennial report submitted under section 403 of the Public Health Service Act (42 U.S.C. 283), the Secretary of Health and Human Services shall include information on the status of in-

flammatory bowel disease research at the National Institutes of Health.

By Mr. REID (for Mr. KENNEDY (for himself, Mr. DODD, Ms. COLLINS, Mr. HARKIN, Ms. SNOWE, Mr. DURBIN, Mr. LUGAR, Ms. MIKULSKI, Mr. REED, Mrs. MURRAY, Mr. REID, Mr. BINGAMAN, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mr. MERKLEY, Mr. WHITEHOUSE, Mr. LEAHY, Mr. LAUTENBERG, Mr. KERRY, Mr. SCHUMER, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. LEVIN, Mr. BAUCUS, Mr. WYDEN, Mr. AKAKA, Mr. NELSON, of Florida, Ms. LANDRIEU, Mr. CARPER, Mrs. GILLIBRAND, Mr. BENNET, Mr. BEGICH, Mr. BURRIS, Mr. KAUFMAN, Mr. UDALL, of New Mexico, Mr. UDALL, of Colorado, Mr. KOHL, Mr. FEINGOLD, Ms. CANTWELL, and Mrs. LINCOLN)):

S. 982. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. 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. 982

*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 “Family Smoking Prevention and Tobacco Control Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purpose.
- Sec. 4. Scope and effect.
- Sec. 5. Severability.

**TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION**

- Sec. 101. Amendment of Federal Food, Drug, and Cosmetic Act.
- Sec. 102. Final rule.
- Sec. 103. Conforming and other amendments to general provisions.
- Sec. 104. Study on raising the minimum age to purchase tobacco products.
- Sec. 105. Enforcement action plan for advertising and promotion restrictions.

**TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE**

- Sec. 201. Cigarette label and advertising warnings.
- Sec. 202. Authority to revise cigarette warning label statements.
- Sec. 203. State regulation of cigarette advertising and promotion.
- Sec. 204. Smokeless tobacco labels and advertising warnings.
- Sec. 205. Authority to revise smokeless tobacco product warning label statements.
- Sec. 206. Tar, nicotine, and other smoke constituent disclosure to the public.

**TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS**

- Sec. 301. Labeling, recordkeeping, records inspection.
- Sec. 302. Study and report.

**SEC. 2. FINDINGS.**

The Congress finds the following:  
(1) The use of tobacco products by the Nation’s children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation’s economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year, and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 10,000,000 of today’s children from becoming regular, daily smokers, saving over 3,000,000 of them from premature death due to tobacco-induced disease. Such a reduction in youth smoking would also result in approximately \$75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products, and these efforts have resulted in increased use of such products by

youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2005, the cigarette manufacturers spent more than \$13,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco marketing than adults: more than 80 percent of youth smoke three heavily marketed brands, while only 54 percent of adults, 26 and older, smoke these same brands.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market. Children, who tend to be more price sensitive than adults, are influenced by advertising and promotion practices that result in drastically reduced cigarette prices.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text only requirements, although not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg. 44615-44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the first amendment to the United States Constitution and with the standards set forth in the amendments made by this subtitle for the regulation of tobacco products by the Food and Drug Administration, and the restriction on the sale and distribution of, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this Act.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those products before reaching the age of 18. Tobacco advertising and promotion play a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

(33) Tobacco dependence is a chronic disease, one that typically requires repeated interventions to achieve long-term or permanent abstinence.

(34) Because the only known safe alternative to smoking is cessation, interventions should target all smokers to help them quit completely.

(35) Tobacco products have been used to facilitate and finance criminal activities both domestically and internationally. Illicit trade of tobacco products has been linked to organized crime and terrorist groups.

(36) It is essential that the Food and Drug Administration review products sold or distributed for use to reduce risks or exposures associated with tobacco products and that it be empowered to review any advertising and labeling for such products. It is also essential that manufacturers, prior to marketing such products, be required to demonstrate that such products will meet a series of rigorous criteria, and will benefit the health of the population as a whole, taking into account both users of tobacco products and persons who do not currently use tobacco products.

(37) Unless tobacco products that purport to reduce the risks to the public of tobacco use actually reduce such risks, those products can cause substantial harm to the public health to the extent that the individuals, who would otherwise not consume tobacco products or would consume such products less, use tobacco products purporting to reduce risk. Those who use products sold or distributed as modified risk products that do not in fact reduce risk, rather than quitting or reducing their use of tobacco products, have a substantially increased likelihood of suffering disability and premature death. The costs to society of the widespread use of products sold or distributed as modified risk products that do not in fact reduce risk or that increase risk include thousands of unnecessary deaths and injuries and huge costs to our health care system.

(38) As the National Cancer Institute has found, many smokers mistakenly believe

that "low tar" and "light" cigarettes cause fewer health problems than other cigarettes. As the National Cancer Institute has also found, mistaken beliefs about the health consequences of smoking "low tar" and "light" cigarettes can reduce the motivation to quit smoking entirely and thereby lead to disease and death.

(39) Recent studies have demonstrated that there has been no reduction in risk on a population-wide basis from "low tar" and "light" cigarettes, and such products may actually increase the risk of tobacco use.

(40) The dangers of products sold or distributed as modified risk tobacco products that do not in fact reduce risk are so high that there is a compelling governmental interest in ensuring that statements about modified risk tobacco products are complete, accurate, and relate to the overall disease risk of the product.

(41) As the Federal Trade Commission has found, consumers have misinterpreted advertisements in which one product is claimed to be less harmful than a comparable product, even in the presence of disclosures and advisories intended to provide clarification.

(42) Permitting manufacturers to make unsubstantiated statements concerning modified risk tobacco products, whether express or implied, even if accompanied by disclaimers would be detrimental to the public health.

(43) The only way to effectively protect the public health from the dangers of unsubstantiated modified risk tobacco products is to empower the Food and Drug Administration to require that products that tobacco manufacturers sold or distributed for risk reduction be reviewed in advance of marketing, and to require that the evidence relied on to support claims be fully verified.

(44) The Food and Drug Administration is a regulatory agency with the scientific expertise to identify harmful substances in products to which consumers are exposed, to design standards to limit exposure to those substances, to evaluate scientific studies supporting claims about the safety of products, and to evaluate the impact of labels, labeling, and advertising on consumer behavior in order to reduce the risk of harm and promote understanding of the impact of the product on health. In connection with its mandate to promote health and reduce the risk of harm, the Food and Drug Administration routinely makes decisions about whether and how products may be marketed in the United States.

(45) The Federal Trade Commission was created to protect consumers from unfair or deceptive acts or practices, and to regulate unfair methods of competition. Its focus is on those marketplace practices that deceive or mislead consumers, and those that give some competitors an unfair advantage. Its mission is to regulate activities in the marketplace. Neither the Federal Trade Commission nor any other Federal agency except the Food and Drug Administration possesses the scientific expertise needed to implement effectively all provisions of the Family Smoking Prevention and Tobacco Control Act.

(46) If manufacturers state or imply in communications directed to consumers through the media or through a label, labeling, or advertising, that a tobacco product is approved or inspected by the Food and Drug Administration or complies with Food and Drug Administration standards, consumers are likely to be confused and misled. Depending upon the particular language used and its context, such a statement could result in consumers being misled into believing that the product is endorsed by the Food and Drug Administration for use or in consumers being misled about the harmfulness of the

product because of such regulation, inspection, approval, or compliance.

(47) In August 2006 a United States district court judge found that the major United States cigarette companies continue to target and market to youth. *USA v. Philip Morris, USA, Inc., et al.* (Civil Action No. 99-2496 (GK), August 17, 2006).

(48) In August 2006 a United States district court judge found that the major United States cigarette companies dramatically increased their advertising and promotional spending in ways that encourage youth to start smoking subsequent to the signing of the Master Settlement Agreement in 1998. *USA v. Philip Morris, USA, Inc., et al.* (Civil Action No. 99-2496 (GK), August 17, 2006).

(49) In August 2006 a United States district court judge found that the major United States cigarette companies have designed their cigarettes to precisely control nicotine delivery levels and provide doses of nicotine sufficient to create and sustain addiction while also concealing much of their nicotine-related research. *USA v. Philip Morris, USA, Inc., et al.* (Civil Action No. 99-2496 (GK), August 17, 2006).

### SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products as provided for in this Act;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop, introduce, and promote less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that consumers are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers;

(8) to impose appropriate regulatory controls on the tobacco industry;

(9) to promote cessation to reduce disease risk and the social costs associated with tobacco-related diseases; and

(10) to strengthen legislation against illicit trade in tobacco products.

### SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in Federal, State, or Tribal court, or any agreement, consent decree, or contract of any kind.

(b) AGRICULTURAL ACTIVITIES.—The provisions of this Act (or an amendment made by this Act) which authorize the Secretary to

take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

(c) REVENUE ACTIVITIES.—The provisions of this Act (or an amendment made by this Act) which authorize the Secretary to take certain actions with regard to tobacco products shall not be construed to affect any authority of the Secretary of the Treasury under chapter 52 of the Internal Revenue Code of 1986.

### SEC. 5. SEVERABILITY.

If any provision of this Act, of the amendments made by this Act, or of the regulations promulgated under this Act (or under such amendments), or the application of any such provision to any person or circumstance is held to be invalid, the remainder of this Act, such amendments and such regulations, and the application of such provisions to any other person or circumstance shall not be affected and shall continue to be enforced to the fullest extent possible.

## TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

### SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(rr)(1) The term ‘tobacco product’ means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).

“(2) The term ‘tobacco product’ does not mean an article that is a drug under subsection (g)(1), a device under subsection (h), or a combination product described in section 503(g).

“(3) The products described in paragraph (2) shall be subject to chapter V of this Act.

“(4) A tobacco product shall not be marketed in combination with any other article or product regulated under this Act (including a drug, biologic, food, cosmetic, medical device, or a dietary supplement).”

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 910 as sections 1001 through 1010; and

(3) by inserting after chapter VIII the following:

### “CHAPTER IX—TOBACCO PRODUCTS

#### “SEC. 900. DEFINITIONS.

“In this chapter:

“(1) ADDITIVE.—The term ‘additive’ means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristic of any tobacco product (including any substances intended for use as a flavoring or coloring or in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding), except that such term does not include tobacco or a pesticide chemical residue in or on raw tobacco or a pesticide chemical.

“(2) BRAND.—The term ‘brand’ means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, packaging, logo, registered trademark, brand name, identifiable pattern of colors, or any combination of such attributes.

“(3) CIGARETTE.—The term ‘cigarette’—

“(A) means a product that—

“(i) is a tobacco product; and

“(ii) meets the definition of the term ‘cigarette’ in section 3(1) of the Federal Cigarette Labeling and Advertising Act; and

“(B) includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

“(4) CIGARETTE TOBACCO.—The term ‘cigarette tobacco’ means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements applicable to cigarettes under this chapter shall also apply to cigarette tobacco.

“(5) COMMERCE.—The term ‘commerce’ has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act.

“(6) COUNTERFEIT TOBACCO PRODUCT.—The term ‘counterfeit tobacco product’ means a tobacco product (or the container or labeling of such a product) that, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a tobacco product listed in a registration under section 905(i)(1).

“(7) DISTRIBUTOR.—The term ‘distributor’ as regards a tobacco product means any person who furthers the distribution of a tobacco product, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

“(8) ILLICIT TRADE.—The term ‘illicit trade’ means any practice or conduct prohibited by law which relates to production, shipment, receipt, possession, distribution, sale, or purchase of tobacco products including any practice or conduct intended to facilitate such activity.

“(9) INDIAN COUNTRY.—The term ‘Indian country’ has the meaning given such term in section 1151 of title 18, United States Code.

“(10) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given such term in section 4(e) of the Indian Self-Determination and Education Assistance Act.

“(11) LITTLE CIGAR.—The term ‘little cigar’ means a product that—

“(A) is a tobacco product; and

“(B) meets the definition of the term ‘little cigar’ in section 3(7) of the Federal Cigarette Labeling and Advertising Act.

“(12) NICOTINE.—The term ‘nicotine’ means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

“(13) PACKAGE.—The term ‘package’ means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which a tobacco product is offered for sale, sold, or otherwise distributed to consumers.

“(14) RETAILER.—The term ‘retailer’ means any person, government, or entity who sells tobacco products to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

“(15) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-your-own tobacco’ means any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

“(16) SMALL TOBACCO PRODUCT MANUFACTURER.—The term ‘small tobacco product

manufacturer' means a tobacco product manufacturer that employs fewer than 350 employees. For purposes of determining the number of employees of a manufacturer under the preceding sentence, the employees of a manufacturer are deemed to include the employees of each entity that controls, is controlled by, or is under common control with such manufacturer.

“(17) SMOKE CONSTITUENT.—The term ‘smoke constituent’ means any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by the combustion or heating of tobacco, additives, or other component of the tobacco product.

“(18) SMOKELESS TOBACCO.—The term ‘smokeless tobacco’ means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

“(19) STATE; TERRITORY.—The terms ‘State’ and ‘Territory’ shall have the meanings given to such terms in section 201.

“(20) TOBACCO PRODUCT MANUFACTURER.—The term ‘tobacco product manufacturer’ means any person, including any repacker or relabeler, who—

“(A) manufactures, fabricates, assembles, processes, or labels a tobacco product; or

“(B) imports a finished tobacco product for sale or distribution in the United States.

“(21) TOBACCO WAREHOUSE.—

“(A) Subject to subparagraphs (B) and (C), the term ‘tobacco warehouse’ includes any person—

“(i) who—

“(I) removes foreign material from tobacco leaf through nothing other than a mechanical process;

“(II) humidifies tobacco leaf with nothing other than potable water in the form of steam or mist; or

“(III) de-stems, dries, and packs tobacco leaf for storage and shipment;

“(ii) who performs no other actions with respect to tobacco leaf; and

“(iii) who provides to any manufacturer to whom the person sells tobacco all information related to the person’s actions described in clause (i) that is necessary for compliance with this Act.

“(B) The term ‘tobacco warehouse’ excludes any person who—

“(i) reconstitutes tobacco leaf;

“(ii) is a manufacturer, distributor, or retailer of a tobacco product; or

“(iii) applies any chemical, additive, or substance to the tobacco leaf other than potable water in the form of steam or mist.

“(C) The definition of the term ‘tobacco warehouse’ in subparagraph (A) shall not apply to the extent to which the Secretary determines, through rulemaking, that regulation under this chapter of the actions described in such subparagraph is appropriate for the protection of the public health.

“(22) UNITED STATES.—The term ‘United States’ means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

#### “SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

“(a) IN GENERAL.—Tobacco products, including modified risk tobacco products for which an order has been issued in accordance with section 911, shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V.

“(b) APPLICABILITY.—This chapter shall apply to all cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless to-

bacco and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

“(c) SCOPE.—

“(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or in sections 101(a), 102, or 103 of title I, title II, or title III of the Family Smoking Prevention and Tobacco Control Act, shall be construed to affect, expand, or limit the Secretary’s authority over (including the authority to determine whether products may be regulated), or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

“(2) LIMITATION OF AUTHORITY.—

“(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of a manufacturer of tobacco products, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer’s capacity as a manufacturer. The exception in this subparagraph shall not apply to a producer of tobacco leaf who grows tobacco under a contract with a tobacco product manufacturer and who is not otherwise engaged in the manufacturing process.

“(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production.

“(d) RULEMAKING PROCEDURES.—Each rulemaking under this chapter shall be in accordance with chapter 5 of title 5, United States Code. This subsection shall not be construed to affect the rulemaking provisions of section 102(a) of the Family Smoking Prevention and Tobacco Control Act.

“(e) CENTER FOR TOBACCO PRODUCTS.—Not later than 90 days after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish within the Food and Drug Administration the Center for Tobacco Products, which shall report to the Commissioner of Food and Drugs in the same manner as the other agency centers within the Food and Drug Administration. The Center shall be responsible for the implementation of this chapter and related matters assigned by the Commissioner.

“(f) OFFICE TO ASSIST SMALL TOBACCO PRODUCT MANUFACTURERS.—The Secretary shall establish within the Food and Drug Administration an identifiable office to provide technical and other nonfinancial assistance to small tobacco product manufacturers to assist them in complying with the requirements of this Act.

“(g) CONSULTATION PRIOR TO RULEMAKING.—Prior to promulgating rules under this chapter, the Secretary shall endeavor to consult with other Federal agencies as appropriate.

#### “SEC. 902. ADULTERATED TOBACCO PRODUCTS.

“A tobacco product shall be deemed to be adulterated if—

“(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any added poisonous or added deleterious substance that may render the product injurious to health;

“(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

“(3) its package is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

“(4) the manufacturer or importer of the tobacco product fails to pay a user fee assessed to such manufacturer or importer pursuant to section 919 by the date specified in section 919 or by the 30th day after final agency action on a resolution of any dispute as to the amount of such fee;

“(5) it is, or purports to be or is represented as, a tobacco product which is subject to a tobacco product standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

“(6)(A) it is required by section 910(a) to have premarket review and does not have an order in effect under section 910(c)(1)(A)(i); or

“(B) it is in violation of an order under section 910(c)(1)(A);

“(7) the methods used in, or the facilities or controls used for, its manufacture, packing, or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

“(8) it is in violation of section 911.

#### “SEC. 903. MISBRANDED TOBACCO PRODUCTS.

“(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

“(1) if its labeling is false or misleading in any particular;

“(2) if in package form unless it bears a label containing—

“(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

“(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;

“(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco; and

“(D) the statement required under section 920(a),

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

“(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

“(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

“(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

“(6) if it was manufactured, prepared, propagated, compounded, or processed in an establishment not duly registered under section 905(b), 905(c), 905(d), or 905(h), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by



such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

“(7) if, in the case of any tobacco product distributed or offered for sale in any State—

“(A) its advertising is false or misleading in any particular; or

“(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

“(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

“(A) a true statement of the tobacco product's established name as described in paragraph (4), printed prominently; and

“(B) a brief statement of—

“(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

“(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is appropriate to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

“(9) if it is a tobacco product subject to a tobacco product standard established under section 907, unless it bears such labeling as may be prescribed in such tobacco product standard; or

“(10) if there was a failure or refusal—

“(A) to comply with any requirement prescribed under section 904 or 908; or

“(B) to furnish any material or information required under section 909.

“(b) **PRIOR APPROVAL OF LABEL STATEMENTS.**—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product to ensure that such statements do not violate the misbranding provisions of subsection (a) and that such statements comply with other provisions of the Family Smoking Prevention and Tobacco Control Act (including the amendments made by such Act). No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement, except for modified risk tobacco products as provided in section 911. No advertisement of a tobacco product published after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall, with respect to the language of label statements as prescribed under section 4 of the Federal Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act.

**“SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.**

“(a) **REQUIREMENT.**—Each tobacco product manufacturer or importer, or agents thereof, shall submit to the Secretary the following information:

“(1) Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a listing of all ingredients, including tobacco, substances, compounds, and additives that are, as of such date, added by the manufacturer to the tobacco, paper, filter, or other part of

each tobacco product by brand and by quantity in each brand and subbrand.

“(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine in accordance with regulations promulgated by the Secretary in accordance with section 4(e) of the Federal Cigarette Labeling and Advertising Act.

“(3) Beginning 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a listing of all constituents, including smoke constituents as applicable, identified by the Secretary as harmful or potentially harmful to health in each tobacco product, and as applicable in the smoke of each tobacco product, by brand and by quantity in each brand and subbrand. Effective beginning 3 years after such date of enactment, the manufacturer, importer, or agent shall comply with regulations promulgated under section 915 in reporting information under this paragraph, where applicable.

“(4) Beginning 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, all documents developed after such date of enactment that relate to health, toxicological, behavioral, or physiologic effects of current or future tobacco products, their constituents (including smoke constituents), ingredients, components, and additives.

“(b) **DATA SUBMISSION.**—At the request of the Secretary, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit the following:

“(1) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, toxicological, behavioral, or physiologic effects of tobacco products and their constituents (including smoke constituents), ingredients, components, and additives.

“(2) Any or all documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

“(3) Any or all documents (including underlying scientific or financial information) relating to marketing research involving the use of tobacco products or marketing practices and the effectiveness of such practices used by tobacco manufacturers and distributors.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

“(c) **TIME FOR SUBMISSION.**—

“(1) **IN GENERAL.**—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the manufacturer of such product shall provide the information required under subsection (a).

“(2) **DISCLOSURE OF ADDITIVE.**—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive or increases the quantity of an existing tobacco additive, the manufacturer shall, except as provided in paragraph (3), at least 90 days prior to such action so advise the Secretary in writing.

“(3) **DISCLOSURE OF OTHER ACTIONS.**—If at any time a tobacco product manufacturer eliminates or decreases an existing additive, or adds or increases an additive that has by regulation been designated by the Secretary as an additive that is not a human or animal

carcinogen, or otherwise harmful to health under intended conditions of use, the manufacturer shall within 60 days of such action so advise the Secretary in writing.

“(d) **DATA LIST.**—

“(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall publish in a format that is understandable and not misleading to a lay person, and place on public display (in a manner determined by the Secretary) the list established under subsection (e).

“(2) **CONSUMER RESEARCH.**—The Secretary shall conduct periodic consumer research to ensure that the list published under paragraph (1) is not misleading to lay persons. Not later than 5 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall submit to the appropriate committees of Congress a report on the results of such research, together with recommendations on whether such publication should be continued or modified.

“(e) **DATA COLLECTION.**—Not later than 24 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish, and periodically revise as appropriate, a list of harmful and potentially harmful constituents, including smoke constituents, to health in each tobacco product by brand and by quantity in each brand and subbrand. The Secretary shall publish a public notice requesting the submission by interested persons of scientific and other information concerning the harmful and potentially harmful constituents in tobacco products and tobacco smoke.

**“SEC. 905. ANNUAL REGISTRATION.**

“(a) **DEFINITIONS.**—In this section:

“(1) **MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.**—The term ‘manufacture, preparation, compounding, or processing’ shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

“(2) **NAME.**—The term ‘name’ shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

“(b) **REGISTRATION BY OWNERS AND OPERATORS.**—On or before December 31 of each year, every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person. If enactment of the Family Smoking Prevention and Tobacco Control Act occurs in the second half of the calendar year, the Secretary shall designate a date no later than 6 months into the subsequent calendar year by which registration pursuant to this subsection shall occur.

“(c) **REGISTRATION BY NEW OWNERS AND OPERATORS.**—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

“(d) **REGISTRATION OF ADDED ESTABLISHMENTS.**—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional

establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

“(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

“(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

“(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment registered with the Secretary under this section shall be subject to inspection under section 704 or subsection (h), and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by 1 or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

“(h) REGISTRATION BY FOREIGN ESTABLISHMENTS.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, shall register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

“(i) REGISTRATION INFORMATION.—

“(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), (d), or (h) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which have not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

“(A) in the case of a tobacco product contained in the applicable list with respect to which a tobacco product standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

“(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

“(C) if the registrant filing a list has determined that a tobacco product contained in such list is not subject to a tobacco product standard established under section 907, a

brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

“(2) CONSULTATION WITH RESPECT TO FORMS.—The Secretary shall consult with the Secretary of the Treasury in developing the forms to be used for registration under this section to minimize the burden on those persons required to register with both the Secretary and the Tax and Trade Bureau of the Department of the Treasury.

“(3) BIENNIAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

“(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

“(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

“(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

“(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

“(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

“(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of February 15, 2007, shall, at least 90 days prior to making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall prescribe)—

“(A) the basis for such person's determination that—

“(i) the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of February 15, 2007, or to a tobacco product that the Secretary has previously determined, pursuant to subsection (a)(3) of section 910, is substantially equivalent and that is in compliance with the requirements of this Act; or

“(ii) the tobacco product is modified within the meaning of paragraph (3), the modifications are to a product that is commercially marketed and in compliance with the requirements of this Act, and all of the modifications are covered by exemptions

granted by the Secretary pursuant to paragraph (3); and

“(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

“(2) APPLICATION TO CERTAIN POST-FEBRUARY 15, 2007, PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after February 15, 2007, and prior to the date that is 21 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act shall be submitted to the Secretary not later than 21 months after such date of enactment.

“(3) EXEMPTIONS.—

“(A) IN GENERAL.—The Secretary may exempt from the requirements of this subsection relating to the demonstration that a tobacco product is substantially equivalent within the meaning of section 910, tobacco products that are modified by adding or deleting a tobacco additive, or increasing or decreasing the quantity of an existing tobacco additive, if the Secretary determines that—

“(i) such modification would be a minor modification of a tobacco product that can be sold under this Act;

“(ii) a report under this subsection is not necessary to ensure that permitting the tobacco product to be marketed would be appropriate for protection of the public health; and

“(iii) an exemption is otherwise appropriate.

“(B) REGULATIONS.—Not later than 15 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations to implement this paragraph.

#### “SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

“(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, section 911, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, section 911, or subsection (d) of this section shall not apply to such tobacco product.

“(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking or other notification under section 907, 908, 909, 910, or 911 or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

“(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

“(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

“(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 903, 904,

907, 908, 909, 910, 911, or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

“(d) RESTRICTIONS.—

“(1) IN GENERAL.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of a tobacco product consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

“(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

“(3) LIMITATIONS.—

“(A) IN GENERAL.—No restrictions under paragraph (1) may—

“(i) prohibit the sale of any tobacco product in face-to-face transactions by a specific category of retail outlets; or

“(ii) establish a minimum age of sale of tobacco products to any person older than 18 years of age.

“(B) MATCHBOOKS.—For purposes of any regulations issued by the Secretary, matchbooks of conventional size containing not more than 20 paper matches, and which are customarily given away for free with the purchase of tobacco products, shall be considered as adult-written publications which shall be permitted to contain advertising. Notwithstanding the preceding sentence, if the Secretary finds that such treatment of matchbooks is not appropriate for the protection of the public health, the Secretary may determine by regulation that matchbooks shall not be considered adult-written publications.

“(4) REMOTE SALES.—

“(A) IN GENERAL.—The Secretary shall—

“(i) within 18 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, promulgate regulations regarding the sale and distribution of tobacco products that occur through means other than a direct, face-to-face exchange between a retailer and a consumer in order to prevent the sale and distribution of tobacco products to individuals who have not attained the minimum age established by applicable law for the purchase of such products, including requirements for age verification; and

“(ii) within 2 years after such date of enactment, issue regulations to address the

promotion and marketing of tobacco products that are sold or distributed through means other than a direct, face-to-face exchange between a retailer and a consumer in order to protect individuals who have not attained the minimum age established by applicable law for the purchase of such products.

“(B) RELATION TO OTHER AUTHORITY.—Nothing in this paragraph limits the authority of the Secretary to take additional actions under the other paragraphs of this subsection.

“(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

“(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

“(A) IN GENERAL.—In applying manufacturing restrictions to tobacco, the Secretary shall, in accordance with subparagraph (B), prescribe regulations (which may differ based on the type of tobacco product involved) requiring that the methods used in, and the facilities and controls used for, the manufacture, preproduction design validation (including a process to assess the performance of a tobacco product), packing, and storage of a tobacco product conform to current good manufacturing practice, or hazard analysis and critical control point methodology, as prescribed in such regulations to assure that the public health is protected and that the tobacco product is in compliance with this chapter. Such regulations may provide for the testing of raw tobacco for pesticide chemical residues regardless of whether a tolerance for such chemical residues has been established.

“(B) REQUIREMENTS.—The Secretary shall—

“(i) before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

“(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

“(iii) provide the Tobacco Products Scientific Advisory Committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A);

“(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices; and

“(v) not require any small tobacco product manufacturer to comply with a regulation under subparagraph (A) for at least 4 years following the effective date established by the Secretary for such regulation.

“(2) EXEMPTIONS; VARIANCES.—

“(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

“(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

“(ii) in the case of a petition for a variance from a requirement, set forth the methods

proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

“(iii) contain such other information as the Secretary shall prescribe.

“(B) REFERRAL TO THE TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—The Secretary may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph (A). The Tobacco Products Scientific Advisory Committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petitioner's referral. Within 60 days after—

“(i) the date the petition was submitted to the Secretary under subparagraph (A); or

“(ii) the day after the petition was referred to the Tobacco Products Scientific Advisory Committee, whichever occurs later, the Secretary shall by order either deny the petition or approve it.

“(C) APPROVAL.—The Secretary may approve—

“(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

“(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

“(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

“(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

“(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the end of the 3-year period following the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

“(f) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes.

“SEC. 907. TOBACCO PRODUCT STANDARDS.

“(a) IN GENERAL.—

“(1) SPECIAL RULES.—

“(A) SPECIAL RULE FOR CIGARETTES.—Beginning 3 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a cigarette or any of its component parts (including the tobacco, filter, or paper) shall not contain, as a constituent (including a smoke constituent) or additive, an artificial or natural flavor (other than tobacco or menthol) or an herb or spice, including strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the tobacco product or tobacco smoke. Nothing in this subparagraph shall be construed to limit the

Secretary's authority to take action under this section or other sections of this Act applicable to menthol or any artificial or natural flavor, herb, or spice not specified in this subparagraph.

“(B) ADDITIONAL SPECIAL RULE.—Beginning 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, a tobacco product manufacturer shall not use tobacco, including foreign grown tobacco, that contains a pesticide chemical residue that is at a level greater than is specified by any tolerance applicable under Federal law to domestically grown tobacco.

“(2) REVISION OF TOBACCO PRODUCT STANDARDS.—The Secretary may revise the tobacco product standards in paragraph (1) in accordance with subsection (c).

“(3) TOBACCO PRODUCT STANDARDS.—

“(A) IN GENERAL.—The Secretary may adopt tobacco product standards in addition to those in paragraph (1) if the Secretary finds that a tobacco product standard is appropriate for the protection of the public health.

“(B) DETERMINATIONS.—

“(1) CONSIDERATIONS.—In making a finding described in subparagraph (A), the Secretary shall consider scientific evidence concerning—

“(I) the risks and benefits to the population as a whole, including users and nonusers of tobacco products, of the proposed standard;

“(II) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(III) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(ii) ADDITIONAL CONSIDERATIONS.—In the event that the Secretary makes a determination, set forth in a proposed tobacco product standard in a proposed rule, that it is appropriate for the protection of public health to require the reduction or elimination of an additive, constituent (including a smoke constituent), or other component of a tobacco product because the Secretary has found that the additive, constituent, or other component is or may be harmful, any party objecting to the proposed standard on the ground that the proposed standard will not reduce or eliminate the risk of illness or injury may provide for the Secretary's consideration scientific evidence that demonstrates that the proposed standard will not reduce or eliminate the risk of illness or injury.

“(4) CONTENT OF TOBACCO PRODUCT STANDARDS.—A tobacco product standard established under this section for a tobacco product—

“(A) shall include provisions that are appropriate for the protection of the public health, including provisions, where appropriate—

“(i) for nicotine yields of the product;

“(ii) for the reduction or elimination of other constituents, including smoke constituents, or harmful components of the product; or

“(iii) relating to any other requirement under subparagraph (B);

“(B) shall, where appropriate for the protection of the public health, include—

“(i) provisions respecting the construction, components, ingredients, additives, constituents, including smoke constituents, and properties of the tobacco product;

“(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

“(iii) provisions for the measurement of the tobacco product characteristics of the tobacco product;

“(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

“(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d);

“(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product; and

“(D) shall require tobacco products containing foreign-grown tobacco to meet the same standards applicable to tobacco products containing domestically grown tobacco.

“(5) PERIODIC REEVALUATION OF TOBACCO PRODUCT STANDARDS.—The Secretary shall provide for periodic evaluation of tobacco product standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (4)(B) by any person.

“(6) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall endeavor to—

“(A) use personnel, facilities, and other technical support available in other Federal agencies;

“(B) consult with other Federal agencies concerned with standard setting and other nationally or internationally recognized standard-setting entities; and

“(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, agricultural, or consumer organizations who in the Secretary's judgment can make a significant contribution.

“(b) CONSIDERATIONS BY SECRETARY.—

“(1) TECHNICAL ACHIEVABILITY.—The Secretary shall consider information submitted in connection with a proposed standard regarding the technical achievability of compliance with such standard.

“(2) OTHER CONSIDERATIONS.—The Secretary shall consider all other information submitted in connection with a proposed standard, including information concerning the countervailing effects of the tobacco product standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand.

“(c) PROPOSED STANDARDS.—

“(1) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any tobacco product standard.

“(2) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a tobacco product standard for a tobacco product shall—

“(A) set forth a finding with supporting justification that the tobacco product standard is appropriate for the protection of the public health;

“(B) invite interested persons to submit a draft or proposed tobacco product standard for consideration by the Secretary;

“(C) invite interested persons to submit comments on structuring the standard so that it does not advantage foreign-grown tobacco over domestically grown tobacco; and

“(D) invite the Secretary of Agriculture to provide any information or analysis which the Secretary of Agriculture believes is relevant to the proposed tobacco product standard.

“(3) FINDING.—A notice of proposed rulemaking for the revocation of a tobacco product standard shall set forth a finding with supporting justification that the tobacco product standard is no longer appropriate for the protection of the public health.

“(4) COMMENT.—The Secretary shall provide for a comment period of not less than 60 days.

“(d) PROMULGATION.—

“(1) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under subsection (c) respecting a tobacco product standard and after consideration of comments submitted under subsections (b) and (c) and any report from the Tobacco Products Scientific Advisory Committee, the Secretary shall—

“(A) if the Secretary determines that the standard would be appropriate for the protection of the public health, promulgate a regulation establishing a tobacco product standard and publish in the Federal Register findings on the matters referred to in subsection (c); or

“(B) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

“(2) EFFECTIVE DATE.—A regulation establishing a tobacco product standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before 1 year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade. In establishing such effective date or dates, the Secretary shall consider information submitted in connection with a proposed product standard by interested parties, including manufacturers and tobacco growers, regarding the technical achievability of compliance with the standard, and including information concerning the existence of patents that make it impossible to comply in the timeframe envisioned in the proposed standard. If the Secretary determines, based on the Secretary's evaluation of submitted comments, that a product standard can be met only by manufacturers requiring substantial changes to the methods of farming the domestically grown tobacco used by the manufacturer, the effective date of that product standard shall be not less than 2 years after the date of publication of the final regulation establishing the standard.

“(3) LIMITATION ON POWER GRANTED TO THE FOOD AND DRUG ADMINISTRATION.—Because of the importance of a decision of the Secretary to issue a regulation—

“(A) banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll-your-own tobacco products; or

“(B) requiring the reduction of nicotine yields of a tobacco product to zero, the Secretary is prohibited from taking such actions under this Act.

“(4) AMENDMENT; REVOCATION.—

“(A) AUTHORITY.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person, may by a regulation, promulgated in accordance with the requirements of subsection (c) and paragraph (2), amend or revoke a tobacco product standard.

“(B) EFFECTIVE DATE.—The Secretary may declare a proposed amendment of a tobacco product standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

“(5) REFERRAL TO ADVISORY COMMITTEE.—

“(A) IN GENERAL.—The Secretary may refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard to the Tobacco Products Scientific Advisory Committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment.

“(B) INITIATION OF REFERRAL.—The Secretary may make a referral under this paragraph—

“(i) on the Secretary’s own initiative; or

“(ii) upon the request of an interested person that—

“(I) demonstrates good cause for the referral; and

“(II) is made before the expiration of the period for submission of comments on the proposed regulation.

“(C) PROVISION OF DATA.—If a proposed regulation is referred under this paragraph to the Tobacco Products Scientific Advisory Committee, the Secretary shall provide the Advisory Committee with the data and information on which such proposed regulation is based.

“(D) REPORT AND RECOMMENDATION.—The Tobacco Products Scientific Advisory Committee shall, within 60 days after the referral of a proposed regulation under this paragraph and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation.

“(E) PUBLIC AVAILABILITY.—The Secretary shall make a copy of each report and recommendation under subparagraph (D) publicly available.

“(e) MENTHOL CIGARETTES.—

“(1) REFERRAL; CONSIDERATIONS.—Immediately upon the establishment of the Tobacco Products Scientific Advisory Committee under section 917(a), the Secretary shall refer to the Committee for report and recommendation, under section 917(c)(4), the issue of the impact of the use of menthol in cigarettes on the public health, including such use among children, African Americans, Hispanics, and other racial and ethnic minorities. In its review, the Tobacco Products Scientific Advisory Committee shall address the considerations listed in subsections (a)(3)(B)(i) and (b).

“(2) REPORT AND RECOMMENDATION.—Not later than 1 year after its establishment, the Tobacco Product Scientific Advisory Committee shall submit to the Secretary the report and recommendations required pursuant to paragraph (1).

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the Secretary’s authority to take action under this section or other sections of this Act applicable to menthol.

“**SEC. 908. NOTIFICATION AND OTHER REMEDIES.**

“(a) NOTIFICATION.—If the Secretary determines that—

“(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

“(2) notification under this subsection is necessary to eliminate the unreasonable risk

of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

“(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

“(c) RECALL AUTHORITY.—

“(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

“(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

“(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

“(B) NOTICE.—An amended order under subparagraph (A)—

“(i) shall not include recall of a tobacco product from individuals; and

“(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

“(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a).

“**SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.**

“(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and

provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

“(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

“(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

“(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

“(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

“(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

“(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

“(b) REPORTS OF REMOVALS AND CORRECTIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

“(A) to reduce a risk to health posed by the tobacco product; or

“(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

“(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

**“SEC. 910. APPLICATION FOR REVIEW OF CERTAIN TOBACCO PRODUCTS.**

“(a) IN GENERAL.—

“(1) NEW TOBACCO PRODUCT DEFINED.—For purposes of this section the term ‘new tobacco product’ means—

“(A) any tobacco product (including those products in test markets) that was not commercially marketed in the United States as of February 15, 2007; or

“(B) any modification (including a change in design, any component, any part, or any constituent, including a smoke constituent, or in the content, delivery or form of nicotine, or any other additive or ingredient) of a tobacco product where the modified product was commercially marketed in the United States after February 15, 2007.

“(2) PREMARKET REVIEW REQUIRED.—

“(A) NEW PRODUCTS.—An order under subsection (c)(1)(A)(i) for a new tobacco product is required unless—

“(i) the manufacturer has submitted a report under section 905(j); and the Secretary has issued an order that the tobacco product—

“(I) is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of February 15, 2007; and

“(II) is in compliance with the requirements of this Act; or

“(ii) the tobacco product is exempt from the requirements of section 905(j) pursuant to a regulation issued under section 905(j)(3).

“(B) APPLICATION TO CERTAIN POST-FEBRUARY 15, 2007, PRODUCTS.—Subparagraph (A) shall not apply to a tobacco product—

“(i) that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after February 15, 2007, and prior to the date that is 21 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act; and

“(ii) for which a report was submitted under section 905(j) within such 21-month period,

except that subparagraph (A) shall apply to the tobacco product if the Secretary issues an order that the tobacco product is not substantially equivalent.

“(3) SUBSTANTIALLY EQUIVALENT DEFINED.—

“(A) IN GENERAL.—In this section and section 905(j), the term ‘substantially equivalent’ or ‘substantial equivalence’ means, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

“(i) has the same characteristics as the predicate tobacco product; or

“(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

“(B) CHARACTERISTICS.—In subparagraph (A), the term ‘characteristics’ means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

“(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

“(4) HEALTH INFORMATION.—

“(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product

or state that such information will be made available upon request by any person.

“(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

“(b) APPLICATION.—

“(1) CONTENTS.—An application under this section shall contain—

“(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

“(B) a full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;

“(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

“(D) an identifying reference to any tobacco product standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;

“(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

“(F) specimens of the labeling proposed to be used for such tobacco product; and

“(G) such other information relevant to the subject matter of the application as the Secretary may require.

“(2) REFERRAL TO TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

“(A) may, on the Secretary’s own initiative; or

“(B) may, upon the request of an applicant, refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting the application, together with all underlying data and the reasons or basis for the recommendation.

“(c) ACTION ON APPLICATION.—

“(1) DEADLINE.—

“(A) IN GENERAL.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under subsection (b)(2), shall—

“(i) issue an order that the new product may be introduced or delivered for introduction into interstate commerce if the Secretary finds that none of the grounds specified in paragraph (2) of this subsection applies; or

“(ii) issue an order that the new product may not be introduced or delivered for introduction into interstate commerce if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that 1 or more grounds for denial specified in paragraph (2) of this subsection apply.

“(B) RESTRICTIONS ON SALE AND DISTRIBUTION.—An order under subparagraph (A)(i) may require that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a

tobacco product may be restricted under a regulation under section 906(d).

“(2) DENIAL OF APPLICATION.—The Secretary shall deny an application submitted under subsection (b) if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

“(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

“(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

“(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

“(D) such tobacco product is not shown to conform in all respects to a tobacco product standard in effect under section 907, and there is a lack of adequate information to justify the deviation from such standard.

“(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to remove such application from deniable form (which measures may include further research by the applicant in accordance with 1 or more protocols prescribed by the Secretary).

“(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether the marketing of a tobacco product for which an application has been submitted is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and nonusers of the tobacco product, and taking into account—

“(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

“(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

“(5) BASIS FOR ACTION.—

“(A) INVESTIGATIONS.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include 1 or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

“(B) OTHER EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product, the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

“(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

“(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from the Tobacco Products Scientific Advisory Committee, and after due notice and opportunity for informal hearing for a tobacco product for which an order was issued under subsection (c)(1)(A)(i), issue an order withdrawing the order if the Secretary finds—

“(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

“(B) that the application contained or was accompanied by an untrue statement of a material fact;



“(C) that the applicant—

“(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

“(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

“(iii) has not complied with the requirements of section 905;

“(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was reviewed, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

“(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was reviewed, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

“(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when such order was issued, that such tobacco product is not shown to conform in all respects to a tobacco product standard which is in effect under section 907, compliance with which was a condition to the issuance of an order relating to the application, and that there is a lack of adequate information to justify the deviation from such standard.

“(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing an order issued pursuant to subsection (c)(1)(A)(i) may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with section 912.

“(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an order would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the authority of the manufacturer to market the product. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

“(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

“(1) in person by any officer or employee of the department designated by the Secretary; or

“(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

“(f) RECORDS.—

“(1) ADDITIONAL INFORMATION.—In the case of any tobacco product for which an order issued pursuant to subsection (c)(1)(A)(i) for an application filed under subsection (b) is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, as the Secretary may by regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are

necessary in order to enable the Secretary to determine, or facilitate a determination of, whether there is or may be grounds for withdrawing or temporarily suspending such order.

“(2) ACCESS TO RECORDS.—Each person required under this section to maintain records, and each person in charge of custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records.

“(g) INVESTIGATIONAL TOBACCO PRODUCT EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from the provisions of this chapter under such conditions as the Secretary may by regulation prescribe.

#### “SEC. 911. MODIFIED RISK TOBACCO PRODUCTS.

“(a) IN GENERAL.—No person may introduce or deliver for introduction into interstate commerce any modified risk tobacco product unless an order issued pursuant to subsection (g) is effective with respect to such product.

“(b) DEFINITIONS.—In this section:

“(1) MODIFIED RISK TOBACCO PRODUCT.—The term ‘modified risk tobacco product’ means any tobacco product that is sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.

“(2) SOLD OR DISTRIBUTED.—

“(A) IN GENERAL.—With respect to a tobacco product, the term ‘sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products’ means a tobacco product—

“(i) the label, labeling, or advertising of which represents explicitly or implicitly that—

“(I) the tobacco product presents a lower risk of tobacco-related disease or is less harmful than one or more other commercially marketed tobacco products;

“(II) the tobacco product or its smoke contains a reduced level of a substance or presents a reduced exposure to a substance; or

“(III) the tobacco product or its smoke does not contain or is free of a substance;

“(ii) the label, labeling, or advertising of which uses the descriptors ‘light’, ‘mild’, or ‘low’ or similar descriptors; or

“(iii) the tobacco product manufacturer of which has taken any action directed to consumers through the media or otherwise, other than by means of the tobacco product's label, labeling, or advertising, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, respecting the product that would be reasonably expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

“(B) LIMITATION.—No tobacco product shall be considered to be ‘sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products’, except as described in subparagraph (A).

“(C) SMOKELESS TOBACCO PRODUCT.—No smokeless tobacco product shall be considered to be ‘sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products’ solely because its label, labeling, or advertising uses the following phrases to describe such product and its use: ‘smokeless tobacco’, ‘smokeless tobacco product’, ‘not consumed by smoking’, ‘does

not produce smoke’, ‘smokefree’, ‘smoke-free’, ‘without smoke’, ‘no smoke’, or ‘not smoke’.

“(3) EFFECTIVE DATE.—The provisions of paragraph (2)(A)(i) shall take effect 12 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act for those products whose label, labeling, or advertising contains the terms described in such paragraph on such date of enactment. The effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with paragraph (2)(A)(ii).

“(c) TOBACCO DEPENDENCE PRODUCTS.—A product that is intended to be used for the treatment of tobacco dependence, including smoking cessation, is not a modified risk tobacco product under this section if it has been approved as a drug or device by the Food and Drug Administration and is subject to the requirements of chapter V.

“(d) FILING.—Any person may file with the Secretary an application for a modified risk tobacco product. Such application shall include—

“(1) a description of the proposed product and any proposed advertising and labeling;

“(2) the conditions for using the product;

“(3) the formulation of the product;

“(4) sample product labels and labeling;

“(5) all documents (including underlying scientific information) relating to research findings conducted, supported, or possessed by the tobacco product manufacturer relating to the effect of the product on tobacco-related diseases and health-related conditions, including information both favorable and unfavorable to the ability of the product to reduce risk or exposure and relating to human health;

“(6) data and information on how consumers actually use the tobacco product; and

“(7) such other information as the Secretary may require.

“(e) PUBLIC AVAILABILITY.—The Secretary shall make the application described in subsection (d) publicly available (except matters in the application which are trade secrets or otherwise confidential, commercial information) and shall request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying such application.

“(f) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall refer to the Tobacco Products Scientific Advisory Committee any application submitted under this section.

“(2) RECOMMENDATIONS.—Not later than 60 days after the date an application is referred to the Tobacco Products Scientific Advisory Committee under paragraph (1), the Advisory Committee shall report its recommendations on the application to the Secretary.

“(g) MARKETING.—

“(1) MODIFIED RISK PRODUCTS.—Except as provided in paragraph (2), the Secretary shall, with respect to an application submitted under this section, issue an order that a modified risk product may be commercially marketed only if the Secretary determines that the applicant has demonstrated that such product, as it is actually used by consumers, will—

“(A) significantly reduce harm and the risk of tobacco-related disease to individual tobacco users; and

“(B) benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(2) SPECIAL RULE FOR CERTAIN PRODUCTS.—

“(A) IN GENERAL.—The Secretary may issue an order that a tobacco product may be introduced or delivered for introduction into interstate commerce, pursuant to an application under this section, with respect to a tobacco product that may not be commercially marketed under paragraph (1) if the Secretary makes the findings required under this paragraph and determines that the applicant has demonstrated that—

“(i) such order would be appropriate to promote the public health;

“(ii) any aspect of the label, labeling, and advertising for such product that would cause the tobacco product to be a modified risk tobacco product under subsection (b) is limited to an explicit or implicit representation that such tobacco product or its smoke does not contain or is free of a substance or contains a reduced level of a substance, or presents a reduced exposure to a substance in tobacco smoke;

“(iii) scientific evidence is not available and, using the best available scientific methods, cannot be made available without conducting long-term epidemiological studies for an application to meet the standards set forth in paragraph (1); and

“(iv) the scientific evidence that is available without conducting long-term epidemiological studies demonstrates that a measurable and substantial reduction in morbidity or mortality among individual tobacco users is reasonably likely in subsequent studies.

“(B) ADDITIONAL FINDINGS REQUIRED.—To issue an order under subparagraph (A) the Secretary must also find that the applicant has demonstrated that—

“(i) the magnitude of the overall reductions in exposure to the substance or substances which are the subject of the application is substantial, such substance or substances are harmful, and the product as actually used exposes consumers to the specified reduced level of the substance or substances;

“(ii) the product as actually used by consumers will not expose them to higher levels of other harmful substances compared to the similar types of tobacco products then on the market unless such increases are minimal and the reasonably likely overall impact of use of the product remains a substantial and measurable reduction in overall morbidity and mortality among individual tobacco users;

“(iii) testing of actual consumer perception shows that, as the applicant proposes to label and market the product, consumers will not be misled into believing that the product—

“(I) is or has been demonstrated to be less harmful; or

“(II) presents or has been demonstrated to present less of a risk of disease than 1 or more other commercially marketed tobacco products; and

“(iv) issuance of an order with respect to the application is expected to benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products.

“(C) CONDITIONS OF MARKETING.—

“(i) IN GENERAL.—Applications subject to an order under this paragraph shall be limited to a term of not more than 5 years, but may be renewed upon a finding by the Secretary that the requirements of this paragraph continue to be satisfied based on the filing of a new application.

“(ii) AGREEMENTS BY APPLICANT.—An order under this paragraph shall be conditioned on the applicant's agreement to conduct postmarket surveillance and studies and to submit to the Secretary the results of such surveillance and studies to determine the impact of the order on consumer perception,

behavior, and health and to enable the Secretary to review the accuracy of the determinations upon which the order was based in accordance with a protocol approved by the Secretary.

“(iii) ANNUAL SUBMISSION.—The results of such postmarket surveillance and studies described in clause (ii) shall be submitted annually.

“(3) BASIS.—The determinations under paragraphs (1) and (2) shall be based on—

“(A) the scientific evidence submitted by the applicant; and

“(B) scientific evidence and other information that is made available to the Secretary.

“(4) BENEFIT TO HEALTH OF INDIVIDUALS AND OF POPULATION AS A WHOLE.—In making the determinations under paragraphs (1) and (2), the Secretary shall take into account—

“(A) the relative health risks to individuals of the tobacco product that is the subject of the application;

“(B) the increased or decreased likelihood that existing users of tobacco products who would otherwise stop using such products will switch to the tobacco product that is the subject of the application;

“(C) the increased or decreased likelihood that persons who do not use tobacco products will start using the tobacco product that is the subject of the application;

“(D) the risks and benefits to persons from the use of the tobacco product that is the subject of the application as compared to the use of products for smoking cessation approved under chapter V to treat nicotine dependence; and

“(E) comments, data, and information submitted by interested persons.

“(h) ADDITIONAL CONDITIONS FOR MARKETING.—

“(1) MODIFIED RISK PRODUCTS.—The Secretary shall require for the marketing of a product under this section that any advertising or labeling concerning modified risk products enable the public to comprehend the information concerning modified risk and to understand the relative significance of such information in the context of total health and in relation to all of the diseases and health-related conditions associated with the use of tobacco products.

“(2) COMPARATIVE CLAIMS.—

“(A) IN GENERAL.—The Secretary may require for the marketing of a product under this subsection that a claim comparing a tobacco product to 1 or more other commercially marketed tobacco products shall compare the tobacco product to a commercially marketed tobacco product that is representative of that type of tobacco product on the market (for example the average value of the top 3 brands of an established regular tobacco product).

“(B) QUANTITATIVE COMPARISONS.—The Secretary may also require, for purposes of subparagraph (A), that the percent (or fraction) of change and identity of the reference tobacco product and a quantitative comparison of the amount of the substance claimed to be reduced shall be stated in immediate proximity to the most prominent claim.

“(3) LABEL DISCLOSURE.—

“(A) IN GENERAL.—The Secretary may require the disclosure on the label of other substances in the tobacco product, or substances that may be produced by the consumption of that tobacco product, that may affect a disease or health-related condition or may increase the risk of other diseases or health-related conditions associated with the use of tobacco products.

“(B) CONDITIONS OF USE.—If the conditions of use of the tobacco product may affect the risk of the product to human health, the Secretary may require the labeling of conditions of use.

“(4) TIME.—An order issued under subsection (g)(1) shall be effective for a specified period of time.

“(5) ADVERTISING.—The Secretary may require, with respect to a product for which an applicant obtained an order under subsection (g)(1), that the product comply with requirements relating to advertising and promotion of the tobacco product.

“(i) POSTMARKET SURVEILLANCE AND STUDIES.—

“(1) IN GENERAL.—The Secretary shall require, with respect to a product for which an applicant obtained an order under subsection (g)(1), that the applicant conduct postmarket surveillance and studies for such a tobacco product to determine the impact of the order issuance on consumer perception, behavior, and health, to enable the Secretary to review the accuracy of the determinations upon which the order was based, and to provide information that the Secretary determines is otherwise necessary regarding the use or health risks involving the tobacco product. The results of postmarket surveillance and studies shall be submitted to the Secretary on an annual basis.

“(2) SURVEILLANCE PROTOCOL.—Each applicant required to conduct a surveillance of a tobacco product under paragraph (1) shall, within 30 days after receiving notice that the applicant is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of the data or other information designated by the Secretary as necessary to protect the public health.

“(j) WITHDRAWAL OF AUTHORIZATION.—The Secretary, after an opportunity for an informal hearing, shall withdraw an order under subsection (g) if the Secretary determines that—

“(1) the applicant, based on new information, can no longer make the demonstrations required under subsection (g), or the Secretary can no longer make the determinations required under subsection (g);

“(2) the application failed to include material information or included any untrue statement of material fact;

“(3) any explicit or implicit representation that the product reduces risk or exposure is no longer valid, including if—

“(A) a tobacco product standard is established pursuant to section 907;

“(B) an action is taken that affects the risks presented by other commercially marketed tobacco products that were compared to the product that is the subject of the application; or

“(C) any postmarket surveillance or studies reveal that the order is no longer consistent with the protection of the public health;

“(4) the applicant failed to conduct or submit the postmarket surveillance and studies required under subsection (g)(2)(C)(ii) or subsection (i); or

“(5) the applicant failed to meet a condition imposed under subsection (h).

“(k) CHAPTER IV OR V.—A product for which the Secretary has issued an order pursuant to subsection (g) shall not be subject to chapter IV or V.

“(l) IMPLEMENTING REGULATIONS OR GUIDANCE.—

“(1) SCIENTIFIC EVIDENCE.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue regulations or guidance (or any combination thereof) on the scientific evidence required

for assessment and ongoing review of modified risk tobacco products. Such regulations or guidance shall—

“(A) to the extent that adequate scientific evidence exists, establish minimum standards for scientific studies needed prior to issuing an order under subsection (g) to show that a substantial reduction in morbidity or mortality among individual tobacco users occurs for products described in subsection (g)(1) or is reasonably likely for products described in subsection (g)(2);

“(B) include validated biomarkers, intermediate clinical endpoints, and other feasible outcome measures, as appropriate;

“(C) establish minimum standards for postmarket studies, that shall include regular and long-term assessments of health outcomes and mortality, intermediate clinical endpoints, consumer perception of harm reduction, and the impact on quitting behavior and new use of tobacco products, as appropriate;

“(D) establish minimum standards for required postmarket surveillance, including ongoing assessments of consumer perception;

“(E) require that data from the required studies and surveillance be made available to the Secretary prior to the decision on renewal of a modified risk tobacco product; and

“(F) establish a reasonable timetable for the Secretary to review an application under this section.

“(2) CONSULTATION.—The regulations or guidance issued under paragraph (1) shall be developed in consultation with the Institute of Medicine, and with the input of other appropriate scientific and medical experts, on the design and conduct of such studies and surveillance.

“(3) REVISION.—The regulations or guidance under paragraph (1) shall be revised on a regular basis as new scientific information becomes available.

“(4) NEW TOBACCO PRODUCTS.—Not later than 2 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall issue a regulation or guidance that permits the filing of a single application for any tobacco product that is a new tobacco product under section 910 and which the applicant seeks to commercially market under this section.

“(m) DISTRIBUTORS.—Except as provided in this section, no distributor may take any action, after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, with respect to a tobacco product that would reasonably be expected to result in consumers believing that the tobacco product or its smoke may present a lower risk of disease or is less harmful than one or more commercially marketed tobacco products, or presents a reduced exposure to, or does not contain or is free of, a substance or substances.

#### “SEC. 912. JUDICIAL REVIEW.

“(a) RIGHT TO REVIEW.—

“(1) IN GENERAL.—Not later than 30 days after—

“(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a tobacco product standard; or

“(B) a denial of an application under section 910(c),

any person adversely affected by such regulation or denial may file a petition for judicial review of such regulation or denial with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has their principal place of business.

“(2) REQUIREMENTS.—

“(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court involved to the Secretary.

“(B) RECORD OF PROCEEDINGS.—On receipt of a petition under subparagraph (A), the Secretary shall file in the court in which such petition was filed—

“(i) the record of the proceedings on which the regulation or order was based; and

“(ii) a statement of the reasons for the issuance of such a regulation or order.

“(C) DEFINITION OF RECORD.—In this section, the term ‘record’ means—

“(i) all notices and other matter published in the Federal Register with respect to the regulation or order reviewed;

“(ii) all information submitted to the Secretary with respect to such regulation or order;

“(iii) proceedings of any panel or advisory committee with respect to such regulation or order;

“(iv) any hearing held with respect to such regulation or order; and

“(v) any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

“(b) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided for in such chapter. A regulation or denial described in subsection (a) shall be reviewed in accordance with section 706(2)(A) of title 5, United States Code.

“(c) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(d) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to, and not in lieu of, any other remedies provided by law.

“(e) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review, a regulation or order issued under section 906, 907, 908, 909, 910, or 916 shall contain a statement of the reasons for the issuance of such regulation or order in the record of the proceedings held in connection with its issuance.

#### “SEC. 913. EQUAL TREATMENT OF RETAIL OUTLETS.

“The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

#### “SEC. 914. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

“(a) JURISDICTION.—

“(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

“(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 102 of the Family Smoking Prevention and Tobacco Control Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act and shall be considered a violation of a rule promulgated under section 18 of that Act.

“(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act and sec-

tion 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986—

“(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

“(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

#### “SEC. 915. REGULATION REQUIREMENT.

“(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 36 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall promulgate regulations under this Act that meet the requirements of subsection (b).

“(b) CONTENTS OF RULES.—The regulations promulgated under subsection (a)—

“(1) shall require testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, by brand and subbrand that the Secretary determines should be tested to protect the public health, provided that, for purposes of the testing requirements of this paragraph, tobacco products manufactured and sold by a single tobacco product manufacturer that are identical in all respects except the labels, packaging design, logo, trade dress, trademark, brand name, or any combination thereof, shall be considered as a single brand; and

“(2) may require that tobacco product manufacturers, packagers, or importers make disclosures relating to the results of the testing of tar and nicotine through labels or advertising or other appropriate means, and make disclosures regarding the results of the testing of other constituents, including smoke constituents, ingredients, or additives, that the Secretary determines should be disclosed to the public to protect the public health and will not mislead consumers about the risk of tobacco-related disease.

“(c) AUTHORITY.—The Secretary shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product constituents, including smoke constituents.

“(d) SMALL TOBACCO PRODUCT MANUFACTURERS.—

“(1) FIRST COMPLIANCE DATE.—The initial regulations promulgated under subsection (a) shall not impose requirements on small tobacco product manufacturers before the later of—

“(A) the end of the 2-year period following the final promulgation of such regulations; and

“(B) the initial date set by the Secretary for compliance with such regulations by manufacturers that are not small tobacco product manufacturers.

“(2) TESTING AND REPORTING INITIAL COMPLIANCE PERIOD.—

“(A) 4-YEAR PERIOD.—The initial regulations promulgated under subsection (a) shall give each small tobacco product manufacturer a 4-year period over which to conduct testing and reporting for all of its tobacco products. Subject to paragraph (1), the end of the first year of such 4-year period shall coincide with the initial date of compliance under this section set by the Secretary with respect to manufacturers that are not small tobacco product manufacturers or the end of the 2-year period following the final promulgation of such regulations, as described in paragraph (1)(A). A small tobacco product manufacturer shall be required—

“(i) to conduct such testing and reporting for 25 percent of its tobacco products during each year of such 4-year period; and

“(ii) to conduct such testing and reporting for its largest-selling tobacco products (as determined by the Secretary) before its other tobacco products, or in such other order of priority as determined by the Secretary.

“(B) CASE-BY-CASE DELAY.—Notwithstanding subparagraph (A), the Secretary may, on a case-by-case basis, delay the date by which an individual small tobacco product manufacturer must conduct testing and reporting for its tobacco products under this section based upon a showing of undue hardship to such manufacturer. Notwithstanding the preceding sentence, the Secretary shall not extend the deadline for a small tobacco product manufacturer to conduct testing and reporting for all of its tobacco products beyond a total of 5 years after the initial date of compliance under this section set by the Secretary with respect to manufacturers that are not small tobacco product manufacturers.

“(3) SUBSEQUENT AND ADDITIONAL TESTING AND REPORTING.—The regulations promulgated under subsection (a) shall provide that, with respect to any subsequent or additional testing and reporting of tobacco products required under this section, such testing and reporting by a small tobacco product manufacturer shall be conducted in accordance with the timeframes described in paragraph (2)(A), except that, in the case of a new product, or if there has been a modification described in section 910(a)(1)(B) of any product of a small tobacco product manufacturer since the last testing and reporting required under this section, the Secretary shall require that any subsequent or additional testing and reporting be conducted in accordance with the same timeframe applicable to manufacturers that are not small tobacco product manufacturers.

“(4) JOINT LABORATORY TESTING SERVICES.—The Secretary shall allow any 2 or more small tobacco product manufacturers to join together to purchase laboratory testing services required by this section on a group basis in order to ensure that such manufacturers receive access to, and fair pricing of, such testing services.

“(e) EXTENSIONS FOR LIMITED LABORATORY CAPACITY.—

“(1) IN GENERAL.—The regulations promulgated under subsection (a) shall provide that a small tobacco product manufacturer shall not be considered to be in violation of this section before the deadline applicable under paragraphs (3) and (4), if—

“(A) the tobacco products of such manufacturer are in compliance with all other requirements of this chapter; and

“(B) the conditions described in paragraph (2) are met.

“(2) CONDITIONS.—Notwithstanding the requirements of this section, the Secretary may delay the date by which a small tobacco product manufacturer must be in compliance with the testing and reporting required by this section until such time as the testing is reported if, not later than 90 days before the deadline for reporting in accordance with this section, a small tobacco product manufacturer provides evidence to the Secretary demonstrating that—

“(A) the manufacturer has submitted the required products for testing to a laboratory and has done so sufficiently in advance of the deadline to create a reasonable expectation of completion by the deadline;

“(B) the products currently are awaiting testing by the laboratory; and

“(C) neither that laboratory nor any other laboratory is able to complete testing by the deadline at customary, nonexpedited testing fees.

“(3) EXTENSION.—The Secretary, taking into account the laboratory testing capacity

that is available to tobacco product manufacturers, shall review and verify the evidence submitted by a small tobacco product manufacturer in accordance with paragraph (2). If the Secretary finds that the conditions described in such paragraph are met, the Secretary shall notify the small tobacco product manufacturer that the manufacturer shall not be considered to be in violation of the testing and reporting requirements of this section until the testing is reported or until 1 year after the reporting deadline has passed, whichever occurs sooner. If, however, the Secretary has not made a finding before the reporting deadline, the manufacturer shall not be considered to be in violation of such requirements until the Secretary finds that the conditions described in paragraph (2) have not been met, or until 1 year after the reporting deadline, whichever occurs sooner.

“(4) ADDITIONAL EXTENSION.—In addition to the time that may be provided under paragraph (3), the Secretary may provide further extensions of time, in increments of no more than 1 year, for required testing and reporting to occur if the Secretary determines, based on evidence properly and timely submitted by a small tobacco product manufacturer in accordance with paragraph (2), that a lack of available laboratory capacity prevents the manufacturer from completing the required testing during the period described in paragraph (3).

“(f) RULE OF CONSTRUCTION.—Nothing in subsection (d) or (e) shall be construed to authorize the extension of any deadline, or to otherwise affect any timeframe, under any provision of this Act or the Family Smoking Prevention and Tobacco Control Act other than this section.

“SEC. 916. PRESERVATION OF STATE AND LOCAL AUTHORITY.

“(a) IN GENERAL.—

“(1) PRESERVATION.—Except as provided in paragraph (2)(A), nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products that is in addition to, or more stringent than, requirements established under this chapter, including a law, rule, regulation, or other measure relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products. No provision of this chapter shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

“(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

“(A) IN GENERAL.—No State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement under the provisions of this chapter relating to tobacco product standards, premarket review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products.

“(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products. Information disclosed to a State under subparagraph (A) that is exempt from disclosure under section 552(b)(4) of

title 5, United States Code, shall be treated as a trade secret and confidential information by the State.

“(b) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

“SEC. 917. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

“(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall establish a 12-member advisory committee, to be known as the Tobacco Products Scientific Advisory Committee (in this section referred to as the ‘Advisory Committee’).

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—

“(A) MEMBERS.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

“(i) 7 individuals who are physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty;

“(ii) 1 individual who is an officer or employee of a State or local government or of the Federal Government;

“(iii) 1 individual as a representative of the general public;

“(iv) 1 individual as a representative of the interests of the tobacco manufacturing industry;

“(v) 1 individual as a representative of the interests of the small business tobacco manufacturing industry, which position may be filled on a rotating, sequential basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Advisory Committee; and

“(vi) 1 individual as a representative of the interests of the tobacco growers.

“(B) NONVOTING MEMBERS.—The members of the committee appointed under clauses (iv), (v), and (vi) of subparagraph (A) shall serve as consultants to those described in clauses (i) through (iii) of subparagraph (A) and shall be nonvoting representatives.

“(C) CONFLICTS OF INTEREST.—No members of the committee, other than members appointed pursuant to clauses (iv), (v), and (vi) of subparagraph (A) shall, during the member's tenure on the committee or for the 18-month period prior to becoming such a member, receive any salary, grants, or other payments or support from any business that manufactures, distributes, markets, or sells cigarettes or other tobacco products.

“(2) LIMITATION.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex officio members.

“(3) CHAIRPERSON.—The Secretary shall designate 1 of the members appointed under clauses (i), (ii), and (iii) of paragraph (1)(A) to serve as chairperson.

“(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

“(1) as provided in this chapter;

“(2) on the effects of the alteration of the nicotine yields from tobacco products;

“(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

“(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

“(d) COMPENSATION; SUPPORT; FACA.—

“(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect under the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

“(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

“(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act does not apply to the Advisory Committee.

“(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.

**“SEC. 918. DRUG PRODUCTS USED TO TREAT TOBACCO DEPENDENCE.**

“(a) IN GENERAL.—The Secretary shall—

“(1) at the request of the applicant, consider designating products for smoking cessation, including nicotine replacement products as fast track research and approval products within the meaning of section 506;

“(2) consider approving the extended use of nicotine replacement products (such as nicotine patches, nicotine gum, and nicotine lozenges) for the treatment of tobacco dependence; and

“(3) review and consider the evidence for additional indications for nicotine replacement products, such as for craving relief or relapse prevention.

“(b) REPORT ON INNOVATIVE PRODUCTS.—

“(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary, after consultation with recognized scientific, medical, and public health experts (including both Federal agencies and nongovernmental entities, the Institute of Medicine of the National Academy of Sciences, and the Society for Research on Nicotine and Tobacco), shall submit to the Congress a report that examines how best to regulate, promote, and encourage the development of innovative products and treatments (including nicotine-based and non-nicotine-based products and treatments) to better achieve, in a manner that best protects and promotes the public health—

“(A) total abstinence from tobacco use;

“(B) reductions in consumption of tobacco; and

“(C) reductions in the harm associated with continued tobacco use.

“(2) RECOMMENDATIONS.—The report under paragraph (1) shall include the recommendations of the Secretary on how the Food and Drug Administration should coordinate and

facilitate the exchange of information on such innovative products and treatments among relevant offices and centers within the Administration and within the National Institutes of Health, the Centers for Disease Control and Prevention, and other relevant agencies.

**“SEC. 919. USER FEES.**

“(a) ESTABLISHMENT OF QUARTERLY FEE.—Beginning on the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the Secretary shall in accordance with this section assess user fees on, and collect such fees from, each manufacturer and importer of tobacco products subject to this chapter. The fees shall be assessed and collected with respect to each quarter of each fiscal year, and the total amount assessed and collected for a fiscal year shall be the amount specified in subsection (b)(1) for such year, subject to subsection (c).

“(b) ASSESSMENT OF USER FEE.—

“(1) AMOUNT OF ASSESSMENT.—The total amount of user fees authorized to be assessed and collected under subsection (a) for a fiscal year is the following, as applicable to the fiscal year involved:

“(A) For fiscal year 2009, \$85,000,000 (subject to subsection (e)).

“(B) For fiscal year 2010, \$235,000,000.

“(C) For fiscal year 2011, \$450,000,000.

“(D) For fiscal year 2012, \$477,000,000.

“(E) For fiscal year 2013, \$505,000,000.

“(F) For fiscal year 2014, \$534,000,000.

“(G) For fiscal year 2015, \$566,000,000.

“(H) For fiscal year 2016, \$599,000,000.

“(I) For fiscal year 2017, \$635,000,000.

“(J) For fiscal year 2018, \$672,000,000.

“(K) For fiscal year 2019 and each subsequent fiscal year, \$712,000,000.

“(2) ALLOCATIONS OF ASSESSMENT BY CLASS OF TOBACCO PRODUCTS.—

“(A) IN GENERAL.—The total user fees assessed and collected under subsection (a) each fiscal year with respect to each class of tobacco products shall be an amount that is equal to the applicable percentage of each class for the fiscal year multiplied by the amount specified in paragraph (1) for the fiscal year.

“(B) APPLICABLE PERCENTAGE.—

“(1) IN GENERAL.—For purposes of subparagraph (A), the applicable percentage for a fiscal year for each of the following classes of tobacco products shall be determined in accordance with clause (ii):

“(I) Cigarettes.

“(II) Cigars, including small cigars and cigars other than small cigars.

“(III) Snuff.

“(IV) Chewing tobacco.

“(V) Pipe tobacco.

“(VI) Roll-your-own tobacco.

“(ii) ALLOCATIONS.—The applicable percentage of each class of tobacco product described in clause (i) for a fiscal year shall be the percentage determined under section 625(c) of Public Law 108-357 for each such class of product for such fiscal year.

“(iii) REQUIREMENT OF REGULATIONS.—Notwithstanding clause (ii), no user fees shall be assessed on a class of tobacco products unless such class of tobacco products is listed in section 901(b) or is deemed by the Secretary in a regulation under section 901(b) to be subject to this chapter.

“(iv) REALLOCATIONS.—In the case of a class of tobacco products that is not listed in section 901(b) or deemed by the Secretary in a regulation under section 901(b) to be subject to this chapter, the amount of user fees that would otherwise be assessed to such class of tobacco products shall be reallocated to the classes of tobacco products that are subject to this chapter in the same manner and based on the same relative percentages otherwise determined under clause (ii).

“(3) DETERMINATION OF USER FEE BY COMPANY.—

“(A) IN GENERAL.—The total user fee to be paid by each manufacturer or importer of a particular class of tobacco products shall be determined for each quarter by multiplying—

“(i) such manufacturer's or importer's percentage share as determined under paragraph (4); by

“(ii) the portion of the user fee amount for the current quarter to be assessed on all manufacturers and importers of such class of tobacco products as determined under paragraph (2).

“(B) NO FEE IN EXCESS OF PERCENTAGE SHARE.—No manufacturer or importer of tobacco products shall be required to pay a user fee in excess of the percentage share of such manufacturer or importer.

“(4) ALLOCATION OF ASSESSMENT WITHIN EACH CLASS OF TOBACCO PRODUCT.—The percentage share of each manufacturer or importer of a particular class of tobacco products of the total user fee to be paid by all manufacturers or importers of that class of tobacco products shall be the percentage determined for purposes of allocations under subsections (e) through (h) of section 625 of Public Law 108-357.

“(5) ALLOCATION FOR CIGARS.—Notwithstanding paragraph (4), if a user fee assessment is imposed on cigars, the percentage share of each manufacturer or importer of cigars shall be based on the excise taxes paid by such manufacturer or importer during the prior fiscal year.

“(6) TIMING OF ASSESSMENT.—The Secretary shall notify each manufacturer and importer of tobacco products subject to this section of the amount of the quarterly assessment imposed on such manufacturer or importer under this subsection for each quarter of each fiscal year. Such notifications shall occur not later than 30 days prior to the end of the quarter for which such assessment is made, and payments of all assessments shall be made by the last day of the quarter involved.

“(7) MEMORANDUM OF UNDERSTANDING.—

“(A) IN GENERAL.—The Secretary shall request the appropriate Federal agency to enter into a memorandum of understanding that provides for the regular and timely transfer from the head of such agency to the Secretary of the information described in paragraphs (2)(B)(ii) and (4) and all necessary information regarding all tobacco product manufacturers and importers required to pay user fees. The Secretary shall maintain all disclosure restrictions established by the head of such agency regarding the information provided under the memorandum of understanding.

“(B) ASSURANCES.—Beginning not later than fiscal year 2015, and for each subsequent fiscal year, the Secretary shall ensure that the Food and Drug Administration is able to determine the applicable percentages described in paragraph (2) and the percentage shares described in paragraph (4). The Secretary may carry out this subparagraph by entering into a contract with the head of the Federal agency referred to in subparagraph (A) to continue to provide the necessary information.

“(c) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation

account for salaries and expenses with such fiscal year limitation.

“(2) AVAILABILITY.—

“(A) IN GENERAL.—Fees appropriated under paragraph (3) are available only for the purpose of paying the costs of the activities of the Food and Drug Administration related to the regulation of tobacco products under this chapter and the Family Smoking Prevention and Tobacco Control Act. No fees collected under subsection (a) may be used for any other costs.

“(B) PROHIBITION AGAINST USE OF OTHER FUNDS.—

“(i) IN GENERAL.—Except as provided in clause (ii), fees collected under subsection (a) are the only funds authorized to be made available for the purpose described in subparagraph (A).

“(ii) STARTUP COSTS.—Clause (i) does not apply until the date on which the Secretary has collected fees under subsection (a) for 2 fiscal year quarters. Any amounts provided to pay the costs described in subparagraph (A) prior to the date described in the previous sentence shall be reimbursed through fees collected under subsection (a).

“(3) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2009 and each subsequent fiscal year, there is authorized to be appropriated for fees under this section an amount equal to the amount specified in subsection (b)(1) for the fiscal year.

“(d) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

“(e) APPLICABILITY TO FISCAL YEAR 2009.—If the date of enactment of the Family Smoking Prevention and Tobacco Control Act occurs during fiscal year 2009, the following applies, subject to subsection (c):

“(1) The Secretary shall determine the fees that would apply for a single quarter of such fiscal year according to the application of subsection (b) to the amount specified in paragraph (1)(A) of such subsection (referred to in this subsection as the ‘quarterly fee amounts’).

“(2) For the quarter in which such date of enactment occurs, the amount of fees assessed shall be a pro rata amount, determined according to the number of days remaining in the quarter (including such date of enactment) and according to the daily equivalent of the quarterly fee amounts. Fees assessed under the preceding sentence shall not be collected until the next quarter.

“(3) For the quarter following the quarter to which paragraph (2) applies, the full quarterly fee amounts shall be assessed and collected, in addition to collection of the pro rata fees assessed under paragraph (2).”

(c) CONFORMING AMENDMENT.—Section 9(1) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4408(i)) is amended to read as follows:

“(1) The term ‘smokeless tobacco’ has the meaning given such term by section 900(18) of the Federal Food, Drug, and Cosmetic Act.”

**SEC. 102. FINAL RULE.**

(a) CIGARETTES AND SMOKELESS TOBACCO.—

(1) IN GENERAL.—On the first day of publication of the Federal Register that is 180 days or more after the date of enactment of this Act, the Secretary of Health and Human Services shall publish in the Federal Register a final rule regarding cigarettes and smokeless tobacco, which—

(A) is deemed to be issued under chapter 9 of the Federal Food, Drug, and Cosmetic Act, as added by section 101 of this Act; and

(B) shall be deemed to be in compliance with all applicable provisions of chapter 5 of

title 5, United States Code, and all other provisions of law relating to rulemaking procedures.

(2) CONTENTS OF RULE.—Except as provided in this subsection, the final rule published under paragraph (1), shall be identical in its provisions to part 897 of the regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (61 Fed. Reg., 44615-44618). Such rule shall—

(A) provide for the designation of jurisdictional authority that is in accordance with this subsection in accordance with this Act and the amendments made by this Act;

(B) strike Subpart C—Labels and section 897.32(c);

(C) strike paragraphs (a), (b), and (i) of section 897.3 and insert definitions of the terms “cigarette”, “cigarette tobacco”, and “smokeless tobacco” as defined in section 900 of the Federal Food, Drug, and Cosmetic Act;

(D) insert “or roll-your-own paper” in section 897.34(a) after “other than cigarettes or smokeless tobacco”;

(E) include such modifications to section 897.30(b), if any, that the Secretary determines are appropriate in light of governing First Amendment case law, including the decision of the Supreme Court of the United States in *Lorillard Tobacco Co. v. Reilly* (533 U.S. 525 (2201));

(F) become effective on the date that is 1 year after the date of enactment of this Act;

(G) amend paragraph (d) of section 897.16 to read as follows:

“(d)(1) Except as provided in subparagraph (2), no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of cigarettes, smokeless tobacco, or other tobacco products (as such term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act).

“(2)(A) Subparagraph (1) does not prohibit a manufacturer, distributor, or retailer from distributing or causing to be distributed free samples of smokeless tobacco in a qualified adult-only facility.

“(B) This subparagraph does not affect the authority of a State or local government to prohibit or otherwise restrict the distribution of free samples of smokeless tobacco.

“(C) For purposes of this paragraph, the term ‘qualified adult-only facility’ means a facility or restricted area that—

“(i) requires each person present to provide to a law enforcement officer (whether on or off duty) or to a security guard licensed by a governmental entity government-issued identification showing a photograph and at least the minimum age established by applicable law for the purchase of smokeless tobacco;

“(ii) does not sell, serve, or distribute alcohol;

“(iii) is not located adjacent to or immediately across from (in any direction) a space that is used primarily for youth-oriented marketing, promotional, or other activities;

“(iv) is a temporary structure constructed, designated, and operated as a distinct enclosed area for the purpose of distributing free samples of smokeless tobacco in accordance with this subparagraph; and

“(v) is enclosed by a barrier that—

“(I) is constructed of, or covered with, an opaque material (except for entrances and exits);

“(II) extends from no more than 12 inches above the ground or floor (which area at the bottom of the barrier must be covered with material that restricts visibility but may allow airflow) to at least 8 feet above the ground or floor (or to the ceiling); and

“(III) prevents persons outside the qualified adult-only facility from seeing into the

qualified adult-only facility, unless they make unreasonable efforts to do so; and

“(vi) does not display on its exterior—

“(I) any tobacco product advertising;

“(II) a brand name other than in conjunction with words for an area or enclosure to identify an adult-only facility; or

“(III) any combination of words that would imply to a reasonable observer that the manufacturer, distributor, or retailer has a sponsorship that would violate section 897.34(c).

“(D) Distribution of samples of smokeless tobacco under this subparagraph permitted to be taken out of the qualified adult-only facility shall be limited to 1 package per adult consumer containing no more than 0.53 ounces (15 grams) of smokeless tobacco. If such package of smokeless tobacco contains individual portions of smokeless tobacco, the individual portions of smokeless tobacco shall not exceed 8 individual portions and the collective weight of such individual portions shall not exceed 0.53 ounces (15 grams). Any manufacturer, distributor, or retailer who distributes or causes to be distributed free samples also shall take reasonable steps to ensure that the above amounts are limited to one such package per adult consumer per day.

“(3) Notwithstanding subparagraph (2), no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of smokeless tobacco—

“(A) to a sports team or entertainment group; or

“(B) at any football, basketball, baseball, soccer, or hockey event or any other sporting or entertainment event determined by the Secretary to be covered by this subparagraph.

“(4) The Secretary shall implement a program to ensure compliance with this paragraph and submit a report to the Congress on such compliance not later than 18 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

“(5) Nothing in this paragraph shall be construed to authorize any person to distribute or cause to be distributed any sample of a tobacco product to any individual who has not attained the minimum age established by applicable law for the purchase of such product.”

(3) AMENDMENTS TO RULE.—Prior to making amendments to the rule published under paragraph (1), the Secretary shall promulgate a proposed rule in accordance with chapter 5 of title 5, United States Code.

(4) RULE OF CONSTRUCTION.—Except as provided in paragraph (3), nothing in this section shall be construed to limit the authority of the Secretary to amend, in accordance with chapter 5 of title 5, United States Code, the regulation promulgated pursuant to this section, including the provisions of such regulation relating to distribution of free samples.

(5) ENFORCEMENT OF RETAIL SALE PROVISIONS.—The Secretary of Health and Human Services shall ensure that the provisions of this Act, the amendments made by this Act, and the implementing regulations (including such provisions, amendments, and regulations relating to the retail sale of tobacco products) are enforced with respect to the United States and Indian tribes.

(6) QUALIFIED ADULT-ONLY FACILITY.—A qualified adult-only facility (as such term is defined in section 897.16(d) of the final rule published under paragraph (1)) that is also a retailer and that commits a violation as a retailer shall not be subject to the limitations in section 103(q) and shall be subject to penalties applicable to a qualified adult-only facility.

(7) CONGRESSIONAL REVIEW PROVISIONS.—Section 801 of title 5, United States Code,



shall not apply to the final rule published under paragraph (1).

(b) **LIMITATION ON ADVISORY OPINIONS.**—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document titled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents” (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document titled “Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act” (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document titled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents” (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document titled “Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination” (61 Fed. Reg. 44619–45318 (August 28, 1996)).

**SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.**

(a) **AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.**—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) **SECTION 301.**—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting “tobacco product,” after “device.”;

(2) in subsection (b), by inserting “tobacco product,” after “device.”;

(3) in subsection (c), by inserting “tobacco product,” after “device.”;

(4) in subsection (e)—

(A) by striking the period after “572(i)”;

and

(B) by striking “or 761 or the refusal to permit access to” and inserting “761, 909, or 920 or the refusal to permit access to”;

(5) in subsection (g), by inserting “tobacco product,” after “device.”;

(6) in subsection (h), by inserting “tobacco product,” after “device.”;

(7) in subsection (j)—

(A) by striking the period after “573”;

(B) by striking “708, or 721” and inserting “708, 721, 904, 905, 906, 907, 908, 909, or 920(b)”;

(8) in subsection (k), by inserting “tobacco product,” after “device.”;

(9) by striking subsection (p) and inserting the following:

“(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(i)(3).”;

(10) by striking subsection (q)(1) and inserting the following:

“(q)(1) The failure or refusal—

(A) to comply with any requirement prescribed under section 518, 520(g), 903(b), 907, 908, or 916;

(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 909, or 920; or

(C) to comply with a requirement under section 522 or 913.”;

(11) in subsection (q)(2), by striking “device,” and inserting “device or tobacco product.”;

(12) in subsection (r), by inserting “or tobacco product” after the term “device” each time that such term appears; and

(13) by adding at the end the following:

“(oo) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).

“(pp) The introduction or delivery for introduction into interstate commerce of a tobacco product in violation of section 911.

“(qq)(1) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp (including tax stamp), tag, label, or other identification device upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

“(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing any punch, die, plate, stone, or other item that is designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any tobacco product or container or labeling thereof so as to render such tobacco product a counterfeit tobacco product.

“(3) The doing of any act that causes a tobacco product to be a counterfeit tobacco product, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit tobacco product.

“(rr) The charitable distribution of tobacco products.

“(ss) The failure of a manufacturer or distributor to notify the Attorney General and the Secretary of the Treasury of their knowledge of tobacco products used in illicit trade.

“(tt) With respect to a tobacco product, any statement or representation, express or implied, directed to consumers through the media or through the label, labeling, or advertising that is false or would reasonably be expected to mislead consumers into believing that the product is approved by the Food and Drug Administration, or that the Food and Drug Administration deems the product to be safe for use by consumers, or that the product is endorsed by the Food and Drug Administration for use by consumers, or that is false or would reasonably be expected to mislead consumers regarding the harmfulness of the product because of the Food and Drug Administration’s regulation or inspection of it or because of its compliance with regulatory requirements set by the Food and Drug Administration.”.

(c) **SECTION 303.**—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) in paragraph (1)(A), by inserting “or tobacco products” after the term “devices” each place such term appears;

(2) in paragraph (5)—

(A) in subparagraph (A)—

(i) by striking “assessed” the first time it appears and inserting “assessed, or a no-tobacco-sale order may be imposed.”;

(ii) by striking “penalty” the second time it appears and inserting “penalty, or upon whom a no-tobacco-sale order is to be imposed.”;

(B) in subparagraph (B)—

(i) by inserting after “penalty,” the following: “or the period to be covered by a no-tobacco-sale order.”;

(ii) by adding at the end the following: “A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.”;

(C) by adding at the end the following:

“(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.”;

(3) in paragraph (6)—

(A) by inserting “or the imposition of a no-tobacco-sale order” after the term “penalty” each place such term appears; and

(B) by striking “issued.” and inserting “issued, or on which the no-tobacco-sale order was imposed, as the case may be.”;

(4) by adding at the end the following:

“(8) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1). Prior to the entry of a no-sale order under this paragraph, a person shall be entitled to a hearing pursuant to the procedures established through regulations of the Food and Drug Administration for assessing civil money penalties, including at a retailer’s request a hearing by telephone, or at the nearest regional or field office of the Food and Drug Administration, or at a Federal, State, or county facility within 100 miles from the location of the retail outlet, if such a facility is available.”.

(d) **SECTION 304.**—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking “and” before “(D)”;

(B) by striking “device,” and inserting the following: “device, and (E) Any adulterated or misbranded tobacco product.”;

(2) in subsection (d)(1), by inserting “tobacco product,” after “device.”;

(3) in subsection (g)(1), by inserting “or tobacco product” after the term “device” each place such term appears; and

(4) in subsection (g)(2)(A), by inserting “or tobacco product” after “device”.

(e) **SECTION 505.**—Section 505(n)(2) (21 U.S.C. 355(n)(2)) is amended by striking “section 904” and inserting “section 1004”.

(f) **SECTION 523.**—Section 523(b)(2)(D) (21 U.S.C. 360m(b)(2)(D)) is amended by striking “section 903(g)” and inserting “section 1003(g)”.

(g) **SECTION 702.**—Section 702(a)(1) (U.S.C. 372(a)(1)) is amended—

(1) by striking “(a)(1)” and inserting “(a)(1)(A)”;

(2) by adding at the end the following:

“(B)(i) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with this paragraph to carry out inspections of retailers within that State in connection with the enforcement of this Act.

“(ii) The Secretary shall not enter into any contract under clause (i) with the government of any of the several States to exercise enforcement authority under this Act on Indian country without the express written consent of the Indian tribe involved.”.

(h) **SECTION 703.**—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting “tobacco product,” after the term “device,” each place such term appears; and

(2) by inserting “tobacco products,” after the term “devices,” each place such term appears.

(i) **SECTION 704.**—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)—

(A) by striking “devices, or cosmetics” each place it appears and inserting “devices, tobacco products, or cosmetics”;

(B) by striking “or restricted devices” each place it appears and inserting “restricted devices, or tobacco products”;

(C) by striking “and devices and subject to” and all that follows through “other

drugs or devices" and inserting "devices, and tobacco products and subject to reporting and inspection under regulations lawfully issued pursuant to section 505(i) or (k), section 519, section 520(g), or chapter IX and data relating to other drugs, devices, or tobacco products";

(2) in subsection (b), by inserting "tobacco product," after "device,"; and

(3) in subsection (g)(13), by striking "section 903(g)" and inserting "section 1003(g)".

(j) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting "tobacco products," after "devices,".

(k) SECTION 709.—Section 709 (21 U.S.C. 379a) is amended by inserting "tobacco product," after "device,".

(l) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting "tobacco products," after the term "devices,";

(B) by inserting "or section 905(h)" after "section 510"; and

(C) by striking the term "drugs or devices" each time such term appears and inserting "drugs, devices, or tobacco products";

(2) in subsection (e)(1)—

(A) by inserting "tobacco product" after "drug, device,"; and

(B) by inserting ", and a tobacco product intended for export shall not be deemed to be in violation of section 906(e), 907, 911, or 920(a)," before "if it—"; and

(3) by adding at the end the following:

"(p)(1) Not later than 36 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report regarding—

"(A) the nature, extent, and destination of United States tobacco product exports that do not conform to tobacco product standards established pursuant to this Act;

"(B) the public health implications of such exports, including any evidence of a negative public health impact; and

"(C) recommendations or assessments of policy alternatives available to Congress and the executive branch to reduce any negative public health impact caused by such exports.

"(2) The Secretary is authorized to establish appropriate information disclosure requirements to carry out this subsection."

(m) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(b)) is amended—

(1) by striking "and" after "cosmetics,"; and

(2) inserting ", and tobacco products" after "devices".

(n) SECTION 1009.—Section 1009(b) (as redesignated by section 101(b)) is amended by striking "section 908" and inserting "section 1008".

(o) SECTION 409 OF THE FEDERAL MEAT INSPECTION ACT.—Section 409(a) of the Federal Meat Inspection Act (21 U.S.C. 679(a)) is amended by striking "section 902(b)" and inserting "section 1002(b)".

(p) RULE OF CONSTRUCTION.—Nothing in this section is intended or shall be construed to expand, contract, or otherwise modify or amend the existing limitations on State government authority over tribal restricted fee or trust lands.

(q) GUIDANCE AND EFFECTIVE DATES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall issue guidance—

(A) defining the term "repeated violation", as used in section 303(f)(8) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)(8)) as amended by subsection (c), as including at least 5 violations of particular requirements over a 36-month period at a par-

ticular retail outlet that constitute a repeated violation and providing for civil penalties in accordance with paragraph (2);

(B) providing for timely and effective notice by certified or registered mail or personal delivery to the retailer of each alleged violation at a particular retail outlet prior to conducting a followup compliance check, such notice to be sent to the location specified on the retailer's registration or to the retailer's registered agent if the retailer has provided such agent information to the Food and Drug Administration prior to the violation;

(C) providing for a hearing pursuant to the procedures established through regulations of the Food and Drug Administration for assessing civil money penalties, including at a retailer's request a hearing by telephone or at the nearest regional or field office of the Food and Drug Administration, and providing for an expedited procedure for the administrative appeal of an alleged violation;

(D) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(E) establishing that civil money penalties for multiple violations shall increase from one violation to the next violation pursuant to paragraph (2) within the time periods provided for in such paragraph;

(F) providing that good faith reliance on the presentation of a false government-issued photographic identification that contains a date of birth does not constitute a violation of any minimum age requirement for the sale of tobacco products if the retailer has taken effective steps to prevent such violations, including—

(i) adopting and enforcing a written policy against sales to minors;

(ii) informing its employees of all applicable laws;

(iii) establishing disciplinary sanctions for employee noncompliance; and

(iv) requiring its employees to verify age by way of photographic identification or electronic scanning device; and

(G) providing for the Secretary, in determining whether to impose a no-tobacco-sale order and in determining whether to compromise, modify, or terminate such an order, to consider whether the retailer has taken effective steps to prevent violations of the minimum age requirements for the sale of tobacco products, including the steps listed in subparagraph (F).

(2) PENALTIES FOR VIOLATIONS.—

(A) IN GENERAL.—The amount of the civil penalty to be applied for violations of restrictions promulgated under section 906(d), as described in paragraph (1), shall be as follows:

(i) With respect to a retailer with an approved training program, the amount of the civil penalty shall not exceed—

(I) in the case of the first violation, \$0.00 together with the issuance of a warning letter to the retailer;

(II) in the case of a second violation within a 12-month period, \$250;

(III) in the case of a third violation within a 24-month period, \$500;

(IV) in the case of a fourth violation within a 24-month period, \$2,000;

(V) in the case of a fifth violation within a 36-month period, \$5,000; and

(VI) in the case of a sixth or subsequent violation within a 48-month period, \$10,000 as determined by the Secretary on a case-by-case basis.

(ii) With respect to a retailer that does not have an approved training program, the amount of the civil penalty shall not exceed—

(I) in the case of the first violation, \$250;

(II) in the case of a second violation within a 12-month period, \$500;

(III) in the case of a third violation within a 24-month period, \$1,000;

(IV) in the case of a fourth violation within a 24-month period, \$2,000;

(V) in the case of a fifth violation within a 36-month period, \$5,000; and

(VI) in the case of a sixth or subsequent violation within a 48-month period, \$10,000 as determined by the Secretary on a case-by-case basis.

(B) TRAINING PROGRAM.—For purposes of subparagraph (A), the term "approved training program" means a training program that complies with standards developed by the Food and Drug Administration for such programs.

(C) CONSIDERATION OF STATE PENALTIES.—The Secretary shall coordinate with the States in enforcing the provisions of this Act and, for purposes of mitigating a civil penalty to be applied for a violation by a retailer of any restriction promulgated under section 906(d), shall consider the amount of any penalties paid by the retailer to a State for the same violation.

(3) GENERAL EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), and (4) of subsection (c) shall take effect upon the issuance of guidance described in paragraph (1) of this subsection.

(4) SPECIAL EFFECTIVE DATE.—The amendment made by subsection (c)(1) shall take effect on the date of enactment of this Act.

(5) PACKAGE LABEL REQUIREMENTS.—The package label requirements of paragraphs (2), (3), and (4) of section 903(a) of the Federal Food, Drug, and Cosmetic Act (as amended by this Act) shall take effect on the date that is 12 months after the date of enactment of this Act. The effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 903(a)(2), (3), and (4) and section 920(a) of the Federal Food, Drug, and Cosmetic Act.

(6) ADVERTISING REQUIREMENTS.—The advertising requirements of section 903(a)(8) of the Federal Food, Drug, and Cosmetic Act (as amended by this Act) shall take effect on the date that is 12 months after the date of enactment of this Act.

#### SEC. 104. STUDY ON RAISING THE MINIMUM AGE TO PURCHASE TOBACCO PRODUCTS.

The Secretary of Health and Human Services shall—

(1) convene an expert panel to conduct a study on the public health implications of raising the minimum age to purchase tobacco products; and

(2) not later than 5 years after the date of enactment of this Act, submit a report to the Congress on the results of such study.

#### SEC. 105. ENFORCEMENT ACTION PLAN FOR ADVERTISING AND PROMOTION RESTRICTIONS.

(a) ACTION PLAN.—

(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall develop and publish an action plan to enforce restrictions adopted pursuant to section 906 of the Federal Food, Drug, and Cosmetic Act, as added by section 101(b) of this Act, or pursuant to section 102(a) of this Act, on promotion and advertising of menthol and other cigarettes to youth.

(2) CONSULTATION.—The action plan required by paragraph (1) shall be developed in

consultation with public health organizations and other stakeholders with demonstrated expertise and experience in serving minority communities.

(3) PRIORITY.—The action plan required by paragraph (1) shall include provisions designed to ensure enforcement of the restrictions described in paragraph (1) in minority communities.

(b) STATE AND LOCAL ACTIVITIES.—

(1) INFORMATION ON AUTHORITY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall inform State, local, and tribal governments of the authority provided to such entities under section 5(c) of the Federal Cigarette Labeling and Advertising Act, as added by section 203 of this Act, or preserved by such entities under section 916 of the Federal Food, Drug, and Cosmetic Act, as added by section 101(b) of this Act.

(2) COMMUNITY ASSISTANCE.—At the request of communities seeking assistance to prevent underage tobacco use, the Secretary shall provide such assistance, including assistance with strategies to address the prevention of underage tobacco use in communities with a disproportionate use of menthol cigarettes by minors.

## TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

### SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) AMENDMENT.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

#### “SEC. 4. LABELING.

“(a) LABEL REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

“WARNING: Cigarettes are addictive.

“WARNING: Tobacco smoke can harm your children.

“WARNING: Cigarettes cause fatal lung disease.

“WARNING: Cigarettes cause cancer.

“WARNING: Cigarettes cause strokes and heart disease.

“WARNING: Smoking during pregnancy can harm your baby.

“WARNING: Smoking can kill you.

“WARNING: Tobacco smoke causes fatal lung disease in nonsmokers.

“WARNING: Quitting smoking now greatly reduces serious risks to your health.

“(2) PLACEMENT; TYPOGRAPHY; ETC.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Each label statement shall comprise the top 50 percent of the front and rear panels of the package. The word ‘WARNING’ shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (c).

“(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not

manufacture, package, or import cigarettes for sale or distribution within the United States.

“(4) APPLICABILITY TO RETAILERS.—A retailer of cigarettes shall not be in violation of this subsection for packaging that—

“(A) contains a warning label;

“(B) is supplied to the retailer by a licensee or permit-holding tobacco product manufacturer, importer, or distributor; and

“(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

“(b) ADVERTISING REQUIREMENTS.—

“(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent (including a smoke constituent) yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under subsection (c). The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that—

“(A) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3) MATCHBOOKS.—Notwithstanding paragraph (2), for matchbooks (defined as containing not more than 20 matches) customarily given away with the purchase of tobacco products, each label statement required by subsection (a) may be printed on the inside cover of the matchbook.

“(4) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section; the text, format, and type sizes of any required tar, nicotine yield, or other constituent (including

smoke constituent) disclosures; or the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act. The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2). The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

“(c) MARKETING REQUIREMENTS.—

“(1) RANDOM DISPLAY.—The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(2) ROTATION.—The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(3) REVIEW.—The Secretary shall review each plan submitted under paragraph (2) and approve it if the plan—

“(A) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(B) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(4) APPLICABILITY TO RETAILERS.—This subsection and subsection (b) apply to a retailer only if that retailer is responsible for or directs the label statements required under this section except that this paragraph shall not relieve a retailer of liability if the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection and subsection (b).”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 12 months after the date of enactment of this Act. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by subsection (a).

### SEC. 202. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

(a) PREEMPTION.—Section 5(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334(a)) is amended by striking “No” and inserting “Except to the extent the Secretary requires additional or different statements on any cigarette package by a regulation, by an order, by a standard, by an authorization to market a product, or by a condition of marketing a product, pursuant to the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), or as required under section 903(a)(2) or section 920(a) of the Federal Food, Drug, and Cosmetic Act, no”.

(b) CHANGE IN REQUIRED STATEMENTS.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended

by section 201, is further amended by adding at the end the following:

“(d) CHANGE IN REQUIRED STATEMENTS.—The Secretary through a rulemaking conducted under section 553 of title 5, United States Code—

“(1) shall issue regulations within 24 months of the date of enactment of the Family Smoking Prevention and Tobacco Control Act that require color graphics depicting the negative health consequences of smoking to accompany label requirements; and

“(2) may thereafter adjust the format, type size, color graphics, and text of any of the label requirements, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act, if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.”.

**SEC. 203. STATE REGULATION OF CIGARETTE ADVERTISING AND PROMOTION.**

Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended by adding at the end the following:

“(c) EXCEPTION.—Notwithstanding subsection (b), a State or locality may enact statutes and promulgate regulations, based on smoking and health, that take effect after the effective date of the Family Smoking Prevention and Tobacco Control Act, imposing specific bans or restrictions on the time, place, and manner, but not content, of the advertising or promotion of any cigarettes.”.

**SEC. 204. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.**

(a) AMENDMENT.—Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

**“SEC. 3. SMOKELESS TOBACCO WARNING.**

“(a) GENERAL RULE.—

“(1) It shall be unlawful for any person to manufacture, package, sell, offer to sell, distribute, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

“WARNING: This product can cause mouth cancer.

“WARNING: This product can cause gum disease and tooth loss.

“WARNING: This product is not a safe alternative to cigarettes.

“WARNING: Smokeless tobacco is addictive.

“(2) Each label statement required by paragraph (1) shall be—

“(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 30 percent of each such display panel; and

“(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

“(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

“(4) The provisions of this subsection do not apply to a tobacco product manufacturer

or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

“(5) A retailer of smokeless tobacco products shall not be in violation of this subsection for packaging that—

“(A) contains a warning label;

“(B) is supplied to the retailer by a license- or permit-holding tobacco product manufacturer, importer, or distributor; and

“(C) is not altered by the retailer in a way that is material to the requirements of this subsection.

“(b) REQUIRED LABELS.—

“(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

“(2)(A) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph.

“(B) For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement.

“(C) The word ‘WARNING’ shall appear in capital letters, and each label statement shall appear in conspicuous and legible type.

“(D) The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

“(E) The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ‘W’ of the word ‘WARNING’ in the label statements.

“(F) The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement.

“(G) The label statements shall be in English, except that—

“(i) in the case of an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

“(ii) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

“(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

“(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for

each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

“(C) The Secretary shall review each plan submitted under subparagraphs (A) and (B) and approve it if the plan—

“(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

“(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

“(D) This paragraph applies to a retailer only if that retailer is responsible for or directs the label statements under this section, unless the retailer displays, in a location open to the public, an advertisement that does not contain a warning label or has been altered by the retailer in a way that is material to the requirements of this subsection.

“(4) The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section; the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures; or the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act. The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of advertisements provided by paragraph (2). The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

“(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 12 months after the date of enactment of this Act. Such effective date shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by subsection (a).

**SEC. 205. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.**

(a) IN GENERAL.—Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), as amended by section 204, is further amended by adding at the end the following:

“(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the label requirements, require color graphics to accompany the text, increase the required label area from 30 percent up to 50 percent of the front and rear panels of the package, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act, if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.”.

(b) PREEMPTION.—Section 7(a) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4406(a)) is

amended by striking "No" and inserting "Except as provided in the Family Smoking Prevention and Tobacco Control Act (and the amendments made by that Act), no".

**SEC. 206. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.**

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by sections 201 and 202, is further amended by adding at the end the following:

"(e) TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE.—

"(1) IN GENERAL.—The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

"(2) RESOLUTION OF DIFFERENCES.—Any differences between the requirements established by the Secretary under paragraph (1) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

"(3) CIGARETTE AND OTHER TOBACCO PRODUCT CONSTITUENTS.—In addition to the disclosures required by paragraph (1), the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product constituent including any smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act.

"(4) RETAILERS.—This subsection applies to a retailer only if that retailer is responsible for or directs the label statements required under this section."

**TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS**

**SEC. 301. LABELING, RECORDKEEPING, RECORDS INSPECTION.**

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as added by section 101, is further amended by adding at the end the following:

**"SEC. 920. LABELING, RECORDKEEPING, RECORDS INSPECTION.**

"(a) ORIGIN LABELING.—

"(1) REQUIREMENT.—Beginning 1 year after the date of enactment of the Family Smoking Prevention and Tobacco Control Act, the label, packaging, and shipping containers of tobacco products for introduction or delivery for introduction into interstate commerce in the United States shall bear the statement 'sale only allowed in the United States'.

"(2) EFFECTIVE DATE.—The effective date specified in paragraph (1) shall be with respect to the date of manufacture, provided that, in any case, beginning 30 days after

such effective date, a manufacturer shall not introduce into the domestic commerce of the United States any product, irrespective of the date of manufacture, that is not in conformance with such paragraph.

"(b) REGULATIONS CONCERNING RECORDKEEPING FOR TRACKING AND TRACING.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations regarding the establishment and maintenance of records by any person who manufactures, processes, transports, distributes, receives, packages, holds, exports, or imports tobacco products.

"(2) INSPECTION.—In promulgating the regulations described in paragraph (1), the Secretary shall consider which records are needed for inspection to monitor the movement of tobacco products from the point of manufacture through distribution to retail outlets to assist in investigating potential illicit trade, smuggling, or counterfeiting of tobacco products.

"(3) CODES.—The Secretary may require codes on the labels of tobacco products or other designs or devices for the purpose of tracking or tracing the tobacco product through the distribution system.

"(4) SIZE OF BUSINESS.—The Secretary shall take into account the size of a business in promulgating regulations under this section.

"(5) RECORDKEEPING BY RETAILERS.—The Secretary shall not require any retailer to maintain records relating to individual purchasers of tobacco products for personal consumption.

"(c) RECORDS INSPECTION.—If the Secretary has a reasonable belief that a tobacco product is part of an illicit trade or smuggling or is a counterfeit product, each person who manufactures, processes, transports, distributes, receives, holds, packages, exports, or imports tobacco products shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times and within reasonable limits and in a reasonable manner, upon the presentation of appropriate credentials and a written notice to such person, to have access to and copy all records (including financial records) relating to such article that are needed to assist the Secretary in investigating potential illicit trade, smuggling, or counterfeiting of tobacco products. The Secretary shall not authorize an officer or employee of the government of any of the several States to exercise authority under the preceding sentence on Indian country without the express written consent of the Indian tribe involved.

"(d) KNOWLEDGE OF ILLEGAL TRANSACTION.—

"(1) NOTIFICATION.—If the manufacturer or distributor of a tobacco product has knowledge which reasonably supports the conclusion that a tobacco product manufactured or distributed by such manufacturer or distributor that has left the control of such person may be or has been—

"(A) imported, exported, distributed, or offered for sale in interstate commerce by a person without paying duties or taxes required by law; or

"(B) imported, exported, distributed, or diverted for possible illicit marketing, the manufacturer or distributor shall promptly notify the Attorney General and the Secretary of the Treasury of such knowledge.

"(2) KNOWLEDGE DEFINED.—For purposes of this subsection, the term 'knowledge' as applied to a manufacturer or distributor means—

"(A) the actual knowledge that the manufacturer or distributor had; or

"(B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care.

"(e) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Attorney General of the United States and the Secretary of the Treasury, as appropriate."

**SEC. 302. STUDY AND REPORT.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of cross-border trade in tobacco products to—

(1) collect data on cross-border trade in tobacco products, including illicit trade and trade of counterfeit tobacco products and make recommendations on the monitoring of such trade;

(2) collect data on cross-border advertising (any advertising intended to be broadcast, transmitted, or distributed from the United States to another country) of tobacco products and make recommendations on how to prevent or eliminate, and what technologies could help facilitate the elimination of, cross-border advertising; and

(3) collect data on the health effects (particularly with respect to individuals under 18 years of age) resulting from cross-border trade in tobacco products, including the health effects resulting from—

(A) the illicit trade of tobacco products and the trade of counterfeit tobacco products; and

(B) the differing tax rates applicable to tobacco products.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study described in subsection (a).

(c) DEFINITION.—In this section:

(1) The term "cross-border trade" means trade across a border of the United States, a State or Territory, or Indian country.

(2) The term "Indian country" has the meaning given to such term in section 1151 of title 18, United States Code.

(3) The terms "State" and "Territory" have the meanings given to those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

**SUBMITTED RESOLUTIONS**

**SENATE RESOLUTION 128—RECOGNIZING THE HISTORICAL SIGNIFICANCE OF THE MEXICAN HOLIDAY OF CINCO DE MAYO**

Mr. MENENDEZ (for himself and Mr. BINGAMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 128

Whereas May 5, or "Cinco de Mayo" in Spanish, is celebrated each year as a date of great importance by the Mexican and Mexican-American communities;

Whereas the Cinco de Mayo holiday commemorates May 5, 1862, the date on which the Battle of Puebla was fought by Mexicans who were struggling for their independence and freedom;

Whereas Cinco de Mayo has become one of Mexico's most famous national holidays and is celebrated annually by nearly all Mexicans and Mexican-Americans, north and south of the United States-Mexico border;

Whereas the Battle of Puebla was but one of the many battles that the courageous Mexican people won in their long and brave struggle for independence and freedom;

Whereas the French, confident that their battle-seasoned troops were far superior to

the almost amateurish Mexican forces, expected little or no opposition from the Mexican army;

Whereas the French army, which had not experienced defeat against any of Europe's finest troops in over half a century, sustained a disastrous loss at the hands of an outnumbered, ill-equipped, and ragged, but highly spirited and courageous, Mexican force;

Whereas after three bloody assaults upon Puebla in which over a thousand gallant Frenchmen lost their lives, the French troops were finally defeated and driven back by the outnumbered Mexican troops;

Whereas the courageous and heroic spirit that Mexican General Zaragoza and his men displayed during this historic battle can never be forgotten;

Whereas many brave Mexicans willingly gave their lives for the causes of justice and freedom in the Battle of Puebla on Cinco de Mayo;

Whereas the sacrifice of the Mexican fighters was instrumental in keeping Mexico from falling under European domination;

Whereas the Cinco de Mayo holiday is not only the commemoration of the rout of the French troops at the town of Puebla in Mexico, but is also a celebration of the virtues of individual courage and patriotism of all Mexicans and Mexican-Americans who have fought for freedom and independence against foreign aggressors;

Whereas Cinco de Mayo serves as a reminder that the foundation of the United States is built by people from many nations and diverse cultures who are willing to fight and die for freedom;

Whereas Cinco de Mayo also serves as a reminder of the close spiritual and economic ties between the people of Mexico and the people of the United States, and is especially important for the people of the southwestern States where millions of Mexicans and Mexican-Americans make their homes;

Whereas in a larger sense, Cinco de Mayo symbolizes the right of a free people to self-determination, just as Benito Juarez once said, "El respeto al derecho ajeno es la paz" ("The respect of other people's rights is peace"); and

Whereas many people celebrate during the entire week in which Cinco de Mayo falls: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the historical struggle for independence and freedom of the people of Mexico; and

(2) calls upon the people of the United States to observe Cinco de Mayo with appropriate ceremonies and activities.

#### SENATE RESOLUTION 129—COM-MENDING LOUISIANA JOCKEY CALVIN BOREL FOR HIS VICTORY IN THE 135TH KENTUCKY DERBY

Ms. LANDRIEU (for herself, Mr. VITTER, and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 129

Whereas Calvin Borel, born and raised in St. Martin Parish, Louisiana, began riding match horse races in the State of Louisiana at the age of 8;

Whereas Mr. Borel began his professional career as a jockey at the age of 16;

Whereas Mr. Borel has won more than 4,500 career starts;

Whereas Mr. Borel won the 135th Kentucky Derby by a 6- $\frac{3}{4}$  length, the greatest winning margin since 1946;

Whereas Mr. Borel is the only jockey since 1993 to win the Kentucky Oaks and the Kentucky Derby in the same year; and

Whereas in 2 minutes and 2.66 seconds, Mr. Borel and Mine that Bird completed the race and placed first place, making it Mr. Borel's second Kentucky Derby victory: Now, therefore, be it

*Resolved*, That the Senate commends Calvin Borel and Mine that Bird, for their victory at the 135th Kentucky Derby.

#### SENATE RESOLUTION 130—TO CONSTITUTE THE MAJORITY PARTY'S MEMBERSHIP ON CERTAIN COMMITTEES FOR THE ONE HUNDRED ELEVENTH CONGRESS, OR UNTIL THEIR SUCCESSORS ARE CHOSEN

Mr. REID submitted the following resolution; which was considered and agreed to:

S. RES. 130

*Resolved*, That the following shall constitute the majority party's membership on the following committees for the One Hundred Eleventh Congress, or until their successors are chosen:

COMMITTEE ON APPROPRIATIONS: Mr. Inouye (Chairman), Mr. Byrd, Mr. Leahy, Mr. Harkin, Ms. Mikulski, Mr. Kohl, Mrs. Murray, Mr. Dorgan, Mrs. Feinstein, Mr. Durbin, Mr. Johnson, Ms. Landrieu, Mr. Reed, Mr. Lautenberg, Mr. Nelson (Nebraska), Mr. Pryor, Mr. Tester, and Mr. Specter.

COMMITTEE ON THE ENVIRONMENT AND PUBLIC WORKS: Mrs. Boxer (Chairman), Mr. Baucus, Mr. Carper, Mr. Lautenberg, Mr. Cardin, Mr. Sanders, Ms. Klobuchar, Mr. Whitehouse, Mr. Udall (New Mexico), Mr. Merkley, Mrs. Gillibrand, and Mr. Specter.

COMMITTEE ON THE JUDICIARY: Mr. Leahy (Chairman), Mr. Kohl, Mrs. Feinstein, Mr. Feingold, Mr. Schumer, Mr. Durbin, Mr. Cardin, Mr. Whitehouse, Mr. Wyden, Ms. Kolbuchar, Mr. Kaufman, and Mr. Specter.

COMMITTEE ON VETERANS' AFFAIRS: Mr. Akaka (Chairman), Mr. Rockefeller, Mrs. Murray, Mr. Sanders, Mr. Brown, Mr. Webb, Mr. Tester, Mr. Begich, Mr. Burriss, and Mr. Specter.

SPECIAL COMMITTEE ON AGING: Mr. Kohl (Chairman), Mr. Wyden, Mrs. Lincoln, Mr. Bayh, Mr. Nelson (Florida), Mr. Casey, Mrs. McCaskill, Mr. Whitehouse, Mr. Udall (Colorado), Mr. Bennet, Mrs. Gillibrand, Mr. Specter, and Majority Leader Designee.

#### SENATE RESOLUTION 131—MAKING MINORITY PARTY APPOINTMENTS FOR CERTAIN COMMITTEES FOR THE 111TH CONGRESS

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 131

*Resolved*, That the following be the minority membership on the following committees for the remainder of the 111th Congress, or until their successors are appointed:

COMMITTEE ON APPROPRIATIONS: Mr. Cochran, Mr. Bond, Mr. McConnell, Mr. Shelby, Mr. Gregg, Mr. Bennett, Mrs. Hutchison, Mr. Brownback, Mr. Alexander, Ms. Collins, Mr. Voinovich, and Ms. Murkowski.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS: Mr. Inhofe, Mr. Voinovich, Mr. Vitter, Mr. Barrasso, Mr. Crapo, Mr. Bond, and Mr. Alexander.

COMMITTEE ON THE JUDICIARY: Mr. Sessions, Mr. Hatch, Mr. Grassley, Mr. Kyl, Mr. Graham, Mr. Cornyn, and Mr. Coburn.

COMMITTEE ON VETERANS' AFFAIRS: Mr. Burr, Mr. Isakson, Mr. Wicker, Mr. Johanns, and Mr. Graham.

SPECIAL COMMITTEE ON AGING: Mr. Martinez, Mr. Shelby, Ms. Collins, Republican Leader designee, Mr. Corker, Mr. Hatch, Mr. Brownback, and Mr. Graham.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1042. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1040 proposed by Mr. REED (for himself and Mr. BOND) to the amendment SA 1018 submitted by Mr. Dodd (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability.

SA 1043. Mr. ENSIGN (for himself, Mr. PRYOR, Mrs. BOXER, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 1038 proposed by Mrs. BOXER (for herself and Mr. REID) to the amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra.

#### TEXT OF AMENDMENTS

**SA 1042.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1040 proposed by Mr. REED (for himself and Mr. BOND) to the amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; as follows:

At the end, add the following:

#### SEC. \_\_\_\_ FEDERAL REAL PROPERTY DISPOSAL PILOT PROGRAM.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following:

#### "SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

#### "§ 621. Definitions

"In this subchapter:

"(1) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

"(2) EXPEDITED DISPOSAL OF A REAL PROPERTY.—The term 'expedited disposal of a real property' means a demolition of real property or a sale of real property for cash that is conducted under the requirements of section 545.

"(3) LANDHOLDING AGENCY.—The term 'landholding agency' means a landholding agency as defined under section 501(i)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

"(4) REAL PROPERTY.—

"(A) IN GENERAL.—The term 'real property' means—

"(i) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

"(I) excess;

"(II) surplus;

"(III) underperforming; or

"(IV) otherwise not meeting the needs of the Federal Government, as determined by the Director; and

"(ii) a building or other structure located on real property described under clause (i).

"(B) EXCLUSION.—The term 'real property' excludes any parcel of real property or building or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).



“(5) REPRESENTATIVE OF THE HOMELESS.—The term ‘representative of the homeless’ means a representative of the homeless as defined under section 501(i)(4) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(4)).

#### “§ 622. Pilot program

“(a) The Director of the Office of Management and Budget shall conduct a pilot program, to be known as the ‘Federal Real Property Disposal Pilot Program’, under which real property that is not meeting Federal Government needs may be disposed of in accordance with this subchapter.

“(b) The Federal Real Property Disposal Pilot Program shall terminate 5 years after the date of the enactment of this subchapter.

#### “§ 623. Selection of real properties

“(a) Agencies shall recommend candidate disposition real properties to the Director for participation in the pilot program established under section 622.

“(b) The Director, with the concurrence of the head of the executive agency concerned and consistent with the criteria established in this subchapter, may then select such candidate real properties for participation in the pilot program and notify the recommending agency accordingly.

“(c) The Director shall ensure that all real properties selected for disposition under this section are listed on a website that shall—

“(1) be updated routinely; and  
“(2) include the functionality to allow members of the public, at their option, to receive such updates through electronic mail.

“(d) The Secretary of Housing and Urban Development shall ensure that efforts are taken to inform representatives of the homeless about—

“(1) the pilot program established under section 622; and

“(2) the website under subsection (c).

“(e) The Secretary of Housing and Urban Development shall—

“(1) make available to the public upon request all information (other than valuation information), regardless of format, in the possession of the Department of Housing and Urban Development relating to the properties listed on the website under subsection (c), including environmental assessment data; and

“(2) maintain a current list of agency contacts for making referrals to inquiries for information relating to specific properties.

#### “§ 624. Suitability determination

“(a) After the Director selects the candidate real properties that may participate in the pilot program under section 623, the Secretary of Housing and Urban Development shall determine whether each such real property is suitable for use to assist the homeless.

“(b) The Secretary of Housing and Urban Development shall base the suitability determination required under subsection (a)—

“(1) on the suitability criteria identified by the Secretary of Housing and Urban Development under section 501(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(a));

“(2) for real properties located within a Federal installation, campus, or compound, on whether such property can easily be transported to an off-site location; and

“(3) for real properties where the predominant use is other than housing, on whether the size of the real property is equal to or greater than 100,000 square feet.

“(c) Immediately after a determination of suitability is made under this section, the Director shall publish, on the website described in section 623(c) the following information:

“(1) The address of each such real property.

“(2) The result of the suitability determination required under subsection (a) for each such real property.

“(3) The date on which the suitability determination was made.

#### “§ 625. Unsuitable real property

“(a) If a real property is determined unsuitable under section 624, such real property may not be disposed of or otherwise used for any other purpose for at least 20 days after such determination was made.

“(b)(1) Not later than 20 days after a real property has been determined unsuitable under section 624 and before disposal of the real property in accordance with subsection (d), any representative of the homeless may appeal to the Secretary of Housing and Urban Development for a secondary review of such determination.

“(2) Not later than 20 days after a real property has been determined unsuitable under subsection (b)(3) of section 624, the Secretary of Housing and Urban Development shall deem such real property suitable notwithstanding the requirements of that subsection if a representative of the homeless has produced clear and convincing evidence that such property can be utilized for the benefit of the homeless. Any determination under this paragraph shall be committed to the unreviewable discretion of the Secretary of Housing and Urban Development.

“(c) Not later than 20 days after the receipt of any appeal under subsection (b), the Secretary of Housing and Urban Development shall respond to such appeal and shall make a final suitability determination regarding the real property.

“(d)(1) If at the end of the 20-day period required under subsection (a), no appeal for review of a determination of unsuitability is received by the Secretary of Housing and Urban Development, such real property shall be disposed of in accordance with section 627.

“(2) If after conducting a secondary review of a determination of unsuitability under subsection (b), the Secretary of Housing and Urban Development determines that the real property remains unsuitable under subsection (c), such real property shall be disposed of in accordance with section 627.

“(3) If after conducting a secondary review of a determination of unsuitability under subsection (b), the Secretary of Housing and Urban Development determines that the real property is suitable under subsection (c), such real property shall be treated as suitable property for purposes of section 626.

#### “§ 626. Suitable real property

“(a)(1) If a real property is determined suitable under section 624 or upon a secondary review under section 625(d), any representative of the homeless shall have not more than 90 days after such determination to submit an application to the Secretary of Health and Human Services for the transfer of the real property to that representative. If an application cannot be completed within the 90-day period due to non-material factors, the Secretary of Health and Human Services, with the concurrence of the appropriate landholding agency, may grant reasonable extensions.

“(2) If at the end of the time period described under paragraph (1), no representative of the homeless has submitted an application, such real property shall be disposed of in accordance with section 627.

“(b)(1) Not later than 20 days after the receipt of any application under subsection (a)(1), the Secretary of Health and Human Services shall assess such application and determine whether to approve or deny the request for the transfer of the real property to such applicant.

“(2) If the application of a representative of the homeless is denied by the Secretary of

Health and Human Services under paragraph (1), such real property shall be disposed of in accordance with section 627.

“(3) If the application of a representative of the homeless is approved by the Secretary of Health and Human Services under paragraph (1), such real property shall be made promptly available to that representative by permit or lease, or by deed, as a public health use under subsections (a) through (d) of section 550.

#### “§ 627. Expedited disposal requirements

“(a) Real property sold under the pilot program established under this subchapter shall be sold at not less than the fair market value, as determined by the Director in consultation with the head of the executive agency. Costs associated with such disposal may not exceed the fair market value of the property unless the Director approves incurring such costs.

“(b) A real property may be sold under the pilot program established under this subchapter only if the property will generate monetary proceeds to the Federal Government, as provided in subsection (a). A disposal of real property under the pilot program may not include any exchange, trade, transfer, acquisition of like-kind property, or other non-cash transaction as part of the disposal.

“(c) Nothing in this subchapter shall be construed as terminating or in any way limiting authorities that are otherwise available to agencies under other provisions of law to dispose of Federal real property, except as provided in subsection (d).

“(d) Any expedited disposal of a real property conducted under this subchapter shall not be subject to—

“(1) subchapter IV of this chapter;

“(2) sections 550 and 553 of this title;

“(3) section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);

“(4) any other provision of law authorizing the no-cost conveyance of real property owned by the Federal Government; or

“(5) any congressional notification requirement other than that in section 545.

#### “§ 628. Special rules for deposit and use of proceeds from disposal of real property

“(a) Agencies that conduct the disposal of real properties under this subchapter shall be reimbursed from the proceeds, if any, from such disposal for the administrative expenses associated with such disposal. Such amounts shall be credited as offsetting collections to the account that incurred such expenses, to remain available until expended.

“(b)(1) After payment of such administrative costs, the balance of the proceeds shall be distributed as follows:

“(A) 80 percent shall be deposited into the Treasury as miscellaneous receipts.

“(B) 20 percent shall be deposited into the account of the agency that owned the real property and initiated the disposal action.

“(2) Funds deposited under paragraph (1)(B) shall remain available until expended for the period of the pilot program, for activities related to Federal real property capital improvements and disposal activities. Upon termination of the pilot program, any unobligated amounts shall be transferred to the general fund of the Treasury.

#### “§ 629. Limitation on number of permissible cash sales

“The total number of cash sales of real properties to be disposed of under this subchapter over the 5-year term of the Federal Real Property Disposal Pilot Program shall not exceed 750.

#### “§ 630. Government Accountability Office study

“(a) Not later than 36 months after the date of enactment of this subchapter, the

Comptroller General of the United States shall submit to Congress and make publicly available a study of the effectiveness of the pilot program.

“(b) The study described under subsection (a) shall include at a minimum—

“(1) recommendations for permanent reforms to statutes governing real property disposals and no cost conveyances; and

“(2) recommendations for improving the permanent process by which Federal properties are made available for use by the homeless.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

“SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

“Sec. 621. Definitions.

“Sec. 622. Pilot program.

“Sec. 623. Selection of real properties.

“Sec. 624. Suitability determination.

“Sec. 625. Unsuitable real property.

“Sec. 626. Suitable real property.

“Sec. 627. Expedited disposal requirements.

“Sec. 628. Special rules for deposit and use of proceeds from disposal of real property.

“Sec. 629. Limitation on number of permissible cash sales.

“Sec. 630. Government Accountability Office study.”.

**SA 1043.** Mr. ENSIGN (for himself, Mr. PRYOR, Mrs. BOXER, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 1038 proposed by Mrs. BOXER (for herself and Mr. REID) to the amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability as follows:

On page 1, strike line 6 and all that follows through page 6 line 5, and insert the following:

(a) SHORT TITLE.—This section may be cited as the “Public-Private Investment Program Improvement and Oversight Act of 2009”.

(b) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Trouble Asset Relief Program (in this section referred to as the “Special Inspector General”), impose strict conflict of interest rules on managers of public-private investment funds to ensure that securities bought by the funds are purchased in arms-length transactions, that fiduciary duties to public and private investors in the fund are not violated, and that there is full disclosure of relevant facts and financial interests (which conflict of interest rules shall be implemented by the manager of a public-private investment fund prior to such fund receiving Federal Government financing);

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury (in this section referred to as the “Secretary”) that discloses the 10 largest positions of such fund (which reports shall be publicly disclosed at such time as the Secretary of the Treasury determines that such disclosure will not harm the ongoing business operations of the fund);

(C) allow the Special Inspector General access to all books and records of a public-private investment fund, including all records of financial transactions in machine read-

able form, and the confidentiality of all such information shall be maintained by the Special Inspector General;

(D) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(E) require each manager of a public-private investment fund to acknowledge, in writing, a fiduciary duty to both the public and private investors in such fund;

(F) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(G) require strict investor screening procedures for public-private investment funds; and

(H) require each manager of a public-private investment fund to identify for the Secretary each investor that, individually or together with its affiliates, directly or indirectly holds equity interests in the fund acquired as a result of—

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

(ii) any other investment decision by such investor or any of its affiliates to directly or indirectly invest in the fund that, in the aggregate, equal at least 10 percent of the equity interests in such fund.

(2) INTERACTION BETWEEN PUBLIC-PRIVATE INVESTMENT FUNDS AND THE TERM-ASSET BACKED SECURITIES LOAN FACILITY.—The Secretary shall consult with the Special Inspector General and shall issue regulations governing the interaction of the Public-Private Investment Program, the Term-Asset Backed Securities Loan Facility, and other similar public-private investment programs. Such regulations shall address concerns regarding the potential for excessive leverage that could result from interactions between such programs.

(3) REPORT.—Not later than 60 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General shall submit a report to Congress on the implementation of this section.

(c) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), \$15,000,000 shall be made available to the Special Inspector General, which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(d) RULE OF CONSTRUCTION.—Notwithstanding any other provision of law, nothing in this section shall be construed to apply to any activity of the Federal Deposit Insur-

ance Corporation in connection with insured depository institutions, as described in section 13(c)(2)(B) of the Federal Deposit Insurance Act.

(e) DEFINITION.—In this section, the term “public-private investment fund” means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury or the Federal Deposit Insurance Corporation.

(f) OFFSET OF COSTS OF PROGRAM CHANGES.—Notwithstanding the amendment made by section 202(b) of this Act, paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225) is amended by inserting “, as such amount is reduced by \$2,331,000,000,” after “\$700,000,000,000”.

## NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, May 12, 2009, at 2:30 p.m., in room SD-366 of the Dirksen Senate office building.

The purpose of the legislative hearing is to receive testimony on S. 967, the Strategic Petroleum Reserve Modernization Act of 2009, and S. 283, a bill to amend the Energy Policy and Conservation Act to modify the conditions for the release of products from the Northeast Home Heating Oil Reserve Account.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510-6150, or by e-mail to Rosemarie\_Calabro@energy.senate.gov.

For further information, please contact Tara Billingsley at (202) 224-4756 or Rosemarie Calabro at (202) 224-5039.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 5, 2009, at 9:30 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on

Tuesday, May 5, at 9:45 a.m., in room SD-366 of the Dirksen Senate office building.

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

COMMITTEE ON FINANCE

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, May 5, 2009, in room 106 of the Dirksen Senate office building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, May 5, 2009, at 2:15 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DODD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 5, 2009, at 3:30 p.m.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE INFRASTRUCTURE, SAFETY AND SECURITY

Mr. DODD. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, May 5, 2009, at 3 p.m., in room 253 of the Russell Senate office building.

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

SUBCOMMITTEE ON TERRORISM AND HOMELAND SECURITY

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Terrorism and Homeland Security, be authorized to meet during the session of the Senate, to conduct a hearing entitled "The Passport Issuance Process: Closing the Door to Fraud" on Tuesday, May 5, 2009, at 2:30 p.m., in room SD-226 of the Dirksen Senate office building.

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

PRIVILEGES OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent that Randy Fasnacht, a detailee from the Subcommittee on Securities, Insurance, and Investment, be granted the privilege of the floor for the remainder of the day during consideration of this bill.

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

RECOGNIZING THE HISTORICAL SIGNIFICANCE OF THE MEXICAN HOLIDAY OF CINCO DE MAYO

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed

to the immediate consideration of S. Res. 128, 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. 128) recognizing the historical significance of the Mexican holiday of Cinco de Mayo.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 128) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 128

Whereas May 5, or "Cinco de Mayo" in Spanish, is celebrated each year as a date of great importance by the Mexican and Mexican-American communities;

Whereas the Cinco de Mayo holiday commemorates May 5, 1862, the date on which the Battle of Puebla was fought by Mexicans who were struggling for their independence and freedom;

Whereas Cinco de Mayo has become one of Mexico's most famous national holidays and is celebrated annually by nearly all Mexicans and Mexican-Americans, north and south of the United States-Mexico border;

Whereas the Battle of Puebla was but one of the many battles that the courageous Mexican people won in their long and brave struggle for independence and freedom;

Whereas the French, confident that their battle-seasoned troops were far superior to the almost amateurish Mexican forces, expected little or no opposition from the Mexican army;

Whereas the French army, which had not experienced defeat against any of Europe's finest troops in over half a century, sustained a disastrous loss at the hands of an outnumbered, ill-equipped, and ragged, but highly spirited and courageous, Mexican force;

Whereas after three bloody assaults upon Puebla in which over a thousand gallant Frenchmen lost their lives, the French troops were finally defeated and driven back by the outnumbered Mexican troops;

Whereas the courageous and heroic spirit that Mexican General Zaragoza and his men displayed during this historic battle can never be forgotten;

Whereas many brave Mexicans willingly gave their lives for the causes of justice and freedom in the Battle of Puebla on Cinco de Mayo;

Whereas the sacrifice of the Mexican fighters was instrumental in keeping Mexico from falling under European domination;

Whereas the Cinco de Mayo holiday is not only the commemoration of the rout of the French troops at the town of Puebla in Mexico, but is also a celebration of the virtues of individual courage and patriotism of all Mexicans and Mexican-Americans who have fought for freedom and independence against foreign aggressors;

Whereas Cinco de Mayo serves as a reminder that the foundation of the United

States is built by people from many nations and diverse cultures who are willing to fight and die for freedom;

Whereas Cinco de Mayo also serves as a reminder of the close spiritual and economic ties between the people of Mexico and the people of the United States, and is especially important for the people of the southwestern States where millions of Mexicans and Mexican-Americans make their homes;

Whereas in a larger sense, Cinco de Mayo symbolizes the right of a free people to self-determination, just as Benito Juarez once said, "El respeto al derecho ajeno es la paz" ("The respect of other people's rights is peace"); and

Whereas many people celebrate during the entire week in which Cinco de Mayo falls: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the historical struggle for independence and freedom of the people of Mexico; and

(2) calls upon the people of the United States to observe Cinco de Mayo with appropriate ceremonies and activities.

COMMENDING LOUISIANA JOCKEY CALVIN BOREL

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 129, 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. 129) commending Louisiana jockey Calvin Borel for his victory in the 135th Kentucky Derby.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 129) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 129

Whereas Calvin Borel, born and raised in St. Martin Parish, Louisiana, began riding match horse races in the State of Louisiana at the age of 8;

Whereas Mr. Borel began his professional career as a jockey at the age of 16;

Whereas Mr. Borel has won more than 4,500 career starts;

Whereas Mr. Borel won the 135th Kentucky Derby by a 6¼ length, the greatest winning margin since 1946;

Whereas Mr. Borel is the only jockey since 1993 to win the Kentucky Oaks and the Kentucky Derby in the same year; and

Whereas in 2 minutes and 2.66 seconds, Mr. Borel and Mine that Bird completed the race and placed first place, making it Mr. Borel's second Kentucky Derby victory: Now, therefore, be it

Resolved, That the Senate commends Calvin Borel and Mine that Bird, for their victory at the 135th Kentucky Derby.

## APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, and after consultation with the Republican leader, pursuant to Public Law 106-286, appoints the following Members to serve on the Congressional-Executive Commission on the People's Republic of China: the Honorable BOB CORKER of Tennessee, and the Honorable JOHN BARRASSO of Wyoming.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the following Senators as members of the Senate Delegation to the Canada-U.S. Interparliamentary Group conference during the 111th Congress: the Honorable JEFF SESSIONS of Alabama, the Honorable SUSAN COLLINS of Maine, and the Honorable GEORGE V. VOINOVICH of Ohio.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONSTITUTING THE MAJORITY PARTY'S MEMBERSHIP ON CERTAIN COMMITTEES FOR THE ONE HUNDRED ELEVENTH CONGRESS

MAKING MINORITY PARTY APPOINTMENTS FOR CERTAIN COMMITTEES FOR THE 111TH CONGRESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 130 and S. Res. 131, which are at the desk.

The PRESIDING OFFICER. The clerk will report the resolutions by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 130) to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen.

A resolution (S. Res. 131) making minority appointments for certain committees for the 111th Congress.

The PRESIDING OFFICER. Without objection, the two resolutions are agreed to, en bloc.

The resolutions (S. Res. 130 and S. Res. 131) were agreed to, as follows:

S. RES. 130

*Resolved*, that the following shall constitute the majority party's membership on the following committees for the One Hundred Eleventh Congress, or until their successors are chosen:

COMMITTEE ON APPROPRIATIONS: Mr. Inouye (Chairman), Mr. Byrd, Mr. Leahy, Mr. Harkin, Ms. Mikulski, Mr. Kohl, Mrs. Murray, Mr. Dorgan, Mrs. Feinstein, Mr. Durbin, Mr. Johnson, Ms. Landrieu, Mr. Reed, Mr. Lautenberg, Mr. Nelson (Nebraska), Mr. Pryor, Mr. Tester, and Mr. Specter.

COMMITTEE ON THE ENVIRONMENT AND PUBLIC WORKS: Mrs. Boxer (Chairman), Mr. Baucus, Mr. Carper, Mr. Lautenberg, Mr. Cardin, Mr. Sanders, Ms. Klobuchar, Mr. Whitehouse, Mr. Udall (New Mexico), Mr. Merkley, Mrs. Gillibrand, and Mr. Specter.

COMMITTEE ON THE JUDICIARY: Mr. Leahy (Chairman), Mr. Kohl, Mrs. Feinstein, Mr. Feingold, Mr. Schumer, Mr. Durbin, Mr. Cardin, Mr. Whitehouse, Mr. Wyden, Ms. Klobuchar, Mr. Kaufman, and Mr. Specter.

COMMITTEE ON VETERANS' AFFAIRS: Mr. Akaka (Chairman), Mr. Rockefeller, Mrs. Murray, Mr. Sanders, Mr. Brown, Mr. Webb, Mr. Tester, Mr. Begich, Mr. Burriss, and Mr. Specter.

SPECIAL COMMITTEE ON AGING: Mr. Kohl (Chairman), Mr. Wyden, Mrs. Lincoln, Mr. Bayh, Mr. Nelson (Florida), Mr. Casey, Mrs. McCaskill, Mr. Whitehouse, Mr. Udall (Colorado), Mr. Bennet, Mrs. Gillibrand, Mr. Specter, and Majority Leader Designee.

S. RES. 131

*Resolved*, That the following be the minority membership on the following committees for the remainder of the 111th Congress, or until their successors are appointed:

COMMITTEE ON APPROPRIATIONS: Mr. Cochran, Mr. Bond, Mr. McConnell, Mr. Shelby, Mr. Gregg, Mr. Bennett, Mrs. Hutchison, Mr. Brownback, Mr. Alexander, Ms. Collins, Mr. Voinovich, and Ms. Murkowski.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS: Mr. Inhofe, Mr. Voinovich, Mr. Vitter, Mr. Barrasso, Mr. Crapo, Mr. Bond, and Mr. Alexander.

COMMITTEE ON THE JUDICIARY: Mr. Sessions, Mr. Hatch, Mr. Grassley, Mr. Kyl, Mr. Graham, Mr. Cornyn, and Mr. Coburn.

COMMITTEE ON VETERANS' AFFAIRS: Mr. Burr, Mr. Isakson, Mr. Wicker, Mr. Johanns, and Mr. Graham.

SPECIAL COMMITTEE ON AGING: Mr. Martinez, Mr. Shelby, Ms. Collins, Republican Leader designee, Mr. Corker, Mr. Hatch, Mr. Brownback, and Mr. Graham.

## MAJORITY PARTY APPOINTMENT

Mr. REID. Mr. President, under S. Res. 18, I have the authority to make a majority party appointment to the HELP Committee. I now ask unanimous consent that the appointment be made on a temporary basis and that I still retain the authority to make a permanent appointment in the 111th Congress.

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

Mr. REID. I now temporarily appoint Sheldon Whitehouse of Rhode Island.

The PRESIDING OFFICER. The RECORD will so note.

## UNANIMOUS CONSENT AGREEMENT—S. 454

Mr. REID. Mr. President, I ask unanimous consent that upon disposition of S. 896, the Senate proceed to Calendar No. 45, S. 454.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

## ORDERS FOR WEDNESDAY, MAY 6, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. Wednesday, May 6; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the second half; further, that following morning business, the Senate resume consideration of S. 896, the Helping Families Save Their Homes Act, under the previous order.

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

## PROGRAM

Mr. REID. Mr. President, there will be a series of votes beginning at 10:40 in the morning relating to the housing bill we have been working on for several days.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. 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 7:35 p.m., adjourned until Wednesday, May 6, 2009, at 9:30 a.m.

## EXTENSIONS OF REMARKS

### PERSONAL EXPLANATION

#### HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, unfortunately, I was unable to be present in the Capitol on Monday, May 4, 2009 and therefore unable to cast votes on the House Floor that evening.

However, had I been present I would have voted "yea" on H. Res. 230, recognizing the historical significance of the Mexican holiday of Cinco de Mayo; and "yea" on H. Con. Res. 111, recognizing the 61st anniversary of the independence of the State of Israel.

### IN APPRECIATION FOR THE DEDICATED PUBLIC SERVICE OF CHIEF MARK RAFFAELLI

#### HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Ms. SPEIER. Madam Speaker, Mark Raffaelli joined the South San Francisco Police Department as a patrol officer in 1971. This month, he retires—after 37 years of public service—as Chief of Police for the City of South San Francisco.

Chief Raffaelli will not be easily replaced. Everyone who knows Mark, myself included, appreciates his sense of humor, easygoing manner and dedication to his employees and the citizens they are sworn to protect. Mark is a leader who leads by example—and by his example—has mentored more men and women than he even knows.

On his journey through the ranks, Mark served in virtually every capacity a peace officer can serve. He put his skills to work in patrol, investigations, communications, training, operations and was a steady and reliable community presence for generations of South City residents.

Mark is a fixture in his community, having served as President of the South San Francisco Boys and Girls Club, SSF Host Lions Club, San Mateo County 100 Club and the San Mateo County Police Chiefs and Sheriff Association. He has taken leadership roles in groups as diverse as the San Mateo County Regional Law Enforcement Training Academy, Peninsula Police Officers Association, San Mateo County Gang Task Force, SSF Unified School District Strategic Planning Committee, North Peninsula Family Alternatives, Skyline College President's Council, Skyline College Hermanos Program and the San Mateo County Law Enforcement Training Site Fundraising Committee.

As Chief of Police, Mark Raffaelli has always welcomed new ideas. Under his watch, the SSFPD created or expanded the D.A.R.E. drug education program, Community Oriented Policing, Computer Aided Dispatch and Records Management System, a scholarship program for members of the Explorer Post and

NEAT (Neighborhood Enhancement Action Team) for first time juvenile offenders.

Madam Speaker, I have had the great privilege of working with Chief Raffaelli for decades and have always been impressed by his ability to find solutions for vexing problems and show leadership when it would be easier to duck and cover.

Chief Raffaelli has earned his retirement and will, no doubt, enjoy his newly found leisure time with his lovely wife Patricia and sons Isaac and Rick. For decades, the Raffaelli family has shared their husband and father with all of us and we are forever indebted to them.

Madam Speaker, the biggest challenge of paying tribute to Chief Raffaelli is deciding which of his many accomplishments to leave off the list. Perhaps the greatest endorsement of his service is in the words of those who came under his command. Here is just a small sampling:

"Exceptionally dedicated to the city, department and citizens of South San Francisco.

"Always goes out of his way to greet employees. . . ."

"More frugal than Mr. Scrooge. . . ."

And my personal favorite: "Great hair."

### COMMENDING HONOR FLIGHT SOUTH ALABAMA AND THE 91 WORLD WAR II VETERANS TRAVELING TO THE WORLD WAR II MEMORIAL

#### HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. BONNER. Madam Speaker, it is with great pride and pleasure that I rise to commend the inaugural Honor Flight South Alabama and the 91 World War II veterans this very special organization is bringing to Washington, D.C. this week.

Founded by the South Alabama Veterans Council, Honor Flight South Alabama is an organization whose mission is to fly heroes from Mobile, Baldwin, Washington, Clarke, Monroe, Covington, and Escambia counties in Alabama to see their national memorial.

Over six decades have passed since the end of World War II and, regrettably, it took nearly this long to complete work on the memorial that honors the spirit and sacrifice of the 16 million who served in the U.S. armed forces and the more than 400,000 who died. Sadly, many veterans did not live long enough to hear their country say "thank you" yet, for those veterans still living, Honor Flight provides for many their first—and perhaps only—opportunity to see the National World War II Memorial, which honors their service and sacrifice.

This Honor Flight, the organization's maiden flight, begins at dawn when the veterans will gather at historic Fort Whiting in Mobile and travel to Mobile Regional Airport to board a US Airways flight to Washington. During their time in their nation's capital, the veterans will

visit the World War II Memorial, Arlington National Cemetery, and other memorials.

The veterans will return to Mobile Regional Airport Wednesday evening, where some 1,000 people—including high school bands, Boy Scout troops, and Azalea Trail and Dogwood Trail Maids—are expected to greet them.

Madam Speaker, today's journey of 91 heroes from south Alabama is an appropriate time for us to pause and thank them—and all of the soldiers who fought in World War II—for they collectively—and literally—saved the world. They personify the very best America has to offer, and I urge my colleagues to take a moment to pay tribute to their selfless devotion to our country and the freedom we enjoy.

I salute each of the 91 veterans who made the trip today. May we never forget their valiant deeds and tremendous sacrifices.

Vance Barnes; Edna Bednekoff; Maurice Bell; Glenn Boom; Douglas Bower; Alto Brill; John Brodbeck; Arnold Brodbeck, Jr.; William Burchett; Henry Burgess; Helen Callaway; John Campbell; William Carpenter; Florene Clayton; Thomas Cowart; Kenneth Cramton; Charles Cuff; Leo Curtis; John Deloney; Rois Deshazo; Norman Dobson; Jack Dunlavy; Charles Dyas, Jr.; Joe Dykes; Edwin Epperson; William Fleming; Samuel Gilreath; Joseph Gould; George Grau; Joseph Green; and

John Grimes; Walter Hadley; Woodrow Hall; Jeremiah Hammond; Welton Hance; Paul Hannie; William Harrison III; Billy Heard; Howard Heminger; Earl Hilyer; Paul Hogan; Adam Hollinger; Milton Hudson; Clint Humphrey; Samuel Jenkins; Fred Jones; George Kendley; Charles Kostmeyer; Wilmer Lamey; Francis Larsen; John Laudin; John Lee; Jonathan Leff; Edly Lewis; John Little; Albert Lobsitz; Billy Lyon; Ralph Manning; William March; Dillon March; and

Dale Martz; Thomas McClellan; Martin McGowan; James McIntyre; John Mitchell; Harry Moreland; J. Edgar Moser; George Noffsinger; Clayton Oleson; Thomas Ollinger; Cecil Palmer; Clarence Phillips; Herbert Pierce; Gordon Pierce; Arthur Prince; Wade Reeves; Sibley Richerson; Gary Roberts; Thomas Schmaeling; Otis Slack; James Sowell, Jr.; Robert Spielmann; Colwin Steadham; Ivan Sweeney; Olin Tisdale; George Underwood; Edward Wade; Henry Waltman; J.B. White-Spunner; Mabron Williams; and Janet Woods.

### CREDIT CARDHOLDERS' BILL OF RIGHTS ACT OF 2009

SPEECH OF

#### HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 29, 2009*

The House in Committee of the Whole House on the State of the Union had under consideration of the bill (H.R. 627) to amend the Truth in Lending Act to establish fair

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and transparent practices relating to the extension of credit under an open end consumer credit plan, and for other purposes:

Ms. McCOLLUM. Mr. Chair, I rise today to support H.R. 627, the Credit Cardholders' Bill of Rights. This important legislation reforms the relationship between credit card issuers and cardholders. I thank Congresswoman MALONEY, Chairman FRANK, and the House Leadership for their work on this legislation.

Credit is essential to growth and prosperity in our economy. Thanks to bold action by this Congress and President Obama, once-frozen credit markets are slowly beginning to move again. However, hundreds of my constituents have contacted me to share their experiences of unexpected, significant interest rate increases on existing credit card debt. Many responsible borrowers who do not miss payments and only borrow within their means now find themselves in situations of great financial uncertainty as a result of legal but dubious credit card company practices. Reforms are needed to restore fairness to the consumer credit market.

The Credit Cardholders' Bill of Rights will support responsible borrowing and lending and help to prevent predatory lending practices, which contributed to the economic crisis we find ourselves in today. This legislation will provide a range of new protections for consumers facing excessive credit card fees, skyrocketing interest rates, and ad hoc revisions of agreements. It will end unfair, arbitrary interest rate increases on existing balances, allow consumers to set their own credit limits, and end the practice of computing interest charges on balances from more than one billing cycle, which can lead consumers to pay interest on debt they have already paid.

The Credit Cardholders' Bill of Rights enhances consumer protection from predatory lending practices by instituting common-sense policies to promote responsible lending and borrowing. Many families in my district and across the country are struggling with personal finances and will benefit greatly from the provisions of this bill. I urge my colleagues to support this legislation.

THE 90TH BIRTHDAY OF VIRGINIA  
B. COWEN

**HON. SOLOMON P. ORTIZ**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. ORTIZ. Madam Speaker, I rise today to recognize Virginia B. Cowen of Brownsville, Texas, who on May 13 will celebrate her 90th birthday surrounded by family and friends.

Virginia was born in the small Midwestern town of Prosperity in Missouri, and graduated Valedictorian from Sheldon High School at the age of 15. She went on to study at Missouri State University, but after her third year there, she followed her "heart song" to the Dallas Divinity School in Texas.

Virginia later moved to Brownsville, Texas, on the tip of South Texas, where she met the love of her life, Raphael Cowen, an attorney, and the two married. Virginia and Raphael had six boys and five girls, a total of 11 children.

After Raphael became ill, Virginia worked as a school teacher in order to maintain the family, and all the children learned the importance

of work ethic early on in life. They shined shoes, cut yards, sold newspapers, and sacked groceries.

Although Virginia lost her beloved husband, friend and companion, Raphael, to cancer, her faith in God remained strong.

Virginia, then 42 years old, learned how to drive so she could take her third and fourth born sons to Brownsville High School. She knew that a strong solid education was the key to success and instilled that in her 11 children. Shortly after, she accepted a fellowship at Texas A&M University where she earned her master's degree in English Literature and worked on her doctoral thesis.

For many years, Virginia taught at the then-Texas Southmost College, now The University of Texas at Brownsville and Texas Southmost College, where she was a tenured faculty member and after many years of serving and educating the bright minds of South Texas retired.

In retirement she traveled to England and throughout Europe to visit birthplaces, homes and graves of the literary authors she has admired for a lifetime. She has done it all.

Today, Virginia continues to enjoy a happy life with her 11 grown children and 25 grandchildren. I ask that my colleagues join me in commemorating Virginia on her 90th birthday.

RECOGNIZING THE 61ST ANNIVERSARY OF THE INDEPENDENCE OF ISRAEL

SPEECH OF

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 4, 2009*

Ms. LEE of California. Mr. Speaker, I welcome the opportunity to commemorate the 61st anniversary of the founding of the State of Israel and congratulate the people of Israel as they celebrate the independence of their country.

I am hopeful that this year we make substantial progress to the goal we all share which is to see Israel and its neighbors living side by side in peace. To achieve this goal, it is important that the parties, aided by the United States acting as an honest broker, address and resolve all of the major issues standing in the path to peace.

The appointment by President Obama of former Senator George Mitchell as Special Envoy for Middle East Peace is an outstanding gift from the United States to Israel on the occasion of its 61st birthday.

LYME-OLD LYME HIGH SCHOOL—  
FIRST ROBOTICS TEAM

**HON. JOE COURTNEY**

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. COURTNEY. Madam Speaker, I rise today to recognize an outstandingly gifted group of high school students from Old Lyme, Connecticut who compose the Lyme-Old Lyme High School FIRST Robotics team, the "Techno Ticks." On April 18, 2009, they were honored with one of the highest recognitions

in STEM (Science, Technology, Engineering, & Math) field competitions among young adults hosted by FIRST.

FIRST, "For Inspiration and Recognition of Science and Technology," was founded in 1989 by Dean Kamen, an inventor, entrepreneur, and advocate for the STEM fields. Its original goal of inspiring young adults' interest and participation in STEM fields has remained a core value and has helped grow the program and participation to unprecedented levels. In 2009, nearly 1 million individuals and groups, consisting of students, volunteers, and sponsors, composed the FIRST community.

On April 16, 2009, tens of thousands of students, spectators, mentors, volunteers and sponsors gathered in the Georgia Dome in Atlanta, Georgia to launch the FIRST International Championship. Over the weekend, more than 500 teams from around the world demonstrated the products of their labors in several competitions, including the FIRST Robotics Competition (FRC), the FIRST Tech Challenge, and the FIRST Lego League. The "Techno Ticks" of Lyme-Old Lyme High School from Old Lyme, Connecticut were among the competitors in the FRC field.

Prior to the championship, FRC teams were challenged to construct a robot in 6 weeks with a kit containing hundreds of parts. Nearly 1,700 teams participated in FRC regional competitions. Winners advanced to the FIRST International Competition. The 2009 FIRST International Competition FRC challenge revolved around a game called "LUNACY," which tested the students and robots in picking up nine inch game balls and placing them in trailers hitched to their opponents' robots. The competitors were also faced with the additional challenge of a low-friction floor.

After all balls were counted and the laws of physics tested, the "Techno Ticks" emerged with the most prestigious honor of the competition, the Chairman's Award. The Chairman's Award is presented to the team that best represents a model for other teams to emulate and best embodies the purpose and goals of FIRST.

Madam Speaker, the competitiveness of our workforce and prosperity of our society is greatly dependent on the innovative capacities of our citizens. Members of the "Techno Ticks" and the other young adults that have participated in FIRST programs have clearly demonstrated that our next generation can tackle the challenges that our nation may face in the future. I ask my colleagues to join with me and my constituents in recognizing the "Techno Ticks" achievements and celebrating their prestigious award.

RECOGNIZING TERRI KIMBLE AS  
THE NEW PRESIDENT OF THE  
AHWATUKEE FOOTHILLS CHAMBER  
OF COMMERCE

**HON. HARRY E. MITCHELL**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. MITCHELL. Madam Speaker, I rise today to recognize Terri Kimble, who was recently selected to be the new President and Chief Executive Officer of the Ahwatukee Foothills Chamber of Commerce. Terri was chosen for this important community leadership position out of many qualified applicants



based of her extensive experience and commitment to success.

The business community and residents of Ahwatukee will benefit from Terri's experience, which includes longtime membership in the Elk Rapids Chamber of Commerce in Michigan, nine years as the group's president. In addition, Terri was an Athena Award finalist, Rotarian of the Year and Michigan Chamber of Commerce Executives, as well as Board of Directors and Communications Chair. With such noteworthy experience and skills, I am positive that Terri will successfully promote the Chamber's goals of advancing community and business development.

I commend the Ahwatukee Foothills Chamber of Commerce for selecting such a deserving candidate to serve as their president. I am sure that Terri will provide valuable service and leadership during her time there.

Madam Speaker, please join me in recognizing Terri Kimble's contributions to our country and community.

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KALEB COLLIER

**HON. SAM GRAVES**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 05, 2009*

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Kaleb Collier of Weston, Missouri. Kaleb is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 249, and earning the most prestigious award of Eagle Scout.

Kaleb has been very active with his troop, participating in many scout activities. Over the many years Kaleb has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Kaleb Collier for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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TRIBUTE TO TERRY TYBOROWSKI

**HON. PETER J. VISCLOSKY**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. VISCLOSKY. Madam Speaker, the Energy and Water Appropriations Subcommittee will soon bid farewell to our professional staff member, Teresa Tyborowski, who has been with the Appropriations Committee for five years.

Before joining the Committee staff in 2004, Ms. Tyborowski spent twelve years at the Department of Energy. There, she worked on a wide range of vital energy and environmental policy issues, including nuclear clean-up, natural resource management, nuclear non-proliferation, international fuel cycles, and fissile materials policy implementation. In these areas and others, she evaluated existing policies, made recommendations for essential changes, authored reports to Congress, managed complex programs, and traveled abroad

to facilitate international cooperation. Her extensive experience in both foreign and domestic energy issues in a variety of capacities made her a valuable member of the Department and prepared her to make equally meaningful contributions to Congress.

The Appropriations Committee first benefited from Ms. Tyborowski's expertise in 2000, during her detail with the Energy and Water Subcommittee. That year, she assisted in the preparation of the Fiscal Year 2001 Appropriations Bill, giving recommendations on funding levels and reporting requirements from the perspective of a federal agency under our jurisdiction.

With both Departmental insight and familiarity with the appropriations process, Ms. Tyborowski was an obvious choice for a permanent professional position on the Appropriations Committee. Joining the Committee staff in 2004, she spent a year with the Homeland Security Subcommittee working on science, infrastructure, and intelligence issues before returning to the Energy and Water Subcommittee to oversee major Department of Energy accounts. In this capacity, Ms. Tyborowski's in-depth knowledge of energy policy made her a truly invaluable member of the team.

The Energy & Water subcommittee has a history of working close together, but when I became Chairman of the subcommittee I was able to gain a much deeper appreciation for the tremendous contribution Ms. Tyborowski made to the subcommittee. During this transition period, she provided an essential source of consistency and expertise. She quickly became a go-to person for nearly all of the energy-related issues and her work was critical to the subcommittee's success during her four year tenure.

On top of all her professional contributions, Ms. Tyborowski has also been a distinct pleasure to work with. Tenacious and honest, Ms. Tyborowski is universally regarded by her colleagues for the deep commitment and passion she brings to her work. We have each appreciated her wonderful and contagious sense of humor. Her presence will be sorely missed. I must also acknowledge Ms. Tyborowski's family—her husband, Keith, and her son, Eric—for their support as Terry managed the demands of a congressional schedule.

For all the knowledge she has shared and the sacrifices she has made, on behalf of the Energy and Water Subcommittee I would like to extend to her our utmost thanks. We wish her all the best for her return to the Department of Energy. We know that she will continue to do great things.

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RECOGNIZING THE SIGNIFICANCE  
OF CINCO DE MAYO

SPEECH OF

**HON. BARBARA LEE**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 4, 2009*

Ms. LEE of California. Madam Speaker, I rise today in support of the resolution honoring the historical significance of Cinco de Mayo.

This holiday, as we all know, recognizes Mexico's remarkable defense against foreign intervention, a feat marked by great courage,

sacrifice, and devotion to the right of self-termination.

But as we also know, the day transcends a single battle at the City of Puebla, where, many years ago, Mexican forces defeated a far more advanced and well-equipped military force.

For Americans, the holiday has come to symbolize the rich and diverse experience of Mexicans and Mexican-Americans. It is a day on which we celebrate the rich and varied contributions of Americans of Mexican ancestry to the history, culture, and progress of the United States.

Whether you celebrate the day by watching a mariachi performance on the National Mall, or by listening to a lecture on the activism of César Chávez, or by simply going to a backyard barbecue with your family and friends, you know that this holiday is, at its essence, an American holiday.

In my home state of California, in fact, Americans have been celebrating this day as far back as 1863, just one year after the historic Battle of Puebla.

Thus as we commemorate this day, let us honor our brothers and sisters who have contributed to the rich diversity of the United States. Let us remember that this diversity, far from being a recent phenomenon, or a distinct chapter in American history, has been with us since our Nation's founding, and has enriched our country throughout each and every chapter of our history. Let us continue to celebrate this diversity, and recognize that it will continue to be the great blessing and strength of our country.

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TRIBUTE TO LIEUTENANT  
GENERAL CLYDE A. VAUGHN

**HON. IKE SKELTON**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. SKELTON. Madam Speaker, let me take this time to honor a fellow Missourian, Lieutenant General Clyde A. Vaughn, who will be retiring as Director of the Army National Guard, after having served the nation for 35 years in the Army National Guard.

While General Vaughn has performed a number of important roles during his time in the Army National Guard, he has served as Director of the Army National Guard since 2005. During his tenure as Director, he has overseen a period of increased operating tempo and helped to transform the Army National Guard.

As Director, General Vaughn has implemented policies to increase the end strength of the Army National Guard and to ensure new members of the Guard are well trained and well equipped. He has overseen important Army National Guard missions at home and abroad, including missions along the U.S. Gulf Coast during and after Hurricanes Katrina and Rita, within California during wildfires, and along the U.S. border.

Overseas, General Vaughn has helped to coordinate an important program in Afghanistan with the help of Missouri National Guardsmen and those from other states who are also experts in agriculture. In that troubled country, the Guard has partnered with the U.S. Department of Agriculture and the Farm

Bureau to develop and deploy Agribusiness Development Teams. These teams have helped to improve Afghanistan's agricultural livelihood. They have provided outreach, education, and infrastructure support to officials from the Afghan Ministry of Agriculture, Irrigation, and Livestock and to local farmers. The advice given by these Guardsmen who are also agricultural experts betters the changes for economic stability and alternative livelihoods for Afghanistan's rural citizens.

For the families of Army National Guard personnel, General Vaughn has overseen the development of the 325 Army National Guard Family Assistance Centers. These centers provide long-term informational, referral, and outreach support for geographically dispersed military families.

General Vaughn's leadership has strengthened both the National Guard and the United States. I am proud that he is a Missourian who has given so much of his time to our country. I trust that Members of the House will join me in congratulating General Vaughn and his family for their contributions to the United States of America.

HONORING THE SERVICE OF VIETNAM VETERAN SERGEANT OTIS HERMAN GLENN, JR. OF BUNCOMBE COUNTY, NORTH CAROLINA

### HON. HEATH SHULER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. SHULER. Madam Speaker, I rise today to honor the life of Otis Herman Glenn, Jr., a Vietnam Veteran and recipient of the Purple Heart.

As a sergeant in the United States Marine Corps, Sgt. Glenn fought valiantly in the battles of Khe Sanh and Con Thien in Southern Vietnam.

For his truly heroic and fearless service in Vietnam, Sgt. Glenn was awarded the Presidential Citation for Bravery. After being wounded in combat in 1968, Sgt. Glenn was awarded the Purple Heart. When his tour in Vietnam ended, Sgt. Glenn returned to North Carolina and married Mrs. Judith Glenn.

While Sgt. Glenn left the jungles and rice patties of Vietnam in 1968, the damage done to his lungs when in combat proved fatal in 2007. After 27 years of marriage, Mrs. Glenn watched as the effects of Vietnam slowly ended her husband's life. Mrs. Glenn made a pledge to properly honor her husband's passing.

In April of 2009, Mrs. Glenn was accompanied by family and friends as Sgt. Glenn's name was read in front of the Vietnam Veteran's Memorial Wall. Because his death was not classified as killed in action, Sgt. Glenn's name is not eligible to be engraved in the Wall. However, his name will be added to the Vietnam War Honor Roll Book to serve as a lasting reminder of his service and sacrifice.

I would like to recognize Judith Glenn for her tireless efforts to memorialize her husband, and I ask my colleagues to join me in fulfilling Judith's promise to pay tribute to her beloved husband.

It is with great respect that I commend the service of this brave Marine who joined hands

with countless other patriots to fight for our great nation. I hope that today's generation of young men and women will follow the shining example of patriotism and dedication to freedom modeled by Sergeant Otis Glenn and the other heroes of the Vietnam War.

TEACHERS OF DREW MODEL SCHOOL HONORED FOR THEIR DEDICATION AND COMMITMENT TO ACHIEVING ACADEMIC SUCCESS FOR ALL

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today in honor of National Teacher Appreciation Week and to honor the teachers of Drew Model School for their outstanding and tireless efforts to raise academic achievement levels for all students at this institution.

The teachers and staff at Drew Model School approach each student with the belief that every child learns best within a social environment that supports and respects his or her unique development. Their programs encourage children to develop independence of thought and confidence of character while learning at their own pace. Additionally, Drew faculty members incorporate the traditional approach of children working, learning, and developing in mixed-age groups with the academic experience of gentle guidance under a specially trained teacher.

I am proud and grateful for the enthusiastic teachers at Drew Model School and would like to recognize Suneeta Maheshwari, Carol Oakes, and all Drew Model School educators who have shown admirable dedication to their students at this exemplary school.

Teachers make a difference in all of our lives, and today, as well as everyday, I would like to extend my warm thanks for their hard work and service to America's children. I ask my fellow Members of Congress to join me in honoring Drew Model School teachers whose commitment to quality education is extraordinary and dedication to academic achievement is unmatched.

TRIBUTE TO COMMANDER KEITH ALAN WILLIS

### HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. COBLE. Madam Speaker, I rise today to pay final tribute to one of North Carolina's native sons and a veteran of the United States Coast Guard. A beloved son, husband and father, Commander Keith Alan Willis, U.S. Coast Guard, passed suddenly while serving as Commanding Officer in Coast Guard Cutter TAHOMA (WMEC 908) since May 2007. He most recently served as the Coast Guard Liaison as Commander, U.S. Second Fleet after having served as Assistant Coast Guard Liaison at U.S. Fleet Forces Command and Joint Forces Command from August 2004 through August 2006. Commander Willis was a 1989

graduate of the United States Coast Guard Academy, with a Bachelor of Science in Government. In 2000, he completed a Master's Degree in Public Administration from Troy State University, and in 2004, he completed a Master's Degree in National Security Policy from the U.S. Naval War College.

Commander Willis' prior assignments included enlisted service from 1983 to 1985, during which time he was stationed on USCGC DAUNTLESS and at the Broadened Opportunity for Officer Selection and Training (BOOST) program in San Diego, California. After BOOST, Commander Willis reported to the Coast Guard Academy. Following graduation in 1989, he reported to USCGC HARRIET LANE in Portsmouth, Virginia, where he served as a Deck Watch Officer, Combat Information Center Officer, Weapons Officer, and Assistant Navigator.

Upon departure from USCGC HARRIET LANE in 1992, Commander Willis reported to Law Enforcement Detachment 8-G in Corpus Christi, Texas, where he served as Officer in Charge, and made deployments on a variety of U.S. Navy ships, and a deployment to the Middle East to assist in enforcement of the U.N. Sanctions against Iraq. Commander Willis reported to USCGC BEAR in Portsmouth, Virginia, as the Operations Officer from 1994 to 1997. In August 1997, he reported to the Coast Guard's Atlantic Area command staff, where he served until July 2001 as a member of the International Operations branch. In that capacity, Commander Willis helped direct and execute the Tradewinds series of exercises in the Caribbean, which included participation by fourteen Caribbean nations.

Commander Willis then reported to USCGC DAUNTLESS in Galveston, Texas, as Executive Officer in August 2001, after which CDR Willis reported to the U.S. Naval War College in Newport, Rhode Island, graduating in May 2004. Following graduation, Commander Willis then reported as Assistant Coast Guard Liaison to Fleet Forces Command and Joint Forces Command in Norfolk, Virginia, and served in that billet until assignment in August 2006 to the newly established position of Coast Guard Liaison to Commander Second Fleet.

Commander Keith Willis, born in Frisco, North Carolina, is remembered for his Christian faith, devotion to his family and dedicated service to the United States Coast Guard. May God rest his soul and provide comfort to his family.

PEARL UNITED METHODIST CHURCH CENTENNIAL CELEBRATION

### HON. GREGG HARPER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 05, 2009*

Mr. HARPER. Madam Speaker, it was 1909 when a young Millsaps College ministerial student in Mississippi was sent to nearby Pearson Community on the old Illinois Central Railroad to organize a new Methodist congregation. The young pastor's name was James F. Campbell, Sr., and his new members of Pearson Methodist Church met to worship at the old Pearson School House. Although Reverend Campbell only served as pastor until

1910, his legacy was a stronger and larger community, and a church that this year proudly celebrates its centennial.

As both the congregation and community grew, the church relocated a bit north to the current day City of Pearl. There the members continued to meet in another local school until 1921. With a desire for their own permanent place to worship, the decision was made to purchase one acre of land. To construct their new church home, the members purchased the abandoned Union Jackson Methodist Episcopal Church South on Old Fannin Road. Built in 1850, the structure was dismantled and moved by wagon to its current day site. The original pulpit of the old Union church is still used to this day.

When the congregation began worshipping in the new building, they adopted the name Pearl Chapel Methodist Church, and thirty-six years later the name was changed by church resolution to Pearl Methodist Church. The congregation continued to grow, bringing many changes to the church as well as new buildings, such as new Sunday School rooms and administrative offices. In 1952, more improvements were made, such as the beautiful chancel rail, which is still in use today. During the next fifty years, the church saw many changes and improvement to accommodate the growing congregation. One final change was chosen in 1968 as the church adopted its modern day name of Pearl United Methodist Church.

Since 1909, eleven members have answered the Lord's call to ministry and the congregation has heard the word delivered from nine humble servants: Reverend James F. Campbell, Sr., Reverend F.L. Applewhite, Reverend E.R. Dickerson, Reverend L.T. Brantley, Reverend Jim Campbell, Jr., Reverend C.V. Bugg, Reverend George Thompson, Reverend Scott Larsen and Reverend David Patrick.

Many things change over the course of a century, but after hundreds of worship services, weddings, christenings, and baptisms, Pearl United Methodist Church in Pearl, Mississippi has remained faithful to its calling . . . serving God and the citizens in the Pearl community.

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THE SAFE SCHOOLS  
IMPROVEMENT ACT

**HON. LINDA T. SÁNCHEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, today I am introducing the Safe Schools Improvement Act. My lead sponsors Rep. MCCARTHY, Rep. ROS-LEHTINEN and I strongly believe this bill provides crucial support to our efforts to reduce the national drop-out rate and make schools safer for all students.

An unsafe school environment interferes with students' ability to learn. Children who are bullied miss more school, have lower self-esteem, and are more likely to drop-out or commit suicide than those who are not. Nearly 40 percent of middle-school and high-school students report that they do not feel safe at school and one in 10 high school drop-outs report that frequent bullying was a major reason they dropped out. As we move to reauthorize

the landmark No Child Left Behind law, we must examine and address how improvements in school safety can positively affect student attendance and academic achievement.

The Safe Schools Improvement Act would require schools that receive funding from the Safe and Drug-Free Schools and Communities Act to implement an anti-bullying policy that protects students from bullying and harassment. It also requires these schools to collect data regarding bullying and harassment incidents and would allow them teach students about the consequences of bullying and harassment.

Today's children are the economic engine of our future, and we are relying on schools to provide the education they need. Congress must therefore help schools provide safe places for students to learn. If we do not, we risk losing more children to the streets, to depression, or even to suicide. America's children deserve our support. They deserve the Safe Schools Improvement Act.

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RECOGNIZING THE SIGNIFICANCE  
OF CINCO DE MAYO

SPEECH OF

**HON. GENE GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 4, 2009*

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to show my support for H. Res. 230.

This resolution recognizes the historical significance of the Mexican holiday of Cinco de Mayo.

On May 5, 1862, untrained, outnumbered, and outgunned Mexican forces—determined to protect their land—successfully defended the town of Puebla against the French. Against overwhelming odds, they managed to drive back the invading French army, achieving a total victory over soldiers deemed among the best trained and equipped in the world and embarking the end of the European domination in America.

General Ignacio Zaragoza Seguín led the Mexican Army at the Battle of Puebla. He was born in la Bahía del Espíritu Santo, in what was then the Mexican state of Coahuila y Tejas, now the city of Goliad, Texas, in the United States. A Statue of General Zaragoza now stands in San Agustin Plaza in the downtown historic district of Laredo, Texas.

Although the Mexican army was eventually defeated, the Battle of Puebla has come to represent a symbol of Mexican unity and patriotism in the history of Mexico.

I am honored to celebrate this important day in Mexican history and to lend my support to this resolution.

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INTRODUCTION OF LEGISLATION  
TO AWARD THE CONGRESSIONAL  
GOLD MEDAL TO THE CREW OF  
THE APOLLO 11 MISSION TO THE  
MOON

**HON. ALAN GRAYSON**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. GRAYSON. Madam Speaker, it is with great pride that I introduce legislation today to

award the Congressional Gold Medal to four brave and exemplary Americans: Commander Neil A. Armstrong, Command Module Pilot Michael Collins, and Lunar Module Pilot Edwin E. "Buzz" Aldrin, Jr.—the crew of the 1969 Apollo 11 mission to the Moon. Additionally, this legislation would award a Congressional Gold Medal to John Glenn, the first American to orbit the earth and the man who helped set NASA firmly on the path of human space exploration. Forty years ago, five hundred million people watched as Armstrong took those fateful steps onto the Moon's surface, the first time humans had set foot on another world. In words that were as poetic as the occasion was meaningful, Armstrong said, "That's one small step for a man, one giant leap for mankind." He was shortly followed on the Moon's surface by Aldrin, as Collins circled overhead.

I was eleven years old that day, and I watched the Moon landing, joining much of humanity in celebrating this tremendous collective accomplishment. My family was on vacation, but I had persuaded my parents to let me stay in the hotel room alone all day and watch television, so I could see these giant men take those giant steps. Their mission was a landmark for America, for the world, and for all time. Americans are still inspired by these men, and their mission to travel over 250,000 miles of dead space to reach our closest celestial neighbor. I remember at the time thinking that humankind as a species is capable of true greatness. While wolves howl at the moon, humans visit it.

On this journey, the Apollo 11 crew showed remarkable bravery protected for days from the lifeless vacuum by only a thin metal shield. They collected more than forty pounds of lunar samples, took photographs, and deployed experiments to study the solar wind, lunar dust, enable laser ranging, and forever carry out passive seismic measurements. Their footprints remain on the Moon today. The entire endeavor was the culmination of an intensive effort by tens of thousands of scientists, engineers, and other dedicated individuals to meet the challenge laid down by President John F. Kennedy eight years earlier. President Kennedy encouraged Americans to rise to challenges, like this one, and the American people responded with ingenuity, discipline, and a spirit of cooperative effort. This journey took political will, scientific and technological risk-taking, inspiration, and the heart and soul of millions of Americans supporting the space program. And it took the competence and courage of Armstrong, Aldrin, and Collins to make Apollo 11 the success that it was.

As the culmination of the U.S.-Soviet space race that commenced with the Soviet's launch of Sputnik in 1957, Apollo 11's success signified the United States' ability to establish preeminence in space. It also helped inspire a generation to pursue careers in science and engineering, and to believe in the power of American society. Alone in that hotel room, watching TV, I certainly felt a lasting sense of meaning, that connection to those three brave astronauts. These astronauts represented in that moment America's destiny, a destiny shared by the thousands of men and women who worked to make it happen. This includes John Glenn, of course, another brave pioneer of human space exploration who had made their journey possible.

Madam Speaker, I thus think it is only fitting that in this fortieth anniversary year of the

Apollo 11 mission, we grant these four brave Americans the recognition that only this Congress can bestow—the Congressional Gold Medal. That is why I am introducing legislation to that effect today. I'm pleased to be joined in this initiative by the Chairman of the House Science and Technology Committee, BART GORDON; the Chairwoman of the Space and Aeronautics Subcommittee, GABRIELLE GIFFORDS; Committee Ranking Member RALPH HALL; Subcommittee Ranking Member PETE OLSON; and Florida Members SUZANNE KOSMAS and BILL POSEY. I believe this recognition is long overdue, and I urge my colleagues to support this legislation so that it can be enacted into law.

IN HONOR AND APPRECIATION OF  
MAYOR DOUG STOVER

**HON. KENNY MARCHANT**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 05, 2009*

Mr. MARCHANT. Madam Speaker, I rise today to honor and express my appreciation for the service of an exemplary citizen, Mayor Doug Stover of Coppell, Texas. Doug began his public service as an elected official in May, 1998 as city councilmember of Coppell, followed by six years of service from 2003 to 2009 as the mayor of Coppell. During this time, Doug's passion and leadership guided the community as evidenced by the city's financial strength, economic development, sound infrastructure, strong public safety record and first rate education system.

Mayor Doug Stover is Equity Compensation Manager for Celanese Corporation. He holds a BBA in Finance from Texas Tech University.

In May of 1998, Coppell consisted of 29,850 citizens and has grown to a community of 39,500. The adopted budget for the 1998–1999 fiscal year was \$35,182,905 and grew to \$81,057,966 in the 2008–2009 fiscal years.

Under his leadership, the City of Coppell added many facilities, physical improvements and infrastructure. These projects include a Justice Center housing the Police and Municipal Courts, municipal service center, aquatic & recreation center, animal shelter and adoption center, Town Center Plaza, Old Town development, multiple park facilities, multiple road improvements, with a new senior and community center and municipal cemetery now being constructed, all developed to meet the needs of a growing population.

A major focus on economic development was also led by the mayor. This resulted in many commercial and industrial developments bringing new revenue to the city that has enabled the community to enjoy many quality of life improvements without the need for additional tax rate increases.

Public safety was also a high priority under the mayor's leadership. Red light cameras were installed, 25-mph zones were implemented on residential streets, and a Citizen's Police Academy was established in his push to increase public safety.

Funding for CISD schools was addressed through the 379A Sales Tax which generated sales taxes for the community's education issues. The Infrastructure Maintenance Fund was created by a sales tax election for 1/4-cent being directed for the crime district and 1/4-cent for streets.

Mayor Stover's selfless public service has clearly shaped the city of Coppell and helped make it the thriving community it is today. Doug possesses a genuine passion for Coppell which characterized his many years of service to the community. His first priority was always for the betterment of the citizens of Coppell, which helped make him a popular and well-respected leader. On behalf of the 24th Congressional District of Texas, I congratulate Doug Stover for his remarkable service as mayor and wish him the best of luck in his future endeavors.

IN HONOR OF THE NAVY FEDERAL  
CREDIT UNION GRAND OPENING  
AND DEDICATION CEREMONY OF  
THE BRIAN L. McDONNELL CENTER

**HON. JEFF MILLER**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. MILLER of Florida. Madam Speaker, on behalf of the United States Congress, it is an honor for me to rise today in recognition of the grand opening of the Navy Federal Credit Union Brian L. McDonnell Center at the Heritage Oaks campus in Pensacola, Florida.

Navy Federal was organized in 1933 with only seven initial members. Since its founding, it has evolved into the world's largest credit union, employing over 7,000 employees, and consisting of 3.2 million members. Navy Federal serves as a vital resource for our military and is found all over the world, providing excellent financial service for all of our servicemen and women.

In addition to the outstanding financial counseling and assistance Navy Federal provides, it is a leader in developing higher environmental standards. Driven by the objective to create a workplace focused on the employee, Navy Federal pursued Leadership in Energy and Environmental Design (LEED) certification for its first building in Pensacola. This was the first commercial LEED building in Florida to receive the U.S. Green Building Council's GOLD rating. The new Brian L. McDonnell Center was constructed with the same standards of excellence.

As Navy Federal expands numerically and evolves environmentally, it continues to escalate the level of quality it provides. The First District of Florida is very fortunate to house a corporation that values the interest of its clients and their community above all else.

Madam Speaker, on behalf of the United States Congress, I am proud to recognize this grand opening and dedication ceremony and look forward to the progress it will undoubtedly create.

PERSONAL EXPLANATION

**HON. J. GRESHAM BARRETT**

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. BARRETT of South Carolina. Madam Speaker, unfortunately I missed recorded votes on the House floor on Monday, May 4, 2009.

Had I been present, I would have voted "yea" on rollcall vote No. 229 (Motion to Suspend the Rules and Agree to H. Res. 230), and "yea" on rollcall vote No. 230 (Motion to Suspend the Rules and Agree to H. Con. Res. 111).

CONGRATULATING DR. EDWARD G. BOEHM, JR., AND REGINA E. BOEHM, RECIPIENTS OF THE 57TH ANNUAL AMERICANISM AWARD FROM B'NAI B'RITH AMOS LODGE NO. 136, SCRANTON, PENNSYLVANIA

**HON. PAUL E. KANJORSKI**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. KANJORSKI. Madam Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Dr. Edward G. Boehm, Jr., and his wife, Regina E. Boehm, of Lackawanna County, Pennsylvania, who have been selected to receive the 57th annual Americanism Award from the B'nai B'rith Amos Lodge, No. 136, of Scranton Pennsylvania.

Dr. and Mrs. Boehm are worthy recipients of this prestigious award because each of them has worked for many years to contribute to the communities in which they have lived.

Dr. Boehm is president of Keystone College, LaPlume. He previously held positions at Marshall University, Huntington, West Virginia; Texas Christian University, Fort Worth, Texas; and American University, Washington, DC.

Dr. and Mrs. Boehm are both active members of the Scranton area community. Dr. Boehm's leadership and accomplishments have been profiled in the University of Michigan's CASE study entitled, "Keystone College: Renaissance and Transformation" and in the book, "Power Thinking: How the Way You Think Can Change the Way You Lead."

Regina Boehm holds a degree from the Pennsylvania State University and she studied at the University of Maryland and Texas Christian University. Her career included management, education, and nutrition. She is a graduate of the Executive Series of both Leadership Lackawanna and Leadership Wilkes-Barre.

She is a recipient of the Junior League of Scranton Roseann Smith Alperin Award, the Northeastern Pennsylvania Council Boy Scouts of America "Salute to Northeastern Pennsylvania Women" award and she was also honored by the Scranton Times Tribune newspaper.

Mrs. Boehm has been active on the Northeastern Pennsylvania Philharmonic Board, past president of the Philharmonic League of Northeastern Pennsylvania, the Boys and Girls Club of Scranton, Wyoming County United Way, the Northeast Theater, the Garden Exchange, ACT 101 Advisory Board, the Spouses Task Force of the Council of Independent Colleges and she is currently on the board of the Scranton Community Concerts. She also served as chairperson of the Waverly Antiques Show and the Philharmonic League's Antiques Show and Sale.

Dr. and Mrs. Boehm also served as co-chairs of the 2003–2004 United Way campaign for Lackawanna County.

Madam Speaker, please join me in congratulating Dr. and Mrs. Boehm on the occasion of this well-deserved honor. Their commitment to their community is an example and an inspiration to others and has greatly improved the quality of life in northeastern Pennsylvania.

HONORING GERALDINE FERRARO

**HON. JOSEPH CROWLEY**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. CROWLEY. Madam Speaker, I rise today to pay tribute to a former Member of Congress, a long time advocate of women's rights, the first female Vice Presidential candidate, and a great friend and American—the Honorable Geraldine Anne Ferraro.

In the rotunda of the Capitol sit the busts of Elizabeth Cady Stanton, Susan B. Anthony, and Lucretia Mott. They are so prominently displayed to pay tribute to their hard fight to establish equal rights for women. And, I know they would agree that Geraldine Ferraro was exactly the kind of woman they were fighting for.

Geraldine proudly followed in the footsteps of these great women—continuing the fight to ensure the rights of women and breaking down barriers and stereotypes along the way.

Prior to running for election to the House of Representatives, Geraldine Ferraro worked as a teacher and then attorney in the Queens New York District Attorney's office, where she started the Special Victims Bureau. At a time when women prosecutors in the city were uncommon, Geraldine Ferraro was already breaking the proverbial glass ceiling.

In 1978, Ambassador Ferraro ran for election to the House of Representatives for New York's 9th Congressional District in Queens, and won. Despite being a new Member of Congress, she made quite an impression on her colleagues, and quickly ascended to become the Secretary of the House Democratic Caucus from 1981 to 1985. During her years in Congress, she focused much of her legislative attention on equity for women in the areas of wages, pensions, and retirement plans. The recent passage of the Lilly Ledbetter Fair Pay Act and the Paycheck Fairness Act are homage to her tireless work on behalf of women.

Her leadership, charisma, and dedication were evident to Presidential nominee, Walter Mondale, who selected Geraldine Ferraro to be his Vice-Presidential candidate on July 12, 1984. She is the first woman ever to be nominated as vice-presidential candidate by any major party.

Following the path of women who came before her, Geraldine Ferraro has helped pave the way for our daughters to achieve anything they set their minds to. As the current Representative of her former district, I am proud to call Geraldine Ferraro a leader, a mentor, and most importantly a friend.

CONGRATULATING PHIL KEOGHAN ON HIS AMAZING RIDE ACROSS AMERICA TO RAISE AWARENESS OF MS

**HON. RUSS CARNAHAN**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. CARNAHAN. Madam Speaker, yesterday I had the pleasure to meet Phil Keoghan host of CBS's Amazing Race as he stopped in Washington, DC, on his way from Los Angeles to New York. His journey across America by bike is designed to raise awareness of multiple sclerosis—a disease I feel strongly about educating people and promoting research for treatment and cures.

MS is a disease that can stop people from moving—something many of us take for granted each day. Too little is known about MS, too few treatments exist and too many people struggle to access the treatments they are prescribed. During his journey across the United States Phil has climbed many hills and faced downpours of rain, all designed to support the National Multiple Sclerosis Society.

As co-chair of the Congressional MS Caucus I have had the privilege of meeting many inspirational people like Phil Keoghan who are working on behalf of people living with MS. The awareness he and others have brought to multiple sclerosis and cycling as a healthy activity is invaluable. I am pleased of the work the MS Caucus has been able to do in just a short amount of time, but there is certainly still more to be done.

As we in Congress debate health care reform it is important to keep in mind that the current system is broken for millions of Americans, specifically over 45 million Americans without coverage, and it must be fixed now. Everyone is deserving of the right to affordable and accessible health care—something Phil has championed.

We have a lot of work ahead of us but we have great momentum. Inspirational activists like Phil Keoghan will help make sure that we do something about MS now. I congratulate Phil for undertaking this worthwhile challenge and wish him luck in his final days in his trip across the U.S.

PERSONAL EXPLANATION

**HON. BILL PASCRELL, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. PASCRELL. Madam. Speaker, May 4th, I remained in my district due to the death of my Aunt Julia Tagliabue Mondawho recently passed away at the age of 96, and I therefore missed the two rollcall votes of the day.

Had I been present I would have voted "yea" on rollcall vote No. 229, On Motion to Suspend the Rules and Agree, as Amended—H. Con. Res. 93—Recognizing the historical significance of the Mexican holiday of Cinco de Mayo.

Lastly, had I been present I would have voted "yea" on rollcall vote No. 230, On Motion to Suspend the Rules and Agree, as Amended—H Res. 230—Recognizing the 61st anniversary of the Independence of the State of Israel.

SUPPORTING THE OBSERVANCE OF NATIONAL CHILD ABUSE PREVENTION MONTH

SPEECH OF

**HON. BETTY MCCOLLUM**

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 27, 2009*

Ms. MCCOLLUM. Madam Speaker, I rise today in strong support of H. Res. 337, a resolution to recognize April as National Child Abuse Prevention Month.

Every year, thousands of children across the country become victims of child abuse. More than 5.8 million children in the United States were reported to be abused or neglected in 2007, and many more cases go unreported.

All children deserve to be raised in a safe and nurturing environment. It is a tragedy when children are victimized by abuse, neglect, alcohol and drug abuse, or domestic violence. As a former board member of Minnesota Crisis Nurseries, I fully recognize the importance of strengthening child abuse prevention programs in Minnesota and throughout the United States. Early prevention approaches that utilize family support networks are critical to stopping child abuse before it starts.

H. Res. 337 calls for increased public awareness of the maltreatment of children. This resolution also recognizes the many national and community organizations that promote awareness of child abuse and share strategies for prevention. It further urges families and individuals to report abuse or to get help by calling the National Child Abuse Hotline at 1-800-4-A-Child.

I will continue working to strengthen child abuse prevention programs in Minnesota and throughout the United States. Keeping children and families safe must be a priority if we are to ensure the well being of our Nation's future—its children.

I urge my colleagues to join me in voting for this bill.

CONGRATULATING JOHN EDD THOMPSON ON THE OCCASION OF HIS RETIREMENT FROM WALA-TV "FOX10"

**HON. JO BONNER**

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. BONNER. Madam Speaker, it is with both pride and pleasure that I rise today to honor the career of Mobile's beloved television weather anchor, John Edd Thompson.

A native of Mobile, John Edd is perhaps the most recognized name and face in television weather along the Gulf Coast. He has been a fixture on Mobile's WALA-TV "Fox10" for over three decades and, during this time, he has been the trusted source of information for every major storm. John Edd has tracked and reported on Hurricanes Frederic, Elena, Andrew, Opal, Erin, Danny, Georges, Ivan, and Katrina.

Since Mobile's Press-Register introduced its Readers' Choice Awards in 2002, John Edd has always placed first in the final results. He was named "Readers' Choice Local TV

Weather Reporter" in the 2002, 2003, 2004, 2005, and 2006 competitions, and the Mobile Press Club has named him the "Best Weather Anchor" several times.

In recognition of his remarkable accomplishments, The Press Club of Mobile awarded John Edd its 2005 John Harris Achievement Award, an award presented to a member of the news media "who has made a consistently excellent contribution over a period of time." The Mobile County Commission recently declared 2009 as "The Year of John Edd."

A prolific songwriter, John Edd is one of the founding members of the Mobile Songwriters. He is a member of the Nashville Songwriters Association International and a member of the board of the Frank Brown Songwriters Festival. John Edd also wrote the fight song for the University of South Alabama.

Madam Speaker, I ask my colleagues to join me in recognizing a dedicated community leader and friend to many throughout Alabama. On behalf of all those who have benefited from his good heart and generous spirit, permit me to extend thanks for his many efforts in making Mobile and south Alabama a better place. John Edd Thompson is an outstanding example of the quality of individuals who have devoted their lives to the field of broadcast journalism.

On behalf of a grateful community, I wish him the best of luck in all his future endeavors.

IN SUPPORT OF THE BILL OF RIGHTS FOR CHILDREN AND YOUTH OF SAN MATEO COUNTY

**HON. JACKIE SPEIER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 05, 2009*

Ms. SPEIER, Madam Speaker, today I rise to applaud the Peninsula Partnership Leadership Council and the San Mateo County Youth Commission for their inspired work in creating the Bill of Rights for Children and Youth of San Mateo County. I especially want to thank Youth Commissioner James B. Pollack for his articulate and passionate presentation of the Bill of Rights when the groups visited with me last month.

This ground-breaking document was born from the shared belief that all young people—regardless of race, gender, disability, economic status or other identifying characteristic—should be allowed to grow and blossom to their fullest potential, experiencing the joy, wonder and happiness that so many of us remember from our own childhoods.

The Bill of Rights reads:

"We resolve to invest in all children and youth so that:

They have a healthy mind, body and spirit that enable them to maximize their potential;

They develop a healthy attachment to a parent, guardian or caregiver and an ongoing relationship with a caring and supportive adult;

Their essential needs are met—nutritious food, shelter, clothing, healthcare and accessible transportation;

They have a safe and healthy environment, including homes, schools, neighborhoods and communities;

They have access to a 21st century education that promotes success in life, in future careers and a love of life-long learning;

They have training in life skills that will prepare them to live independently, be self-sufficient and contribute to their community;

They have employment opportunities with protections from unfair labor practices;

They have freedom from mistreatment, abuse and neglect;

They have a voice in matters that affect them;

They have a sense of hope for their future."

Madam Speaker, in our democratic system of government, we are taught to believe that all voices are heard equally. But most 12-year-olds don't have a lobbyist and few tables in the halls of power make room for families. That is why the work of the Peninsula Partnership Leadership Council and the San Mateo County Youth Commission and the principles laid out in the Bill of Rights for Children and Youth are so vitally important.

HONORING THE SERVICE OF MR. CLIFF DODSON, SUPERINTENDENT OF SCHOOLS IN BUNCOMBE COUNTY, NORTH CAROLINA

**HON. HEATH SHULER**

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. SHULER, Madam Speaker, I rise today to honor Mr. Cliff Dodson on his impending retirement.

For the past nine years, Mr. Dodson has served our community as the Superintendent of Buncombe County Schools. As Superintendent, Mr. Dodson has demonstrated his dedication to quality education and has ardently worked to improve educational opportunities for all children. Through his dedication and commitment to education, Mr. Dodson has helped shape the future of Western North Carolina.

He began his service to education thirty-eight years ago as a science and physical education teacher. He has continued to work tirelessly on behalf of children in various roles as an educator, as an Assistant Principal, as a Principal, and for the past twenty-three years as a public school Superintendent.

Mr. Dodson proven himself an accomplished public servant by successfully overseeing the educational direction of over 25,000 students and effectively administering a budget of almost a quarter of a million dollars. Due to his outstanding efforts he has been recognized by the North Carolina Association of Educators as Superintendent of the Year.

I deeply appreciate that under his direction during these difficult economic times, Buncombe County has ensured that 12,000 students can receive free or reduced-price hot cafeteria meals. He has certainly set an admirable example for future public servants who follow in his path.

Mr. Dodson has also served on the Board of Directors for numerous education-based organizations including the United Way, Children First, and the North Carolina School Administrators Association. In addition to his service in the field of education, as an honored veteran, Mr. Dodson earned the Vietnamese Cross of Gallantry for his service as a United States Marine.

Madam Speaker, I am proud to honor Mr. Cliff Dodson today and I want to thank him for

his invaluable contributions to the Western North Carolina educational community and to wish him well in his retirement.

RECOGNIZING NATIONAL TEACHER APPRECIATION WEEK

**HON. EDDIE BERNICE JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today to honor our Nation's teachers during National Teacher Appreciation Week, which is being held this year May 3rd–9th.

This is a time to express our thanks and admiration for the more than 3 million teachers in the United States. I encourage everyone to express their appreciation for those teachers who have touched their lives or the lives of their children.

Teachers are heroes in our communities, shaping the next generation of great minds. No great leader, scientist, or artist would be where they are today without the influence of caring and dedicated teachers.

Thurgood Marshall once said, "None of us got where we are solely by pulling ourselves up by our bootstraps. We got here because somebody—a parent, a teacher, an Ivy League crony or a few nuns—bent down and helped us pick up our boots."

There is perhaps no other occupation that influences the fabric of our society more than teachers, and we are fortunate to have this week dedicated to recognizing their contributions.

I am particularly proud of our teachers from my home State of Texas—serving as motivators and mentors for our future leaders. I remain dedicated to working in Congress to ensure that Texas teachers and all teachers have the resources necessary to successfully prepare our Nation's youth for a successful future.

INTRODUCTION OF "THE ENERGY INDEPENDENCE NOW ACT OF 2009"

**HON. DAN BURTON**

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. BURTON of Indiana. Madam Speaker, I rise today to introduce a bill titled, "The Energy Independence Now Act of 2009."

Few things affect American consumers like high energy prices. During the summer of 2008 with the price of oil hovering near \$150 a barrel, Americans faced record prices at the gas pump—in many cases well over \$4.00 per gallon. These high prices contributed to a downturn in economic growth, an increase in inflation and forced many American families to make difficult financial choices. According to the latest figures from the Energy Information Administration, gasoline prices are down to around \$2 per gallon and the price of oil is close to \$50 per barrel. Though the price of gasoline has decreased significantly, many are still concerned that it will rise again and quite possibly because of the disproportionate amount of oil that we import from regimes that are unfriendly to us.



The old adage goes that those who do not learn from history are doomed to repeat it. Apart from creating the Strategic Petroleum Reserves after the oil embargoes of the 1970s, the United States did painfully little to make sure that oil could never again be used as a weapon against us. If anything, we put ourselves further under the thumb of foreign oil. In 1972, we imported approximately 28 percent of the oil we consume from foreign countries; today the United States imports 62 percent of its oil from other nations. While half of that amount comes from our friends in Mexico and Canada, the other half of our imported oil travels from unstable, undemocratic or unfriendly regimes. That means that every time I fill up my gas tank—whether the price is \$2 a gallon or \$4 a gallon—at least half of my money goes into the economies of Saudi Arabia, Venezuela, Nigeria, and Angola. And while the tactics of oil manipulation may change—price spikes versus an outright embargo—the results are eerily the same.

That is why I am introducing this bill, to continue to move our country forward on the path toward breaking America's dependence on foreign sources of oil while at the same time investing in a renewable energy future. My colleagues on the other side of the aisle are looking to pass a costly cap-and-trade program that will only serve to increase the price of energy for the American consumer and devastate energy companies in my home State of Indiana. Now is not the time to burden families with higher energy costs, when many of them are already struggling to find and keep jobs, pay for college and provide for their families.

I believe that in the long-run we need to get off oil and that requires more investment in alternative energy and energy conservation technologies. My bill addressed this through provisions that would increase alternative energy sources and diversify the energy grid with currently available alternative energy technologies. As a nation, we waste far too much energy with inefficient engines and machines. That is why my bill would provide tax incentives for companies to produce fuel efficient vehicles. In fact, it provides a \$500 tax credit for individuals who purchase hybrid cars made by American-based companies.

However, while we are discovering new, clean and cost-effective ways to increase the American energy supply, we must recognize that oil will remain a part of our energy mix for some time. The good news about this is that we have plenty of it. The Department of the Interior, DOI, conducted a comprehensive inventory of oil and natural gas resources located off our coastlines within the last several years, and according to the Department's figures there is an estimated 8.5 billion barrels of known oil reserves and 29.3 trillion cubic feet, tcf, of known natural gas reserves along our coastlines; with 82 percent of the oil and 95 percent of the gas located in the Gulf of Mexico, GOM. However, even more importantly, the Department of the Interior estimates that there are untapped resources of about 86 billion barrels, 51 percent in the Gulf of Mexico, and 420 trillion cubic feet of natural gas, 55 percent in the Gulf of Mexico, out there. My bill would open up these areas to access these resources. Domestic production of these resources would provide much-needed real energy jobs without any cost to the taxpayer.

In addition, my bill opens up the Arctic National Wildlife Refuge, ANWR, which holds the

single largest deposit of oil in the entire United States. Its 10.4 billion barrels of oil is more than double the proven reserves of the entire State of Texas and almost half of the total proven reserves in the U.S., 22 billion barrels. Had President Clinton not vetoed ANWR energy production in 1995, the United States could be getting nearly 1.5 million barrels of oil per day from the arctic right now.

In addition, the U.S. has been called the Saudi Arabia of oil shale. It has been estimated that oil shale deposits in Colorado, Utah, and Wyoming hold the equivalent of as little as 1.8 trillion barrels of oil and potentially as much as 8 trillion barrels of oil. In comparison, Saudi Arabia reportedly holds proved reserves of 267 billion barrels. Unfortunately, oil-shale is rough equivalent to diesel fuel and a number of Clean Air Act regulations—such as low-sulfur diesel—and federal motor fuel taxes—which favor gasoline over diesel fuels—have created a strong financial disincentive regarding the production and use of oil-shale fuels. Many of these deposits are on public land making it more bureaucratically complicated to exploit this resource. My bill would provide a financial incentive for companies to invest in and produce more oil from oil shale.

Getting more domestic oil on the market is only half the solution. We haven't built a new refinery in this country in more than 25 years because the approval process for new refinery construction is estimated to require up to 800 different permits. While existing refineries have undergone significant expansion over the years, even as others have been shuttered, our aging refinery infrastructure leaves little margin for error. If we begin to produce more domestic crude oil we would need to turn it into home heating oil, gasoline, or diesel through the refining process. The ability to refine oil must keep pace with the demand for gasoline and diesel. My bill would create an expedited process for the construction of new refining capacity by streamlining the permitting process and opening up closed military bases for construction.

Clearly, developing new oil fields and refineries will take some time. In the interim my bill also helped promote the production of non-food sources for biofuels. It also opens up Federal land for the production of biofuel crops in order to provide relief from high food prices that have resulted from ethanol production.

Madam Speaker, I believe in conservation, I believe in energy efficiency, and I believe in diversifying our energy supply by using wind, solar, coal-to-liquid technologies, ethanol and other renewable energy sources. But the fact of the matter is that oil and natural gas are still going to be a part of our energy mix for a long time to come and we must be able to access our own resources rather than becoming more dependent on unstable parts of the world.

I would like to urge my colleagues to join me in co-sponsoring this important legislation to help America get on the road towards energy independence and to create real jobs at no cost to the taxpayer.

## RECOGNIZING THE SIGNIFICANCE OF CINCO DE MAYO

SPEECH OF

**HON. MICHAEL M. HONDA**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 4, 2009*

Mr. HONDA. Mr. Speaker, I rise today to celebrate Cinco de Mayo, a day that represents freedom, liberty and determination for the people of Mexico and Mexican Americans.

H. Res. 230, a resolution introduced by my friend Congressman JOE BACA, recognizes the historical significance of the Mexican holiday of Cinco de Mayo, a day on which we celebrate the Mexican army's unlikely victory over French forces at the Battle of Puebla on May 5, 1862. While the Mexicans were outnumbered, they defeated a well-equipped French Army that had been undefeated for almost 50 years. The holiday of Cinco de Mayo is mainly a regional celebration in Mexico, while for Mexican Americans it represents heritage and pride.

Hispanics are the fastest growing minority community in our Nation. In 2007, the Hispanic population in the United States reached over 45 million, 13.2 million of whom live in California, and it continues to rise. Hispanics now own a record number of small businesses, creating millions of jobs across our country.

This Cinco de Mayo, let us thank the members of our Latino community for their important contributions to American culture and society. Please join me in celebrating Cinco de Mayo and appreciating the values, traditions, and contributions of Mexican Americans.

## IN COMMEMORATION OF CINCO DE MAYO

**HON. AL GREEN**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. AL GREEN of Texas. Madam Speaker, I would like to commemorate Cinco de Mayo, or the Fifth of May, in honor of the historic day that Mexico defeated France at the Battle of Puebla in 1862. Cinco de Mayo is a national holiday that symbolizes courage, honor, liberty, unity and the struggle for freedom for millions of Mexicans and Mexican-Americans.

Cinco de Mayo has a deep history that all Americans should recognize and remember. Shortly after Mexico gained independence from Spain in 1810, internal political takeovers and wars destroyed the Mexican economy causing Mexico to borrow money from France and other creditors. Mexico was unable to pay back the debt they owed to France; thus, the French invaded Mexico in an attempt to force repayment. The Mexican troops were outnumbered by the French—the French army had 6,500 soldiers while the Mexican army only had 4,500 soldiers. The odds were stacked against the Mexican soldiers: they were outnumbered, untrained and ill-equipped, fighting against an army deemed as one of the best trained and equipped in the world. The French soldiers were confident that their attacks against Mexico would leave the struggling nation on its knees, bowing to a European crown once again. Much to their dismay,

at the Battle of Puebla, the Mexican soldiers fought bravely and died with dignity for their countrymen's freedom. Each Mexican soldier fought valiantly with one common goal. In the end, it was the French army that surrendered on Mexican soil.

In addition to its historical significance in Mexico, Cinco de Mayo is significant to all Americans because it marks the last time that any foreign power threatened to conquer North American soil.

Cinco de Mayo is also a celebration of the rich cultural heritage people of Spanish and Latin American descent have shared with the United States. They have shared their music, art, language and traditions and these elements are sewn into the colorful fabric of "American" culture.

I ask my colleagues and all Americans to join me in commemorating Cinco de Mayo—a day that reflects the core principles that America was founded upon.

#### THOSE MEMORIES SHOULD NOT BE

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. KUCINICH. Madam Speaker, I would like to submit the following poem by Mary-Ann S. Stanky of Cleveland, Ohio:

#### THOSE MEMORIES SHOULD NOT BE

Hurrah! Hurrah! Hurrah!  
Said the new enlistee  
A new defender of democracy  
Salute, stand tall, and be proud.  
Hurrah! Hurrah! Hurrah!  
In line with his comrades  
Wearing alike uniforms  
Issued a gun to defend democracy.  
We are ready!  
Hurrah! Hurrah! Hurrah!  
Turning a corner. . . .  
Rapid bursts of gunfire, from where?  
Shouts from everywhere  
Roof tops, windows noise all-around  
Heads swirling left to right, up and down.  
Quiet . . . an eerie quiet finally descends  
Labored breathing  
Eyes burning red, mouths dry,  
Ears ringing from uncommon sounds  
Minds fighting to stay in control.  
Streaks of red trickle down, blood?  
Look again, no!  
Look again, yes!  
Blood spills from open wounds  
medic!  
There! go there! hurry!  
Pick-up the gun  
Defender of democracy  
My friend has gone home to a  
Flag flying half-mast.

—Mary-Ann S. Stanky

#### RECOGNIZING THE SIGNIFICANCE OF CINCO DE MAYO

SPEECH OF

### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, May 4, 2009*

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today in strong support of H. Res. 230, a bill recognizing the significance of Cinco de Mayo.

This day holds special meaning for me as it does for millions of other Mexican Americans and it provides a wonderful opportunity to reflect on the innumerable contributions that generations of Mexican Americans have made to our national life.

On Cinco de Mayo, we celebrate the valor of a small contingent of Mexican patriots who prevailed against a much larger French army in the Battle of Puebla. Just as in our own fight for independence, they triumphed despite overwhelming odds. Indeed, like Lexington and Concord, Puebla marks a significant victory in the struggle for liberty in the New World.

Today Cinco de Mayo has evolved into a day to celebrate our Mexican American culture and the immeasurable ways in which Mexican Americans have shaped this country. Through music, literature and cuisine, we have enriched the American melting pot. Through an entrepreneurial spirit, Mexican American small businesses are playing a critical role in our economic recovery. Our men and women on the battlefield are helping to secure lasting peace in Iraq and Afghanistan. As CEOs, religious leaders, cabinet secretaries and Members of Congress, we are providing leadership in the face of unprecedented challenges both at home and abroad.

Finally, Mexico is among our most important allies and this day offers us the chance to reaffirm that friendship. As our neighbors to the south fight drug cartels and the H1N1 flu virus, we should pause to consider what more we can do to aid the Mexican people. Just as they did on Cinco de Mayo 1862, they are waging a courageous battle against forces that seek to undermine their democratic society and just as on that famous date, I am confident that Mexico will emerge a stronger and more prosperous nation.

#### IN GRATITUDE TO THE REPUBLIC OF KOREA AND DONGGUK UNI- VERSITY

### HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Mr. BURTON of Indiana. Madam Speaker, I rise tonight to express my appreciation and thanks to the faculty of Dongguk University for the Honorary Doctorate in Political Science they bestowed upon me during my recent visit to South Korea. I wish to also recognize my friends in Korea and at Dongguk University who help make the conferral of this Honorary Doctorate possible. These individuals include: President Young-Kyo Oh and President Dong-Jin Sohn of Dongguk University, Governor Kwan-Yong Kim of Gyeongsangbuk-do Province, Mayor Sang-Seung Baek of Gyeongju City, former Korean Ambassador to the U.S. Tae-Sik Lee and Mrs. Lee, Mr. and Mrs. Il-Hwan Cho and Mr. and Mrs. Dong-Suk Kim of the Korean American Voter's Council in New York.

I have always believed that the Republic of Korea is one of America's most committed friends and allies, and the warmth and hospitality extended to me and my wife during our stay in April reinforced my belief that the bonds that bind the people of the United States together with the people of South

Korea are as strong today as they have ever been.

Even so, I believe we should always look for opportunities to strengthen our alliance and friendship and one of the key areas of opportunity is passage of the U.S.-Korea Free Trade Agreement.

During my stay, I had the privilege of meeting with Foreign Minister Myung-Hwan Yu, National Security Advisor Sung-Hwan Kim, Chairman Jin Park of the Korean National Assembly Foreign Affairs Committee, our U.S. Embassy senior officials and the American Chamber of Commerce in Korea. In practically every meeting, the U.S.-Korea Free Trade Agreement was high on the agenda. No agreement or treaty is ever perfect, as it is always a product of compromise. And I agree that Congress has a legitimate right to debate the merits of the agreement; so let's have that debate; let's take this agreement out of legislative limbo, bring it to the House Floor, have an honest up or down vote, and let the chips fall where they may, Madam Speaker. I think we owe our South Korean friends that much respect because there's more at stake here than just economic growth; this Free Trade Agreement recognizes our special relationship with South Korea and reinforces the message that the United States stands squarely behind our friends and allies.

Madam Speaker, I would like to ask unanimous consent to place in the CONGRESSIONAL RECORD a copy of the remarks I delivered at Dongguk University, entitled: "The Korea-U.S. Alliance Partnership." And I would also ask all of my colleagues to join me in recognizing the historic significance of the U.S.-Korea alliance and its growing importance in the years to come.

President Young-Kyo Oh, distinguished members of the faculty, and students of Dongguk University, ladies and gentlemen and friends: Thank you for your kind introduction. It is a great pleasure to be here today in the heart of Korea's ancient capital city. We are surrounded by history, culture and the memories and friendship that our nations have made together through battles and treaties, commerce and trade.

When I think about this partnership, one particular Korean-American friend comes to mind. His name is Johnny Yune. When Johnny was eleven years old, his family's home town was bombed by communist forces. As they attempted to flee, a particular blast knocked Johnny off his feet and sent him tumbling to a ditch where he was left to die. An American soldier named Private Brown found Johnny, rescued him from the ditch and saved his life that day.

In the weeks and months that followed, the Yune family got to know this Private Brown very well. Johnny remembers how he used to come over to his home, unshaven, with a guitar on his back and a truck full of rationed food. Private Brown would sing and teach them American songs like "Oh Susanna" and give them candy. Johnny is alive today because of that American soldier; and, although he never saw the Private once his unit had moved on, Johnny never forgot his kindness. In his career as a television and movie star, he often speaks of the war hero.

The virtues of the personal relationship between Private Brown and Johnny are not limited to this experience. In a greater sense, The United States and Korea also share a very special relationship.

The United States and the Republic of Korea first became partners more than 125 years ago, when we signed a treaty of amity

and commerce in 1882. This partnership was forged on the battlefield during the Korean War. The South Koreans fought bravely to stay free from the chains of tyranny and communism and have remained a beacon of light and democracy ever since. For more than half a century, we have been diplomatic, political, economic, and cultural partners and great friends.

In the early years, the United States reached out a hand to South Korea, assisting as the nation transformed itself from a war-torn "basket" economy into what it is now: a full-blown democracy with the world's 13th largest economy. South Korea is now an indispensable partner in promoting democracy and extolling the benefits of free market economies. Today, South Korea is the United States' seventh largest export market and the fifth largest market for U.S. agricultural products.

South Korea is committed to the freedom of its people, even when threats grow daily, and especially in light of the North's recent missile launch. The nation is a key partner in the Six-Party Talks to resolve North Korea's nuclear issue, despite the constant fear of war that clouds the peninsula. South Korea is an important military ally with over 29,000 U.S. troops stationed in the country and plays a vital part in securing peace and stability in the region. The United States is committed to the strengthening and survival of freedom on the Korean Peninsula.

South Korea has also reached out a hand to the United States in times when we have been threatened. It is one of only three nations which stood alongside the U.S. in all four major conflicts that the U.S. has faced since the Korean War. The nation has been a strong ally in the U.S.-led War on Terror, having committed troops to Iraq, Afghanistan and Lebanon. Korea is a true friend of the United States. We are committed together to defending freedom and liberty throughout the world.

Over the past several years, the relationship between the United States and Korea has grown even stronger. As a Member of Congress and, especially, a Co-Chair of the Congressional Caucus on Korea, I have been able to observe and participate in legislative actions that have contributed to consolidating the U.S.-Korea alliance. The Embassy of Korea in Washington and the Ministry of Foreign Affairs and Trade in Seoul have played a larger role in recent years in bringing to the attention of Congress those issues of importance and concern to the Korean people. This has informed congressional action and improved the legislative process.

Of the important legislative achievements of the past few years, the inclusion of Korea in the Visa Waiver Program, which makes it easier for Koreans to visit the United States for business, leisure, or family purposes, deserves special mentioning. In early 2006, there were about two dozen countries participating in the Visa Waiver Program administered by the U.S. Department of State. Most of them were European allies and trading partners. While responsibility for expanding or contracting the Visa Waiver Program lies with the Executive Branch, Congress took the lead in persuading the Bush administration to include Korea in the program.

My colleagues and I argued that, by allowing South Korea to participate in the Visa Waiver Program, we would not only be adhering to its stated goals, but at the same time we would build upon a strategic partnership with our close friends in East Asia. Although it took some time, legislation to open the door for Korea to accede to the Visa Waiver Program passed in July 2007, and in November of last year, Korea officially

joined the program at long last. It was a major accomplishment for our bi-lateral alliance.

A second great achievement was the upgrading of Korea's Foreign Military Sales (FMS) status to NATO+3. As I have already noted, Korea and the United States have a close and integral military alliance. But for years, Korea was treated in an unfair fashion by U.S. laws related to the sales of military equipment. So the U.S. House of Representatives and U.S. Senate sought to correct this problem by raising Korea's Foreign Military Sales status to something known as NATO-plus-3. This status elevation was long overdue and absolutely necessary to reverse the unfair exclusion.

In doing this, we acted on our firm belief that the Republic of Korea has been one of our most important and staunchest allies in the Asia-Pacific region. Our mutual alliance is dynamic and comprehensive, encompassing political, economic, military, security, cultural, and social spheres. By the end of last year, Congress had approved the upgrade in status for Korea and it now stands at NATO+4. I am convinced that both of our countries will benefit from the greater partnership that this status upgrade brings.

Finally, we were able to see the passage of a resolution bringing world attention to the plight of the "Comfort Women" who suffered at the hands of the Imperial Japanese Army during the Second World War. In 2007, the House of Representatives at long last passed House Resolution 121, which I co-sponsored and which received bipartisan support and worldwide attention in the news media.

In fact, Congress took the lead in raising the issue of the "comfort women." We invited survivors from Korea to tell their stories in front of television cameras on the record. After the United States Congress acted on this critical human rights issue, other legislative bodies around the world took notice and acted themselves. Thus, the plight of Korea's comfort women became an issue of international concern that, we hope, will serve as a reminder to future generations that such horrific violence shall never occur again.

While some cynics dismissed the resolution as simply revisiting a tragedy of the distant past, I believe a relevant assertion of the importance of respecting human rights is timeless, and the world should never again deny women the right to be safe and secure and to maintain their dignity.

Though these accomplishments are notable, I believe there are even greater accomplishments in our future. In the coming months I hope we can pass the Korea-U.S. Free Trade Agreement of which I am a strong supporter. As most of you undoubtedly know, the United States and Korea signed a free trade agreement in June of 2007, after months of diligent negotiations. The agreement has not yet been ratified and, to be candid, action on the Korea-U.S. Free Trade Agreement may not take place for some time.

It is no secret that there are members of both the United States Congress and the Korean National Assembly who oppose the Free Trade Agreement. But there are also those of us—and I include myself among them—who believe that free trade among free peoples is a positive good, and those agreements or treaties that advance the principles of free trade bring more benefits than risks, promote future prosperity, and provide a stronger foundation for peace and stability around the globe.

Just last month the World Trade Organization warned of a rising threat of trade protectionism around the world. This threat has emerged because of the general decline of the global economy over the past two or three

years. Governments are doing what they have done for centuries in the face of economic contraction; they look inward. This is, in my opinion, a mistake, and it is a mistake borne out by the lessons of history.

The benefits of a U.S.-Korean Free Trade Agreement are manifestly clear. This agreement, once it is ratified, will constitute the largest and most commercially significant Free Trade Agreement the United States has negotiated in 15 years.

The numbers are truly impressive. Korea is the 13th largest economy in the world with a GDP of nearly one Trillion U.S. dollars and a per capita income of over \$20,000. It is the United States' 7th largest trading partner and our 5th largest market for U.S. agricultural export products. Trade between our two nations is nearly \$80 Billion and includes important goods like computer chips, industrial machinery, organic chemicals, agricultural produce, civilian aircraft and, of course, beef. A Free Trade Agreement would bolster U.S. exports to Korea, open duty-free access for Korean goods in the U.S. market, and stimulate job growth in both of our countries.

A Free Trade Agreement would also benefit the great State of Indiana, which I proudly represent in Congress. Korea is Indiana's 10th largest export market, and Indiana exports \$303 Million in goods to Korea annually. Not only that, but almost 10,000 Korean-Americans reside in the State of Indiana and more than 2,000 Korean students study at Indiana's prestigious academic institutions.

This new partnership between the United States and South Korea is sure to be a win-win for both of our countries. I pledge that I am committed to working closely with the U.S. and Korean negotiators as FTA talks proceed, so that we can ensure the best opportunities for Americans and Koreans alike.

Unfortunately, the political mood in the United States right now is not conducive to the ratification of the U.S.-Korea Free Trade Agreement, or any other such trade agreement. I can assure you, however, that my colleagues and I who believe strongly in the principle of free trade and specifically in the importance of the Korea-U.S. Free Trade Agreement, will not let this agreement die for lack of action. We will continue to fight for its approval by Congress, we will press the White House to fight for it, and we will go directly to the court of public opinion to persuade American consumers, business leaders, and workers to support it. I know that, with time and wisdom on our side, the Korea-U.S. Free Trade Agreement will be ratified and the relationship between our countries will become even stronger because of it.

In closing, I am reminded of the look on my good friend Johnny Yune's face, and the way his voice cracked as he re-tells the story of Private Brown. It is the same affection I have experienced on my visit here and the affection I have felt toward my old and even new Korean and Korean-American friends.

Our friendship is different from the relationship of any other country with the United States. I would say to my Korean friends that we should continue to focus on what keeps our relationship strong and more unique than any other alliance in world history. It is my fervent belief that the U.S.-Korea alliance is worth protecting and strengthening. That is why the U.S.-Korea Free Trade Agreement is so important to me.

Once again, I have been struck personally by the extraordinary warmth and hospitality of the Korean people since my arrival here in this beautiful country. This has been true not only among my formal hosts, but with everyone I meet. I am honored and humbled

to accept this honorary degree at this historic institution, and I thank you from the bottom of my heart. May we never cease to find ways to strengthen and deepen the ties that bind our two nations together.

President Oh, distinguished faculty and students of Dongguk University, friends and colleagues, it is my distinct honor to accept this degree. I will always cherish this moment with great humility and I pledge to do all I can to see that our very special alliance to grow even closer in the coming years.

Thank you, and “GAHM-SAH-HAHM-NIDA!”

TEACHERS OF DREW MODEL SCHOOL HONORED FOR THEIR DEDICATION AND COMMITMENT TO ACHIEVING ACADEMIC SUCCESS FOR ALL

**HON. EDDIE BERNICE JOHNSON**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 5, 2009*

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today in honor of National Teacher Appreciation Week and to honor the teachers of Drew Model School for their outstanding and tireless efforts to raise academic achievement levels for all students at this institution.

The teachers and staff at Drew Model School approach each student with the belief that every child learns best within a social en-

vironment that supports and respects his or her unique development. Their programs encourage children to develop independence of thought and confidence of character while learning at their own pace. Additionally, Drew faculty members incorporate the traditional approach of children working, learning, and developing in mixed-age groups with the academic experience of gentle guidance under a specially trained teacher.

I am proud and grateful for the enthusiastic teachers at Drew Model School. Teachers make a difference in all of our lives, and today I would like to extend my warm thanks for their hard work and service to America's children.

I ask my fellow Members of Congress to join me in honoring Drew Model School teachers whose commitment to quality education is extraordinary and dedication to academic achievement is unmatched.

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S5087–S5168*

**Measures Introduced:** Fourteen bills and four resolutions were introduced, as follows: S. 969–982, and S. Res. 128–131. **Pages S5127–28**

#### Measures Passed:

*Recognizing the Mexican Holiday of Cinco de Mayo:* Senate agreed to S. Res. 128, recognizing the historical significance of the Mexican holiday of Cinco de Mayo. **Page S5167**

*Commending Louisiana Jockey Calvin Borel:* Senate agreed to S. Res. 129, commending Louisiana jockey Calvin Borel for his victory in the 135th Kentucky Derby. **Page S5167**

*Majority Party Membership on Certain Committees for the 111th Congress:* Senate agreed to S. Res. 130, to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen. **Page S5168**

*Minority Party Appointments for Certain Committees for the 111th Congress:* Senate agreed to S. Res. 131, making minority party appointments for certain committees for the 111th Congress. **Page S5168**

#### Measures Considered:

**Helping Families Save Their Homes Act:** Senate continued consideration of S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability, taking action on the following amendments proposed thereto: **Pages S5088–S5120**

##### Adopted:

Dodd (for Feingold/Gillibrand) Modified Amendment No. 1032, to require the Congressional Oversight Panel to submit a special report on farm loan restructuring. **Page S5109**

By a unanimous vote of 96 yeas (Vote No. 180), Ensign Modified Amendment No. 1043 (to Amendment No. 1038), of a perfecting nature. **Pages S5100–01, S5109–10**

Boxer Amendment No. 1038 (to Amendment No. 1018), to provide for oversight of a Public-Private

Investment Program, and to authorize monies for the Special Inspector General for the Troubled Asset Relief Program to audit and investigate recipients of non-recourse Federal loans under the Public Private Investment Program and the Term Asset Loan Facility. **Pages S5099–S5100, S5110**

##### Rejected:

By 31 yeas to 63 nays (Vote No. 178), Corker Amendment No. 1019 (to Amendment No. 1018), to address safe harbor for certain servicers. **Pages S5088–92**

By 47 yeas to 48 nays (Vote No. 179), Thune Amendment No. 1030 (to Amendment No. 1018), to require the Secretary of the Treasury to use any amounts repaid by a financial institution that is a recipient of assistance under the Troubled Assets Relief Program to reduce the authorization level under the TARP. **Pages S5094–97**

By 36 yeas to 59 nays (Vote No. 181), DeMint Amendment No. 1026 (to Amendment No. 1018), to prohibit the use of Troubled Asset Relief Program funds for the purchase of common stock. **Pages S5101–06, S5110**

##### Pending:

Dodd/Shelby Amendment No. 1018, in the nature of a substitute. **Page S5088**

Dodd (for Grassley/Baucus) Modified Amendment No. 1020 (to Amendment No. 1018), to enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program. **Pages S5088, S5116–17**

Dodd (for Grassley/Baucus) Modified Amendment No. 1021 (to Amendment No. 1018), to amend Chapter 7 of title 31, United States Code, to provide the Comptroller General additional audit authorities relating to the Board of Governors of the Federal Reserve System. **Pages S5088, S5117, S5118–19**

Dodd (for Kerry) Modified Amendment No. 1036 (to Amendment No. 1018), to protect the interests of bona fide tenants in the case of any foreclosure on any dwelling or residential real property. **Pages S5092–94, S5110–11, S5112, S5115–16, S5117–18**

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

**Pages S5106–09**

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

**Pages S5111–12**

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

**Pages S5112–15**

Dodd (for Reed) Modified Amendment No. 1039 (to Amendment No. 1018), to address impediments to liquidating warrants.

**Page S5116**

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

**Pages S5098–99, S5117**

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

**Page S5117**

A unanimous-consent-time agreement was reached providing for further consideration of the bill at approximately 10:30 a.m., on Wednesday, May 6, 2009, that no further amendments be in order to the bill, and that Senate vote in the order listed on the pending amendments, with no amendment in order to any amendment listed; provided that there be 2 minutes of debate equally divided and controlled in the usual form, and after the first vote, any succeeding votes be limited to 10 minutes each: Reed Modified Amendment No. 1039 (listed above), Boxer Amendment No. 1035 (listed above), Casey Amendment No. 1033 (listed above), Grassley Modified Amendment No. 1020 (listed above), Coburn Amendment No. 1042 (listed above), Reed Amendment No. 1040 (listed above), Kerry Modified Amendment No. 1036 (listed above), Schumer Modified Amendment No. 1031 (listed above), and Grassley Modified Amendment No. 1021 (listed above); provided further, that upon disposition of the listed amendments, the substitute amendment, as amended, be agreed to, and Senate vote on passage of the bill.

**Page S5120**

#### Appointments:

*Canada-U.S. Interparliamentary Group Conference:* The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appointed the following Senators as members of the Senate Delegation to the Canada-U.S. Inter-

parliamentary Group conference during the 111th Congress: Senators Sessions, Collins, and Voinovich.

**Page S5168**

*Congressional-Executive Commission on the People's Republic of China:* The Chair, on behalf of the President of the Senate, and after consultation with the Republican Leader, pursuant to Public Law 106–286, appointed the following Members to serve on the Congressional-Executive Commission on the People's Republic of China: Senators Corker and Barrasso.

**Page S5168**

**Weapon Systems Acquisition Reform Act—Agreement:** A unanimous-consent agreement was reached providing that upon disposition of S. 896, Helping Families Save Their Homes Act, Senate proceed to the consideration of S. 454, to improve the organization and procedures of the Department of Defense for the acquisition of major weapon systems.

**Page S5168**

**Majority Party Appointment—Agreement:** Pursuant to S. Res. 18, and by unanimous-consent, the Majority Leader made the following appointment on a temporary basis to the Committee on Health, Education, Labor and Pensions: Senator Whitehouse.

**Page S5168**

**Message from the President:** Senate received the following message from the President of the United States:

Transmitting a draft list of sites, locations, facilities, and activities in the United States for declaration to the International Atomic Energy Agency (IAEA), under (the “U.S.-IAEA Additional Protocol”), and constitutes a report thereon, as required by section 271 of Public Law 109–401; which was referred to the Committee on Foreign Relations. (PM–15)

**Pages S5126–27**

**Messages from the House:** **Page S5127**

**Measures Referred:** **Page S5127**

**Enrolled Bills Presented:** **Page S5127**

**Executive Reports of Committees:** **Page S5127**

**Additional Cosponsors:** **Pages S5128–30**

**Statements on Introduced Bills/Resolutions:** **Pages S5130–64**

**Additional Statements:** **Page S5126**

**Amendments Submitted:** **Pages S5164–66**

**Notices of Hearings/Meetings:** **Page S5166**

**Authorities for Committees to Meet:** **Pages S5166–67**

**Privileges of the Floor:** **Page S5167**

**Record Votes:** Four record votes were taken today. (Total—181) **Pages S5092, S5097, S5110**



**Adjournment:** Senate convened at 10 a.m. and adjourned at 7:35 p.m., until 9:30 a.m. on Wednesday, May 6, 2009. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S5168.)

## Committee Meetings

(Committees not listed did not meet)

### COMBATING PIRACY

*Committee on Armed Services:* Committee concluded a hearing to examine ongoing efforts to combat piracy on the high seas, after receiving testimony from Michele A. Flournoy, Under Secretary for Policy, and Vice Admiral James A. Winnefeld, Jr., USN, Director for Strategic Plans and Policy, Joint Chiefs of Staff, both of the Department of Defense; Stephen D. Mull, Senior Advisor to the Under Secretary of State for Political Affairs; and James Caponiti, Acting Deputy Administrator, Maritime Administration, Department of Transportation.

### PIRACY ON THE HIGH SEAS

*Committee on Commerce, Science, and Transportation:* Subcommittee on Surface Transportation and Merchant Marine concluded a hearing to examine piracy on the high seas, focusing on protecting our ships, crews, and passengers, after receiving testimony from Roy Kienitz, Under Secretary of Transportation for Policy; Rear Admiral Brian M. Salerno, Assistant Commandant for Marine Safety, Security, and Stewardship; Theresa Walen, Deputy Assistant Secretary of Defense for African Affairs; Philip J. Shapiro, Liberty Maritime Corporation, Lake Success, New York; and Captain Richard Phillips, Underhill, Vermont, and Michael A. Perry, Riverview, Florida, both of the Maersk Alabama.

### NOMINATIONS

*Committee on Energy and Natural Resources:* Committee concluded a hearing to examine the nominations of Daniel B. Poneman, to be Deputy Secretary, who was introduced by Senator Warner, and David B. Sandalow, to be Assistant Secretary for International Affairs and Domestic Policy, who was introduced by Senator Lugar, both of the Department of Energy, and Rhea S. Suh, to be Assistant Secretary, and Michael L. Connor, to be Commissioner of Reclamation, both of the Department of the Interior, after the nominees testified and answered questions in their own behalf.

### HEALTH CARE COVERAGE

*Committee on Finance:* Committee concluded a hearing to examine expanding health care coverage, after receiving testimony from Stuart M. Butler, Heritage

Foundation, John Castellani, Business Roundtable, Gary Claxton, and Diane Rowland, both of the Henry J. Kaiser Family Foundation, Donald A. Danner, National Federation of Independent Business, Jennie Chin Hansen, AARP, Karen Ignagni, America's Health Insurance Plan, R. Bruce Josten, United States Chamber of Commerce, Len Nichols, New America Foundation, Ron Pollack, Families USA, Sandy Praeger, National Association of Insurance Commissioners, Sara Rosenbaum, George Washington School of Public Health and Health Services, Raymond C. Scheppach, National Governors Association, Scott Serota, Blue Cross and Blue Shield Association, and Andy Stern, Service Employees International Union, all of Washington, D.C.

### BUSINESS MEETING

*Committee on Finance:* Committee ordered favorably reported the nominations of Alan B. Krueger, of New Jersey, to be Assistant Secretary of the Treasury for Economic Policy, William V. Corr, of Virginia, to be Deputy Secretary of Health and Human Services, and Demetrios J. Marantis, of the District of Columbia, to be Deputy United States Trade Representative.

### BUSINESS MEETING

*Committee on Foreign Relations:* Committee ordered favorably reported the following business items:

S. 345, to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the "Tropical Forest and Coral Conservation Act of 2009";

S. 954, to authorize United States participation in the replenishment of resources of the International Development Association;

S. 955, to authorize United States participation in, and appropriations for the United States contribution to, the African Development Fund and the Multilateral Debt Relief Initiative, to require budgetary disclosures by multilateral development banks, to encourage multilateral development banks to endorse the principles of the Extractive Industries Transparency Initiative;

S. 838, to provide for the appointment of United States Science Envoys;

S. Res. 49, to express the sense of the Senate regarding the importance of public diplomacy;

S. Res. 84, urging the Government of Canada to end the commercial seal hunt;

S. Con. Res. 19, expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed; and

The nominations of Johnnie Carson, of Illinois, to be Assistant Secretary of State for African Affairs, Ivo

H. Daalder, of Virginia, to be United States Permanent Representative on the Council of the North Atlantic Treaty Organization, Luis C. de Baca, of Virginia, to be Director of the Office to Monitor and Combat Trafficking, and routine lists in the Foreign Service.

### IMPLICATIONS OF A WARMING ARCTIC

*Committee on Foreign Relations:* Committee concluded a hearing to examine the global implications of a warming arctic, after receiving testimony from Senators Murkowski and Begich; Mead Treadwell, United States Arctic Research Commission; David Carlson, International Polar Year International Program Office, London, United Kingdom; Scott Borgerson, Council on Foreign Relations, Washington, D.C.; Lawson Brigham, Arctic Council, An-

chorage, Alaska; and Lisa Speer, Natural Resources Defense Council, New York, New York.

### PASSPORT ISSUANCE

*Committee on the Judiciary:* Subcommittee on Terrorism and Homeland Security concluded a hearing to examine the passport issuance process, focusing on ending fraud, after receiving testimony from Brenda S. Sprague, Deputy Assistant Secretary of State for Consular Affairs; and Jess T. Ford, Director, Director, International Affairs and Trade, Government Accountability Office.

### INTELLIGENCE

*Select Committee on Intelligence:* Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

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# House of Representatives

## Chamber Action

**Public Bills and Resolutions Introduced:** 21 public bills, H.R. 2243–2263; 1 private bill, H.R. 2264; and 6 resolutions, H.J. Res. 49; H. Con. Res. 118–119; and H. Res. 401–403 were introduced.

Pages H5168–69

**Additional Cosponsors:**

Pages H5169–70

**Reports Filed:** Reports were filed today as follows:

H. Res. 400, providing for the consideration of the bill (H.R. 1728) to amend the Truth in Lending Act to reform consumer mortgage practices and provide accountability for such practices and to provide certain minimum standards for consumer mortgage loans (H. Rept. 111–96);

H.R. 1788, to amend the provisions of title 31, United States Code, relating to false claims to clarify and make technical amendments to those provisions, and for other purposes (H. Rept. 111–97).

Page H5167

**Speaker:** Read a letter from the Speaker wherein she appointed Representative Salazar to act as Speaker Pro Tempore for today.

Page H5099

**Recess:** The House recessed at 11:05 a.m. and reconvened at noon.

Page H5103

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

*Geraldine Ferraro Post Office Building Designation Act:* H.R. 774, to designate the facility of the United States Postal Service located at 46–02

21st Street in Long Island City, New York, as the “Geraldine Ferraro Post Office Building”;

Pages H5107–09

*Caroline O’Day Post Office Building Designation Act:* H.R. 1397, to designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the “Caroline O’Day Post Office Building”;

Pages H5109–11

*Expressing the sense of the House of Representatives that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week:* H. Res. 299, to express the sense of the House of Representatives that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 4 through 10, 2009, and throughout the year, by a  $\frac{2}{3}$  yea-and-nay vote of 419 yeas with none voting “nay” and 4 voting “present”, Roll No. 231;

Pages H5111–13, H5131–32

*Elijah Pat Larkins Post Office Building Designation Act:* H.R. 1271, to designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the “Elijah Pat Larkins Post Office Building”;

Pages H5113–14

*Supporting the goals and ideals of National Charter Schools Week:* H. Res. 382, to support the

goals and ideals of National Charter Schools Week, to be held May 3 through May 9, 2009;

**Pages H5114–16**

*Supporting the goals and ideals of National Community College Month:* H. Res. 338, to support the goals and ideals of National Community College Month, by a  $\frac{2}{3}$  ye-a-and-nay vote of 424 yeas with none voting “nay”, Roll No. 232;

**Pages H5116–18, H5132**

*Supporting the goals and ideals of Global Youth Service Days:* H. Res. 353, to support the goals and ideals of Global Youth Service Days, by a  $\frac{2}{3}$  recorded vote of 424 yeas with none voting “no”, Roll No. 233;

**Pages H5122–23, H5132–33**

*Honoring the graduating Class of 2009 at the University of California, Merced:* H. Res. 396, amended, to honor the graduating Class of 2009 at the University of California, Merced;

**Pages H5123–25**

*Supporting the goals and ideals of National Public Works Week:* H. Res. 313, to support the goals and ideals of National Public Works Week; and

**Pages H5125–27**

*Supporting the goals of Motorcycle Safety Awareness Month:* H. Res. 269, to support the goals of Motorcycle Safety Awareness Month.

**Pages H5127–29**

**Suspensions—Proceedings Postponed:** The House debated the following measures under suspension of the rules. Further proceedings were postponed:

*Congratulating the University of North Carolina men’s basketball team:* H. Res. 348, to congratulate the University of North Carolina men’s basketball team for winning the 2009 NCAA Division I Men’s Basketball National Championship; and

**Pages H5118–22**

*Supporting the goals and ideals of National Train Day:* H. Res. 367, to support the goals and ideals of National Train Day.

**Pages H5129–31**

**Presidential Message:** Read a message from the President transmitting a report which lists the sites, locations, facilities, and activities in the United States which will be declared to the International Atomic Energy Agency (IAEA), under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America—referred to the Committee on Foreign Affairs and ordered to be printed (H. Doc. 111–37).

**Pages H5133–34**

**Quorum Calls—Votes:** Two ye-a-and-nay votes and one recorded vote developed during the proceedings of today and appear on pages H5131–32, H5132 and H5133. There were no quorum calls.

**Adjournment:** The House met at 10:30 a.m. and adjourned at 9:29 p.m.

## Committee Meetings

### NATIONAL ANIMAL ID SYSTEM

*Committee on Agriculture,* Subcommittee on Livestock, Dairy, and Poultry and the Subcommittee on Emerging Threats, Cybersecurity, and the Science and Technology of the Committee on Homeland Security held a joint hearing to review the National Animal Identification System. Testimony was heard from John R. Clifford, Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, USDA; Tom McGinn, Chief Veterinarian, Director, Food, Agriculture and Veterinary Defense, Department of Homeland Security; David C. Smith, Assistant Director, Division of Animal Industry, Department of Agriculture and Markets, State of New York; Kevin Kirk, Department of Agriculture, State of Michigan; and a public witness.

### LEGISLATIVE BRANCH APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Legislative Branch continued appropriation hearings. Testimony was heard from Members of Congress, and public witnesses.

### ARMY/AIR NATIONAL GUARD EQUIPMENT PROGRAMS

*Committee on Armed Services,* Subcommittee on Air and Land Forces held a hearing on the Army National Guard and Air National Guard equipment programs. Testimony was heard from the following official of the National Guard, Department of Defense: LTG Harry M. Wyatt III, ANG, Director, Air National Guard; and MG Raymond W. Carpenter, ARNG, Acting Deputy Director, Army National Guard.

### CYBERSPACE WARFIGHTING DOMAIN

*Committee on Armed Services:* Subcommittee on Terrorism, Unconventional Threats and Capabilities held a hearing on Cyberspace Warfighting Domain: Policy, Management and Technical Challenges to Mission Assurance. Testimony was heard from the following officials of the Department of Defense: LTG William Shelton, USAF, Chief of Warfighting Integration, Chief Information Officer, Office of the Secretary of the Air Force; Robert Lenz, Deputy Assistant Secretary, Cyber, Identify and Information Assurance and Senior Information Assurance Official; LTG Keith Alexander, USA, Commander, Joint Functional Component Command Network Warfare, Director, NSA; Rob Carey, Chief Information Officer, U.S. Navy; and Mike Krieger, Deputy Chief Information Officer/G–6, U.S. Army.

**WORKFORCE INVESTMENT**

*Committee on Education and Labor*, Subcommittee on Higher Education, Lifelong Learning and Competitiveness continued hearings on New Innovations and Best Practices under the Workforce Investment Act. Testimony was heard from public witnesses.

**DATA ACCOUNTABILITY AND TRUST ACT; INFORMED P2P USER ACT**

*Committee on Energy and Commerce*, Subcommittee on Commerce, Trade and Consumer Protection held a hearing on the following bills: H.R. 2221, Data Accountability and Trust Act; and H.R. 1319, Informed P2P User Act. Testimony was heard from Eileen Harrington, Acting Director, Bureau of Consumer Protection, FTC; and public witnesses.

**LEHMAN BROTHERS BANKRUPTCY'S STATE/LOCAL EFFECT**

*Committee on Financial Services*: Held a hearing entitled "The Effect of the Lehman Brothers Bankruptcy on State and Local Governments." Testimony was heard from Representatives Eshoo and Speier; and public witnesses.

**FEDERAL INSPECTORS GENERAL**

*Committee on Financial Services*: Subcommittee on Oversight and Investigations held a hearing entitled "The Role of Inspectors General: Minimizing and Mitigating Waste, Fraud and Abuse." Testimony was heard from Eric Thorson, Inspector General, Department of the Treasury; Elizabeth A. Coleman, Inspector General, Board of Governors, Federal Reserve System; and Jon T. Rymer, Inspector General, FDIC.

**U.S.-PAKISTAN RELATIONSHIP**

*Committee on Foreign Affairs*, Held a hearing on From Strategy to Implementation: The Future of the U.S.-Pakistan Relationship. Testimony was heard from Richard C. Holbrooke, Special Representative for Afghanistan and Pakistan, Department of State; and public witnesses.

**CREDIT CARDS—FEDERAL ARBITRATION ACT**

*Committee on the Judiciary*: Subcommittee on Commercial and Administrative Law held a hearing on the Federal Arbitration Act: Is the Credit Card Industry Using It To Quash Legal Claims? Testimony was heard from public witnesses.

**MISCELLANEOUS MEASURES**

*Committee on Natural Resources*: Subcommittee on Insular Affairs, Oceans and Wildlife held a hearing on the following bills: H.R. 509, Marine Turtle Conservation Reauthorization Act of 2009; H.R. 556, Southern Sea Otter Recovery and Research Act; and

H.R. 1454, Multinational Species Conservation Funds Semipostal Stamp Act of 2009. Testimony was heard from Representative Farr; Rowan Gould, Acting Director, U.S. Fish and Wildlife Service, Department of the Interior; and public witnesses.

**NORTHERN ROCKIES ECOSYSTEM PROTECTION ACT**

*Committee on Natural Resources*: Subcommittee on National Parks, Forests and Public Lands held a hearing on H.R. 980, Northern Rockies Ecosystem Protection Act. Testimony was heard from Representatives Maloney and Rehberg; Joel Holtrop, Deputy Chief, National Forest System, Forest Service, USDA; Michael Nedd, Acting Deputy Director, Bureau of Land Management, Department of the Interior; Judy Boyle, House Member, State Legislature, State of Idaho; and public witnesses.

**SECURITY FEDERAL INFORMATION SYSTEMS**

*Committee on Oversight and Government Reform*: Subcommittee on Government Management, Organization, and Procurement held a hearing entitled "Cybersecurity: Emerging Threats, Vulnerabilities, and Challenges in Securing Federal Information Systems." Testimony was heard from Robert F. Lentz, Deputy Assistant Secretary, Cyber, Identity, and Information Assurance, Department of Defense; John Streufert, Deputy Chief Information Officer for Information Security, Bureau of Information Resource Management, Department of State; Gregory Wilshusen, Director, Information Security Issues, GAO; and public witnesses.

**MORTGAGE REFORM AND ANTI-LENDING ACT**

*Committee on Rules*: Granted, by a non-record vote, a rule providing for consideration of H.R. 1728, the Mortgage Reform and Anti-Predatory Lending Act. The rule provides for one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill except those arising under clause 9 and 10 of rule XXI. The rule provides that the Committee of the Whole shall rise without motion after general debate and that no further consideration of the bill shall occur except pursuant to a subsequent order of the House. Testimony was heard from Chairman Barney Frank and Representative Price of Georgia.

## NATIONAL CLIMATE SERVICE DEVELOPMENT

*Committee on Science and Technology:* Subcommittee on Energy and Environment held a hearing on Expanding Climate Services at the NOAA: Developing the National Climate Service. Testimony was heard from Jane Lubchenco, Under Secretary, NOAA, Department of Commerce; and public witnesses.

## RECOVERY ACT OVERSIGHT

*Committee on Science and Technology:* Subcommittee on Investigations and Oversight held a hearing on Follow the Money Part II: Government and Public Resources for Recovery Act Oversight. Testimony was heard from Gene Dodaro, Acting Comptroller General, GAO; Earl Devaney, Chairman, Recovery Accountability and Transparency Board; and public witnesses.

## GSA STIMULUS FUND OVERSIGHT

*Committee on Transportation and Infrastructure:* Subcommittee on Economic Development, Public Buildings and Emergency Management held a hearing on Tracking Hearing #2:GSA Stimulus Funds-Up, Out, and Creating Jobs. Testimony was heard from the following officials of the GSA; William Guerin, Project Management Office Executive; Brian Miller, Inspector General; and Shapour Abadi, St. Elizabeth's Project Executive; and Michael Gallagher, Assistant Deputy Commissioner, Budget, Finance, and Management, SSA.

## BRIEFING—INTELLIGENCE FOR U.S. MARINE DEPLOYMENT TO AFGHANISTAN

*Permanent Select Committee on Intelligence:* Met in executive session to receive a briefing on Intelligence for the U.S. Marine Deployment to Afghanistan. The Committee was briefed by departmental witnesses.

## BRIEFING—PERU

*Permanent Select Committee on Intelligence:* Met in executive session to receive a briefing on Peru. The Committee was briefed by departmental witnesses.

## *Joint Meetings*

### ECONOMIC OUTLOOK

*Joint Economic Committee:* Committee concluded hearings to examine the current economic outlook, after receiving testimony from Ben S. Bernanke, Chairman, Board of Governors of the Federal Reserve System.

## COMMITTEE MEETINGS FOR WEDNESDAY, MAY 6, 2009

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Appropriations:* Subcommittee on Energy and Water Development, to hold hearings to examine the range of innovative, non-geologic applications for the beneficial reuse of carbon dioxide from coal and other fossil fuel facilities, 9 a.m., SD-192.

*Committee on Armed Services:* Subcommittee on Strategic Forces, to receive a closed briefing to examine space issues, 2:15 p.m., SVC-217.

*Committee on Banking, Housing, and Urban Affairs:* to hold hearings to examine regulating and resolving institutions considered to be too big to fail, 9:30 a.m., SD-538.

*Committee on Commerce, Science, and Transportation:* Subcommittee on Communications and Technology, to hold hearings to examine the future of journalism, 2:30 p.m., SR-253.

*Committee on Energy and Natural Resources:* business meeting to consider pending legislation on siting of interstate electric transmission facilities, energy finance, and nuclear energy, 10 a.m., SD-366.

*Committee on Foreign Relations:* to hold hearings to examine engaging Iran, focusing on obstacles and opportunities, 9:30 a.m., SD-419.

Subcommittee on European Affairs, to hold hearings to examine NATO post-60, focusing on institutional challenges moving forward, 2:30 p.m., SD-419.

*Committee on the Judiciary:* to hold an oversight hearing to examine the Department of Homeland Security, 10 a.m., SD-226.

*Committee on Veterans' Affairs:* to hold hearings to examine the nominations of Roger W. Baker, of Virginia, to be Assistant Secretary for Information and Technology, William A. Gunn, of Virginia, to be General Counsel, Jose D. Riojas, of Texas, to be Assistant Secretary for Operations, Security, and Preparedness, and John U. Sepulveda, of Virginia, to be Assistant Secretary for Human Resources, all of the Department of Veterans Affairs, 9:30 a.m., SR-418.

*Special Committee on Aging:* to hold hearings to examine solutions to stop Medicare and Medicaid fraud from hurting seniors and taxpayers, 2 p.m., SH-216.

### House

*Committee on Agriculture,* Subcommittee on Conservation, Credit, Energy and Research, hearing to review the impact of the indirect land use and renewable biomass provisions in the renewable fuel standard, 11 a.m., 1300 Longworth.

*Committee on Appropriations,* Subcommittee on Legislative Branch, on House of Representatives Budget, 10 a.m., H-144 Capitol.

Subcommittee on Military Construction, Veterans Affairs and Related Agencies, on Army Budget, 10 a.m., and on Navy/Marine Corps Budget, 2 p.m., H-143 Capitol.

*Committee on Armed Services*, hearing on the Department of Defense at High Risk: The Chief Management Officer's Recommendations for Acquisition Reform and Related High Risk Areas, 10 a.m., and a hearing on the report of the Congressional Commission on the Strategic Posture of the United States, 2 p.m., 2118 Rayburn.

*Committee on Education and Labor*, to mark up H.R. 2187, 21st Century Green High-Performing Public School Facilities Act, 10 a.m., 2175 Rayburn.

*Committee on Financial Services*, Subcommittee on Housing and Community Opportunity, hearing entitled "Legislative Solutions for Preventing Loan Modification and Foreclosure Rescue Fraud," 10 a.m., 2128 Rayburn.

*Committee on Foreign Affairs*, Subcommittee on Africa and Global Health, hearing on Global Health Emergencies Hit Home: The Swine Flu Outbreak, 9 a.m., 2172 Rayburn.

*Committee on Homeland Security*, Subcommittee on Transportation Security and Infrastructure, to mark up H.R. 2200, Transportation Security Administration Authorization Act, 10 a.m., 311 Cannon.

*Committee on House Administration*, hearing on Necessary Renovations to House Office Buildings, 11 a.m., 1324 Longworth.

*Committee on the Judiciary*, Subcommittee on Crime, Terrorism, and Homeland Security, hearing on Escalating Violence in Mexico and the Southwest Border as a Result of the Illicit Drug Trade, 2 p.m., 2141 Rayburn.

*Committee on Oversight and Government Reform*, to consider the following measures: H.R. 2812, Enhanced Oversight of State and Local Economic Recovery Act; H.R. 885, Improved Financial and Commodity Markets Oversight and Accountability Act; H.R. 626, Federal Employees Paid Parental Leave Act of 2009; H. Con. Res. 84, Supporting the goals and objectives of a National Military Appreciation Month; H. Res. 356, Supporting support for the designation of February 8, 2010, as the "Boys Scouts of America Day," in celebration of the Nation's largest youth scouting organization's 100th anniversary; H. Res. 370, Expressing support for designation of April 27, 2009, as "National Healthy Schools Day;" H. Res., 388, Celebrating the role of mothers in the

United States and supporting the goals and ideals of Mother's Day; H.R. 1817, To designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the "John S. Wilder Post Office Building; H.R. 2090, To designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the "Frederic Remington Post Office Building;" H.R. 2162, To designate the facility of the United States Postal Service located at 123 11th Avenue South in Nampa, Idaho, as the "Herbert A. Littleton Postal Station;" H.R. 2173, To designate the facility of the United States Postal Service located at 1009 Crystal Road in Island Falls, Maine, as the "Carl B. Smith Post Office;" and H.R. 2174, To designate the facility of the United States Postal Service, located at 18 Main Street in Howland, Maine, as the "Clyde Hichborn Post Office," 1 p.m., 2154 Rayburn.

*Committee on Rules*, to consider H.R. 1728, Mortgage Reform and Anti-Predatory Lending Act, 3 p.m., H-313 Capitol.

*Committee on Small Business*, hearing entitled "Legislation to Reauthorize and Modernize SBA's Entrepreneurial Development Programs," 1 p.m., 2360 Rayburn.

*Committee on Veterans' Affairs*, to mark up the following bills: H.R. 23, Belated Thank You to the Merchant Mariners of World War II Act of 2009; H.R. 466, Wounded Veteran Job Security Act; H.R. 1088, Mandatory Veteran Specialist Training Act of 2009; H.R. 1089, Veterans Employment Rights Realignment Act of 2009; and H.R. 1170, To amend chapter 21 of title 38, United States Code, to establish a grant program to encourage the development of new assistive technologies for specially adopted housing, 10:15 a.m., 334 Cannon.

*Committee on Ways and Means*, hearing to welcome the Secretary of Health and Human Services, and to continue hearings on Health Reform in the 21st Century, 10 a.m., 1100 Longworth.

*Permanent Select Committee on Intelligence*, Subcommittee on Terrorism Human Intelligence, Analysis, and Counterintelligence, executive, hearing on Russia, 4 p.m., 304 HVC.



*Next Meeting of the SENATE*

9:30 a.m., Wednesday, May 6

*Next Meeting of the HOUSE OF REPRESENTATIVES*

10 a.m., Wednesday, May 6

Senate Chamber

**Program for Wednesday:** After the transaction of any morning business (not to extend beyond one hour), Senate will continue consideration of S. 896, Helping Families Save Their Homes Act, and after a period of debate, vote on certain amendments, and vote on passage of the bill.

House Chamber

**Program for Wednesday:** Consideration of the following suspensions: (1) H.R. 1107—To enact certain laws relating to public contracts as title 41, United States Code, “Public Contracts”; (2) H. Res. 391—Recognizing May as “National Foster Care Month”; and (3) S. 386—Fraud Enforcement and Recovery Act of 2009. Consideration of H.R. 1728—Mortgage Reform and Anti-Predatory Lending Act (Subject to a Rule).

Extensions of Remarks, as inserted in this issue

HOUSE

Barrett, J. Gresham, S.C., E1062  
Bonner, Jo, Ala., E1057, E1063  
Burton, Dan, Ind., E1064, E1066  
Carnahan, Russ, Mo., E1063  
Coble, Howard, N.C., E1060  
Courtney, Joe, Conn., E1058  
Crowley, Joseph, N.Y., E1063  
Graves, Sam, Mo., E1059  
Grayson, Alan, Fla., E1061

Green, Al, Tex., E1065  
Green, Gene, Tex., E1061  
Harper, Gregg, Miss., E1060  
Honda, Michael M., Calif., E1065  
Johnson, Eddie Bernice, Tex., E1060, E1064, E1068  
Kanjorski, Paul E., Pa., E1062  
Kucinich, Dennis J., Ohio, E1066  
Lee, Barbara, Calif., E1058, E1059  
McCollum, Betty, Minn., E1063  
Marchant, Kenny, Tex., E1062  
Miller, Jeff, Fla., E1062

Mitchell, Harry E., Ariz., E1058  
Ortiz, Solomon P., Tex., E1058  
Pascrell, Bill, Jr., N.J., E1063  
Roybal-Allard, Lucille, Calif., E1066  
Sánchez, Linda T., Calif., E1057, E1061  
Shuler, Heath, N.C., E1060, E1064  
Skelton, Ike, Mo., E1059  
Speier, Jackie, Calif., E1057, E1064  
Visclosky, Peter J., Ind., E1059



# Congressional Record

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