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# Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

The PRESIDING OFFICER. Today's opening prayer will be offered by guest Chaplin Monsignor Joseph Quinn of St. Rose of Lima Parish in Carbondale, PA.

## PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

God of compassion and mercy, we pray this day that the esteemed Members of this august Senate of these United States will continue to write into law the story of a country that measures its success by God's standard; by how well it cares for the weakest, the neediest and the most vulnerable among us.

Give this noble body and all who assist it an outpouring of Your guiding spirit that they may forever be wise in their judgments and serve selflessly the best interests of all of the people of our beloved land.

Broaden their personal concerns that they may always seek the common good and be forever attuned to the hopeful cries of the least powerful in our society. Clarify their vision each day as they work together in search of the best ideas and most impactful strategies to meet the greatest needs of our day and age.

Lord, bless all of our Senators. May their faith in You and in the destiny of our great country keep them ever humble in Your service and consciously grateful for the extraordinary privileges and creative authority entrusted to them. And may this United States Senate be always a living sign of our national unity. May it be good news to the poor and instruments of peace for this world.

Lord God, in You we trust now and forever and in Your Holy Name we pray this day and always. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN 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 bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, May 7, 2008.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

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

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 1 hour, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

## RECOGNITION OF THE ACTING MAJORITY LEADER

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

## SCHEDULE

Mr. CASEY. Mr. President, today there will be a period of morning business for up to 1 hour, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans will control the final half.

Following morning business, the Senate will resume consideration of the motion to proceed to S. 2284, a bill to restore the financial solvency of the National Flood Insurance Fund.

As a reminder, the Senate will recess from 12:30 until 2:15 today for the weekly caucus luncheons.

### WELCOMING GUEST CHAPLAIN

I ask for a couple moments of personal privilege.

Monsignor Joseph Quinn offered our prayer. I wish to say how proud I am to be here this morning to witness that. He is a very dear friend and someone who has, for many years, ministered to my family and to families throughout northeastern Pennsylvania in good times and bad.

We are grateful for his presence today. We are grateful he was able to offer the prayer. I will submit for the RECORD a fuller statement of some background material on his life. But he has been so much a part of the fabric of northeastern Pennsylvania.

He has often said that in large families, the joys are multiplied and sorrows are divided. We are grateful for his leadership as a priest, and now as a monsignor, but in a very personal way, for what he has meant to so many families in northeastern Pennsylvania. I am honored to be here to share a couple minutes with him and am grateful for his presence today in the Senate.

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

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington State.

## TANKER SURVIVABILITY

Mrs. MURRAY. Mr. President, I think we would all agree, especially in a time of war, that nothing is more important than the safety of our men and women in uniform. And nothing should be more important to our military commanders at the Pentagon.

But I come to the floor this morning because safety was not the priority when the military awarded the contract to build the next generation of refueling tankers. If that decision stands, if the contract goes to the European company Airbus, instead of Boeing, our servicemembers will be flying in planes that they and the military know are less safe. That has me very concerned.

During the tanker competition, the Pentagon considered numerous factors, including survivability; that is, the ability to protect war fighters when they are in harm's way. But even though they found the Boeing tanker was much safer, the Pentagon chose the Airbus tanker anyway.

Awarding a contract for a plane that is less safe makes zero sense to me. Why on Earth would our military choose a tanker that rated lower in safety and in survivability. That is the question I have come to the floor this morning to ask. It is one of the concerns I have raised in a letter I am sending today to the Joint Chiefs of Staff.

I know as well as anyone how important it is that we get these tankers up in the sky. I represent Fairchild Air Force Base in Spokane, WA. The air men and women at Fairchild fly those tankers. Refueling tankers are the backbone of our military. Everywhere we have troops in the world we have tankers. And right now our tanker fleets are in some of the most dangerous regions in the world. We know the war on terrorism will be long and it will be hard and that our servicemembers will continue to be in dangerous regions for some time to come.

We owe it to them to provide planes that will enable them to do their jobs safely and that will keep our aircraft safe as they refuel them.

But with this contract, the Pentagon did not make safety the top priority. Let me take a minute this morning to explain what I am talking about when I say that Boeing's plane was more survivable. Survivability refers to the ability to keep the war fighter safe.

According to Ronald Fogleman, who is a former Air Force Chief of Staff and a retired general: The more survivable tanker would have the systems to identify and defeat threats, avoid threats, and protect the crew in the event of an attack.

General Fogleman said he was surprised the Air Force selected the Airbus tanker, even though it ranked lower in all those areas. I wish to read you his quote:

> When I saw the Air Force's assessment of both candidate aircraft in the survivability area, I was struck by the fact that they clearly saw the KC–767 as the more survivable tanker.

He added he believes the KC–767 is better for the war fighter and for the military. That is how he put it. He said:

> The KC–767 has a superior survivability rating and will have greater operational utility to the joint commander and provide better protection to air crews that must face real-world threats.

By any measure, Boeing's tanker would be easier to operate under hostile conditions, and it would provide the crew with better protection. The KC–767 has the newest defense equipment available. According to the Air Force's own rating, it had better missile defense systems, better cockpit displays that allow our crews to recognize a possible threat, better armor for the flight crew and critical systems on the plane, and better protection against fuel tank explosion, amongst many other advantages.

But survivability is not only about the equipment on that plane, a tanker has to be able to take off and land faster. It has to be able to handle itself in a hostile environment. The best tanker is the one that is harder to shoot down. Our tankers are most vulnerable in situations in which the enemy can use shoulder-fired missiles and smaller gunfire, such as when the tankers are taking off or landing.

Compared to the Boeing 767, Airbus's tanker is massive. It is much bigger than the Air Force originally requested, and its size is problematic for many reasons. Not only are there fewer places for Airbus's tanker to take off and land, but as a larger airplane, it is a bigger target and it is easier to hit. The KC–767 is a much more agile plane, and it is safer for the crew and the aircraft that they are refueling.

Americans want our war fighters flying the best, safest possible plane. So I am asking today: Why would not the Pentagon?

Boeing has appealed the Pentagon's decision to award the tanker contract to Airbus. The GAO is now looking into that process. I look forward to seeing their decision. I think Congress has a responsibility as well. It is our job to check on the administration. We have to look out for the war fighter.

Some of my colleagues have said we need to move the process along quickly so we can get these planes in the hands of our airmen and airwomen. I agree. Refueling tankers are vital to the Air Force. But that is also why it is as important that they get the right planes, the planes that will allow them to do their jobs and keep them safe.

We have a responsibility to ensure we are making the right decision for years to come about the safety of our servicemembers and our Nation. That is why I am raising these concerns today.

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

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

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. 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.

## RECOGNITION OF THE MINORITY LEADER

Mr. MCCONNELL. Mr. President, I am going to proceed on my leader time.

The ACTING PRESIDENT pro tempore. Without objection, the Republican leader is recognized.

## COLOMBIA FREE TRADE AGREEMENT

Mr. MCCONNELL. Mr. President, last month, Democratic leaders in the House made a truly terrible decision. They opted to kill a free-trade agreement that had already been reached between the United States and Colombia, one of our closest, if not our closest, ally in Latin America, and a nation that has made great strides at democratic reform.

At the heart of the deal was an agreement that U.S. manufacturers and farmers would no longer have to pay tariffs on U.S. goods that are sold in Colombia. This would have leveled the playing field since most Colombian goods are sold in the United States duty free.

At a time of economic uncertainty at home, the Colombia Free Trade Agreement should have been an obvious bipartisan effort to bolster U.S. manufacturing and agriculture and to expand overseas markets for U.S. goods.

Unfortunately, the House leaders decided that the support of union leaders was, in this case, more important than our relations with a close ally or the state of the U.S. economy. That decision has already had serious and far-reaching consequences, and that is not just the view on this side of the aisle.

Virtually every major paper in the country was swift in condemning the House Democrats for changing the rules and blocking a vote on this trade agreement. They recognized that the decision was bad for our relations with Colombia, bad as a matter of national security, and bad for the U.S. economy.

Here are just a few of the headlines from newspapers across our country:

''Drop Dead, Colombia,'' said the Washington Post.

''Free Trade Deal is A Winner,'' said the Charleston Post and Courier.

''Approve Pact with Colombia,'' said the Los Angeles Times.

''A Trade Deal that All of the Americas Need,'' said the Rocky Mountain News.

''Our View On Free Trade: Pass the Colombia Pact,'' USA Today.

''Pelosi's Bad Faith,'' the Wall Street Journal.

''Time for the Colombian Trade Pact,'' the New York Times.

''Historical Failure on Colombia Trade Pact,'' the Denver Post.

''Lose-Lose; House Rejection of Trade Agreement is Bad for U.S. Workers and Colombia,'' the Houston Chronicle.

''Caving on Colombia,'' the Chicago Tribune.

And in my own hometown paper, the Louisville Courier Journal, an editorial titled: ''Free Trade's Benefits.''

Here is how the Courier Journal put it:

Far from the Washington Beltway, out here in Kentucky, the U.S.-Colombia Trade Promotion Agreement would have real consequences in real people's lives—most of them good, in our view.

I could go on. In the days after the House scuttled the Colombia Free Trade Agreement, the Office of U.S. Trade Representative counted more than 75 editorials opposing that decision. It is still waiting for a single editorial somewhere in America supporting the Speaker's decision to scuttle the free-trade agreement.

A congressional resolution in support of Independence Day would probably draw more criticism than the Colombia Free Trade Agreement has from U.S. newspapers. And the reason is abundantly clear. The decision to block a vote has already had serious and far-reaching consequences. As the San Diego Union Tribune put it in yet another editorial critical of the move: ''Bashing Has a Price.''

With respect to tariffs, that price is quantifiable. According to an estimate by the Department of Commerce, U.S. goods entering Colombia have been weighted down with more than $1 billion—$1 billion—in tariffs since the Colombia Free Trade Agreement was signed—$1 billion. This is a heavy burden to place on U.S. workers and the businesses they work for.

We hear a lot from the other side about the need for fair trade. Is it fair that U.S. goods have been saddled with more than $1 billion in tariffs just in the last year and a half alone, while more than 90 percent of Colombian-made goods are sold here without any tariffs at all? What is fair about that? This, apparently, is what House Democrats in Congress regard as fair trade.

The trade imbalance between the United States and Colombia is a matter of enormous significance for the many States that rely on exports—States such as Kentucky, which exported about $67 million worth of goods to Colombia last year. Had the FTA been brought up and passed, that figure would have been all but certain to increase this year.

The beef industry is a good example of how the trade imbalance hurts the U.S. Kentucky is the largest beef-cattle-producing State east of the Mississippi River. But at the moment, prime and choice cuts of Kentucky beef face 80 percent duties once they reach Colombian ports. Obviously, an 80-percent markup on beef makes it hard for cattle farmers in my State to compete.

The House failure to take up the Colombia Free Trade Agreement puts States such as Kentucky at a serious competitive disadvantage with Colombia—despite the fact that Colombia itself wants to level the playing field. It is Democrats in the House, not Colombia, who insist on keeping high tariffs on U.S. goods in place.

At a time when the U.S. economy is struggling, we should be doing all we can to help U.S. exporters sell their goods abroad. Instead, House Democrats are burdening our exporters with high tariffs. In these economic times, we should be expanding access to overseas markets for American-made products and American-grown goods, not standing in the way.

This is a consensus view—a consensus view—not just a Republican view. The Senate is ready to vote in favor of the Colombia Free Trade Agreement on a very broad bipartisan basis. For the good of the economy, we should be allowed to take that vote. The House should take up the Colombia Free Trade Agreement and pass it, and they should do it without any further delay.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I am delighted to be able to join today with our leader, Senator MCCONNELL, in urging prompt action on the Colombia Free Trade Agreement because, as he has said, this represents one of the most important foreign policy and economic opportunities before this Congress.

It is both an economic opportunity to increase our exports, particularly at a time when our economy has slowed down—the dollar is weak—and we should be supporting policies that will create jobs and boost exports.

The U.S.-Colombia Free Trade Agreement also represents a key opportunity to strengthen an alliance with a friend and ally in a part of the world full of anti-American socialists led by, of course, Hugo Chavez of Venezuela.

I have long believed that trade and commercial ties are one of the most effective arrows in America's quiver of smart power, to build strong alliances for peace and friendship throughout the world.

But, also, as vice chairman of the Intelligence Committee, and a longtime believer in free trade, I believe this agreement is in our national security interests as well as our economic best interests.

First, let me discuss some of the geopolitical and strategic benefits and why Colombia, as a partner with the United States, has demonstrated that it is worthy of such an agreement.

President Alvaro Uribe's administration finds itself surrounded by states determined to undermine Colombia's growing democracy. These other states provide safe havens to insurgent groups, allow freedom of maneuvering in border areas, and provide monetary support for their drug and terror activities that threaten those countries and our own country.

I am sure Hugo Chavez would love nothing more than to see this deal fail. This would be a huge victory for Hugo Chavez. Such an event would embolden his support for rebels in Colombia and undercut American interests throughout the region. Our credibility would be sadly destroyed among people who should be our friends—our neighbors in the Western Hemisphere.

The question we ought to be asking ourselves is, Do we support Hugo Chavez or do we support President Alvaro Uribe? It is critical for peace and prosperity, not just in Colombia but for all of Latin America, and it is very important for our security that we take the opportunity to show we stand with President Uribe, who has done so much to move his country forward in a positive manner.

President Uribe has implemented far-reaching policies to protect labor union members—policies that have led to a general decline in violence, and an even greater decline in violence against union members.

Murders in Colombia overall have decreased by nearly 40 percent between 2001 and 2007, and murders of union members were reduced by over 80 percent. Legal reforms have been implemented under President Uribe to transform the judicial system and increase the number of prosecutions. These prosecutions and law enforcement are necessary because of the violent terrorists who are still operating in Colombia, though President Uribe deserves great credit for cracking down on them.

In October 2006, a special subunit within the Unit of Human Rights was set up in Colombia to investigate and prosecute over 1,200 criminal cases of violence against trade union members.

President Uribe has pushed back Marxist guerrillas of the Revolutionary Armed Forces of Colombia, or FARC—that we will be referring to later—and the National Liberation Army, or ELN.

Earlier this year, the interdiction of two high-value targets, senior terror planners and former operators, was a testament to President Uribe's commitment to ending terror operations in his country and stopping the threat to his democratic government posed by the socialist Marxist neighbors trying to bring him down.

It is important to remember that the FARC insurgent group holds more than 700 political and military prisoners, including three Americans.

This regime has been behind some of the most disturbing human rights atrocities over the past three decades, and it finances its operations by facilitating the drug trade. Now, that, if nothing else, ought to get our attention.

If the leadership in the House in Congress is concerned about improving

America's image abroad, fighting to keep illicit drugs off our streets, and improving America's strategic interests in its own backyard, then why don't they start by giving a helping hand to the one good friend we have surrounded by challenges?

What would the rejection of this agreement say about America's commitment to our friends around the world? It would say: Don't count on the United States. Big talk; no action. Big hat; no cattle. We talk a good game, but we can't come through. And that is a serious indictment of the United States.

Friends such as Colombia, and I might even add Korea, who are helping us fight terrorism, fighting for freedom in their parts of the world, want to open their markets to U.S. goods and embrace America's values.

Under President Uribe's leadership, tremendous strides have been made in the last 5 years. Colombia is a functioning democracy in an area surrounded by socialist anti-American vitriol.

The fact that Colombia still faces challenges and needs continued reforms should not lead us to withdraw support for this agreement. Rather, we should increase our support to help Colombia strengthen its democratic institutions, implement continued social reforms, and strengthen its legal proceedings.

Approving the Colombia FTA will embolden President Uribe to continue to make these positive reforms and keep Colombia on the right path.

As for the economic benefits, as I have said, if the strategic and geopolitical benefits were not enough, I believe the economic interests in supporting free trade are just as compelling.

As anxiety increases about what most analysts agree is the beginning of a recession, a sure way to help head it off is through increasing free trade and opening markets abroad to sell U.S. goods. Yet the Colombia Free Trade agreement, as have other negotiated FTAs, has been held hostage by shortsighted politicians and Presidential election year politics. These politics are denying American producers and exporters expanded markets.

Now, my colleague and good friend, our leader, Senator MCCONNELL, has already talked about an 80-percent tariff on beef going into Colombia. It is not just Kentucky beef producers, it is Missouri beef producers, it is America's beef producers who want to have access to that market because that is going to be an important market to them.

But look at the others. Here is what the U.S. workers have to pay for the goods they produce to export, and that is a tariff—a tax—on what they are exporting.

Automobiles: American workers pay 35 percent in tariffs put on by Colombia. They pay 2.5 percent. Furniture: a 20-percent tax on goods going into Colombia. Mineral fuels: 5 to 15 percent. There is no tax on fuels coming into the United States. Cotton: Our cotton farmers have to pay a 10-percent tariff going into Colombia. They pay less than 4 percent. Metal products: Our workers in the metal products industry are hampered by 5 to 15 percent. They pay zero. Computer products: We are taxed 10 percent on computer products we send to them. They pay no tax. They come in free.

Why is this not a good deal? It makes no sense. These are efforts that could increase by $1 billion our trade with Colombia.

I remember in 1999 going to the battle in Seattle. There were people demonstrating against world trade. There were longshoremen up there. They were out demonstrating against free trade. Without international trade, they have no job. There were workers at Boeing in Washington who were demonstrating against free trade. Over half their business is in world markets. There were teamsters up there demonstrating against free trade. The largest teamster employer in the United States, I understand—at least at the time—was United Parcel Service, UPS, but for every 40 packages UPS sends abroad, they hire another teamster.

We need to get real about economics. Free trade is in our interests.

Some people have been throwing around the term ''Hooverism.'' They are worried about Hoover economic policies, and I think they are right, because President Hoover made some disastrous decisions that kept us not only in recession but deepened it into a long-serving depression we only came out of with World War II. In 1930 he signed the Smoot-Hawley Tariff Act, setting off a wave of protectionist retaliation and damage to the world economy. He damaged it more than the initial stock market crash did in 1929. Two years later, he undid the Coolidge-Mellon tax cuts, raising the top marginal income tax rate from 25 percent to 63 percent. Now, that is Hooverism: When you are in a recession, impose protectionist barriers and raise taxes. That got us the longest depression we have had in the last century and a half.

Unfortunately, we are hearing some people in the campaign talk about raising taxes and withdrawing from NAFTA, withdrawing and stopping free trade. That is a recipe for disaster. We need to look beyond the politics and look at the economics. Free trade expands not only economic and commercial ties, but it strengthens critical cultural ties and strategic alliances.

Yet many in Congress seem to care more about improving our image by talking with rogue regimes such as those in Syria, Venezuela, and Iran than working with and completing trade agreements with friends in places such as Colombia and Korea. Their denial of the Colombia Free Trade Agreement, if we continue on that path, would irreparably damage our ability to maintain and forge new strategic alliances with countries of the world.

To close, Secretary of Defense Robert Gates recently said:

> Continued progress in Colombia is essential to stability in the region . . . the U.S.-Colombia Trade Promotion Agreement will help a neighbor and a long-time ally continue putting its house in order under very difficult circumstances. It offers a pivotal opportunity to help a valued strategic partner consolidate security gains, strengthen its economy, and reduce the regional threat of narco-terrorism. This is an opportunity we cannot—and must not—ignore.

I could not agree more. We cannot continue to delay the U.S.-Colombia Free Trade Agreement. It will disadvantage America's economy and most certainly damage our reputation in Colombia, Latin America, and damage our national security interests. I join my colleagues in urging the House to pass the Colombia Free Trade Agreement.

I yield the floor.

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

Mr. CORNYN. Mr. President, may I inquire how long remains for morning business on this side of the aisle?

The ACTING PRESIDENT pro tempore. Seventeen minutes.

Mr. CORNYN. I ask unanimous consent that I be given half of that time, and the Senator from Florida, Senator MARTINEZ, be given the other half of that time.

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

Mr. CORNYN. Mr. President, I join my distinguished colleague from Missouri in talking about the Colombia Free Trade Agreement.

Last week marked the inauspicious benchmark for American companies that do business in Latin America, and there are a lot of them. Since the Colombian Free Trade Agreement was first signed in 2006—533 days ago—more than $1 billion in tariffs has been exacted against American companies that have sold their goods, their produce, to Colombia. Put another way, that is $1 billion in a missed opportunity.

The reason why that is a problem is because Columbia pays no tariffs or duty on their goods coming into the United States, of which my State is the single largest trading partner. They pay no tariffs or duty on their goods. So we have a decidedly unlevel playing field when it comes to goods and services that are exported from the United States to Colombia. It is something they are willing to level the playing field on if we will simply act, if the Speaker would call up the Colombia Free Trade Agreement for a vote in the United States House of Representatives.

I would think at a time when we are all concerned about the softening of the American economy and jobs here at home, we would want to create more jobs, producing goods for our farmers and greater markets for their produce in places such as Latin America. But

instead, we find this has become more or less a chip in a high stakes poker game. It is totally inappropriate to the responsibility we ought to demonstrate with regard to one of our best allies in Latin America and America's national security and economic interests.

As I mentioned, last year Colombia bought about $2.3 billion in goods and services from the State of Texas. This has been good for our economy, good for job creation and, as I said, Colombia has been an important ally in fighting the narcoterrorists, the FARC in particular, who have had it their way unimpeded far too long in Latin America, and particularly in Colombia.

After more than a year of being stalled by Speaker PELOSI, the President was finally left with no option but to send this Free Trade Agreement for fast track approval. But rather than Congress doing its job—acting on this Free Trade Agreement on an expedited timetable—Speaker PELOSI went to the most extreme lengths to avoid a vote on this critical agreement. The Speaker of the House, instead of following the rules, decided to rewrite the rules to avoid the possibility of this coming up for a vote in the House of Representatives.

Unfortunately, this isn't the first time politics has taken precedence over our national security and economic interests. I remind my colleagues we are still waiting for the House of Representatives' cooperation to finally enact essential reforms our intelligence community needs to timely receive accurate information through something known as the Foreign Intelligence Surveillance Act. I want to come back to that in a moment, but I think it is instructive to look at this chart to see exactly what I was referring to when it comes to the importance of this free trade agreement for the United States from an economic standpoint.

As I indicated, without the passage of this free trade agreement, American goods and services continue to bear a tariff as they are exported to Colombia and imported into Colombia. For automobiles, it is 35 percent; furniture, 20 percent; mineral fuels and coal, 5 to 15 percent; cotton, 10 percent; metal products, 5 to 15 percent; computer products, another 10 percent. If Speaker PELOSI would simply allow the Colombian Free Trade Agreement to be voted on in the House of Representatives, I am confident it would pass, and this 35-percent disadvantage for our domestic auto manufacturers, which are particularly suffering in these slower economic times, would go from a 35-percent tariff down to zero. Likewise for all of the other goods I mentioned a moment ago. This is most decidedly in America's best interests. This is most decidedly in the best interests of a strong economy. Also, as I said, it is in the best interests of our national security as well.

With the current state of the economy, we have passed one or perhaps now two stimulus packages with discussion of passing yet another. But I continue to believe the most effective way to jump-start our economy is to put more money into family budgets. One thing that is clear to me is that giving American businesses a fair path to compete in foreign markets will bring money back to the United States and back to the people, particularly small businesses and farmers who work so hard here in America to keep our country prosperous and provide for their families. Growing businesses mean growing wages, growing jobs, and a growing economy. There is no better way in these uncertain economic times to help our economy grow than to create new markets in places such as Latin America, and particularly with one of our greatest allies in Latin America, the nation of Colombia.

But in addition to helping our own businesses in America, we need to consider the additional benefits of granting a meaningful agreement to our strongest Latin American ally. This agreement would be a strong showing of our support for the reforms that are continuing in Colombia and the leadership, at great risk to President Uribe in particular, when it comes to improving its democracy, respecting the rights of all of its citizens, and fighting against the drug cartels and terrorist organizations and the like.

Unfortunately, I think we too often neglect our Latin American neighbors, both when looking for partnerships and when identifying threats. We are well familiar with the rhetoric of President Hugo Chavez of Venezuela and, frankly, I think there is nothing that Hugo Chavez would like better than for Speaker PELOSI to prevail in her attempt to block a vote on the Colombia Free Trade Agreement. After all, Venezuela is a next-door neighbor, and President Chavez, who has been host to President Ahmadinejad of Iran and who has made himself an enemy of the United States, has to be enjoying the blocking of this free trade agreement, because he can say to President Uribe and like-minded democracies in Latin America: This is what you get when you cooperate with the United States.

That is exactly the opposite message we need. We need a message which portrays that when you cooperate with the United States in terms of developing your democracy, opening your markets to our goods and produce and services, when you cooperate with the United States to fight narcotraffickers and to bring peace and stability to your country, we will be your strongest ally and we will be your best friend. Unfortunately, the message we see being sent by Speaker PELOSI is that rather than treating the nation of Colombia as one of our best friends in Latin America, they are being demeaned into being treated as nothing but a poker chip in a high stakes game of cards. It is not right.

Mr. President, I yield the floor.

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

Mr. MARTINEZ. How much time remains in morning business?

The ACTING PRESIDENT pro tempore. Nine minutes.

Mr. MARTINEZ. Mr. President, I wish to follow the comments of my colleague from Texas, Senator CORNYN, who so aptly framed this issue of the Colombia Free Trade Agreement. I wish to focus on a couple of points.

Senator CORNYN pointed out that the differential in tariffs is tremendous. Now, what does it mean to the American worker? It means if an American worker is manufacturing something that is sold overseas, when that product is being sold in the Colombian market—suppose it were a heavy piece of equipment made by Caterpillar and is going to be sold now in Colombia to build roads or other things that are happening there because the country is prospering as a result of President Uribe's leadership—that particular piece of equipment is now competing in the Colombian marketplace with one made in Japan and one made in Germany. The American piece of equipment today has to pay that tariff.

As we speak, Colombia is negotiating a free trade agreement with the European Union. As soon as that is done, they will have the opportunity to then bring their product in at a tremendous advantage over an American product. Canada is in the process of negotiating a similar type agreement with Colombia. Mexico already has negotiated one. So when it comes to American manufacturers, the advantage to the others is going to be that over time, these trading patterns will be set with other countries. Contracts will be made with the others because of the tremendous advantage. While they may prefer an American-made good, they are now going to pay an extra 35 percent for it, and as the American good goes in there with a tariff, the advantage will be to our foreign competitors.

This is a global marketplace. Colombia has other trading opportunities. As they work and create free trade agreements with other marketplaces, they will put American products at a tremendous disadvantage going into the Colombia market. That may not just be for the one particular sale. That is going to be for time on into the future because, as I say, trading patterns will be set and contracts will be made, many of which could have a long-term impact. So it is not good in that respect. It is not good because American jobs would not be created. I was in Tampa with the Ambassador from Colombia on Monday. We have an opportunity in that very important trade city, the port of Tampa, and for the American economy. The fourth largest trading partner using that port is Colombia. For that very reason, the longshoremen's union in Tampa is in favor of this agreement because they know it will mean more jobs.

In the first year this agreement is in place, our trade with Colombia will increase by $1 billion. That increase will translate to not only jobs but good-paying jobs in the cargo area of the airports, as well as in our ports and harbors. These are good-paying jobs, which pay well above the minimum wage. These are the kinds of jobs we need to create in Florida and across the United States so the American worker can benefit from this enhanced trade relationship.

There is another dimension to this problem, which I know has been touched upon, and I wish to put my two cents in. We are in an ideological battle in Latin America. The fact is the Cold War ended, and we pretty well let our guard down in terms of this ideological competition. Well, it is back in a big kind of way. We have the country of Venezuela, under the rule of a tyrant, who is less democratic every day and who has maniacal ambitions of conquering the entire region. He talks of a Bolivian revolution. That ideology is rooted in the Castro brothers in Cuba, who have given him the playbook, if you will. On the other side of Colombia is Ecuador. We know Colombia, for 40 years, has been in a fight with terrorists, with those who would subvert the democratic process. Colombia has had a long and established tradition of democracy. This tradition is now threatened by the FARC, the narcoterrorists who have been kidnapping, killing, and maiming in Colombia for a number of years.

We know, because of recent incidents that have occurred, that the Venezuelan Government, with assistance from the Cubans, has been funding and giving all sorts of resources to the FARC. The fact is the FARC is in existence today in large part because of the support they are getting from Venezuela. Venezuela now is engaging in new negotiations with Russia, and Hugo Chavez will be traveling to Russia in the near future to sign another large arms agreement. With the price of oil at $120 a barrel, Venezuela is awash with cash that it is utilizing to interfere in the internal affairs of other countries in the region, with Colombia, with the FARC, and it is also interfering in the political process in other countries, where large sums of money are being passed to the political candidates of their favor.

The United States is AWOL in the region. We need to engage there. The worst message we can send to those who look to the United States for leadership and partnership and friendship is we are an uncertain ally, that we will not even go into a free-trade agreement which, in fact, is to the great benefit of the United States, simply for politics as usual in Washington. That is unacceptable.

I submit it is in the long-term best interest of the United States, not only from an economic standpoint but also from a geopolitical standpoint, from the regional implications of the trade agreement, and what it would mean to all those in the region who look to the United States for a signal: Are you with us or will you ignore us? Are you going to support democracies or not stand behind democracies?

The time is now. I know the Hispanic community of America looks upon this agreement as a signal. I know there is a great movement afoot by those who deeply care about the region and about the need for this agreement to help create jobs in America, and it is going to be felt and heard throughout this Nation.

So I am pleased to join my colleagues in talking today about the virtues of the free-trade agreement with Colombia. It is important from an economic standpoint, and it is important to create jobs. I know it will create jobs in Florida. I know it will create jobs in other parts of the United States. I know it is good for Colombia. It will tighten and close ranks with a country that is our ally and long-time friend.

I believe the time has come for this agreement to get an up-or-down vote on the floor of the Senate and in the House. It is time for Speaker PELOSI to not play politics with something of this importance, this magnitude. I ask that the free-trade agreement with Colombia be brought to a vote and that we have an opportunity to engage with this close ally and friend.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, how much time remains on our side for morning business?

The PRESIDING OFFICER. There are 1½ minutes.

Mr. CORNYN. Mr. President, I thank my distinguished colleague from Florida for his leadership on this issue. This is not one of those issues that grabs a headline, but it is certainly one that is very important to the economy of the United States, and it is important to our national security.

There is one other point I wish to make in that regard. For those concerned about the exodus of individuals from Latin America and other parts of the world who are looking for jobs and opportunities because they have none at home, this is an important part of our overall strategy to try to see that people have jobs and they have hope where they live, so they don't feel compelled to have to come to the United States in order to get a job and provide for their family. This is an important part of our strategy across Latin America.

There is another initiative that I think we will be hearing more about soon, called the Meridia Initiative, to help our ally in Mexico, President Calderon, as he fights the drug cartels down there, for the future of that country, which of course is on our southern border, 1,600 miles of which is common border with my State of Texas.

Whether we like it or not—and I know some people don't—our fate, in many ways, and our economy and our security are inextricably tied to countries in Latin America, in the Western Hemisphere. It is not smart—it is perhaps even naive—to think we can ignore what is happening in Colombia, in Mexico, and we can fail to come to the aid of our allies and people who are like-minded in wanting to establish democracy, security, and prosperity in those countries. It is naive to think we can simply turn a blind eye to things such as the Columbia Free Trade Agreement and the Meridia Initiative to help President Calderon in Mexico fight the drug cartels, in what is a fight for the future of that great country on our southern border.

I yield the floor and yield back the rest of our time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, what is the present business of the Senate?

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

## FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2284, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to S. 2284, a bill to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

Mr. DODD. Mr. President, my colleague from Louisiana would like to enter into a discussion. Before we make any additional motions, I yield the floor to my colleague.

Mr. VITTER. Mr. President, I thank the chairman and ranking member for their cooperation and help on this bill. As they know, this issue and this bill is an enormous concern for all of us in coastal regions. In particular, my colleague from Louisiana and myself and the two distinguished Senators from Mississippi have been very focused on this bill and on several amendments, also, that we believe are absolutely critical to improve it as we reauthorize this necessary program.

As we have told the chairman and the ranking member in discussions over many weeks, we have no intention to obstruct and filibuster and stand in the way of reauthorizing this important program. But we do have to have

the ability to have a fair debate and a set of votes on crucial issues, amendments that are important to us.

In that spirit, in that vein, we took all of our amendment ideas and narrowed them down dramatically to a universe of about six or seven amendments between the four Senators from Louisiana and Mississippi. We have had productive discussions in that regard with the chairman and the ranking member. I wanted to engage in this discussion to receive assurances that the chairman and ranking member will do everything possible to ensure that our narrowed-down universe of crucial amendments gets quick, efficient but fair consideration on the Senate floor and a vote.

Mr. DODD. Mr. President, first, let me thank my colleague from Louisiana and the Senators from Mississippi for their willingness to sit down and try to consolidate this so we will have a finite number of amendments that we can work through that are their particular concern. I pledge to him, as I have to his colleagues from the gulf States area as well as other coastal State Senators representing coastal areas of the country, I am determined, as I know Senator SHELBY is, to move through this bill, to give each of these amendments fair consideration, to make sure there is a full opportunity to debate them. There will be a full hearing on them. I cannot pick outcomes, but certainly the right to offer amendments, to be heard and debate them and vote on them, I am determined to make sure that happens. From my conversations with Senator REID, the majority leader, I can tell my colleague that he is determined as well to make sure there is that opportunity, that there is going to be a full discussion and debate. My only advice is the sooner we get going, the greater likelihood we get through that process. He has my assurance that I will do everything to make sure that opportunity will be there.

Mr. VITTER. On behalf of my colleague from Louisiana, my two colleagues from Mississippi, and myself, I thank the Senator and the ranking member again for their cooperation. We look forward to that very efficient but full and fair debate and vote on those amendments that are important to us. I will very quickly confer with the rest of them and make sure they do not have any outstanding issues, so we can move forward and get going.

I yield the floor.

Mr. DODD. Mr. President, I suggest the absence of a quorum. Before I make a motion, I will wait for the Senator to let me know.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, it has been a half an hour since we had the colloquy about moving forward on the flood insurance bill. My commitment to the Senators from Louisiana and Mississippi was that we would move these amendments along. In fairness, I have to say, if it takes a half an hour to obtain approval on a unanimous consent to vitiate or at least to deem the 30 hours that remain on the motion to proceed to expire so we can move to the body of the bill and amendments—I know the majority leader wants to consider this bill. He would like to do it in the normal, routine way. Amendments are offered, debated, voted on, and move on to the next amendment. But here it is, a half an hour since we entered into that colloquy. We are here on Wednesday to complete the bill. There are about 20 amendments I am aware of—6 or 7 on the Republican side and easily that number on the Democratic side—that Members want to be considered.

If this bill is not done, the program expires. I can't, obviously, predict the schedule. The majority leader has that responsibility. But knowing what work we have to do in the remaining weeks, it may be difficult to get time. The majority leader has been extremely generous in providing this time so we could reconstitute the flood insurance program. In the absence of doing so, the flood insurance program will expire, as we move into hurricane season. This is the opportunity to deal with it. I have made a good-faith commitment that I will allow for these amendments to come up, be debated, and voted on up or down. But it will be hard to fulfill that obligation if I can't even move to have the time on the motion to proceed considered expired.

For those listening, I appreciate if we could get an answer quickly and then bring up the amendments. Then let's move on them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007

Mr. DODD. Mr. President, I ask unanimous consent that all postcloture time be deemed expired, the motion to proceed be agreed to, the motion to reconsider laid upon the table, and the Senate now proceed to the consideration of Calendar No. 460, S. 2284, the National Flood Insurance Act amendments.

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

Mr. DODD. Senator SHELBY, my ranking member, will be here shortly. We now invite Members to come and offer amendments. We would like to get time agreements, if we could, under each amendment so we could give our colleagues an indication of how much time may be necessary.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2284) to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

AMENDMENT NO. 4707

(Purpose: In the nature of a substitute)

Mr. DODD. Mr. President, I call up the substitute amendment and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself and Mr. SHELBY, proposes an amendment numbered 4707.

(The amendment is printed in the RECORD of May 6, 2008, under ''Text of Amendments.'')

Mr. DODD. Mr. President, again, we would like to have Members come over and offer amendments so we can move along. The leader has indicated he wants to complete this bill over the next day or so. We would like to do it and do it under the normal procedures where amendments are offered and debate and votes occur thereafter. The Senator from Alabama and I are prepared to entertain amendments. There are some 20 of which we are aware. The sooner Senators come over and offer their amendments, the quicker we will be able to dispose of them.

Again, I thank Senator SHELBY and the members of the committee. This is a matter that deserves our attention. We are only a few weeks away from hurricane season. We are literally having to pay on a debt of $17 billion. That is causing the rise in the cost of insurance to a point where people have a hard time paying, if the program exists at all. This bill forgives that debt, which we have to do, and then reestablishes a program that people will pay into so they can have that kind of coverage.

In the alternative, if we don't do that and we end up with the kind of devastation we see happen all too often—you only had to look at the morning newspaper and what happened in Myanmar, where literally thousands lost their lives, but certainly we saw it here in 2005 with the sweeping hurricanes that poured across coastal States and the damage we are still wrestling with in many areas—if we end up not adopting this legislation and getting this work done, those costs could fall on the backs of every taxpayer in the country.

That is why this insurance program exists. That is why it was created some 45 years ago. It has worked tremendously well. We need to once again put it in place. That is our goal and our purpose. The sooner we deal with the amendments, the greater the opportunity to reestablish this critical program for the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I am happy we are here. Let me ask a question, if I may, of the floor manager, Senator DODD.

I just walked onto the floor from a hearing we are having in Homeland Security and Governmental Affairs. Do I understand we have agreement now to proceed to the bill? I don't have an amendment to offer, but I understand we are ready to accept amendments.

Mr. DODD. We are ready to proceed.

Mr. CARPER. That is good news. What did we have for the vote yesterday?

Mr. DODD. The vote was 90 to 1, a rare occasion.

Mr. CARPER. We are wasting way too much time on the floor. I am delighted that we finally have agreement to go to the bill. I thank you and Senator SHELBY for leading us here today.

Hurricane season in the Atlantic opens officially on June 1. Today is May 7. That is about 25 days from now—less than a month. Thousands of homes, actually tens of thousands of homes along our coast, from Florida up to New York, probably, and down around the gulf coast, are going to be at risk from flooding from what are likely to be more devastating storms. You don't have to live along one of our coasts to be at risk. Many will recall, earlier this year, parts of Missouri, parts of Illinois faced the worst flood they have seen in decades.

In Government, we are often asked to respond to terrible natural disasters, and we do, providing, among other things, emergency shelter and financial aid for people who lost a lot, maybe in some cases have lost everything. Today, we are being asked to step up before the next disaster strikes by overhauling our Nation's flood insurance program.

I was talking with a member of my staff walking over here about how long ago this National Flood Insurance Program was created. It has been 40 years. As I recall from my Bible study as a youngster, that is about how long Moses led the children of Israel through the wilderness trying to look for the Promised Land.

We have been looking for the ''Promised Land'' with respect to the right balance of premiums, risk abatement, flood mapping—you name it—we have been looking for the ''Promised Land'' for the National Flood Insurance Program for about 40 years.

For the first 25, maybe 35 years, 37 years of the program, we kind of muddled along. The program pretty much paid for itself but not entirely. There were some efforts back some 20 years ago to actually change the program to try to bring it into the 21st century, and we ultimately were not successful.

About almost 3 years ago—remember the story of the Red Sea, the children of Israel going through the Red Sea in hot pursuit by the Egyptians? The Israelis made it through and the Egyptians did not, as I recall. About 3 years ago, as to the National Flood Insurance Program, we did not make it through the ''Red Sea.'' In fact, we did not make it through Katrina. In fact, the program was engulfed by water, by floodwaters, and to the tune of about $20 billion. That is the amount of money FEMA had to borrow from the Treasury in order to try to write this program. Now we are spending more money. The program is marginally self-supporting. We have a huge interest payment to make on it, the $20 billion loaned by the Federal Government.

So, in any event, enough of my Biblical analogies today. But actually it is not a bad one. We need to find the ''Promised Land.''

I am encouraged today by the debate on this bill. It is a good bill. It was worked on a year ago in the Banking Committee. It was reported out. It got through the House, got through the Senate, and died. We cannot let that happen again.

But when the flood insurance program was established some 40 years ago, it was established as a three-pronged program involving three things: One, insurance; two, mapping, flood maps; and, three, smart land use.

Today, that same flood insurance program provides insurance to more than 5 million property owners across America.

Before Hurricane Katrina, as I said earlier, the flood insurance program was marginally self-supporting. But the now famous 2005 hurricane season, which included Katrina—not only Katrina but other big storms as well—caused the folks at FEMA to go out and borrow $20 billion from the Treasury. When the Treasury lends $20 billion to FEMA, they do not say: Here, take $20 billion tax free or interest free.

You have to pay the interest. The interest on that debt eats up a big part of the premiums paid by those 5 million property owners.

For 20 years prior to Katrina, the flood insurance program needed to be reformed. It needed to be overhauled. This week, finally, at long last, we can do that, and I hope we will.

Some 20 years ago, I was in the House of Representatives, a Congressman and a member of the House Banking Committee. At that time, Hurricane Hugo was bearing down on the east coast. I was part—along with some of my other Banking Committee colleagues in the House—of an effort to overhaul the National Flood Insurance Program two decades ago.

At the time, we were concerned about a couple matters. We were concerned about the low participation in the flood insurance program. We were concerned that too few people were participating. That meant too big a risk, in my book, for the homeowners as well as the Federal Government, which often bore the cost.

At the time, I proposed to increase participation by requiring mortgage lenders to escrow flood insurance payments, just like they escrow payments for homeowners insurance.

In addition to the low participation rate, we were also concerned that a small percentage of properties had been responsible for more than one-third of all claims, costing roughly $200 million each year to rebuild or repair properties.

To help correct this, our proposal back then included a call for floodproofing or removing from the program high-risk properties, while reserving a small amount of funds collected from the flood insurance premiums to pay for this.

In addition, in 1988, 1989, we sought to limit new construction in coastal areas that were quickly eroding. Our proposal also sought higher risk-based premiums for those who lived in the most vulnerable locations.

In 1989, a bill to reform the flood insurance program passed both the House and the Senate. It was not as far-reaching as the original proposal I and others worked on. I called it at the time ''flood insurance reform lite,'' but it was, nonetheless, a step in the right direction. But, unfortunately, that modest bill never made it to the President's desk, and for almost another 20 years the flood insurance program has continued pretty much as it was—broken and in need of repair.

Last year, the Senate Banking Committee, under the leadership of Senator DODD and Senator SHELBY, approved a truly comprehensive flood insurance reform bill. This is not ''flood insurance reform lite.'' This is the real deal. There is nothing ''lite'' about it.

Unfortunately, the bill we approved was reported out, came to the Senate floor and stalled and was withdrawn. I think I said earlier our legislation a year ago passed the House and Senate. I was thinking about 20 years ago. That legislation passed the House and Senate, only to die, as I recall, in conference. This flood insurance reform initiative started last year made it to the Senate floor and stalled out.

Today, the Senate has the opportunity to breathe new life into this badly needed legislation. It is imperative we seize the day or, as we say in Delaware, carpe diem: seize the day.

Where are we today? Today, almost 3 years after Hurricane Katrina, and almost 20 years since our attempts in the late 1980s, we have another chance to put the National Flood Insurance Program on solid footing.

So what are our main concerns in 2008? Well, the low subscription rate, for one. The relatively small number of properties that continue to flood year after year is another. And the subsidized premiums that do not reflect the vulnerability of many properties insured under the program remain a big concern.

We need legislation that will require us to better consider where we build

and rebuild in this country, how we build, and how we allocate risk.

The bill that is before us today, the Flood Insurance Reform and Modernization Act of 2008, is a bipartisan bill, reported unanimously out of the Senate Banking Committee about a year ago.

I wish to take a moment, if I can, to highlight some components of this bill, some of the major aspects of this bill.

The devastating 2005 hurricanes resulted in FEMA, as I said earlier, borrowing almost $20 billion from the Treasury to pay flood claims. That is more than the flood insurance program has paid out in its entire history. In order to pay their claims, Congress increased FEMA's statutory borrowing authority from about $1.5 billion to some $20 billion. Annual interest on this debt owed by FEMA to the Treasury is about $1 billion a year.

In order to pay the interest on the current debt, flood insurance premiums would have to increase significantly. To prevent that, this bill takes the step of forgiving $20 billion of debt owed by FEMA to the Treasury. This bill also requires that FEMA set aside in a reserve fund an amount equal to 1 percent of all insurance in force to serve as a financial buffer for future disasters. This bill mandates that more property owners be required to purchase flood insurance, including those who live behind levees and dams and property owners in the 100-year flood plain.

Homes in flood plains are in greater danger of flooding, even if there is a levee. Families need to be protected whether the levee works or not. This bill requires that property owners pay the actuarial rate.

No longer will vacation homes and businesses be allowed to pay a subsidized rate, as they have been under the program for years. This is a fair and needed change. Why should vacation homes and businesses pay less than the residents who sit adjacent to them?

Perhaps, most importantly, this bill will compel FEMA to modernize its flood maps. Technology now allows the creation for exact detailed flood maps. Because many of these maps are now decades old, we do not even know who is in danger of flooding and who needs flood insurance in many cases. This has to change. Under this bill, it will.

Again, this bill is a bipartisan product. It seeks to move the flood insurance program to the 21st century before the next ''Katrina'' strikes.

We have been joined on the floor by Senator SHELBY. I know it is something that is near and dear to his heart. He and I actually served on the House Banking Committee a few years ago. I think he may have actually come to the Senate by the time we were working on this legislation in the House at the time. I know this is something he cares a lot about, and he has been heavily involved in shaping this legislation that is before us today. I especially commend him for the good work he has done.

But for almost 20 years I have worked, along with a bunch of my colleagues, to make some meaningful reforms—badly needed meaningful reforms—to the flood insurance program.

Katrina exposed the problems with this program. Actually, we were aware of them before that time, but it showed the problems for what they are. Now it is time for us to roll up our sleeves and finally fix this program.

Abraham Lincoln used to say: The job for Government is to do for people what they cannot do for themselves. This program is a good example of that. People cannot go to the private sector—homeowners, businesses cannot go to the private sector—and get the kind of flood insurance this legislation provides. This is taking Lincoln's admonition to do for the people what they cannot do for themselves and actually put it into law. It has been part of the law for 40 years. We can do better, and we need to do better with respect to this program. That was driven home very clearly in the summer of 2005.

Going back to my Old Testament example, it has been 40 years since this legislation was passed. For 40 years, those children of Israel were following Moses, trying to find the Promised Land. We have been looking for it too in terms of actually the right kind of language, the right kind of legislation, the right kind of law to meet the insurance needs for folks—businesses, homes, and residents—who face the danger of floods. It has taken us 40 years to get it right. This is an effort I have been involved in for 20 of those years.

Looking out across from the ''mountaintop'' today, I see the ''Promised Land,'' and I see the ''Promised Land'' written on a piece of paper that we are going to be voting on today and tomorrow. My hope is a couple days from now—if we do not finish this legislation today—we are going to pass it and we are going to send it over to our friends in the House of Representatives and they will take it up and move it expeditiously.

We can do good for the taxpayers of this country who are literally having to underwrite the cost of this program, and they should not be doing that. We are going to better protect the folks whose businesses and homes are at risk, and we will do it in a way that harnesses common sense, harnesses economic forces and market forces. That will be a very good result.

Mr. President, I yield back the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I wish to make note before the Senator steps aside that last year Senator CARPER of Delaware held a very good hearing on the subject matter, and as chair of the full committee I am very grateful to him, one, for doing that but also for bringing his sense of knowledge and understanding to this issue. It is reflected once again in his comments this morning. So I did not want the RECORD to not include his contribution to this effort. I am very grateful to him for that.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that immediately following my remarks, the distinguished Senator from Ohio, Mr. BROWN, be granted the floor.

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

STAAR ACT

Mr. HATCH. Mr. President, I rise today to speak in support of S. 2313, the Strategies to Address Antimicrobial Resistance, or STAAR Act. I am proud to have introduced this legislation with my colleague from Ohio, Senator SHERROD BROWN. Similar legislation is being championed in the House of Representatives by Representatives MIKE FERGUSON and my dear colleague and fellow Utahn, Representative JIM MATHESON.

For more than 60 years since their discovery, antibiotics have saved millions of lives and helped patients of all populations cope with suffering related to infection. But as we have seen, our country increasingly faces a number of troubling questions about whether we are prepared to address the growing problem of drug-resistant, bacterial infections.

Data from the Centers for Disease Control and Prevention indicate resistant strains of infections have spread rapidly. While antibiotic resistance is an elevated problem for those with compromised immune systems—individuals with HIV and patients in intensive or critical care units, for instance—these infections can strike anyone. Further, this alarming trend continues to worsen and treatment options are sorely lacking.

Antibiotic resistance is not a new development. The news is this: Infections that were once easily cured with antibiotics are now becoming difficult—in some cases, impossible—to treat. National surveillance data and studies show antibiotic-resistant bacteria have multiplied and spread at disquieting rates in recent years.

For example, consider a common bacterial cause of hospital infections—Staphylococcus aureus, also called staph—which can spread to the bloodstream, heart, lungs and bones with potentially fatal results. In the early 1940s, penicillin effectively combated staph infections. However, penicillin-resistant staph bacteria were identified as early as 1942. Subsequently, methicillin was introduced in the 1960s to fight staph-resistant infections, and shortly thereafter methicillin-resistant staphylococcus aureus—or MRSA—was discovered. In 1974, 2 percent of staph bacteria found in our country's hospitals were methicillin-resistant. By 2002 the number had jumped to 57.1 percent, according to CDC data.

And it is not just happening in hospitals. Public health experts are increasingly finding infections developed in the home or community as well. Thus, infections in both settings are increasing and the resultant drug resistance shows no sign of lessening.

The recent problems with MRSA are but one striking example; we are also seeing increases, in extensively-drug resistant—XDR—tuberculosis. There are also numerous reports of soldiers returning home from Iraq with Acinetobacter—a resistant infection that is especially difficult to treat, and the only option is a very toxic antibiotic.

While recent media reports have raised the visibility of this issue, infectious disease doctors have been sounding the alarm for years.

In its 2004 report, ''Bad Bugs, No Drugs,'' the Infectious Diseases Society of America, or IDSA, said: Drug-resistant bacterial infections kill tens of thousands of Americans every year and a growing number of individuals are succumbing to community-acquired infections. An epidemic may harm millions. Unless Congress and the administration move with urgency to address these infections now, there is a very good chance that U.S. patients will suffer greatly in the future.

Resistant infections lead to higher health care costs because they require more expensive treatment and care. According to estimates from the Institutes of Medicine—IOM—and the former Congressional Office of Technology Assessment, the economic burden placed on our national health care system as a result of resistant bacteria totals billions of dollars annually.

IDSA, which represents more than 7,500 physicians, scientists, and other health professionals who specialize in infectious diseases, has issued a stern warning and recommendations. The I0M, CDC, NIH and the FDA have also warned that drug-resistant bacteria are a serious public health threat.

It is time to act.

That is why my good friend Senator BROWN and I introduced S. 2313, the STAAR Act. Our bill is not the sole answer to the complex problem of antibiotic resistance. There are several avenues to address the problem. But our bill focuses on just one: providing adequate infrastructure within the government to collect the data, coordinate the research and conduct the surveillance necessary to stop drugresistant infections in their tracks.

We believe that jump-starting a greater, stronger organizational focus at the Department of Health and Human Services will help our government and scientists develop an infrastructure that can grow as science develops. The STAAR Act lays out the framework by which we can begin to take action against this serious public health threat. At a minimum, we need better testing, hospital controls, medications and funding to support these efforts, particularly the work of the Centers for Disease Control and Prevention.

In an effort to create this organizational focus, the STAAR Act establishes a new Office of Antimicrobial Resistance at HHS in the Secretary's office. This will give the issue the prominence and the focus it deserves.

Our bill also renews the interagency Antimicrobial Resistance Task Force which expired in 2006. It creates an advisory board of experts to advise the new office and the task force, which was created in 1999, to coordinate Federal efforts to combat antimicrobial resistance and was comprised of representatives from the Centers for Disease Control and Prevention, the Food and Drug Administration, the National Institutes of Health and also includes the Agency for Healthcare Research and Quality, the Health Care Financing Administration, the Health Resources and Services Administration, the Department of Agriculture, the Department of Defense, the Department of Veterans Affairs, and the Environmental Protection Agency.

That task force developed a public health action plan to combat antimicrobial resistance; however, implementation of the plan fell by the wayside. There were no personnel specifically dedicated for executing the plan because all task force members already had full-time responsibilities at their respective Federal agencies. In short, this very important job was assigned to people who already had very important jobs. So our bill recharges that effort. These new bodies will work together to develop a plan to combat antimicrobial resistance, to keep that plan updated and to advise the Secretary on research that should be conducted.

The distinguished Senator from Ohio, Senator BROWN, and I have found that it is difficult to understand the magnitude of the problem because data are sorely lacking. Spotty data exists from many States—for example, from a hospital or a hospital chain—but not data statewide or nationwide. We need to change that. Our bill addresses that problem. The STAAR Act directs drug sponsors and appropriate government agencies to collect data and share them with the Office of Antimicrobial Resistance as the main depot for such data to facilitate interagency planning on antimicrobial resistance. That will provide us with the information we need to begin addressing the real problem of drug-resistant infections.

Finally, we authorize grants for at least 10 Antimicrobial Resistance Clinical Research and Public Health Network sites to strengthen our national capacity to develop the information necessary to assess the extent of the problem and look at effective ways to address it. Currently, there is very little capacity to quickly monitor, assess and address the spread of new or particularly resistant microbes. These network sites will work with the CDC to establish a surveillance system to allow tracking and confirmation of resistant microbes in almost real time. Also, with support from the CDC and the NIH, these sites will conduct research to study the development of antimicrobial resistance. With data from this research, we can better prevent and control and, ultimately, treat the threat of antimicrobial resistance.

I wish to take a moment to stress the real importance of this issue. I mentioned earlier that drug-resistant infections can affect anyone at any age—the young, the old, the healthy or ill, I have read stories about newborns, high school and college athletes and NFL football players who have battled with these resistant infections, and many of them lost the fight.

I would like to read a short excerpt from one of these stories, which I think really stresses the need for attention to this issue. This was written by a woman from New Jersey named Linda Lohsen, who lost her daughter Rebecca to MRSA in August 2006. Ms. Lohsen writes:

> Why do I want to share all of this with you? Because for 15 years I was a public health nurse—I heard all about the diseases that might happen. And, perhaps like some of you, I became jaded. I felt that public health was all about sounding the alarm for things that never come to pass. I'm here to tell you this is real, this does happen and it destroys lives.
>
> Rebecca's death has changed me, and has changed all of us. Once I believed that the dangers that were out there would stay out there. That modern medicine can avert these dangers. I no longer have the confidence in medicine that I did. I believe we have made great advances, that there are cures to be had, but I've watched the dismay in the faces of doctors who are supposed to be the best in their field as they told me they didn't have any more 'cures in their bag.' And I know that it truly is a practice of medicine, not a finished product.

Mr. President, Federal agencies, physicians and scientists who specialize in infectious diseases, and public health nurses like Linda Lohsen, are telling us there is a pressing need to address the problem of antimicrobial resistance. We do not have time to wait, and we cannot quickly fix something that we do not yet understand. As Mrs. Lohsen wrote, the dangers that are out there will not simply stay out there. We need to be aggressive in creating a strategy to prevent loss of life or a serious public health epidemic, and lift the economic burden on our health care system caused by antimicrobial resistance.

The STAAR Act is not the whole answer, but it is a good bill and an important step in the right direction. In addition to IDSA, the STAAR Act has been endorsed by more than a dozen highly regarded professional healthcare associations.

I am very pleased to sponsor this bill with Senator BROWN, and I commend him for his work on this bill, for his interest in national health care, and for the hard work he performs in the Senate. It is a privilege to work with him on this matter.

Of course, I urge my colleagues to support this bill. It is long overdue, and we should do everything in our power to make sure we solve these particular problems.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN. Mr. President, I thank my colleague, Senator HATCH, for his leadership on this issue and on so many other health issues. He has had a terrific career in public service, especially on public health issues such as MRSA, and we are all appreciative of that all over the country.

In the last year, as we know, we have seen news reports about outbreaks around the country of a dangerous infection commonly referred to, as Senator HATCH said, by the acronym MRSA. MRSA is a strain of staph infection that is resistant to penicillin and related antibiotics. While MRSA was previously thought to occur only in hospital settings—bad enough—Americans have begun to contract it in schools and communities.

Last year, the Journal of the American Medical Association reported that MRSA infections occur in approximately 94,000 people each year and are associated with approximately 19,000 deaths. Think about that. On September 11, 3,000-plus people were killed in New York, Washington, DC, and in Pennsylvania. Tens of thousands of people die in car accidents. We are talking about 19,000 deaths from MRSA infections, not to mention other kinds of related deaths from similar infections.

That article in the Journal of the American Medical Association is a wake-up call that we must not ignore.

In my State of Ohio, there were 12 outbreaks of MRSA last year alone. Ohioans contracted MRSA in health care settings, in the workplace, on sports teams, and in corrections facilities. The head of the Centers for Disease Control told me on the phone several months ago that high school students sharing towels or getting burns from artificial turf at football practice or coming into the gym and sharing a towel that might have been used the day before that wasn't washed—some students contracted MRSA from that. It is fairly rare that way, but it happens. Most students recover fine from it, but occasionally some do not.

MRSA outbreaks took place in counties across the State of Ohio, including Franklin, Gallia, Madison, Cuyahoga, Allen, Portage, Vinton, Fairfield, and Miami. If you look at a map of Ohio, outbreaks happened in all sections of our State.

Robert Totsch died in his hometown of Coshocton, a community in southeast Ohio, after contracting a hospital-acquired MRSA infection. Here is what happened to him. He was a kind and loving husband, father of two and proud grandfather of five. He was a retired guidance counselor, a Korean war Navy veteran who had served his country during that war. In September of 2006, Robert Totsch suffered a heart attack and needed triple bypass surgery. Once the procedure was over, his doctors told him the surgery couldn't have gone better. They said Robert would be home by the following Saturday in time to watch his alma mater Ohio State playing football on his own TV in his own house.

But Robert had contracted a surgical site MRSA infection that spread to his blood stream. The surgeon told him ''5 or 6 others in the intensive care unit had MRSA.'' Robert was given numerous antibiotics, including an antibiotic of last resort. While he was in the ICU on life support, Robert and his wife celebrated their 50th wedding anniversary.

Robert should have gone home. While he went into the hospital for a heart condition, it was not his heart problems that took his life. Robert's wife and children miss him every day and are still recovering from watching him suffer during those last days of life.

This story is painful, especially because we know this infection, and the deaths that have resulted from it, don't have to happen. MRSA outbreaks are part of the larger problem of what we lay people call ''superbugs'' that are resistant to antibiotics, which are the cornerstone of modern medicine, but they are under siege.

Over time, fueled by antibiotic misuse and overuse in farm animals and human beings, bacteria mutate to develop resistance to those antibiotics.

In response to this health care crisis, Senator HATCH and I introduced the Strategies to Address Antimicrobial Resistance Act, also known as the STAAR Act. That bill is meant to reinvigorate efforts to combat the so-called superbugs—efforts that accelerated in the late 1990s, and then stalled.

We need to respond more quickly to this problem because it will only grow with time, reversing years of progress in the fight against debilitating and deadly illness.

We know what antibiotics have done to save lives since the discovery of penicillin. Our bill will launch a coordinated effort to prevent outbreaks of MRSA and other dangerous drug-resistant infections. It would jumpstart research on the superbugs and explore strategies to ensure a robust pipeline for new antibiotic drugs.

Drug-resistant bacteria sets back the clock on medical progress. It costs more and, more importantly, it costs lives. No one should go into a hospital for one problem with their health and leave with another—or not leave at all.

We need to take antibiotic resistance seriously and fight it with as much passion as we fight any potential killer.

I thank Senator HATCH for his leadership on this issue and for introducing this bill with me. I look forward to working with him to help get it passed.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. WICKER. Mr. President, in a few moments, I will call up amendment No. 4719. I have been asked to withhold on that until the distinguished chairman arrives. At this point, I will simply describe to the Members of the Senate what my amendment does. May I proceed on that, Mr. President?

The PRESIDING OFFICER. The Senator is recognized for that purpose.

Mr. WICKER. Mr. President, my amendment No. 4719 would add an amendment to the National Flood Insurance Reauthorization Program to provide for multiple peril insurance. It would create a new option under the National Flood Insurance Program to offer coverage of both wind and flood risk in one policy. It is an idea that certainly makes sense to most Americans, particularly those along the gulf coast who have suffered the ravages of Hurricane Katrina and are still doing so 2½ years later.

The proposal requires that premiums for this new coverage be risk based and actuarially sound so that the program would be required to pay for itself.

The Congressional Budget Office has issued a statement about similar language that was included in the House legislation. I will come back to that in a moment or two.

CBO estimated that the multiple peril program would increase premium receipts and additional claims payments by about the same amount, resulting in no significant net budgetary impact. By covering wind and flood risk in one policy, the multiple peril option will allow coastal homeowners to buy insurance and know that hurricane damage would be covered.

I am pleased to announce to my colleagues that the Wicker multiple peril insurance program amendment, which I will call up in a few moments, has the backing of the National Association of Realtors. They have endorsed my amendment to add multiple peril insurance to the flood authorization bill.

Now, when we are embarking on a major change to a program, there are concerns that are voiced and need to be discussed. A number of people have expressed fears that multiple peril insurance would cause the displacement of jobs from the property insurance marketplace. In fact, I would contest that allegation and state to my colleagues this: The program will not create a sales force for Federal insurance agents. Indeed, in coastal communities, local insurance does not write wind insurance today. Of course, the local agents do write the traditional fire, theft, and liability insurance, and they earn commissions for the Federal policy, as they do now with the National Flood Insurance Program coverage. They will be able to continue to do so under the Wicker amendment.

Others have expressed concern that wind storm coverage is widely available and Federal involvement is not necessary. I would say this to that assertion: There is a difference between being able to purchase wind insurance

under a very expensive, limited State wind pool, which people are able to do, theoretically, and being able to purchase wind insurance and still be able to pay your mortgage because it is so expensive that the typical American family is not able to do so.

Indeed, wind premiums are increasing exponentially because the risk is contained in geographical boundaries of a given State. My amendment would correct that problem. Also, I think another myth with regard to multiple peril insurance is that it would dramatically increase the exposure of the National Flood Insurance Program and the Federal Government to catastrophic loss.

That is where I want to get back to fully quote the Congressional Budget Office in this regard. The explicit language of the Taylor amendment, adopted in the House of Representatives and adopted overwhelmingly in that body, on a bipartisan basis, provides that the premiums coming to the program will be actuarially sound and risk based. I don't think we can be any more explicit than that. If a Member of the Senate would like to come forward and make that a little clearer, I would be happy to have an amendment in that regard.

The House of Representatives said the premiums are based on risk, and they must be actuarially sound. Here is what the CBO had to say about the proposal as it was offered and adopted in the House of Representatives, which is virtually identical to the amendment I am offering today:

H.R. 3121 would direct FEMA to offer such multiple peril coverage at an actuarial, i.e., unsubsidized rate. Because of the uncertain nature of actuarial pricing, FEMA might collect more receipts than necessary to pay future claims, resulting in a net reduction in direct spending. It is also possible that FEMA might collect less premium income than would be necessary to cover future liabilities from multiple peril policies, which would likely result in the need for additional borrowing authority from the Treasury. In the latter case, the legislation would prohibit FEMA from entering into or renewing any multiple peril policy until such borrowing is repaid.

That is the one difference in my amendment and the House-passed amendment. But, specifically CBO goes on to say:

CBO expects that the new coverage offering under H.R. 3121 would increase premium receipts and additional claims payments by about the same amount, resulting in no significant net budgetary impact.

Mr. President, so we enter into a debate today on a commonsense proposal to allow the insurance consumer to know when he or she purchases hurricane insurance, there will not be a debate between wind and water in the courtroom, and the insurance customer, homeowner, property owner can purchase insurance with the knowledge that he or she is covered regardless of the nature of the peril and pay a premium that is adequate to purchase such coverage.

AMENDMENT NO. 4719 TO AMENDMENT NO. 4707

Mr. President, at this point, I think it is appropriate—and I am told the chairman has no objection—to call up my amendment No. 4719, which is at the desk. I do so now.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. WICKER] proposes an amendment numbered 4719 to Amendment No. 4707.

Mr. WICKER. Mr. President, 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 the optional purchase of insurance against loss resulting from physical damage to or loss of real property or personal property related thereto located in the United States arising from any flood or windstorm)

At the end, insert the following:

**SEC. _____. MULTIPERIL COVERAGE FOR FLOOD AND WINDSTORM.**

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

''(c) MULTIPERIL COVERAGE FOR DAMAGE FROM FLOOD OR WINDSTORM.—

''(1) IN GENERAL.—Subject to paragraph (8), the national flood insurance program established pursuant to subsection (a) shall enable the purchase of optional insurance against loss resulting from physical damage to or loss of real property or personal property related thereto located in the United States arising from any flood or windstorm, subject to the limitations in this subsection and section 1306(b).

''(2) COMMUNITY PARTICIPATION REQUIREMENT.—Multiperil coverage pursuant to this subsection may not be provided in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate mitigation measures (with effective enforcement provisions) which the Director finds are consistent with the criteria for construction described in the International Code Council building codes relating to wind mitigation.

''(3) PROHIBITION AGAINST DUPLICATIVE COVERAGE.—Multiperil coverage pursuant to this subsection may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by flood insurance coverage made available under this title.

''(4) NATURE OF COVERAGE.—Multiperil coverage pursuant to this subsection shall—

''(A) cover losses only from physical damage resulting from flooding or windstorm; and

''(B) provide for approval and payment of claims under such coverage upon proof that such loss must have resulted from either windstorm or flooding, but shall not require for approval and payment of a claim that the specific cause of the loss, whether windstorm or flooding, be distinguished or identified.

''(5) ACTUARIAL RATES.—Multiperil coverage pursuant to this subsection shall be made available for purchase for a property only at chargeable risk premium rates that, based on consideration of the risks involved and accepted actuarial principles, and including operating costs and allowance and administrative expenses, are required in order to make such coverage available on an actuarial basis for the type and class of properties covered.

''(6) TERMS OF COVERAGE.—The Director shall, after consultation with persons and entities referred to in section 1306(a), provide by regulation for the general terms and conditions of insurability which shall be applicable to properties eligible for multiperil coverage under this subsection, subject to the provisions of this subsection, including—

''(A) the types, classes, and locations of any such properties which shall be eligible for such coverage, which shall include residential and nonresidential properties;

''(B) subject to paragraph (7), the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such coverage;

''(C) the classification, limitation, and rejection of any risks which may be advisable;

''(D) appropriate minimum premiums;

''(E) appropriate loss deductibles; and

''(F) any other terms and conditions relating to insurance coverage or exclusion that may be necessary to carry out this subsection.

''(7) LIMITATIONS ON AMOUNT OF COVERAGE.—The regulations issued pursuant to paragraph (6) shall provide that the aggregate liability under multiperil coverage made available under this subsection shall not exceed the lesser of the replacement cost for covered losses or the following amounts, as applicable:

''(A) RESIDENTIAL STRUCTURES.—In the case of residential properties, which shall include structures containing multiple dwelling units that are made available for occupancy by rental (notwithstanding any treatment or classification of such properties for purposes of section 1306(b))—

''(i) for any single-family dwelling, $500,000;

''(ii) for any structure containing more than one dwelling unit, $500,000 for each separate dwelling unit in the structure, which limit, in the case of such a structure containing multiple dwelling units that are made available for occupancy by rental, shall be applied so as to enable any insured or applicant for insurance to receive coverage for the structure up to a total amount that is equal to the product of the total number of such rental dwelling units in such property and the maximum coverage limit per dwelling unit specified in this clause; and

''(iii) $150,000 per dwelling unit for—

''(I) any contents related to such unit; and

''(II) any necessary increases in living expenses incurred by the insured when losses from flooding or windstorm make the residence unfit to live in.

''(B) NONRESIDENTIAL PROPERTIES.—In the case of nonresidential properties (including church properties)—

''(i) $1,000,000 for any single structure; and

''(ii) $750,000 for—

''(I) any contents related to such structure; and

''(II) in the case of any nonresidential property that is a business property, any losses resulting from any partial or total interruption of the insured's business caused by damage to, or loss of, such property from flooding or windstorm, except that for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood or windstorm not occurred.

''(8) EFFECTIVE DATE.—This subsection shall take effect on, and shall apply beginning on, June 30, 2008.''.

(b) PROHIBITION AGAINST DUPLICATIVE COVERAGE.—Chapter 1 of The National Flood Insurance Act of 1968 is amended by adding at the end the following:

''PROHIBITION AGAINST DUPLICATIVE COVERAGE

''SEC. 1325. Flood insurance under this title may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by multiperil insurance coverage made available pursuant to section 1304(c).''.

(c) COMPLIANCE WITH STATE AND LOCAL LAW.—Section 1316 of the National Flood Insurance Act of 1968 (42 U.S.C. 4023) is amended—

(1) by inserting ''(a) FLOOD PROTECTION MEASURES.—'' before ''No new''; and

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

''(b) WINDSTORM PROTECTION MEASURES.—No new multiperil coverage shall be provided under section 1304(c) for any property that the Director finds has been declared by a duly constituted State or local zoning authority, or other authorized public body to be in violation of State or local laws, regulations, or ordinances, which are intended to reduce damage caused by windstorms.''.

(d) CRITERIA FOR LAND MANAGEMENT AND USE.—Section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) is amended by adding at the end the following new subsection:

''(d) WINDSTORMS.—

''(1) STUDIES AND INVESTIGATIONS.—The Director shall carry out studies and investigations under this section to determine appropriate measures in wind events as to wind hazard prevention, and may enter into contracts, agreements, and other appropriate arrangements to carry out such activities. Such studies and investigations shall include laws, regulations, and ordinance relating to the orderly development and use of areas subject to damage from windstorm risks, and zoning building codes, building permits, and subdivision and other building restrictions for such areas.

''(2) CRITERIA.—On the basis of the studies and investigations pursuant to paragraph (1) and such other information as may be appropriate, the Direct shall establish comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will assist in reducing damage caused by windstorms, discourage density and intensity or range of use increases in locations subject to windstorm damage, and enforce restrictions on the alteration of wetlands coastal dunes and vegetation and other natural features that are known to prevent or reduce such damage.

''(3) COORDINATION WITH STATE AND LOCAL GOVERNMENTS.—The Director shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of criteria established under paragraph (2) and the adoption and enforcement of measures referred to in such paragraph.''.

(e) DEFINITIONS.—Section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121) is amended—

(1) in paragraph (14), by striking ''and'' at the end;

(2) in paragraph (15) by striking the period at the end and inserting ''; and''; and

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

''(16) the term 'windstorm' means any hurricane, tornado, cyclone, typhoon, or other wind event.''.

The PRESIDING OFFICER. The Republican leader is recognized.

AMENDMENT NO. 4720

Mr. MCCONNELL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 4720.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that 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.'')

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report the motion.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the pending McConnell amendment to S. 2284.

Mitch McConnell, Pete V. Domenici, Robert F. Bennett, Judd Gregg, Chuck Grassley, Mike Crapo, Johnny Isakson, Norm Coleman, John Barrasso, John Thune, Michael B. Enzi, Lisa Murkowski, Orrin G. Hatch, Jon Kyl, John Cornyn, Lamar Alexander.

Mr. MCCONNELL. Mr. President, I support the flood insurance bill that has been reported out of committee. I think it is a good bill.

However, as important as it is that we strengthen the flood insurance program and get it back on sound financial footing, we cannot continue to ignore the No. 1 issue on the minds of the American people, and that is high gas prices.

Two years ago, Democratic leaders told us they had a ''commonsense'' plan to lower gas prices. But since they took control of the Congress, gas prices have risen by $1.29 a gallon, according to AAA.

At home in Kentucky, the average price of a gallon of gasoline is now $3.58. Diesel fuel—which runs our trucks and farm machinery—is now $4.11. This creates incredible hardships for families, small businesses, and farmers.

Apparently, the Democrats' commonsense plan is not working so well. In fact, the general thrust of their plan is to increase taxes on energy companies which would raise, not lower, gas prices. But Republicans do have a plan to reduce gas prices over the long term by increasing our supply of energy, American energy and American jobs, right here in our own country.

In last year's Energy bill, we passed a number of provisions that most of us supported to reduce the demand for oil, increasing fuel economy standards for both cars and trucks and increasing the use of alternative fuels. All of that was important and needed to be done. Those were important provisions. I certainly supported them and most of the Senate did as well, but we cannot seriously address the root cause of today's high gas prices without also addressing the issue of supply.

The senior Senator from New York, for example, said last week that 500,000 more barrels of oil per day on the world market would bring relief at the pump—500,000 barrels of oil per day would bring relief at the pump. I agree with him. The difference is, I believe we should produce those additional barrels of oil right here in America, with American jobs, to bring prices down. The fact is, if President Clinton had not vetoed a bill to open the Arctic National Wildlife Refuge 13 years ago, 1 million barrels of oil would be flowing from ANWR to American consumers every day—twice what the senior Senator from New York said would bring relief at the pump.

We will have a good debate on the flood insurance bill, and ultimately we will pass it. I certainly support that. But first we are going to discuss the only real plan that would address the root cause of today's high gas prices by increasing America's supply of oil and supporting American jobs here at home.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 4721 TO AMENDMENT NO. 4720

Mr. ALLARD. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 4721 to amendment number 4720.

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

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

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

Mr. ALLARD. Mr. President, I compliment the minority leader for stepping forward on the issue of meeting the energy needs of our country and the provision he has just proposed as an amendment to this particular bill.

I think it is very important that we move forward with creating more sources for energy. We have done a lot in this Congress to encourage and promote the development of renewable energy resources. In fact, as chairman and founder of the Energy Renewable Caucus, I have pushed that personally. I think it is extremely important. We have done a lot to promote this new technology, but the reality is, if we want to see pain at the pump immediately relieved, we have to do more.

What we do in the particular amendment that was introduced by the minority leader, we begin to open the more traditional sources of energy that we have here in this country—sources that are supported by an infrastructure that is already in place. Although we do need more of it, there is some degree of it already there. Also, it is supported by technology we have already pretty well developed, to one extent or another, although more technological advances need to be done. Those are the

traditional sources we find in the Arctic National Wildlife Refuge, where we have more than 1.2 trillion barrels of oil, and the Outer Continental Shelf, the extent of whose value and resources is huge. I don't know as anybody has ever been able to really anticipate how great are the resources we have, because we have a huge amount.

The provision also provides for opening the oil shale reserves we have in the State of Colorado—it is not only the State of Colorado, it is in the State of Utah and Wyoming. I am told we have well over a trillion barrels of petroleum that could be extracted from this resource. There is a total of somewhere around 1.7 trillion in that basin. Totally in the United States, we have well over 2 trillion barrels of shale.

The technology has been developed now where, in my State, the companies that have been working on it—primarily Shell—have indicated they have come up with a pretty high-quality jet fuel. It needs some additional refining, with sulfur and nitrogen. This particular amendment begins to address that.

In addition, we suspend the filling of the Petroleum Reserve. Right now, I am told there are about 70,000 barrels of oil being put in that Reserve on a daily basis. That will reduce the consumption of the petroleum products we have.

Also, it repeals permitting and drilling fees that have acted as a disincentive for oil companies and gas producers when this particular provision was passed in the 2008 Omnibus appropriations bill. Also, it encourages coal-to-liquid fuels and also talks about increasing our refinery capacity.

Right now, with all the various blends of fuel—some States have mandated 15 percent, in some cases as high as 20 percent—each time you have a different blend requirement mandated by a State, you have one refinery that gets dedicated to that particular blend. So we have a number of different States that are driving different blends of fuel. Then you have a different requirement for diesel fuel. What you do is you create a shortage of refiners. It kind of funnels down, and then, even if you increase production, you don't have the refineries available to kick out the particular blends we need to meet demands.

We need to do a lot in advancing our battery technology. Where you have intermittent renewable energy sources such as wind and solar, the Sun doesn't shine all the time, the wind doesn't blow all the time. We need to have a good battery technology that will carry and supply energy at the times we don't have the adequate supply of wind and solar to carry on the demands on that particular system.

We need to work more on biofuels. I am very excited. We put in incentives in this particular amendment to address that. I am excited; in Colorado, we have a biodiesel plant that takes the oil and grease and fats from restaurants, puts it together, and comes out with a biodiesel. It is a self-sustaining plant; they use the diesel they generate back into the plant to run their own electricity. It could be independent of the power lines, could be a stand-alone facility. It also helps us get rid of a byproduct out there that is a problem for our county dumps and whatnot. The exciting thing about this particular technology is it is to the point where they do not have to have government subsidies, which I think is a huge jump.

I mentioned the oil shale moratorium, removing that, which was in the fiscal year 2008 omnibus bill.

It also provides some reasonable approaches to the regulatory process so we can increase production on an emergency basis because we are facing an emergency situation in this country with the high prices we are facing here in America—and all over the world, as a matter of fact.

We all know the Senate has limited time left this year to debate important legislation. It is becoming more apparent and more clear to me that the Democratic leadership is staunchly opposed to doing anything that would alleviate the seemingly endless upward pressure on energy prices. That is why I am so excited about the fact that the minority leader has introduced this amendment.

Given their unyielding desire to increase taxes on much of the energy industry, I can only assume that the Democrats in Congress believe that steadily increasing energy prices provides political fodder upon which they can capitalize. Democrats in both Chambers appear beholden to the environmentalist agenda, a radical agenda that wholly disregards America's economy. Oblivious to prices at the pump and indifferent to from whom we import our oil, far-left environmentalists and their cohorts in Congress are failing their duty to the American public. The Congress has stymied efforts to produce trillions of cubic feet of natural gas, trillions of barrels of oil, and prevented the construction of new refineries, new powerplants, and hydroelectric facilities. This is bad policy.

America's economy may be struggling, but despite hard times, American businesses and consumers still demand energy. In oil alone, we consume over 20 million barrels a day. Since we only produce over 8 million barrels a day, the gap must be made up by purchasing oil from hostile and undemocratic nations such as Venezuela, Saudi Arabia, and Nigeria to meet our energy needs. We spend over half a trillion dollars each year importing foreign oil and it is far past time to rectify this unhealthy dependency.

The global price for petroleum reaches new highs every day and petroleum-related import have caused our trade deficit to increase by billions of dollar, According to a study by the Congressional Research Service in 2005 and 2006 alone, our trade deficit rose by $120 billion. As oil prices continue to rise and domestic energy production is further obstructed, America's trade balance will only fall deeper into the red.

As a senator from energy rich Colorado, I am on the front lines of the battle to increase our domestic energy production.

The Democrats continue to delay efforts to tap into a natural gas reserve below the Naval Oil Shale Reserve—often referred to as the Roan Plateau—that contains approximately 8.9 trillion cubic feet. We need this clean source of energy now.

Moreover, below the vast lands of Colorado, Utah and Wyoming lies roughly 1.5 trillion barrels of potentially recoverable oil. This amount dwarfs the reserves of Arabia and other petro-rich nations and new technologies that are continually emerging would allow us to responsibly extract this oil to help meet our demands. The benefits to Colorado and the American economy would be tremendous.

Something else that I don't believe we're talking enough about is the economics of this. Colorado, just like every other state is trying to find a way to pay for the many responsibilities and priorities set by the state legislature. Taxpayers are tapped out and there are still shortfalls. I would think that an infusion from a steady income source would be welcome. The BLM estimate that Federal royalties from production of natural gas within the Naval Oil Shale Reserve would be $857 million to $1.13 billion over the next 20 years.

Because these royalties are split with the state we are talking about—probably conservatively—$400 to $500 million going to Colorado. I think our school districts benefits from that kind of money.

I think that local police forces, fire departments, hospitals, roads and other state and community services benefit from that kind of money. I think the taxpayer benefits from that kind of money.

All of us here also know that national environmentalist groups have succeeded in pressuring members of Congress to mandate a lock down of what could be an immense treasure chest of oil in the Arctic National Wildlife Refuge. Not only have these groups subverted the widespread local support of Alaskans by prohibiting the potential extraction of oil, environmentalists stubbornly resist even moving forward with comprehensive testing that could result in the environmentally responsible development of parts of the ANWR.

There could be 5 to 15 billion barrels of recoverable oil there. There could also be much more, or much less. The point is we do not know because extremist environmentalists have convinced their friends in the House and the Senate to prevent us from finding that out. It makes one wonder what they are afraid we might find.

Moving to another part of the country, in April, the U.S. Geological Survey announced that 3 to 4 billion barrels of technically recoverable oil exists below North Dakota and Montana's Bakken Formation. This is 25 times more than what was estimated to exist in 1995.

These numbers are staggering and there are other examples where our aversion to responsible development defies common sense. Of course, we must continue our dedicated efforts to explore alternative sources of energy to meet our demand.

We have long advocated for a more diversified energy portfolio. But I do believe it is possible to develop sections of the Arctic National Wildlife Refuge, extract natural gas from the Rocky Mountains west and harvest resources in economically feasible ways that also protect our natural wonders.

We should not take increased production of any domestic energy source off the table. The longer we completely deny access to domestic supply, the more we exacerbate our current energy shortages. Possibly most concerning to me is the fact that the less we are able to produce our own energy sources, the more we will rely on foreign and possibly hostile sources for it.

We cannot solve the problem of soaring gas prices facing Americans today with any one solution, but we certainly should not allow the relentless push or environmentalists' narrow agenda to make this crisis even worse.

Mr. President, I ask unanimous consent for an additional 2 minutes to wrap up my comments.

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

Mr. ALLARD. Yesterday the national average for a gallon of gasoline was $3.62. What will the average gallon of gasoline in America have to cost for the leadership in Congress to step up to the plate with a comprehensive solution for consumers?

It is time for Congressional leaders to be a part of the solution and not the problem. It is time to put every idea on the table and responsibly develop some of the vast energy resources we have right here at home. It is time for common sense to prevail.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, we are about to go into recess here for the weekly lunches. I say to my colleague from Mississippi, Senator WICKER, and those who are interested in the addition of wind coverage in this flood insurance bill, I am not sure of the fate of this bill now in light of some of the motions that have been filed on a bill where I hoped we could deal straightforwardly with flood insurance issues. So it may all have come to naught, anyway, in all of this, which I regret deeply. But putting aside that possibility, I want to respond briefly on the wind request. I am very sympathetic to this request. It is a very legitimate issue to be raised about the damage that wind does. There was some $17 billion in claims on flood, of course; in fact, more than that. We are in arrears in that amount. We have no idea what the cost of this program would be with wind, if we add wind.

That is my problem with agreeing to the amendment of Senator WICKER and others. All of us who live in coastal States are fully aware of the kind of damage wind can produce. But in candor to my colleagues, if they turn to me and say to me: ''How much does this cost?'' I cannot answer. I am stymied in a sense to respond to the question. The estimates run high and low. What I am committed to doing—and I want my colleague from Mississippi and others to know this—we have a commission we have adopted in this legislation specifically for the purpose to getting at the bottom of this so we can develop a program that clearly would cover those kinds of circumstances.

There will be more debate and discussion. But I say to him, in candor, I am sympathetic. He makes a point I have made and others have made over the years, to those of us who live within 100 miles, as so much of the country does, of our coastal regions.

I have listened to GENE TAYLOR, a Congressman from Mississippi. He has come to my office and laid this out for me in detail. Senator SCHUMER of New York has talked about it, as well as Senator MARTINEZ has talked about it, the damage done in their respective constituencies as a result of wind damage.

The simple problem I have, if one of my colleagues turns to me and says: Can you tell me what this will cost under the program? I cannot answer the question. We are right now trying to, of course, excuse the $17 billion worth of debt that FEMA owes. That is part of the premium costs people are paying in. We need to get a program in place, because on June 1 hurricane season starts. In the absence of any program at all, this entire expense can fall in the taxpayers' laps.

We are all painfully aware of how damaging Mother Nature can be. The headlines of every newspaper in the country today are of course about the devastation in Myanmar where thousands have lost their lives. I presume with 120-mile-an-hour winds that ripped through these communities, it was not only flood damage that caused the tremendous destruction.

This can happen. It is happening all over the globe these days. So we need to address this. But in terms of this bill and trying get this piece done, it poses a significant burden for me as the chairman of this committee. This bill passed out of our committee unanimously and not without expressions being made by Senators SCHUMER and MARTINEZ about the wind issue.

Again, I am sensitive to their concerns. The flood program covers 5.5 million homes and businesses, and the wind program would substantially increase the number of policies provided by the Federal Government, taxing the administration of the program and putting taxpayers on the hook for greater losses, without any question.

In 2005, the hurricanes resulted in $17 billion in flood claims, an amount that completely overwhelmed the flood program. We collect $2.5 billion in premiums each year. About $1 billion of that is administrative costs. So when you are down to a fraction, you get $17 billion in claims on flood, how much would you have to raise those premiums to include the potential wind, where wind damage was five times that of flood in 2005, in those hurricanes that ripped through?

Again, I do not know the answer to those questions in terms of cost and what it would be. But it could literally price the program out of the possibility of people affording it. And what makes the program work is that people pay into it here that allows us to deal with these kinds of catastrophes without going to the Federal Treasury to pay for them. So an expansion of this size could literally overwhelm this program, the flood insurance that is at a significant risk of sinking under the weight of wind. Flood insurance is already in a precarious position. I want to make sure anything we do here will work to stabilize that program.

I am committed to finding a solution. In fact, had it not been for the housing crisis I have been literally spending 98 percent of my time on—and the Presiding Officer is a member of our committee—we are consumed with this issue of how we deal with foreclosures, which is also a problem, I might add, in some of the very States we are talking about that are facing these problems coming to hurricane season.

We would have spent a substantial amount of our time on these related issues, the catastrophic issues our colleagues from Florida talk about, my good friend, BILL NELSON, raises all the time that the people of Florida care deeply about. We will get to that. The problem is that the window is closing on our time to do things. This program expires in September, the flood insurance program—there is no program. So we have a limited window to get this right.

I deeply regret that people have come over offering cloture motions. The energy issue is huge. But when you end up messing up a piece of legislation such as this, despite my offers to everyone to have up-or-down votes on related amendments, to wind and flood and these problems here, it does not help.

An awful lot of people are going to get hurt. An awful lot of costs are going to go up. A lot of damage is going to be done because we cannot spend 24 hours around here doing one thing, and that is deal with flood insurance.

RECESS

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

Thereupon, the Senate, at 12:39 p.m., recessed until 2:15 p.m. and reassembled when called to order by the acting president pro tempore.

FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007—Continued

The ACTING PRESIDENT pro tempore. The Senator from Florida.

Mr. MARTINEZ. Mr. President, I rise to speak in support of the Wicker amendment, the multiple peril insurance provision. I want to share some thoughts with the Senate on this provision.

As a Senator from the State of Florida, little is of more importance to the average homeowner than their home insurance and the cost of that insurance.

The multiple peril insurance provision will create a new option in the National Flood Insurance Program to offer coverage of both wind and flood risk in one policy.

The program requires premiums for the new coverage to be risk-based and actuarially sound.

CBO estimates the multiple peril program ''would increase premium receipts and additional claims payments by about the same amount—resulting in no significant net budgetary impact.''

By covering wind and flood risk in one policy, the multiple peril option will allow coastal homeowners to buy insurance and know that hurricane damage would be covered.

The reason we have to consider this is because in Florida, the gulf coast and throughout the region we have experienced constricting effects in the market.

Insurance companies are pulling out. They are dropping coverage. State Farm, for instance, stopped writing residential, rental, and commercial policies just 2 months ago.

People in my State are finding it increasingly difficult to secure insurance, especially policies that cover both wind and flood damage. People who have paid every premium and never filed a claim are simply locked out of the market.

But insurance is only part of the solution. We also have to encourage mitigation.

The multiple peril program would strengthen coastal mitigation efforts by making the new coverage available only where local governments have adopted building codes consistent with International Code Council standards.

Most of the State-sponsored plans are not able to spread risk efficiently and not able to build up sufficient reserves to cover a major hurricane.

They are forced to charge higher and higher premiums to buy more overpriced reinsurance to keep up with their increasing liability.

The Federal multiple peril program will spread coastal risk geographically, in a much more efficient manner than the state pools.

I strongly support the Wicker amendment, and I encourage my colleagues to do the same.

I remind my colleagues that CBO expects that the new coverage offered under H.R. 3121, the Wicker amendment, would increase premium receipts and additional claim payments by about the same amount, and the CBO claims that the result would be no significant net budgetary impact.

For those reasons, I strongly support the Wicker amendment and urge my colleagues to vote in favor of it.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. VITTER. 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. VITTER. Mr. President, I rise in very strong support, with so many of my colleagues, of the Wicker amendment. As Senator MARTINEZ has talked about Florida, Senator WICKER has talked so eloquently about Mississippi, so, too, in Louisiana it is an absolute imperative that we address the wind liability coverage issue in this larger debate.

The single greatest obstacle to recovery in both of our States hit by Katrina and Rita is insurance. For so many of my constituents, insurance on the wind liability side is unavailable or, if it is available, completely, absolutely unaffordable. This Wicker amendment will give folks a new option. It won't mandate it, it won't push them into that program, but it will give them an option. Most importantly, it will give them an option without increasing any burden or risk to the taxpayer.

I want to repeat something that has been said, but it is vitally important for everyone to understand before we vote; that is, the CBO has made perfectly clear this amendment does not make the bill more expensive. It does not make the program more expensive. It does not cost the taxpayer for a very simple reason: There is a mandate in the language that premiums be set in an actuarially sound way to cover the risk.

I strongly support the Wicker amendment.

AMENDMENT NO. 4722 TO AMENDMENT NO. 4707

Having said that, I ask unanimous consent to set aside the pending amendment and call up Vitter amendment No. 4722.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment numbered 4722 to amendment No. 4707.

The amendment is as follows:

(Purpose: To increase maximum coverage limits)

At the appropriate place, insert the following:

**SEC. 33. MAXIMUM COVERAGE LIMITS.**

Subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (2), by striking ''$250,000'' and inserting ''$335,000'';

(2) in paragraph (3), by striking ''$100,000'' and inserting ''$135,000''; and

(3) in paragraph (4)—

(A) by striking ''$500,000'' each place such term appears and inserting ''$670,000''; and

(B) by inserting before ''; and'' the following: ''; except that, in the case of any nonresidential property that is a structure containing more than one dwelling unit that is made available for occupancy by rental (notwithstanding the provisions applicable to the determination of the risk premium rate for such property), additional flood insurance in excess of such limits shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount that is equal to the product of the total number of such rental dwelling units in such property and the maximum coverage limit per dwelling unit specified in paragraph (2); except that in the case of any such multi-unit, nonresidential rental property that is a pre-FIRM structure (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4014 note)), the risk premium rate for the first $500,000 of coverage shall be determined in accordance with section 1307(a)(2) and the risk premium rate for any coverage in excess of such amount shall be determined in accordance with section 1307(a)(1)''.

Mr. VITTER. Mr. President, this amendment is basic and straightforward. This amendment would increase the coverage limits for flood policies under the National Flood Insurance Program. Why do we need to do that? For a very basic reason. Those dollar limits have not been changed in 14 years. They haven't been changed at all, adjusted for inflation or anything else, since 1994. So it is way past overdue to update these coverage limits in a reasonable way. This Vitter amendment 4722 would do just that. But, in fact, it wouldn't even fully take into account inflation since 1994. It would fall a little short of that. We chose the increases because my increases in amendment 4722 are exactly what the House of Representatives has already passed, merely updating those limits to take into account most but not even all of inflation since they were last set in 1994.

I share with the chairman and ranking member the goal of making this program more fiscally sound, more actuarially sound. But we will completely frustrate that goal if we have a program with extremely low coverage limits and people can't buy the coverage they need. What will happen if we allow that? More and more storms

will hit, and people who have flood insurance coverage will not have nearly enough coverage, so there will be pressure—every event, every storm—to come to Congress for emergency measures above and beyond the flood insurance program. That isn't a path to fiscal soundness. A path to fiscal soundness must include some reasonable updating of coverage limits. This amendment would do that.

Finally, this was included in the House version of the bill. It did pass the House overwhelmingly. In the context of the House bill, the Congressional Budget Office said it did not add to the cost of the bill in any way because increased premiums go along, of course, with increased coverage limits. The CBO said, in light of those increased premium payments, which go along with increasing coverage limits, there isn't an addition to the cost of the bill. It is a net wash in terms of the cost to the taxpayer and to the bill.

I encourage all of my colleagues on both sides of the aisle to look hard at this amendment. It is a sound, modest amendment to update the program. It is perfectly consistent with fiscal soundness. I would hope we can get a strong resounding vote in favor of the amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SHELBY. Mr. President, I rise to oppose the Vitter amendment and oppose it very strongly. The goal of flood insurance legislation is to move the program to more actuarially sound prices. This amendment would undermine that goal. The Vitter amendment would add significant new liabilities to the program without ensuring the necessary premium increases to cover such liabilities.

I want to remind my colleagues that we are forgiving in this bill nearly $20 billion of debt incurred as a result of failures of the flood insurance program to date. The changes we are making are an attempt to ensure that taxpayers never have to pay off such a debt ever again. This amendment runs contrary to that goal, making it much more likely that we will be back bailing out the program in the near future.

Furthermore, there are currently numerous private insurance carriers providing flood coverage for losses that exceed the maximum amounts provided by the Federal program. In other words, unlike basic coverage, where no private insurance exists, there is a private insurance market available for additional coverage. While I recognize this insurance is expensive, that is because it is actuarially priced. The premium is commensurate with the risk.

This program was designed to address the fact that the market stopped providing primary flood insurance coverage. It was not intended to socialize risks that were otherwise being handled by private markets. The only reason to increase the coverage limits of the program is to crowd out risk-priced private insurance to provide socialized subsidized insurance. I believe it is largely due to the existing subsidies that this program has such problems. We do not need to add more subsidies at this time.

For all these reasons, I oppose the Vitter amendment and urge my colleagues to do the same.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. VITTER. Mr. President, in response, I respect very much the views of the ranking member. But, No. 1, at least with regard to the House bill on which I have seen the CBO analysis, the CBO said it did not add to the cost of the bill because higher premiums obviously come with a higher coverage limit, if folks choose to buy that.

Secondly, if we have coverage limits which are way too low and a big event hits, that is going to shove us in a direction away from fiscal soundness because it will make extraordinary emergency measures necessary in response to that event by this Congress, rather than having an insurance system capable of covering the loss.

AMENDMENT NO. 4723 TO AMENDMENT NO. 4707

I ask unanimous consent to set aside the pending amendment so I may call up amendment No. 4723.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER] proposes an amendment No. 4723 to amendment No. 4707.

The amendment is as follows:

(Purpose: To allow for a reasonable 5-year phase-in period for adjusted premiums)

On page 11, line 6, strike ''Any increase'' and all that follows through the second period on page 11, line 11, and insert the following: ''Any increase in the risk premium rate charged for flood insurance on any property that is covered by a flood insurance policy on the date of completion of the updating or remapping described in paragraph (1) that is a result of such updating or remapping shall be phased in over a 5-year period at the rate of 20 percent per year.''.

Mr. VITTER. Mr. President, in the interest of moving this bill along and moving through as many issues as possible efficiently, I will explain the amendment briefly.

This amendment deals with those properties which have an increased risk because of the issuance of new flood maps. Every time there is an event, of course, whether it is a small event or a huge one, such as Katrina and Rita, there are new flood maps developed over time by FEMA. If a property is a greater risk under those new flood maps, under this underlying bill premiums would go up. I have no objection to that. They should go up. But I do think we need to temper that with a reasonable time period over which to spread out that increase. This underlying bill says that increase would happen all in 2 years. My amendment would change that to mirror the provision in the House bill and would spread that increase over 5 years instead of 2.

This is a reasonable, modest measure to make this movement toward fiscal responsibility and actuarial soundness reasonable and manageable by the premium payer. Some of these changes, particularly after an event such as Katrina or Rita, can be quite dramatic. To say that all of that change, all of that premium increase happens over 2 years is going to be a huge, whopping bill that is going to stop a lot of folks from being able to be insured over time.

I think this change to have that phased in over 5 years is reasonable. It does not lose sight of the goal of fiscal soundness and actuarial soundness, but it is a reasonable accommodation to folks who are in a very different circumstance because of a brandnew flood map.

With that, Mr. President, I encourage my colleagues on both sides of the aisle to support the measure, and I yield back the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, let me thank my colleague from Louisiana for offering these amendments and handling them as efficiently as he said he would. I appreciate that very much. We are trying to move legislation here, so I am grateful to him.

As to this idea, this last point that was made—like the first amendment he offered—there is value and merit in what he is suggesting. But, as Senator SHELBY has pointed out, we are trying to strike balances. We have an obligation, one, to get this program up and running again. There is $17 billion on which we owe a debt, which is going to raise the cost of premiums if we do not forgive that debt, which is the major thrust of this legislation, as well as trying to deal with some other related issues—but to try to keep this within prudent fiscal conditions.

What we do in this bill—and the point the Senator from Louisiana raises is a valid one. Certainly, we do not want this to occur in 1 year. So what Senator SHELBY and I did with our committee members is to do a 2-year phase-in of this program. It is not 5 but it is 2 years, to try to exactly accommodate the legitimate concerns raised by the Senator from Louisiana. Obviously, it all occurring at once would probably be more than some people could tolerate. If the property is newly mapped in a flood plain, the rates are phased in over a 2-year period to ensure that a home or business can plan for flood insurance costs, obviously. It is not as long as 5 but we think 2 helps.

The bill and this provision are part of our overall effort to balance the need to reform and strengthen the flood program with the need to ensure people can afford to purchase needed flood insurance. Striking that balance is what we are trying to achieve. It is hard not

to make a case—we could make it 6 years, 7 years. That would be easier. But the problem is, at the same time we would not be getting the revenue coming in to accommodate covering the additional properties we want to cover with the new mapping. So how do we do that? We thought 2 years would be an adequate amount of time to give people a chance to phase that in and simultaneously meet our obligation of seeing to it that this program would be there to cover the 5.5 million homes we are talking about. I think we struck that right balance.

As to the other members of the Banking Committee, again, we unanimously adopted these provisions, and not without debate and consideration of the very point being raised by the Senator from Louisiana.

I wish to remind my colleagues, again, this bill results in significant savings in the flood program. The bill forgives $17 billion in debt. We are paying interest payments on that $17 billion. That is part of that premium cost. That is a huge cost. Without this debt forgiveness, which is a part of this legislation, policyholders would see rates increase many times over. In fact, rates would have to almost double just to pay the interest on the debt FEMA owes. So that is a major thrust of what we are trying to achieve. So we are saving all policyholders and all homeowners at risk from being priced out of this program with the debt-relief provision.

In exchange, however, the bill contains provisions to move the program to actuarially sound rates to ensure the long-term viability of the flood program, which is also our responsibility with this legislation—to make sure that actuarially this program will have the revenues coming in to support and sustain the risks it tries to cover against.

These reforms stabilize the flood program to make sure that when the next flood hits, homeowners will have flood insurance to be able to rebuild their homes and their lives.

I am concerned that further subsidies in the program undermine our efforts to put this program on sound financial footing. Those are the reasons I would oppose the second Vitter amendment as well. I say that with respect. Again, these are a lot of ideas that neither Senator SHELBY nor I would say lack merit. It is a question of what we can afford to do, where the balance is, where the actuarial soundness is. That is more the thrust of our argument than whether we agree or disagree with the goals stated by the proponents of these amendments.

I make the same point I made earlier as to the amendment offered by Senator WICKER from Mississippi. I would be hard pressed to make a case that we should not try to do something about wind damage. It is a legitimate issue. I will point out in this morning's papers, if you read about that incredible devastation created in Myanmar: 25,000 people lost, 120-mile-an-hour winds ripping through that country, clearly flood damage, clearly water damage, clearly wind damage.

The problem Senator SHELBY and I have is, I could not answer the question. My friend from New Mexico asked me: How much is that going to cost, Senator? I cannot answer you. You have a right to know the answer to that question, so we are trying to find that out. We have asked for a study to look at the wind issue. The Acting President pro tempore comes from a coastal State as well. He knows what can happen with these issues. I think wind is a legitimate issue for us to sort out. But I cannot honestly answer the question actuarially. We are told it is five times the cost. If you take in the four hurricanes in 2005, the $17 billion in flood damage, wind damage would have been five times that cost. Of course, we have a flood insurance program here that puts $2.5 billion into that account on an annual basis.

So we are talking about something we are really not capable of managing under the present circumstances—a legitimate issue. The Senator from Mississippi is absolutely correct in raising it. I pointed out earlier that Senator SCHUMER of New York talked about this passionately. Senator MARTINEZ from Florida talked about this as well. Anybody from a coastal State will tell you what this can mean. But I have to be able to answer—as Senator SHELBY and I do—the question of whether you can actuarially account for this, whether we can have a program that is sustainable, and we cannot answer those questions. In the absence of doing that, we reluctantly oppose these amendments, and because of the importance of getting this program accomplished, in place.

In 3 weeks, or less than 3 weeks, the hurricane season starts. Any of us who live in these eastern coastal areas, the Gulf State areas, Florida, coming up that coast all the way up to New England, know that at any given point over that period of time, we could be hit. We need to have this program in place to begin to take care of these costs. That is why we are here today to try to get this done.

I am going to respectfully say and urge colleagues to come over with their amendments so we can get this work done—to listen to what they have to offer and say, to consider where we can, but we need to complete this bill, and we are going to be most reluctant to be supportive of ideas that violate the actuarial soundness of what Senator SHELBY and I and the other 18 members of our committee endorsed last year when we adopted this bill.

Mr. President, I see my colleague from Alabama on the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

AMENDMENT NO. 4719

Mr. SHELBY. Mr. President, I would like to take a few moments. I rise in opposition to the Wicker amendment that the Senator from Mississippi offered earlier and has spoken to. I recognize that property casualty insurance availability and affordability is a serious concern in some parts of this country, perhaps all parts. The addition of wind coverage, however, to the financially insolvent flood insurance program is not the solution to this problem.

I think we should put this amendment into context. According to the Insurance Information Institute, this amendment would add an additional $10 trillion to $12 trillion in exposure to the bankrupt Federal flood program, as well as annual Federal program deficits that could reach $100 billion or more. Just think about it.

On this, in the Banking Committee, we have had no hearings. We have established no record. We have no understanding in any way, shape, or form as to what the true consequences of the Wicker amendment could be—nothing at all.

Perhaps we should consider this amendment in the context of flood insurance. The National Flood Insurance Program does not charge actuarial rates for anyone within the program. There are direct subsidies to many homeowners and indirect subsidies to all others because the underwriting criteria do not accurately depict the risk. The program is currently bankrupt and has no ability to pay back its $17 billion debt obligation at this point. With a model such as this, I am not convinced that another Government-managed insurance program will well serve the American taxpayer.

There are other considerable flaws to the approach contemplated by the Wicker amendment. Private insurers minimize exposure to catastrophic risk through diversification. The Wicker amendment would concentrate the risk. It provides no ability for reinsurance, retrocessional insurance, or any other means to diversify and lay off risk.

In addition, the Federal wind coverage would face operational challenges that have not been addressed through the Wicker amendment. The flood program currently takes advantage of efficiencies created by the use of public and private resources. No private insurance company would ever sell or solicit a policy that would directly compete with itself. Therefore, the wind portion of this insurance will be marketed, underwritten, and serviced directly by the Federal Government, if you will. This will add significant administrative costs and bureaucracy to the process of claims handling.

The capital markets have begun to show strong willingness to underwrite the risks associated with natural disasters. New innovations, such as catastrophe bonds and sidecar agreements, have been created recently. By allowing more Federal Government involvement, many of the innovative techniques for transferring risk will be crowded out in the marketplace.

While there are some parts of the country where insurance coverage problems have occurred, most of the property casualty insurance market is functioning well in this country. In order to fully understand the problems associated with coverage lapses, I believe we must work to understand the root causes of the problem so we can debate solutions and address the problem without hindering the rest of the market itself.

Our legislation creates a commission intended to provide us much of the necessary information we need to understand the problem of catastrophic risk. For instance, the commission would study ''the current condition of, as well as the outlook for, the availability and affordability of insurance in all regions of the country.'' It would also consider ''catastrophic insurance and reinsurance markets and the relevant practices in providing insurance protection to different sectors of the American population,'' as well as many other issues directly relating to the cost and availability of insurance for wind damage.

Given the potential exposure to the taxpayer, I believe we owe them a better process. At a minimum, Mr. President, I think we need to further study this problem prior to committing the resources of the American taxpayer.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President: What is the business before the Senate?

The ACTING PRESIDENT pro tempore. The Vitter amendment is the pending business.

Mr. DOMENICI. Mr. President, that is because we had unanimous consent to set aside the Domenici amendment, or the Allard amendment?

The ACTING PRESIDENT pro tempore. There was a unanimous consent to set aside the pending amendment.

Mr. DOMENICI. Mr. President, I am going to speak on the underlying Domenici amendment for about 15 minutes, and then time will be arranged for that between the leaders for later in the day, so we will not have to have any further interruptions, as I understand it. I do not seek to interrupt your bill. I say to Senator DODD, there will not be any further interruptions until some agreement is reached, perhaps between the leadership.

Mr. DODD. Mr. President, I say to my colleague, I am trying to arrange—we now have three amendments. There may be some people who want to be heard on them, the Wicker amendment and the two Vitter amendments. My hope was to have a vote at around 3:15 on those three amendments.

I am trying to move a bill—Senator SHELBY and I. We are running out of time here. There are about maybe as many as 17 amendments we are going to have to consider. We could be in here late tonight. If that is the case, I would like to do that in order to get this done. I am going to let staff know here—and I am not going to make the motion at this time—just to let them know I would like to make a unanimous consent request that, say, at 3:15 we vote on the Wicker and the two Vitter amendments and to notify the leadership of that so they can consider whether they want to agree to that. But that way, we could move along, if Members want to be heard on these amendments.

The concern, I say to my good friend from New Mexico—and he is one of my best friends here—I am trying to get this done.

Mr. DOMENICI. Sure.

Mr. DODD. If you have 15 or 20 minutes, it will blow me back from 3:15.

Mr. DOMENICI. Mr. President, 3:30 would be early enough. You would be making good time at 3:30 and let me have a little time. This is a big amendment and we have to have some understanding of it before you get your bill finished. You are going to have a vote on it—I won't use more than 15 minutes at this point—on a very big proposition on behalf of almost all of the Republicans. I don't know about your bill in detail, but I think you are doing a terrific job.

Mr. DODD. Here is my problem. If I don't have a vote at 3:15, it will be a lot later than that, and I will be notified by staff and the leader. That is my problem. I know my colleague wants to be heard on the bill and he has every right to be heard. I would like to vote at 3:15, stacking three votes at 3:15.

Mr. DOMENICI. If you get that agreed to, can I have consent to be recognized after those votes for 15 minutes?

Mr. DODD. I am happy to do that.

Mr. DOMENICI. Mr. President, I ask unanimous consent that if votes are called for on the three amendments alluded to by Senator DODD, the Senator from New Mexico would be recognized after those votes for 15 minutes to speak on the energy amendment which is attached to this bill.

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

Mr. DODD. We have a request to see whether we can have the three stacked votes at 3:15.

Ms. LANDRIEU. Mr. President, reserving the right to object, what are the three votes?

Mr. DODD. Senator WICKER and two amendments offered by Senator VITTER. I don't have the numbers in front of me.

The ACTING PRESIDENT pro tempore. The unanimous consent does not deal with stacking those three votes at this point. The unanimous consent only dealt with the Senator from New Mexico having floor time if there were three votes.

Ms. LANDRIEU. OK. That is the only unanimous consent agreement. That is fine.

Mr. DODD. Pending the agreement on that, at the conclusion of those three votes, the Senator from New Mexico be recognized for 15 minutes to talk about his amendment—assuming we can get an agreement to have a vote at 3:15.

Mr. DOMENICI. If we don't get agreement on that, then I ask that I be recognized at 3:30 for my 15 minutes.

Mr. DODD. Let me try to get an agreement here. One step at a time.

The Senator from Louisiana wants to be heard.

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

Ms. LANDRIEU. Mr. President, I wish to speak for a moment, if I could, about the wind amendment that is pending that Senator WICKER, myself, Senator VITTER, and Senator COCHRAN have cosponsored. Several of us have been working on this for months now, and our colleagues in the House, particularly from Mississippi and Louisiana, have been very engaged, but there are other delegations that are engaged in this issue as well. The reason is because flood insurance, while it has been helpful—very helpful to some degree—throughout the southern part and coastal areas of the country, is not sufficient. We have to provide some opportunity for our homeowners and businesses to have access to affordable wind insurance, and the operative word here is ''affordable.''

That is why we have offered this amendment to modify and expand the insurance bill regarding flooding. That is why we have held this bill up—one of the reasons this bill has been held up by several of us for several months now—until we could try to get an opportunity to fix this bill which is still, in my view, greatly flawed in a number of areas, and this is one. This bill is not providing what people need—not just in Louisiana and in Mississippi but in Texas, in Alabama, in South Carolina, in North Carolina, in Florida—in many places around this country that may be subject to storms, particularly along the lines of Katrina and Rita and other storms that have hit recently and are projected, obviously, to continue.

We are making some significant changes. People are building stronger. There are new building codes being adopted county by county, parish by parish, and State by State. There are new ideas about designs and building more safely. Even some communities are moving to higher ground. Neighborhoods are making tough decisions about where we should build and where we shouldn't. All of that is going on throughout many parts of the country.

I wish to read a couple of letters—because I think my colleagues have explained this issue very well—that we are receiving from constituents who have been struggling to get themselves back in their homes and to pay not just their mortgage but their insurance costs as well as the rising cost of fuel and the rising cost of groceries. This is exacerbating a very tough economic situation that we are experiencing in the gulf.

This is an e-mail I received from Chet in Metairie:

Hello. I live in Old Metairre. My home did receive wind damage from Katrina, with a total insurance claim of just under $30,000. I share my mortgage costs with my mother who is a 79-year-old retired Jefferson Parish school teacher. This year, our homeowners insurance tripled. Thanks to this, the total amount we pay to our mortgage company has almost doubled in 2008. Our monthly payment of loan, property tax, and insurance has gone from about $1,200 before Katrina to $2,093 post-Katrina. My income has not increased. My mother's pension has not increased at all. My brother in Mandeville has experienced similar increases. We know that insurance companies reported record profits in the year following Katrina.

It is very interesting to me that so many people on this floor are screaming and yelling about record oil profits. I didn't hear anyone come to the floor to talk about the strange and unusual situation of after one of the greatest catastrophes in the history of this country, or at least recent catastrophes, the insurance profits hit a record high, but no one from the committee came down to talk about taxing or curbing insurance profits. Yet we can't even get any kind of expansion or affordable rates for wind coverage.

I am not blaming all insurance companies, but there is something to be said for in the same year that there is the largest catastrophe in the country, the companies that are covering the catastrophe had record profits. I don't understand it and most of my constituents don't understand that. So there is a plea from constituents everywhere to try to do something about affordable insurance coverage.

Here is another e-mail from Kim in New Orleans:

Dear Mary, I'm not really sure what category this falls under. I have owned a home in New Orleans for the past three years. My insurance has gone from $995 a year to $5,133. I am a single mother with one child. I cannot afford an insurance premium of $995 to $5,135. What are we going to do?

Another from Mandeville:

My homeowners insurance has just increased $1,000. Since my insurance company decided not to cover hail and wind anymore, I will have to buy insurance from the ''Fair'' plan—

Which is our State's pool—

at a higher premium.

In addition to keeping the premium low enough to afford my mortgage, I cannot cover everything inside of my home.

Now, again—I know the Presiding Officer has been down to Louisiana—I am not talking about second homes on beaches. I am not talking about homeowners who live on the water. I am talking about people who live in the city, a port city, similar to Baltimore. We have New Orleans, a great port city, that services not just the millions of people who live in and around the metropolitan area and all up and down the lower Mississippi River, but a port city that benefits the whole entire Nation. So basically, with the bill that the committee has brought to the floor, which I have objected to, their basic philosophy is everybody who lives in and around a port that generates profit can pay high rates, so everybody else can pay extra low rates, and the people in the port cities can basically absorb the difference.

I understand about risk. If you are living in Florida on a beach in a condo as a second home or maybe even your first home or you are living on a beach in Alabama or in Mississippi, maybe you should pay a little bit extra. But the people whom I am representing—we only have two beaches. There are only two, 3 miles long, and you can't even get to them basically without a boat. I have people in Mandeville, in St. Tammany Parish, in Tangipahoa Parish and in the city of New Orleans 5 minutes from the Superdome who are seeing their rates quadruple. These people are not living in a vacation area.

This committee is having a hard time understanding this issue. That is why the Members, both Republicans and Democrats, have brought this bill, to try to say what are we going to do to give affordable wind coverage to people who live in and around these port communities.

This is from Robert in Slidell:

This will be an increase from $500 to $3,887 or an increase of 775 percent. My dwelling coverage increased by more than 21 percent in June of 2007 and another 21 percent in June of 2008. This is in addition to my deductible increasing 775 percent.

He says:

I am confused.

Well, let me tell Robert that I am confused too, because this is supposed to be a reform bill coming through to give people better insurance and better coverage and it leaves wind out of it completely. That is why we put on a wind amendment. I ask my colleagues to please support the amendment that will allow us to include wind.

This is a final e-mail from Theresa in LaPlace, LA, again, 75 miles from a beach:

I just received notice from my mortgage company that due to the skyrocketing insurance premiums for my landlord policy, the house note is increasing from $312 per month to $725 per month. The monthly insurance premium is more than the monthly house note. If something is not done, I am going to be forced to sell my house.

Now, I have been to this floor many times before. I am very sensitive to the foreclosure problems going on around this country. I know the counties that are experiencing very high foreclosure rates. Some of them are because lenders speculated. Some of it is because a few home builders got greedy—not all, because most home builders are doing the right thing, but they maybe speculated in a market.

Mr. President, I ask unanimous consent for 3 more minutes.

Mr. DODD. Can I interrupt you for a minute?

Ms. LANDRIEU. Yes.

The ACTING PRESIDENT pro tempore. Does the Senator from Louisiana yield at this time?

Ms. LANDRIEU: Yes, for 1 minute.

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

Mr. DODD. Mr. President, I ask unanimous consent that at 3:15 p.m., the Senate proceed to a vote in relation to the following amendments: Wicker amendment No. 4719, the Vitter amendment No. 4722, and the Vitter amendment No. 4723.

Further, I ask that there be 2 minutes of debate equally divided between the two votes and that there be no second-degree amendments in order prior to the vote. Finally, I ask unanimous consent that the first vote be a 15-minute rollcall vote and the remaining votes be 10-minute votes.

Ms. LANDRIEU. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Thank you, Mr. President.

As I was saying, the letter goes on to say:

I have paid enough in insurance premiums to rebuild my house out-of-pocket had it been completely destroyed.

But again, when we try to get decent, affordable coverage for people, both for flood and wind, we are having a difficult time on this floor and in this Congress.

So I hope as we continue to discuss through the afternoon the importance of this that people will understand and recognize that this amendment—there are several but this amendment regarding wind is very important so we can continue our recovery in the gulf coast.

As I was saying before I was asked to pause for a minute, I recognize the foreclosure difficulties throughout the country, and I have said I am sensitive to the concerns of those communities. But I want to please remind everyone again: The people of the gulf coast do not have a foreclosure problem brought on by themselves. In fact, our foreclosure rate is lower, much lower than any—much lower than the national averages. But our people are getting their homes foreclosed and taken away from them because Federal levees that should have held failed and an insurance system we should have regulated has gone in large measure unregulated, and programs such as this that are supposed to be helping people afford insurance are not doing so. It is not right.

Our people have nowhere else to go other than to Congress to help them get a better system in place. That is why I and many of my colleagues have held this bill up for 2 years in committee. We may or may not get to vote on it this afternoon, depending upon how many e-mails I decide to read into the RECORD.

I wish to talk about an amendment I am going to offer and send up, amendment No. 4706, as modified.

The ACTING PRESIDENT pro tempore. Is the Senator requesting to set aside the pending amendment?

Ms. LANDRIEU. Yes, and I will offer another one.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DODD. Objection.

The ACTING PRESIDENT pro tempore. Objection is heard.

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

Ms. LANDRIEU. I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The clerk will continue with the call of the roll.

The bill clerk continued the call of the roll.

Mr. NELSON of Florida. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 4719

Mr. NELSON of Florida. Madam President, I want to speak to the Wicker amendment. This amendment, which will add wind coverage to the flood insurance policies, is a major policy change with regard to the Federal Government. Wind coverage has always been handled by the private insurance sector and/or the quasi-government sector, covering wind through a catastrophic insurance fund as we have in Florida, or a quasi-insurance company such as we have in Florida.

This is a major policy shift. The bottom line is, I support this amendment because it is an important symbolic amendment. Our people are hurting and they need some help with regard to the potential catastrophic wiping out of not only their lives but their property as well.

What has happened in this day and age of the huge natural catastrophe first came to the fore in the example in 1992 by the monster hurricane, Hurricane Andrew. Andrew—now they think it was a category 5, which is winds upwards of 150, 155 miles an hour—had insurance losses in 1992 of $16 billion. That was by far the largest insurance loss through a natural catastrophe in the history of the United States. In today's dollars that would be somewhere around a $22 or $23 billion insurance loss.

What really shook up the insurance marketplace at that time was, had Andrew turned 1 degree to the north and drawn a bead on the city of Miami or Fort Lauderdale instead of the city of Homestead—which is way to the south in a relatively undeveloped part of Miami, Dade County—had it turned 1 degree to the north and hit that other area, it would have been a $50-billion-loss storm, and that would have taken down every major insurance company in the country that was doing business in the path of that storm. That is what shook up the markets.

Then we had a few others—not anything upwards of category 4 or 5—in the latter part of the decade in the 1990s. Then along comes 2004 and we get four hurricanes in Florida within a 6-week period. There was virtually no county in the State of Florida that did not have hurricane damage. The only good news coming out of that year was none of them were above category 3—in the range of 120 to 125 miles per hour. Of course, the damage goes up exponentially as winds increase in miles per hour above 110, 115. When you get on up into the range 130, 140, 150, the damage goes up exponentially.

The insurance marketplace was just roiled, and insurance companies could not find what is known as catastrophic coverage, or in this case insuring against catastrophe to insure the insurance company against that catastrophic loss.

Of course, right on the heels of 2004, then we had the awful mess with Hurricane Katrina. That is an interesting storm because it was a typical category 3 storm that can cause the amount of damage that you would expect a storm to do hitting the Mississippi coast with category 3 winds. What people did not expect was, on the back side of that hurricane—remember the hurricane is counterclockwise in the northern hemisphere—the back side of those winds coming across Lake Pontchartrain, as the eye of the hurricane moved over the coast to the east in Mississippi, those winds brought the rain, and that started filling up the canals in New Orleans. The pumps did not work or were inadequate to pump out the canals. The water rose, the water pressure rose, it breached the dikes, and it filled up the bowl of New Orleans so you get so much more water damage, flood damage, with a lot of the people in New Orleans not having flood insurance when, in fact, they were below sea level in the location of their homes.

What the amendment of Senator WICKER, and a companion side-by-side of Senator SCHUMER, is doing is adding wind to the flood insurance policies. Symbolically it is important because our people are hurting. They cannot find available hurricane wind insurance, and they can't find it affordable. That is why I am going to support it.

Now, let me tell you what is wrong with it. Should this legislation pass, it would have to be fixed down the line. It has two major flaws. The first is that it sets up a standard that says the rates for this wind insurance have to be actuarially sound.

That sounds real good. Rates ought to be actuarially sound. But the problem is, there is no check and balance on the person or persons who are going to be doing that as there is in the regulation of insurance by the insurance commissioners of the 50 States. Therefore, what I fear with legislation like this is that some secretive group or Star Chamber outside the normal government in the sunshine, making mathematical calculations that are actuarially sound, would suddenly enact rates that would go through the roof, and the very purpose of what we are trying to do—to have available and affordable insurance for people in the face of hurricanes—would be for naught. It would have exactly the opposite result with no accountability and no insurance regulator that would crack the whip on them.

The other flaw in the requirement of actuarially sound rates is, if a loss occurs and you are covering both wind and flood, the wind losses may well absorb all of the available reserves in the Federal flood insurance program and there is no money left in order to pay the flood insurance claims.

What it does is it translates into higher premiums and a potential loss of flood subsidies. The requirement in the bill that the multiperil rate be actuarial could cause the current flood policyholders, who are eligible to receive subsidized rates through the standard National Flood Insurance Program, through their flood policy, to lose the subsidy that is already there in the National Flood Insurance Program. If this policy in this amendment were to be enacted, it could certainly lead some States with existing wind coverage options—such as my State of Florida—to discontinue that coverage, which would further provoke policyholders to have to purchase the expensive but actuarially sound National Flood Insurance Program multiperil coverage.

This would essentially shift the liability from the State to the Federal Government while at the same time actually limiting consumers' access to affordable wind coverage—exactly the opposite of what is intended by the offeror of the amendment. Nevertheless, it is a logical conclusion unless you clean up this language.

Now, the next concern I have with it is both the Wicker and the Schumer amendments could destroy the financial integrity of the National Flood Insurance Fund. In both these amendments being offered, the multiperil policy would be offered as an optional coverage under the National Flood Insurance Program.

Because the proposals do not expressly separate the premium from the standard flood program, there is a potential for the entire flood fund to be drained without paying the claims for the wind damage. This would put the flood insurance program right back in the situation it finds itself now: relying on borrowing from the U.S. Treasury to pay the claims to flood policyholders.

So this is a complex problem. But as we try to solve it, we must ensure that we do not inadvertently undermine the viability of the National Flood Insurance Program and fail to fulfill the promise we made to 5.5 million current policyholders, and, oh, by the way, 40 percent of all those flood insurance policyholders are in my State of Florida—40 percent of them.

All of us along the gulf have struggled with availability and affordability of homeowners insurance. But, Members of the Senate, this is not only a Florida problem and it is not only a gulf coast problem; insurers are cancelling coverages from Texas to Massachusetts, and those who say the Federal Government does not belong in the catastrophe insurance market are mistaken.

Because when the big one comes, and mark my word, the big one is coming, the big one is a category 5 storm that hits at a high-density urban concentration population on the coast, be that anyplace on the gulf or Atlantic seaboard, when that big one comes, the availability of private markets to handle that natural disaster is not going to be able to be there. And the Federal Government keeps denying the fact that we ought to face this problem.

The Senators in the Midwest say: Well, Hurricanes are Florida's problem or earthquakes are California's problem. What they do not recognize is, no, it is everyone's problem. Because what typically happens when a natural disaster of this magnitude hits, it is the very same Federal Government that picks up the tab.

I remember my first year as a young Congressman back in 1979. I had to vote for what were Federal disaster funds and the cleanup of a natural catastrophe that was the blowing of Mount St. Helens, which spewed ash all over several cities.

I thought to myself at the time, when others were trying to kill that disaster assistance saying: Well, that is not our problem; that is the problem of the State of Washington. No, it is all of our problem. The Federal Government does have the disaster funds to come to that aid.

If you take a State such as Louisiana in the aftermath of Hurricane Katrina, that full hurricane now is something like a $200 billion economic loss. The Federal Government has picked up at least half of that, $100 billion. And we say we do not think there is a Federal responsibility to try to plan ahead for that catastrophe by providing some kind of catastrophe insurance if the States cannot provide it?

This whole instability has repeatedly forced the Federal Government to absorb billions of dollars of uninsured losses, including the most recent ones of Hurricanes Katrina, Rita, and Wilma, just those hurricanes alone.

So as we go on down the line, we have a must-pass bill. We have to reauthorize this Federal Flood Insurance Program. I wish to thank the chairman and the ranking member in that what they have done, if we do not pass anything else—and I have a couple amendments on trying to arrange for a loan program from the Federal Government. It has already passed the House—a loan program at fair market rates; in case the State catastrophe fund, which is a reinsurance fund against catastrophes, in case that goes belly up, that there will be a loan program from the Federal Government at market interest rates.

But if we fail on all these, at least in the bill, thanks to the chairman and to the ranking member, is the setting up of a commission that would have to report back, a commission composed—and the ranking member is coming on the floor. I have been singing his praises, along with the chairman's, of putting in the bill a commission made up of experts, broadly representative of the communities that are affected, to recognize we have a problem on covering catastrophes in the insurance business.

That commission would have a certain day on which to report. What that will signal, if that is the only thing we can get in here, I hope we can get this loan program that I talked about for a State insurance catastrophe fund. If it goes drain dry, that Federal Government would lend money to it at market rates so that at the State level, they can try to take care of that catastrophe.

But if we cannot get that, there is a question of germaneness; therefore, I would have to get a 60-vote threshold to have the amendment considered. But if we cannot do that, at least we have in the bill, in a must-pass bill, the Federal flood insurance bill, for the first time, the Federal Government will have on the table the recognition that we have to understand and do something about the response from the Federal Government when the big one comes. And it is coming.

Madam President, I made a commitment to the Senator from Louisiana that when I yield the floor I will ask for the quorum call. So I would merely take my instructions from the Senator from Louisiana if she wanted me to entertain a question from any Senators standing, without losing my rights to the floor.

The Senator from Louisiana has so indicated. So I would certainly yield for the purpose of a question without losing my right to the floor to the distinguished chairman.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I do not have a question for my colleague. I wish to thank him. For those who want to understand this, I think he is rather eloquent and knowledgeable. As a former insurance commissioner of the State of Florida, he has more than a passing familiarity with these issues. He has described it, made the case more eloquently than I did about the difficulty we have with the wind amendment; not on the substance of whether we ought to do something about it but whether we can and what the effects of this amendment could be.

I commend him as someone who understands that, for laying it out and the problems inherent with it. As he and my colleagues know, the ability to then alter that kind of amendment then becomes almost impossible in this process.

As I said earlier in the presence of my friend from Mississippi, we, Senator SHELBY and I, are deeply involved in the foreclosure issues, as we have been over the last number of months. As our colleagues are aware, this subject matter of catastrophic insurance would have been the major subject matter of the Banking Committee. I regret we were caught up in the foreclosure situation, for obvious reasons.

But that does not minimize at all the situation my colleague from Florida faces—or that other States do. It is not only a Florida issue, this is an issue that affects all of us in this country, and we need to have a far better plan in place on how we deal with it.

I mentioned earlier: Pick up this morning's newspaper. You read the headline in the local newspaper and every newspaper, I presume, across not only this country but around the world on what happened in Myanmar; 120 mile-an-hour winds, devastation, loss of life. These problems are occurring around the globe. We would be naive at best to think it cannot happen here. In fact, it has happened and could happen even worse in this country. So we need to get to those points. I thank him very much for his eloquence and his understanding of these issues.

Mr. NELSON of Florida. Madam President, I would yield for the purposes of a question, without losing my rights to the floor, to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. I thank my friend, the Senator from Florida, for yielding.

I, too, wish to commend him for his statement about the complexity of this issue. I appreciate the reservations he has expressed, while at the same time expressing support for the Wicker amendment today. I would hope the Senator would agree that support for this amendment today, though it might not be a perfect amendment, would send the signal he suggested—that there needs to be a Federal response to this issue.

We know this bill will go to conference. There will be additional work on it. But I would like to send a signal to the executive branch, to the insurance industry, to the homebuilders, to the realtors, we need to get busy on this issue.

Because, as the Senator said, the insurance for wind coverage is not there anymore in the private market at an affordable rate. And the wind pools are not affordable, because the pool is so small that we cannot spread the risk, whether it is Massachusetts, Connecticut, New York, Maryland, North Carolina, Virginia, South Carolina, Florida, Texas, Louisiana, Alabama, or my home State of Mississippi.

This is a problem for people when the next big one comes, as my friend has said. We do not know where or when it will come, but what we do know for a certainty is it will indeed come.

So I appreciate the thoughtfulness of the Senator's remarks. I appreciate his

bottom indication that he supports the amendment as a vehicle to move this issue forward.

I yield the floor.

Mr. NELSON of Florida. Madam President, I indicated in my opening remarks that not only do I support the Wicker amendment but the similar Schumer amendment. It is important, symbolically, to get something done.

Now, the Senator from Mississippi has suggested another idea, that at the end of the day, when it is very difficult to enact a national catastrophic fund, what the Federal Government can do is encourage, by giving incentives to the States, enactment of a regional catastrophic fund.

Florida, of course, had to take the lead because we were the ones who got devastated in 1992 by Hurricane Andrew. Florida set up this fund called the Florida Hurricane Catastrophe Fund. It is a reinsurance fund to insure against catastrophes.

But that cost is spread over 18 million Floridians. Does it not make a lot more sense to spread that hurricane catastrophic risk over 50 million Americans, by getting all the Gulf States and the Atlantic coast States to combine in a regional catastrophic fund, since at the end of the day, it is going to be very hard to get a national catastrophic fund?

So as we get on down the line, with the commission, if that is the only thing that survives this legislative process, then certainly that should be an item on the table that the commission would consider when they would report back to the Congress.

I am hopeful for the first time now, we have something on the floor that is going to address this, and I am grateful I can speak out on behalf of 18 million Floridians who are hurting because what they want is available and affordable homeowners insurance.

Right now many times it is not available, and they have to go to a government insurance company such as Citizens or it is unaffordable. Remember, if you can't have homeowners insurance, you can't build homes, make loans on homes, or sell homes. The necessary component for all three of those industries—real estate, construction, and banking—is an available and affordable homeowners insurance policy. We have reached the point that it is either not available or it is not affordable. Finally, we are beginning to address it, right here. I am grateful for that.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. GREGG. I ask unanimous consent to speak as in morning business for 7 minutes.

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

CAP AND TRADE REVENUE

Mr. GREGG. Madam President, I rise on a separate subject that is coming at us that is of even greater significance in many ways because it is going to impact the entire structure of the economy and the lives of everyone in the United States, and that is how we get a handle on the issue of global warming and the issue specifically of the emission of toxic materials from plants which generate energy. The term ''cap and trade'' is applied to a bill that is going to be brought forward supposedly in early June. Cap and trade is a concept of basically creating areas where energy companies are required to start reducing their emissions but the manner in which they do so is tied to the trading of rights of basically emissions and what sort of chemicals can be emitted through a trading process between different regions and within different communities of emitters.

This cap-and-trade proposal, which is known as the Warner-Lieberman bill, is a huge readjustment of our economy. It represents a massive cost to our economy as well as, hopefully, a massive improvement, if it would work right, in the amount of toxic emissions which we incur and which occur as a result of our production of electricity specifically. The cost of the cap-and-trade program, through the purchasing and selling of allocations of what can be emitted, is estimated to be about $1.2 trillion over the first 10 years of the proposal. This cost, obviously, is going to have a major impact on our economy. It is going to have a major impact on the people who consume the electricity, because the cost is going to be passed on to the people who use electricity in their homes, primarily, and businesses. There are a lot of issues raised by this bill on the substance of whether cap and trade can work—for example, issues of foreign competition, whether the technology necessary to meet the conditions for reduction will be available in time, issues as to whether certain segments of our industrial society are going to be unnecessarily handicapped and create a rush to move jobs offshore. These are big policy issues. I didn't want to address those. I don't want to address the substance of how the actual cap and trade will work. What I want to address instead is the ancillary, sidecar issue of the generation of this huge cost of $1.2 trillion, and it will go on 40 years. So we are talking about literally trillions of dollars passed on to consumers through higher energy costs. It is estimated those energy costs will increase anywhere from $30 to $500 a month.

In any event, the costs are dramatic, and that has two effects. One, the Federal Government is going to make a massive amount of income as a result of these costs. Two, the consumers, the homeowners are going to see their electrical rates go up which is essentially a tax as a result of these costs. So the way I conceive of this is that the Federal Government is going to get a lot of new revenue, and what do we do with that revenue is the first question. Secondly, what about the consumers who are going to have to pay this new consumption cost through the increase in the price of electricity which is essentially a consumption tax.

The bill itself that is being discussed in committee and is supposedly going to be reported on the floor will take the $1.2 trillion over that 10-year period and essentially spend it all, spend it all in a variety of ways. But a large amount of that spending would involve the expansion of Government. It would be a huge infusion of funds into the Federal Treasury at the expense of the consumer who pays those funds.

BARACK OBAMA, who is running for President, who appears to be close to successful in winning his quest for the nomination, has suggested he would pay for an additional $300 billion in new spending annually. He has proposed over $300 billion in new spending annually. He would pay for a large amount of that through generating $30 to $50 billion annually in taxes as a result of cap and trade. It is estimated by some that that revenue to the Federal Treasury might exceed that number and be actually up to $100 billion a year annually of income to the Federal Treasury. But BARACK OBAMA has already suggested that we spend it on the expansion of the Federal Government.

The bill itself proposes that it be spent on the expansion of Government as well as on various other initiatives which the bill suggests we should pursue.

I suggest a different approach. I suggest that if we go down the path of cap and trade and if we end up raising well over $1 trillion over a 10-year period from consumers, we should return those dollars to consumers in some way. I believe since we are basically creating a consumption tax and we are essentially shifting the burden of the Government significantly onto the user of electricity, especially the homeowner, they should receive a commensurate reduction in taxes that they pay in other places. It makes sense to me that if you are going to shift what amounts to a $1.2 trillion increase in consumption taxes, you ought to take those revenues and use them to reduce income taxes to working Americans by pretty much an equal amount. I believe if we did that, if we took the revenue from the consumption tax and moved it over and reduced the income taxes so working Americans could benefit from that reduction in their income taxes, you could end up dramatically reducing income tax rates on working Americans.

That should be our goal with these dollars. We should not use these dollars to significantly expand the size of the Federal Government. If we are going to create this brandnew consumption tax in order to try to energize the effort of the marketplace to control emissions which may be causing global warming,

then we ought to use the revenues which are the result of a new tax burden, a consumption tax burden on people using electricity, to reduce the tax burden on working Americans in other places. We should not use it as a windfall to the Federal Government which would expand the size of the Federal Government and expand the size of Government. It is not right to do that.

The overall tax burden on the American people is already significant. It is going to grow, regrettably, over the next few years. If we listen to some of our colleagues on the other side of the aisle, it is going to grow a lot. In fact, the budget that passed this Congress suggests it will grow by almost a trillion dollars over the next 5 years. We don't need to throw on top of that increased burden of taxation, which Americans are already paying, a brandnew consumption tax, the revenues from which are then taken to expand the size of the Federal Government. Rather, let's take those revenues and put them toward a reduction in income taxes. In fact, there are many people who look at tax policy and would argue that this is an intelligent way to structure this, to basically begin the shift from an income tax system to a consumption tax system is a much more efficient way for us to collect revenues and, secondly, a better way to collect revenues from the standpoint of energizing a strong and vibrant economy. But independent of that argument, which has been raging for years, whether a consumption tax makes more sense than an income tax, what doesn't make sense is to raise consumption taxes through cap and trade by $1.2 trillion over 10 years and then spend it to increase the size of Government. Let's use that money to reduce the tax rate on working Americans, to reduce the income tax. That should be our goal as we move forward and debate the issue of cap and trade and how we are going to use the revenues which that bill will generate.

I appreciate the courtesy of the Senator from Louisiana and yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 4706, AS MODIFIED, TO AMENDMENT NO. 4707

Ms. LANDRIEU. Madam President, I ask unanimous consent that the pending amendment be set aside and I call up amendment 4706, as modified, at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 4706, as modified.

Ms. LANDRIEU. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

(Purpose: To improve the Office of the Flood Insurance Advocate)

Strike section 131 and insert the following:

**SEC. 131. FLOOD INSURANCE ADVOCATE.**

Chapter II of the National Flood Insurance Act of 1968 is amended by inserting after section 1330 (42 U.S.C. 4041) the following new section:

**"SEC. 1330A. OFFICE OF THE FLOOD INSURANCE ADVOCATE.**

''(a) ESTABLISHMENT OF POSITION.—

''(1) IN GENERAL.—There shall be in the Federal Emergency Management Agency an Office of the Flood Insurance Advocate which shall be headed by the National Flood Insurance Advocate. The National Flood Insurance Advocate shall—

''(A) to the extent amounts are provided pursuant to subsection (n), be compensated at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if the Director so determines, at a rate fixed under section 9503 of such title;

''(B) be appointed by the Director without regard to political affiliation;

''(C) report to and be under the general supervision of the Director, but shall not report to, or be subject to supervision by, any other officer of the Federal Emergency Management Agency; and

''(D) consult with the Assistant Administrator for Mitigation or any successor thereto, but shall not report to, or be subject to the general supervision by, the Assistant Administrator for Mitigation or any successor thereto.

''(2) QUALIFICATIONS.—An individual appointed under paragraph (1)(B) shall have a background in customer service, accounting, auditing, financial analysis, law, management analysis, public administration, investigations, or insurance.

''(3) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as the National Flood Insurance Advocate only if such individual was not an officer or employee of the Federal Emergency Management Agency with duties relating to the national flood insurance program during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Federal Emergency Management Agency for at least 2 years after ceasing to be the National Flood Insurance Advocate. Service as an employee of the National Flood Insurance Advocate shall not be taken into account in applying this paragraph.

''(4) STAFF.—To the extent amounts are provided pursuant to subsection (n), the National Flood Insurance Advocate may employ such personnel as may be necessary to carry out the duties of the Office.

''(5) INDEPENDENCE.—The Director shall not prevent or prohibit the National Flood Insurance Advocate from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena or summons during the course of any audit or investigation.

''(6) REMOVAL.—The President and the Director shall have the power to remove, discharge, or dismiss the National Flood Insurance Advocate. Not later than 15 days after the removal, discharge, or dismissal of the Advocate, the President or the Director shall report to the Committee on Banking of the Senate and the Committee on Financial Services of the House of Representatives on the basis for such removal, discharge, or dismissal.

''(b) FUNCTIONS OF OFFICE.—It shall be the function of the Office of the Flood Insurance Advocate to—

''(1) assist insureds under the national flood insurance program in resolving problems with the Federal Emergency Management Agency relating to such program;

''(2) identify areas in which such insureds have problems in dealings with the Federal Emergency Management Agency relating to such program;

''(3) propose changes in the administrative practices of the Federal Emergency Management Agency to mitigate problems identified under paragraph (2);

''(4) identify potential legislative, administrative, or regulatory changes which may be appropriate to mitigate such problems;

''(5) conduct, supervise, and coordinate—

''(A) systematic and random audits and investigations of insurance companies and associated entities that sell or offer for sale insurance policies against loss resulting from physical damage to or loss of real property or personal property related thereto arising from any flood occurring in the United States, to determine whether such insurance companies or associated entities are allocating only flood losses under such insurance policies to the National Flood Insurance Program;

''(B) audits and investigations to determine if an insurance company or associated entity described under subparagraph (A) is negotiating on behalf of the National Flood Insurance Program with third parties in good faith;

''(C) examinations to ensure that insurance companies and associated entities are properly compiling and preserving documentation for independent biennial financial statement audits as required under section 62.23(l) of title 44, Code of Federal Regulations; and

''(D) any other audit, examination, or investigation that the National Flood Insurance Advocate determines necessary to ensure the effective and efficient operation of the national flood insurance program;

''(6) conduct, supervise, and coordinate investigations into the operations of the national flood insurance program for the purpose of—

''(A) promoting economy and efficiency in the administration of such program;

''(B) preventing and detecting fraud and abuse in the program; and

''(C) identifying, and referring to the Attorney General for prosecution, any participant in such fraud or abuse;

''(7) identify and investigate conflicts of interest that undermine the economy and efficiency of the national flood insurance program; and

''(8) investigate allegations of consumer fraud.

''(c) AUTHORITY OF THE NATIONAL FLOOD INSURANCE ADVOCATE.—The National Flood Insurance Advocate may—

''(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Director which relate to administration or operation of the national flood insurance program with respect to which the National Flood Insurance Advocate has responsibilities under this section;

''(2) undertake such investigations and reports relating to the administration or operation of the national flood insurance program as are, in the judgment of the National Flood Insurance Advocate, necessary or desirable;

''(3) request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

''(4) require by subpoena the production of all information, documents, reports, answers, records (including phone records), accounts, papers, emails, hard drives, backup tapes, software, audio or visual aides, and any other data and documentary evidence

necessary in the performance of the functions assigned to the National Flood Insurance Advocate by this section, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court, provided, that procedures other than subpoenas shall be used by the National Flood Insurance Advocate to obtain documents and information from any Federal agency;

''(5) issue a summons to compel the testimony of any person in the employ of any insurance company or associated entity, described under subsection (b)(5)(A), or any successor to such company or entity, including any member of the board of such company or entity, any trustee of such company or entity, any partner in such company or entity, or any agent or representative of such company or entity;

''(6) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this section, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office designated by the National Flood Insurance Advocate shall have the same force and effect as if administered or taken by or before an officer having a seal;

''(7) have direct and prompt access to the Director when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

''(8) select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

''(9) obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for the rate of basic pay for a position at level IV of the Executive Schedule; and

''(10) to the extent and in such amounts as may be provided in advance by appropriations Acts, enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

''(d) ADDITIONAL DUTIES OF THE NFIA.—The National Flood Insurance Advocate shall—

''(1) monitor the coverage and geographic allocation of regional offices of flood insurance advocates;

''(2) develop guidance to be distributed to all Federal Emergency Management Agency officers and employees having duties with respect to the national flood insurance program, outlining the criteria for referral of inquiries by insureds under such program to regional offices of flood insurance advocates;

''(3) ensure that the local telephone number for each regional office of the flood insurance advocate is published and available to such insureds served by the office; and

''(4) establish temporary State or local offices where necessary to meet the needs of qualified insureds following a flood event.

''(e) OTHER RESPONSIBILITIES.—

''(1) ADDITIONAL REQUIREMENTS RELATING TO CERTAIN AUDITS.—Prior to conducting any audit or investigation relating to the allocation of flood losses under subsection (b)(5)(A), the National Flood Insurance Advocate shall—

''(A) consult with appropriate subject-matter experts to identify the data necessary to determine whether flood claims paid by insurance companies or associated entities on behalf the national flood insurance program reflect damages caused by flooding;

''(B) collect or compile the data identified in subparagraph (A), utilizing existing data sources to the maximum extent practicable; and

''(C) establish policies, procedures, and guidelines for application of such data in all audits and investigations authorized under this section.

''(2) ANNUAL REPORTS.—

''(A) ACTIVITIES.—Not later than December 31 of each calendar year, the National Flood Insurance Advocate shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the activities of the Office of the Flood Insurance Advocate during the fiscal year ending during such calendar year. Any such report shall contain a full and substantive analysis of such activities, in addition to statistical information, and shall—

''(i) identify the initiatives the Office of the Flood Insurance Advocate has taken on improving services for insureds under the national flood insurance program and responsiveness of the Federal Emergency Management Agency with respect to such initiatives;

''(ii) describe the nature of recommendations made to the Director under subsection (i);

''(iii) contain a summary of the most serious problems encountered by such insureds, including a description of the nature of such problems;

''(iv) contain an inventory of any items described in clauses (i), (ii), and (iii) for which action has been taken and the result of such action;

''(v) contain an inventory of any items described in clauses (i), (ii), and (iii) for which action remains to be completed and the period during which each item has remained on such inventory;

''(vi) contain an inventory of any items described in clauses (i), (ii), and (iii) for which no action has been taken, the period during which each item has remained on such inventory and the reasons for the inaction;

''(vii) identify any Flood Insurance Assistance Recommendation which was not responded to by the Director in a timely manner or was not followed, as specified under subsection (i);

''(viii) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by such insureds;

''(ix) identify areas of the law or regulations relating to the national flood insurance program that impose significant compliance burdens on such insureds or the Federal Emergency Management Agency, including specific recommendations for remedying these problems;

''(x) identify the most litigated issues for each category of such insureds, including recommendations for mitigating such disputes;

''(xi) identify ways to promote the economy, efficiency, and effectiveness in the administration of the national flood insurance program;

''(xii) identify fraud and abuse in the national flood insurance program; and

''(xiii) include such other information as the National Flood Insurance Advocate may deem advisable.

''(B) DIRECT SUBMISSION OF REPORT.—Each report required under this paragraph shall be provided directly to the committees identified in subparagraph (A) without any prior review or comment from the Director, the Secretary of Homeland Security, or any other officer or employee of the Federal Emergency Management Agency or the Department of Homeland Security, or the Office of Management and Budget.

''(3) INFORMATION AND ASSISTANCE FROM OTHER AGENCIES.—

''(A) IN GENERAL.—Upon request of the National Flood Insurance Advocate for information or assistance under this section, the head of any Federal agency shall, insofar as is practicable and not in contravention of any statutory restriction or regulation of the Federal agency from which the information is requested, furnish to the National Flood Insurance Advocate, or to an authorized designee of the National Flood Insurance Advocate, such information or assistance.

''(B) REFUSAL TO COMPLY.—Whenever information or assistance requested under this subsection is, in the judgment of the National Flood Insurance Advocate, unreasonably refused or not provided, the National Flood Insurance Advocate shall report the circumstances to the Director without delay.

''(f) COMPLIANCE WITH GAO STANDARDS.—In carrying out the responsibilities established under this section, the National Flood Insurance Advocate shall—

''(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

''(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors;

''(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1); and

''(4) take the necessary steps to minimize the publication of proprietary and trade secrets information.

''(g) PERSONNEL ACTIONS.—

''(1) IN GENERAL.—The National Flood Insurance Advocate shall have the responsibility and authority to—

''(A) appoint regional flood insurance advocates in a manner that will provide appropriate coverage based upon regional flood insurance program participation; and

''(B) hire, evaluate, and take personnel actions (including dismissal) with respect to any employee of any regional office of a flood insurance advocate described in subparagraph (A).

''(2) CONSULTATION.—The National Flood Insurance Advocate may consult with the appropriate supervisory personnel of the Federal Emergency Management Agency in carrying out the National Flood Insurance Advocate's responsibilities under this subsection.

''(h) OPERATION OF REGIONAL OFFICES.—

''(1) IN GENERAL.—Each regional flood insurance advocate appointed pursuant to subsection (d)—

''(A) shall report to the National Flood Insurance Advocate or delegate thereof;

''(B) may consult with the appropriate supervisory personnel of the Federal Emergency Management Agency regarding the daily operation of the regional office of the flood insurance advocate;

''(C) shall, at the initial meeting with any insured under the national flood insurance program seeking the assistance of a regional office of the flood insurance advocate, notify such insured that the flood insurance advocate offices operate independently of any other Federal Emergency Management Agency office and report directly to Congress through the National Flood Insurance Advocate; and

''(D) may, at the flood insurance advocate's discretion, not disclose to the Director contact with, or information provided by, such insured.

''(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—Each regional office of the flood insurance advocate shall maintain a separate phone, facsimile, and other electronic communication access.

''(i) FLOOD INSURANCE ASSISTANCE RECOMMENDATIONS.—

''(1) AUTHORITY TO ISSUE.—Upon application filed by a qualified insured with the Office of the Flood Insurance Advocate (in such form, manner, and at such time as the Director shall by regulation prescribe), the National Flood Insurance Advocate may issue a Flood Insurance Assistance Recommendation, if the Advocate finds that the qualified insured is suffering a significant hardship, such as a significant delay in resolving claims where the insured is incurring significant costs as a result of such delay, or where the insured is at risk of adverse action, including the loss of property, as a result of the manner in which the flood insurance laws are being administered by the Director.

''(2) TERMS OF A FLOOD INSURANCE ASSISTANCE RECOMMENDATION.—The terms of a Flood Insurance Assistance Recommendation may recommend to the Director that the Director, within a specified time period, cease any action, take any action as permitted by law, or refrain from taking any action, including the payment of claims, with respect to the qualified insured under any other provision of law which is specifically described by the National Flood Insurance Advocate in such recommendation.

''(3) DIRECTOR RESPONSE.—Not later than 15 days after the receipt of any Flood Insurance Assistance Recommendation under this subsection, the Director shall respond in writing as to—

''(A) whether such recommendation was followed;

''(B) why such recommendation was or was not followed; and

''(C) what, if any, additional actions were taken by the Director to prevent the hardship indicated in such recommendation.

''(4) RESPONSIBILITIES OF DIRECTOR.—The Director shall establish procedures requiring a formal response consistent with the requirements of paragraph (3) to all recommendations submitted to the Director by the National Flood Insurance Advocate under this subsection.

''(j) REPORTING OF POTENTIAL CRIMINAL VIOLATIONS.—In carrying out the duties and responsibilities established under this section, the National Flood Insurance Advocate shall report expeditiously to the Attorney General whenever the National Flood Insurance Advocate has reasonable grounds to believe there has been a violation of Federal criminal law.

''(k) COORDINATION.—

''(1) WITH OTHER FEDERAL AGENCIES.—In carrying out the duties and responsibilities established under this section, the National Flood Insurance Advocate—

''(A) shall give particular regard to the activities of the Inspector General of the Department of Homeland Security with a view toward avoiding duplication and insuring effective coordination and cooperation; and

''(B) may participate, upon request of the Inspector General of the Department of Homeland Security, in any audit or investigation conducted by the Inspector General.

''(2) WITH STATE REGULATORS.—In carrying out any investigation or audit under this section, the National Flood Insurance Advocate shall coordinate its activities and efforts with any State insurance authority that is concurrently undertaking a similar or related investigation or audit.

''(3) AVOIDANCE OF REDUNDANCIES IN THE RESOLUTION OF PROBLEMS.—In providing any assistance to a policyholder pursuant to paragraphs (1) and (2) of subsection (b), the National Flood Insurance Advocate shall consult with the Director to eliminate, avoid, or reduce any redundancies in actions that may arise as a result of the actions of the National Flood Insurance Advocate and the claims appeals process described under section 62.20 of title 44, Code of Federal Regulations.

''(l) AUTHORITY OF THE DIRECTOR TO LEVY PENALTIES.—In addition to any other action that may be taken by the Attorney General, upon a finding in any investigation or audit conducted by the Office of the National Flood Insurance Advocate under this section, that any insurance company or associated entity has willfully misappropriated funds under the national flood insurance program, the Director may levy a civil fine against such company or entity in an amount not to exceed 3 times the total amount of funds shown to be misappropriated.

''(m) DEFINITIONS.—For purposes of this subsection:

''(1) ASSOCIATED ENTITY.—The term 'associated entity' means any person, corporation, or other legal entity that contracts with the Director or an insurance company to provide adjustment services, benefits calculation services, claims services, processing services, or record keeping services in connection with standard flood insurance policies made available under the national flood insurance program.

''(2) INSURANCE COMPANY.—The term 'insurance company' refers to any property and casualty insurance company that is authorized by the Director to participate in the Write Your Own program under the national flood insurance program.

''(3) NATIONAL FLOOD INSURANCE ADVOCATE.—The term 'National Flood Insurance Advocate' includes any designee of the National Flood Insurance Advocate.

''(4) QUALIFIED INSURED.—The term 'qualified insured' means an insured under coverage provided under the national flood insurance program under this title.

''(n) FUNDING.—Pursuant to section 1310(a)(8), the Director may use amounts from the National Flood Insurance Fund to fund the activities of the Office of the Flood Advocate in each of fiscal years 2009 through 2014, except that the amount so used in each such fiscal year may not exceed $5,000,000 and shall remain available until expended. Notwithstanding any other provision of this title, amounts made available pursuant to this subsection shall not be subject to offsetting collections through premium rates for flood insurance coverage under this title.''.

Ms. LANDRIEU. Madam President, Senator WICKER, Senator VITTER, myself, and Senator COCHRAN to some degree have been working for months literally on this bill. It is a very important bill—as has Senator NELSON of Florida—a very important bill to Mississippi and Louisiana that felt the brunt of these last storms that we will be marking the third anniversary of this August, not too far from today, and in September for Hurricane Rita. As I was saying earlier this morning, thousands and thousands and thousands of homeowners are having a difficult time, the causes of which are very different. In some parts of the country people extended debt beyond what was wise and reasonable and find themselves losing their homes and in some instances it is partly their fault.

In some places, some consumers had bad deals thrust at them, and maybe through fraud or some other abuse they find themselves losing their homes. The people I represent didn't do either of those two things. The people I represent in Louisiana and along the gulf coast did nothing but basically play by the rules, have insurance if they were required to, didn't have insurance when they were not required, for the most part. There were some families who should have had insurance who did not, but that is another subject for another day. But the bulk of the people did exactly what they were supposed to do, and they are still going to lose their homes because of two reasons: The Federal levees that should have held didn't and the insurance paradigm we have established is not sufficient. That is what this bill is about.

To describe this in very clear graphics, I wish to put up this poster that shows why we are on the floor today: $17.53 billion; that is a lot of money. That is why this bill is on the floor today, because we have to ''reform the system'' because it is obviously not working. We set up a flood insurance program and for years it would basically break even because of the way it was structured. Then in 2004, it went into debt a little bit, $225 million. Then we went into debt a little bit more, $300 million, but still manageable. Then Katrina and Rita hit and the debt goes up to almost $20 billion. So make no mistake about it, that is why this bill is on the floor. This is a taxpayer bailout of $20 billion. At the same time the taxpayers are bailing out the insurance industry, I wanted to show you what the insurance industry profits are. Everybody—some Republicans and a lot of Democrats—has been on this floor talking about oil companies. I guess I can understand why oil companies are making profits, because prices are high. That is a whole other subject for another day. But I wonder how insurance companies can make profits when you are supposed to have a record loss. I understand profits when prices are high; I don't understand profits when losses are great. There is something wrong with this system.

So, in 2005, the insurance profits went up to $48 billion. Katrina and Rita hit; they don't go down. The profits go up. Because it is basically a system where insurance companies just cannot lose money. People can lose money. People can lose their houses. Businesses lose their businesses. Businesses lose their contents and their markets. But for some reason, in this insurance bill we are operating under, insurance companies make money in the middle of a disaster. Some of my constituents, including myself, would like to know how this happens.

As to the National Flood Insurance Program, the GAO did a report that says: ''Greater Transparency and Oversight of Wind and Flood Damage Determinations Are Needed.'' They just issued this report. I would say so, since the taxpayers are going to pick up the $20 billion bill.

You heard the Senator from Florida, Mr. NELSON. They were so desperate in

Florida, the State had to sort of insure itself, which, thank goodness, Florida is big enough and maybe wealthy enough to do. It is very risky for the State of Florida to do that. If they have four our five hurricanes in one season, like they did a couple seasons ago, it could bankrupt the State. I am sure this debate went on in the Florida Legislature. But they were so desperate, they actually had no recourse because the Federal Government will not come up with a plan that will work for everyone.

So Florida had a choice: They could either shut down every commercial business, shut down every homebuilder, completely stop the housing market in Florida, or they could self-insure themselves. It was a pretty desperate situation, so Florida went ahead and did that.

But let me explain, Louisiana is not a rich State, and we are not a big State. We cannot insure ourselves that way. If we had another Katrina, the whole State would go bankrupt and our kids could not go to universities, our hospitals would shut down. I know people think I am making this up, but it is the truth. We cannot assume that risk onto ourselves, and neither can Mississippi, and I would suggest neither could Alabama. Maybe California could do it, maybe New York could do it, maybe Texas could do it, and maybe Florida could do it because they are big States, but our little States would go bankrupt.

So our GAO says the insurance business needs some more transparency and oversight. I will tell you why. As shown on this chart, this is what is in the report. As you know, maybe by word of explanation, under the current system—as unbelievable as this might sound—you have the real estate agents who are in the private sector writing wind insurance for their companies, which they can make a profit on. It is private. They are writing the flood insurance policies. So it is ''write your own'' policy. So the same people who write the Federal, taxpayer-guaranteed flood program write the private program.

So right now—and this bill does not fix this; this bill does not do anything to fix this—right now, according to our own GAO, Government Accountability Office, which is completely neutral, not political:

In certain damage scenarios, the WYO [write your own] insurer that covers a policyholder for wind losses can have a vested economic interest in the outcome of the damage determination that it performs when the property is subjected to a combination of high winds and flooding.

Which, hello, most often happens in a hurricane. You have winds and water. So it always happens that way.

In such cases, a conflict of interest exists—

Let me underline ''a conflict of interest exists''—

with the WYO insurer as it determines which damages were caused by wind, to be paid by itself. . . .

So if a house is destroyed and the person comes in and says: This house was destroyed by wind 85 percent—if that is the case—then I have to pay it out of my pocket. If it is actually 85 percent flood, then the Government can pay it. The poor taxpayers can pick up this tab, so the insurance companies move their liability to the taxpayer.

I know, Madam President, as a former auditor, you can most certainly appreciate and understand this situation.

So it says:

In such cases, a conflict of interest exists with the WYO insurer as it determines which damages were caused by wind, to be paid by itself, and which damages were caused by flooding, to be paid by NFIP [the National Flood Insurance Program].

Which is basically the taxpayers.

Moreover, the amount WYO insurers are compensated . . .

In addition to that obvious conflict of interest, which is not corrected in this bill, the insurers are compensated for servicing a flood claim, and it increases as the amount of the flood damage increases. So their compensation, their percentage is increased. So if the flood insurance is more, they get a little bit of a premium.

So this bill has been in committee being worked out through the House and Senate, it is finally on the floor, and this problem has not been corrected. So that is why I offer my amendment to try to correct some portion of it.

Let me show you one of the actual transactions we have uncovered. This is an actual blowup of a claim, the paperwork that was done. It talks about the flood that occurred on August 29. Damage appears to be the result of the general condition of flooding. The first inspection revealed an exterior waterline of 15 to 20 feet, an interior waterline of 8 to 12 feet. Damage was extensive. It lists this.

That sounds wonderful and great. That is kind of what one of these documents would look like. The problem is, the adjuster who turned in that document said—this is under oath in one of the court proceedings that is slowly moving through the courts—''I did not put those numbers in there.'' ''There was no house to measure a waterline.'' ''I did not prepare that letter.'' ''They didn't call me about that letter.'' ''That is the document that is sent to the Federal Government.'' This is an adjuster. We have blocked his name out because he would probably get in trouble if they knew he was sharing this information with us.

So, in other words, again, this is not complicated, because I know insurance can be complicated. I do not really like the subject very much, but I have had to learn more about it than I care to know because of what we are going through.

But we have a system which we are getting ready to vote on right now that allows the same insurance companies to write their own personal policies or their own business policies, and they do the Government a ''big favor'' by writing the flood insurance policies. They decide when their houses are destroyed, how much they have to pay out of pocket, if it was done by wind, or how much we have to pay if it was done by flood. These documents are barely ever audited, or this system is barely ever audited.

When we went and checked, as shown on this chart, this was the house that supposedly had a water line. Of course, you can see this address. There was no house. There could not possibly have been any measurement because there are no walls to measure. So this is just an example of hundreds that are coming out as these court cases move forward all along the gulf about the very serious problems related to the way the U.S. flood insurance program works.

Now, I know we need a flood insurance program. My State benefits tremendously from having one that is fair and equitable to the people who are paying the premiums, to the homeowners and businesses who rely on it. I also have an obligation to taxpayers generally in this country to support a program that is honest and fair. What I am suggesting is that the bill we are about to vote on—which is probably why I am going to vote no—does not do anything to change this.

So I am going to put up my ''$20 billion'' sign again. This $20 billion debt exists in large measure because of this system I have just described. Now, this bill is going to pass, and magically the Federal Government is going to just absorb the $20 billion so we kind of get back to even. The bill, then, generally said, to make up for that, we are going to raise rates. But do you know on whom they raise rates? Not on the insurance companies that have already made record profits. Do you know on whom they raise rates? People who cannot afford the rates today. In the underlying bill, they can raise rates 15 percent a year or 25 percent a year.

When we ask the committee to please consider that the people of Mississippi and Louisiana and Alabama cannot afford higher insurance rates, couldn't we possibly consider some kind of catastrophic plan—because we might have hurricanes, but Memphis is going to have an earthquake someday, and Seattle is going to have a tsunami; in 1938, a hurricane 5 slammed into Long Island—we are told no. We cannot even consider such a thing.

So there are many things wrong, and I really cannot correct them. I tried to hold this bill up as long as I could, and everybody decided we needed to have a flood insurance bill, so I said: Fine. Let the bill come to the floor, but I am going to talk against it. That is what I plan to do.

So the purpose of this bill is for the taxpayers to eat $20 billion, to let insurance companies have record profits, and the end result is the people of Alabama, Mississippi, and Louisiana get rates raised every year from now until who knows. And I am supposed to just

sit here and say this is a great bill the committee came up with?

So the amendment I am offering—which is not going to fix this bill, but it might fix one problem with this bill—is to establish an ombudsman.

Oh, and this is really ironic, what is in the underlying bill. In the underlying bill, there is a provision that establishes an office to register complaints. It is a flood insurance advocate section of this bill. If I had the section, I would read it. But in the underlying bill, there is a section that talks about that if anybody has a complaint, they could call a 1–800 number and complain.

Now, I have e-mails up to my ceiling in my office from people—not complaining, crying—not complaining, crying because they are getting ready to lose their business or lose their house. But they could, in the underlying bill, call a 1–800 number and make a complaint. But the language is so weak and flimsy, there is really not anything they can do other than complain.

So I have taken that section and strengthened it. That is what my amendment does. It does not just establish a complaint counter. It establishes an office that has some teeth. It establishes an ombudsman's office. We kind of took the language from some of our IG legislation which will allow the establishment of an office with some significant funding attached to it that can review and audit more carefully this National Flood Insurance Program.

I would hope the leaders of this committee would look carefully at this amendment and know that I offer it in very good faith. Again, I do not believe the underlying bill, in this provision just establishing an office to complain, is enough considering the gravity of the situation we are dealing with.

I offer this amendment in good faith. I offer it with Senator NELSON from Florida as a cosponsor. It establishes an office that would conduct audits to ensure that only flood losses are being allocated to the flood insurance program. It ensures that write-your-own insurers are preserving the necessary documentation to justify their payments, to conduct any other examinations to protect the financial integrity of the program, and to prevent fraud and abuse and conflicts of interest.

Now, again, our Government Accounting Office has already established there is an inherent conflict of interest in the current program. So we are not guessing that there might be a conflict of interest; there is a conflict of interest. It says so according to the GAO:

In certain damage scenarios, the insurer that covers a policyholder for wind losses can have a vested economic interest in the outcome of the damage determination that it performs when the property is subjected to a combination of high winds and flooding. A conflict of interest exists, as it determines whether it says your house was damaged by wind.

So let me go ahead and pay your claim on it, or the insurer says: No, I think it was damaged by flood, which then the taxpayers can pay for, and my insurance company gets off Scot-free. And maybe, just maybe, that might explain why in the worst disaster in the history of the United States, at least recently, taxpayers have to pick up $20 billion and insurance companies file record profits.

Is there anything in this underlying bill that might suggest that we could watch the taxpayers' money a little more carefully? No. They put in an office, a 1–800 number where people might complain.

So instead of the 1–800 number where people might complain, I would like to put in an office where, if something is wrong, people can be criminally prosecuted. If there is fraud, people can be penalized with civil penalties and criminal penalties.

I know this is very tough language, but I am not suggesting this particular document suggests that there is any stealing or any crime. But there is something wrong in our system of justice where somebody goes into a grocery store and steals $100 and gets 3 years in jail, and we have companies that—''fudge'' is the word. They didn't really use the word ''steal,'' but they will fudge a little and take $20 billion out of the Treasury and they get nothing—not a slap on the wrist, not a fine. The only thing that happens is the poor homeowners and businesses get increased premiums. So that is one of the things this amendment does.

I hope my colleagues, whether they vote for the bill—I probably will not vote for the bill unless it is amended substantially, which it may be between now and the time we vote on final passage—but I hope my colleagues will look very carefully at this amendment that I offer with Senator NELSON. It establishes basically an IG ombudsman within this program to make sure the taxpayers don't pick up another $20 billion in costs.

I know people will say: Well, Senator LANDRIEU, if we don't have this bill, your people won't have flood insurance. Well, I understand that, but our people have—we are between a rock and a hard place. We need flood insurance, but we need flood insurance that we can afford. We would like to believe we have a flood insurance program that operates honestly. I am not sure that we do. So that is what this amendment does, amendment No. 4706.

AMENDMENT NO. 4705, AS MODIFIED, TO AMENDMENT NO. 4707

I have one final amendment to offer. If I can, I would like to send the amendment, as modified, No. 4705, to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU], for herself, Mr. PRYOR, and Mrs. LINCOLN, proposes an amendment numbered 4705 to amendment No. 4707.

Ms. LANDRIEU. I ask unanimous consent to dispense with the reading of the amendment.

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

The amendment is as follows:

On page 10, strike line 3 and all that follows through page 10, line 16, and insert the following:

(c) STUDY ON MANDATORY PURCHASE REQUIREMENTS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall conduct and submit to Congress a study assessing the impact, effectiveness, and feasibility of amending the provisions of the Flood Disaster Protection Act of 1973 regarding the properties that are subject to the mandatory flood insurance coverage purchase requirements under such Act to extend such requirements to properties located in any area that would be designated as an area having special flood hazards but for the existence of a structural flood protection system.

(2) CONTENT OF REPORT.—In carrying out the study required under paragraph (1), the Comptroller General shall determine—

(A) the regulatory, financial and economic impacts of extending the mandatory purchase requirements described under paragraph (1) on the costs of homeownership, the actuarial soundness of the National Flood Insurance Program, the Federal Emergency Management Agency, local communities, insurance companies, and local land use;

(B) the effectiveness of extending such mandatory purchase requirements in protecting homeowners from financial loss and in protecting the financial soundness of the National Flood Insurance Program; and

(C) any impact on lenders of complying with or enforcing such extended mandatory requirements.

Ms. LANDRIEU. Madam President, I send this amendment to the desk, which is actually on behalf of myself, Senator LINCOLN, and Senator PRYOR, that addresses the mandatory coverage requirements in the underlying bill. I hope my colleagues will not think again that this bill only affects the gulf coast because there are some provisions in this bill that are going to affect the entire country.

One of the provisions is, it is going to be mandatory as FEMA maps home and businesses located beyond levees and dams and floodwalls and other manmade structures into residual risk areas. Once these homes and businesses are mapped into such areas, the legislation would require them to purchase flood insurance.

Now, levees and dams don't just exist in New Orleans, although we have quite a few of them because we are a low-lying area. But we have 14,000 miles of Federal levees throughout the country along many rivers. In fact, I see the Senator from North Dakota, and he himself has had very significant experience with one of his towns being demolished, devastated, almost completely destroyed, I think it was maybe 15 years ago, when their levees broke. So he is well aware.

Whether you are in Michigan or Illinois or Missouri or in many places where there are levees and dams, there are 14,000 miles of Federal levees, 79,000 dams, and 22 percent of all counties

and parishes have a levee. So it is one out of every four that will be affected by the underlying bill; that is, once FEMA finishes mapping the whole United States, which they are doing and which we need to do. We need to have better maps using new technology to try to determine who is near sea level and who is above sea level and who is at risk. I have no problem with that. But this bill will mandate that everybody behind those levees pays insurance.

So my amendment will basically establish before that requirement goes into place—and, again, it may be necessary—that there be adequate study about the issue. The amendment strikes the mandatory purchase requirement. In its place, it requires the GAO to study the cost, the regulatory, financial, and economic impacts of extending the mandatory purchase on the cost of home ownership, the actuarial soundness to this program, to the local communities, insurance companies, and local land use; the effectiveness of sending such a purchase requirement in protecting homeowners from financial loss and protecting the financial soundness of the program.

Now, I know this was debated in committee. I am not sure that it has gotten a lot of coverage, but my phone has been ringing off the hook from other Senators who are just waking up and saying: Well, Senator, I thought this flood insurance program only affected those places along the coast, and now I am realizing this flood insurance ''reform'' bill is going to raise fees—not necessarily taxes but premiums—on thousands and thousands and thousands of homeowners and businesses throughout the country.

We may have to do that. We may have to do that. But let's do it after GAO has studied and laid out what the impact and ramifications are, and let's do it in a system that is fair so it is not just the homeowners who have to pay premiums, the taxpayers who bail them out when there is a problem, and insurance companies that can't lose money under the current system. That is basically the system that we have.

So, again, 43 million people are affected by the underlying bill with this new provision. Twenty-two percent of all counties in the country, and in our case parishes, have levees; 79,000 dams and 14,000 miles of Federal levees.

So these are the two amendments that I offer. This has been done in a package with Senator WICKER and Senator VITTER. We have offered a package of amendments trying to fix and expand wind coverage to this bill, to lift the coverage limits.

Again, a big problem with this bill is it has not kept pace with inflation and only covers homes valued up to $225,000. That might sound like a lot, but it is not keeping pace with inflation. Our amendment would lift the coverage to homes over $325,000.

Then my ombudsman amendment and this mandatory coverage reprieve would be the other amendment.

Mr. DORGAN. Madam President, I wonder if the Senator would yield for a question.

Ms. LANDRIEU. Yes, I will.

Mr. DORGAN. The last amendment that the Senator sent to the desk, my understanding is that it is an amendment very similar to something I was intending to offer, but I am not certain I understand your amendment, so if I could just work through it with you.

My concern about the underlying bill with respect to the mandatory coverage areas is that it requires the expansion of areas of special flood hazards to include areas of residual risks, including areas that are behind levees, dams, and other manmade structures.

Is your amendment designed to strike that provision?

Ms. LANDRIEU. It doesn't strike the mapping requirement. It doesn't strike the mapping requirement, but it strikes the mandatory coverage provision until there is a study done about what the economic impact will be to people living behind those levees and dams.

Mr. DORGAN. But, if I might inquire further, is it the intention of the amendment to provide that there shall not be mandatory requirements on all of these levees, dams, and other manmade structures, which the underlying bill would require?

Ms. LANDRIEU. Yes, it does. That is the intent of the amendment.

Madam President, there are many Senators who feel as though this is a very abrupt requirement. They are not sure of what the outcome of these premiums might be to people who are already struggling with higher costs. And because there is no estimate to my knowledge, we thought it would be better to offer an amendment that would basically require a study so more discussion can be had, and then perhaps later we could insist on mandatory coverage or phase it in as is appropriate. But is that the Senator's concern?

Mr. DORGAN. Madam President, I believe I looked at the amendment, and it does not strike what is in the underlying bill—all of section 7—which I was intending to do with my amendment. I didn't quite understand the consequences of striking just a portion of it. But if the Senator from Connecticut who is on the Senate floor—when the Senator from Louisiana concludes, I would like to make a couple of comments about the reason for my concern about this matter, and perhaps we can visit. If our amendments have exactly the same impact, there is no reason for me to offer mine.

Ms. LANDRIEU. I would be happy to. I appreciate the Senator raising it. I will review the way this amendment is structured. But, again, I would be happy to work with the Senator so we could offer something together because there are many Senators who are concerned, and rightly concerned, about this particular section.

If the Senator would allow me to finish, I will be happy to yield the floor for further discussion because I am about ready to finish my remarks. There are no votes scheduled. There are other amendments that are going to be offered. But, again, a package has been put together by several Senators, both Republicans and Democrats.

I have to say again, in conclusion, I don't like the underlying bill. I did a great deal to keep this bill bottled up in committee for over 2 years. But I have been convinced the better way to proceed is to have this bill come to the floor, which is what I allowed with Senator VITTER and Senator WICKER, as long as we can offer amendments and have some time to air our grievances. The chairman of the committee and the ranking member of the committee have been men of their word and allowed us to do so.

So at some point, Madam Chair, I would request that the Senate vote on these amendments together as a package, but individually the one regarding wind, the one regarding the increased coverage, the one regarding the ombudsman, and the amendment regarding the mandatory coverage, and then the additional coverage options. So there are five amendments in this package that we have been working on. At some point, when that can be agreed to, we can move this bill forward.

In the meantime, I will be happy to work with my colleague from North Dakota to see if the language he has suggested is the same as ours. If not, perhaps we can modify our amendment to accommodate that, or perhaps he will offer the amendment with our acquiescence.

With that, I yield the floor to my friend from North Dakota.

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

Mr. DORGAN. Madam President, I was surprised by what is section 7 in the underlying bill. I understand the substitute at the desk has it on a different page. I am talking about the same provision the Senator from Louisiana spoke about briefly; that is, an expansion of the requirement to have flood insurance in areas of special flood hazards, to include areas of residual risk, areas that are located behind levees, dams, and other manmade structures.

I am not surprised we want people to buy flood insurance if they are at risk of being flooded. That is not my point. But let me give you a case study, if I might, and talk about Grand Forks, ND. Eleven years ago—in fact 11 years ago about this time—the city of Grand Forks, ND, a city of nearly 50,000 people, was nearly completely evacuated. It was the largest evacuation of a city since the Civil War, and it was because of a flood on the Red River. It was a very significant flood; some said it was a 500-year flood.

All of us who went to that city and spent time there and went to the Air Force base—a major Air Force base—15 miles west of the city and visited with the citizens who had been evacuated—

tens of thousands of people—we will never forget that. So what happened in the last 10 years—by the way, let me speak about the memory of not only a city being flooded and evacuated, but in the middle of that city there was a raging fire. So there is a flood, and then buildings in the middle of the city that are inundated by water caught fire, and there was a major fire in the middle of the city. To watch firefighters work in a flood to try to see if they can't, in the middle of a significant city, put out a fire that is consuming a number of businesses in the downtown district is quite extraordinary.

Fast forward 10 years, and I think we have spent close to $400 million over a decade to provide unbelievable flood protection for that city. That is not going to happen again. There is a flood protection plan in place for that city that is very significant. That flood protection plan protects against a 250-year flood. The provisions in this bill talk about a 100-year flood. We have now flood protection for a 250-year flood. It is blue ribbon, first rate, brandnew flood protection for this city. So it is a little surprising to me to see a bill that says, by the way, we have just finished spending a lot of money to provide very significant 250-year flood protection and now we have one other decision; we want you to understand you should now buy flood insurance. It is only $1 a day, $300 or $400 a year, they say.

That is going to be pretty surprising to a lot of people who are still paying debts to fix up their houses from 10 or 11 years ago from that flood. They are going to ask the question: Why are we asked to buy flood insurance when you have built a very significant flood protection plan, with 250-year flood protection for our city, and now you say to us we all should go buy flood insurance. Are you daft? What are you thinking of? They would not understand this. I am trying to figure out what the requirement is.

I understand there are some manmade levees and dams and other circumstances that perhaps have risk attached to them, which are old structures. I understand that. There are some circumstances where those who take a look at this believe that more should participate in the flood insurance program. I understand all that. But to simply say that in every circumstance, including areas located behind levees, dams, and other manmade structures, everybody should have flood insurance, that doesn't make any sense to me.

I don't know how you explain that to somebody who was told we completed a terrific flood protection program that gives you a 250-year flood protection, but you need to pony up some money to buy new flood insurance. I think this is not a good provision, and I hope we will be able to remove it.

Ms. LANDRIEU. Will the Senator yield?

Mr. DORGAN. Yes.

Ms. LANDRIEU. I don't know how this will be resolved. I certainly can appreciate that, and I agree with the Senator, because one size doesn't fit all, which has been part of the problem with this bill—that it is pushing everyone into a one-size-fits-all requirement. It is not the appropriate response to our situation. I hope the Senator will consider either modifying the amendment I have laid down, or I would be happy to actually support a narrower amendment that any communities that can establish that they have created protection that is over and above the average, which is 100-year flood protection, might not be subject to this requirement.

As the Senator knows—because he is chairman of the Appropriations Committee that funds levees in the country, so he most certainly is one of the leading experts—the standard in America right now is not sufficient, and it is 1 storm out of 100. Very few communities can boast of being as protected as his community can. I suggest that most certainly I would not object as the main author of the amendment, but there are several cosponsors. I am sure we could work something out.

Mr. DORGAN. Madam President, in my subcommittee that I chair on appropriations, dealing with energy and matter, we spent $2.2 billion on Corps of Engineers construction alone, to say nothing of maintenance, remediation, and other expenses. Just the construction in fiscal year 2008 was $2.244 billion. So we are spending a lot of money working on levees and dikes and other areas of protection. It seems to me—my colleague from Connecticut indicated this and he is absolutely correct—levees do fail, and I understand that. He is absolutely correct about that. Levees do fail. Manmade structures, from time to time, will fail. But it is also the case that some risks are substantially lowered, and there are some risks that are substantially elevated because of the condition of the levy and so on. My colleague from Louisiana is correct when she says let's not do something that is one size fits all.

Again, I will use the example I think is clear. If you just finished a new flood control program that you have worked on for 10 years with a 250-year flood protection, which is more than double the protection normally required to protect against a 100-year flood, at least understand the difference between what you have done there with public funding and what might exist somewhere else, where there is higher risk. It is hard to tell somebody, by the way, you have a new flood control plan, it works, it is terrific and it is new and it costs a lot of money; it will protect you against a 250-year flood, but you must buy some flood insurance, please, because we are worried that you are going to be hit by a 100-year flood. That is the kind of thing I hope we can avoid.

Earlier, I used a word I don't ever use. I don't know why I used it. I used the word ''daft.'' I wasn't applying it to anybody who wrote this legislation. I should quickly explain that.

It appears to me that, if this would pass, we may have to explain to some people something that is not able to be explained. You now have terrific flood protection, but we want you to buy flood insurance, even though we protected you with public funding, with a first-class flood protection system. It is not difficult for me to go to someone in a circumstance where there is risk and say I understand why you have to have flood insurance. You have to have a large number of people paying in. You have risk and you are going to have to buy flood insurance. I understand that.

The Senator is correct that sometimes levees do fail. We should not, it seems to me, with this small section in the bill, on page 9, subsection 2, under (b), we should not say, anyplace in America where you have a levee, a dam, a manmade structure, you are all in the same boat. That is not the right thing for us to do.

I hope that with the concurrence of the Senator from Connecticut, perhaps, we can talk through this as we move along and make some changes to that, which are thoughtful and address the issue of risk.

I thank my colleague from Louisiana, and I thank my colleague from Connecticut for his patience. As I conclude, I am going to visit with the Senator from Louisiana to see whether my amendment is sufficiently similar to hers so maybe we can deal with one amendment. If so, I will not add my amendment. I have filed it, but I will not call it up. If it is not sufficiently similar, I will call up my amendment later today.

I yield the floor.

Mr. DODD. Madam President, now we have had five amendments that will be pending at some point. At an appropriate time, after my colleague from Alabama arrives, in consultation with others and with the leadership, we will work out a time when we may have consideration of these amendments and have votes. Many Members are curious about votes this evening. We would like to give a clear indication of when the votes are likely to occur. Let me take a few minutes and respond.

First of all, all of us in this Chamber, including myself, have expressed ourselves over the years in terms of what has happened when people have been devastated by natural disasters, including those in the gulf area. I have traveled down there reviewing the area and seeing what happened. We all care deeply about what happened to people in the Gulf State areas, in terms of the devastation that occurred. Let me point out quickly that is not the debate, in the sense whether we understand it. It is what we can do about it.

The bulk of this legislation, as presently written—it is a given that most of the 5.5 million properties that are going to be covered are in the Gulf State areas. FEMA borrowed money

from the Federal Government to pay the $17 billion in claims. The flood insurance program generates about $2.5 billion each year as a result of premiums as part of the fund, and about $1 billion of that goes to administrative costs. There might be a legitimate amendment as to why there is so much administration in that program. That is how it breaks down. You are left with $1.5 billion to cover this. As a result of natural disasters and floods, here we are left with a debt of $17 billion, which FEMA owes to the Federal Government. In the process of paying that debt, they are increasing the premium costs, unless we take action. So you can have a choice. We can drop the bill, basically—defeat it, as some suggested, who may vote against it—in which case the very people we are concerned about are going to end up with a larger cost because somebody has to pay that debt. That is a bailout otherwise, if we don't do something about it. So the idea is, how do you do that?

The major thrust of the bill is to forgive that debt, take it off the books, so the people who pay these premiums will not have a surcharge added to their costs to meet that obligation. That is the fundamental purpose of the bill, to forgive that $17 billion, which otherwise becomes a cost to the very people paying the premiums. So I began the discussion by saying the thrust of this bill was to do that.

The second part—Senator NELSON has it exactly right, the author of the second part. He came to the committee a number of months ago and asked to include a commission to deal with catastrophic natural disasters. There is a significant debate as to how to handle this. A significant percentage of our population lives within 100 miles of the coast of the United States. Obviously, there are natural disasters that occur inland as well. But how we deal with catastrophic costs, how we set up the mechanism to deal with it is a significant debate, with hardly unanimity around it. Rather than trying to pretend that one committee can solve all that, Senator NELSON suggested a commission made up of people who would bring knowledge about all this and report back to us in 9 months their recommendations as to how we might deal with catastrophic disasters that occur in our country.

That is the second part of this bill. There are a lot of other ideas. I addressed some of them earlier—wind issues and the like. I don't argue about the legitimacy of the issue. The question is, we have a responsibility to be actuarially sound. I know that is not something we have a great reputation on, but we try to do that occasionally, to insist upon having a system that will allow us to collect revenue, pay for a program, keep the costs down, and cover the kind of catastrophe people face.

Our bill does a number of things that are more than just vague terminology in dealing with the insurance industry. I, for one, believe we ought to do more in this area to try to get greater accountability. That is not an issue for debating here.

Let me mention some things we have included in the bill before we accept the notion that nothing is here at all. No. 1, in the program we require the insurance companies to participate in State-sponsored mediation.

We require the insurance industry to submit all data on costs to operate this program and require FEMA to conduct rulemaking so the insurance companies are only paid for actual costs.

We created a flood advocate to help consumers who have problems with the flood program so they can have direct access to it. That was one of the major problems a few years ago.

We also direct FEMA to collect information from the insurance industry on claims where there is both wind and flood damage. I might add, this gets exactly at the problems raised by our colleagues from Louisiana and the other gulf State areas. FEMA will now be required to look at how insurance companies are dividing damages to ensure that companies are not improperly shifting costs to the Federal flood program.

I know others may want to add other things. But to suggest we did nothing to require greater accountability is not to be terribly honest about what is in this bill. Obviously, there are those who would like to get rid of the industry altogether and maybe just have a Federal program where FEMA becomes an insurance company. That is an option, if people want to do it. I don't know there is a will here to do it, but that is one option.

There is no requirement in law that an industry provide this kind of coverage. You have to be somewhat careful that if you become so onerous in your requirements or your indictment of them that getting these very companies to write the policies becomes harder. If they don't write the policies, who does? Does the Federal Government then become an insurance company? I don't think there is a will to do that. Maybe there are some who would like to.

Before you decide to beat this horse into oblivion, be careful about how far you go. If you do it to such a degree there is no one there to write the programs to begin with, we may find ourselves in deeper trouble. But to say they ought to be able to do exactly as they want to do, and not be mindful of some of the egregious examples my colleague from Louisiana referred to, would also be wrong.

In this bill we tried to identify some specific areas that were the subject of hearings that informed us where there were matters clearly the industry and those responsible for overseeing them could demand more and get more out of them.

I believe we have done a good job in this bill on those issues. Could you add some more things? I am not going to argue that. We did try to do our best. Again, we had a unanimous vote in our committee after significant debate on this bill. But the idea of having an ombudsman going in and basically drawing a conclusion about things before actually determining it—be careful what you wish for. If in fact we don't end up with people coming in to provide the coverage, we could find ourselves in even worse shape than we are in today. I invite my colleagues to look at the legislation and the specific provisions I just mentioned that we have included in the legislation to require greater accountability out of the industry.

Now let me address the second point, and that is the mandatory requirement that people within certain high-risk areas be required to pay some premiums. I ask my colleagues to think about the consequences of this amendment should we strike the portion of the bill that requires people who live in areas behind levees or downstream of dams to purchase flood insurance. Currently, home and business owners in these residual risk areas, as they are called, are at great risk of flooding. There are over 122 levees and dams that have already been categorized as weak, failing.

With all due respect to my colleague from North Dakota—and I have been to his community where these problems exist—these manmade projects do not always work. So the fact that taxpayers in Connecticut and elsewhere have paid to build them is a good thing. Maybe we ought to be talking about how those costs of premiums ought to reflect the quality of the levee or the dam that has been built in those areas. But to suggest somehow that since we built the levee anybody living in that residual risk area should not assume any responsibility if it breaks down is maybe going to far.

Let me tell you what we are talking about. Most cost less than $1 a day to cover this. What you get for that is roughly $250,000 to cover structures and $100,000 to cover the contents. That is $350,000 in most cases for less than a dollar a day, for living in a residually high-risk area where a levee or dam exists. This idea somehow that we all can get our levees built and dams built and we bear no other responsibility for trying to cover against those risks and the costs, when they occur, if that levee or dam breaks and it gets flooded out and there is no insurance requirement in those areas—who pays for that damage? Again, we are right back here draining the Treasury instead of requiring an insurance program. A dollar a day for roughly 350,000 dollars' worth of coverage, I do not think that is overly burdensome.

I know people don't like any additional cost. But if you are asking me to craft a program that is actuarially sound, that allows us to build up that fund so we do not have to drain the Treasury or forgive a debt that is now

owed by FEMA to the National Government, then requiring some responsibility—I have it in my own State of Connecticut. The Connecticut River in Hartford, we have a huge levee, a dam there. I certainly think my constituents who live along that have to pay something. They made the choice to be there. Some don't make the choice. They live there. But asking for less than $1 a day for over $350,000 in coverage for structure and contents in order to bear some responsibility—Lord forbid it breaks down—I don't see that as being overly burdensome, as some would suggest.

What percentage of problems occur in this area? We are told here—again, I am relying on data that has been given to us—we all know that dams fail, levees fail. What better evidence than what happened to our colleagues from Louisiana, the failure of the levees and the problems that ensued from it. I will provide the lists and put them in the record of the 122 levees we know are failing today. One percent of all flood policies are outside the 100-year floodplain, many of these in residual risk areas. This 1 percent of policies accounts for 25 percent of flood claims. Let me repeat that. One percent of the policies accounts for 25 percent of the flood claims. So 1 percent of policies not currently in mandatory purchase areas are responsible for 25 percent of all the claims that come in—one-quarter of them.

You could just persist in this and say we are not going to have anybody pay anything at all. Yet 25 percent of the entire fund is going off to provide coverage in areas where, again—it is only 1 percent of the policies that are being written. Clearly, the risks outside the 100-year floodplain are significant—25 percent of all claims are coming from them, despite the dams and the levees we have here. We should ensure that adequate insurance coverage for all homes and businesses in these risky areas are covered. That is what we are trying to do.

Flood insurance should not be viewed as punitive. It is a cost to insure against a known risk. Flood insurance premiums for homeowners in these residual risk areas are not prohibitively expensive. The maximum amount of coverage—$250,000 for structures and $100,000 for contents—will cost less than $1 a day. That is the maximum insurance. For a majority of people, the cost will be much less, less than $1 a day to ensure a family can rebuild from a flood.

I ask my colleagues to look at recent experiences in New Orleans, as well as the recent flooding in Missouri along the Black River, in Nevada near Reno, and in Lake County, IN. These are just a few examples, but each caused devastation when levees did not provide the needed protection.

I also ask my colleagues to look at the U.S. Army Corps of Engineers review of levees last year. That review identified 122 levees at risk of failure in the country. Surely, people who believe they are protected should know of their risks and should carry affordable insurance to hedge against those kinds of devastating events that occur even when significant efforts have been made to protect people in those areas.

No one likes to vote for something where you have to have a fee charged. We bear the responsibility of having a program that works, that is actuarially sound, that makes a difference, that doesn't put us in a position of having to constantly bail out—in this case FEMA—as a result of these claims coming in. If there were a way of doing this where I could wave a magic wand and no one would have to pay a nickel and somehow this would all be done by someone else, I would love to achieve that. But miracles do not exist when it comes to costs. We tried to minimize those costs and have a good program that doesn't drain the Treasury and doesn't expose all taxpayers to these costs and asks people to contribute in some degree to get the kind of protection we are looking for. That is what we have designed.

If this bill fails—and there are those recommending by their vote it ought to fail—then those premiums are going to go up, and the very people we are talking about bear a tremendous financial burden. In the absence of this bill, they will pay a tremendous amount to pay off that debt to FEMA. It is not a free charge unless we take action to excuse that obligation.

Then, second, that commission to examine these other very important issues, and then the provisions in this bill itself to achieve greater accountability within the insurance industry—that is why this bill passed unanimously out of the committee, Democrats and Republicans, people from coastal States and noncoastal States working together to craft the legislation that Senator SHELBY and I put together.

I realize we are not going to write something that everybody agrees with every dotted i and crossed t. That is beyond my capabilities. What you have asked me to do as chairman of the committee, with Senator SHELBY, is craft a bill that will allow people to have reasonable costs, get some real help and relief, protect against these kinds of problems that are obviously going to occur again, but this time we will have done something about it ahead of time instead of waiting for it to happen and be back here again trying to come up with some supplemental appropriation where billions of dollars are being asked for out of the Federal Treasury to pay for the damages that might have otherwise been paid for under an intelligent insurance program, balanced and sound.

I apologize if I can't make everybody happy with this bill, but we did our very best to craft legislation that I think accommodates the fundamental points.

If you want me to craft legislation that allows money to be spent and no one has to pay a nickel for it, you are going to have to find someone else. I can't do that for you. I have a proposal of less than $1 a day for 350,000 dollars' worth of coverage. I do not believe that is unreasonable for people living in residual risk areas, particularly where 25 percent of the claims are coming out of those areas where only 1 percent of the policies are being provided for.

With that, at the appropriate time we would like to have some votes on these amendments. I will be urging my colleague to reject these amendments. I appreciate the intentions behind those who offer them, but in good conscience we need to pass a bill that can make some sense, become the law of the land, and provide some protection we are seeking with this legislation.

Madam President, I ask unanimous consent the list of levees of maintenance concern be printed in the RECORD.

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

U.S. ARMY CORPS OF ENGINEERS LEVEES OF MAINTENANCE CONCERN, FEBRUARY 1, 2007

| District | Project Name | Segment Name | State | City |
|---|---|---|---|---|
| Detroit | Erie Township / Grodi Road | Grodi Road | Michigan | Erie Twp. |
| Detroit | Labo Island | Labo Island | Michigan | Brown Twp. |
| Detroit | Milliman Island | Millman Island | Michigan | Brown Twp. |
| Detroit | Sebewaing, MI Flood Control Project | Sebewaing Flood Control Proj. | Michigan | Sebewaing. |
| Huntington | Levisa and Tug Forks and Upper Cumberland Basin | Matewan, WV LPP | West Virginia | Matewan. |
| Huntington | Maysville, KY | Maysville, KY, LPP | Kentucky | Maysville. |
| Louisville | Brookport Local Flood Protection Project | Brockport LFPP | Illinois | Brockport. |
| Louisville | Levee Unit No. 8 | Levee Unit No. 8 | Indiana | Plainville. |
| Louisville | Shawneetown Local Flood Protection Project | Shawneetown LFPP | Illinois | Old Shawneetown. |
| Nashville | Loyall, KY Local Protection Project | Loyall, KY Local Protection Project | Kentucky | Loyall / Rio Vista. |
| Nashville | Pineville, KY Local Protection Project | Pineville, KY Local Protection Project | Kentucky | Pineville. |
| Nashville | Wallsend, KY Local Protection Project | Wallsend, KY Local Protection Project | Kentucky | Pineville. |
| Pittsburgh | Kittaning | Kittaning LFPP | Pennsylvania | Kittaning Borough. |
| Pittsburgh | Oil City | Oil City LFPP | Pennsylvania | Oil City. |
| Pittsburgh | Vintondale | South Branch Blacklick | Pennsylvania | Vintondale Borough. |
| Memphis | White River Levees | Augusta to Clarendon, AR | Arkansas | Agriculture. |
| Baltimore | Anacostia River | Left Bank Anacostia River | Maryland | Town of Bladensburg. |
| Baltimore | Anacostia River | Right Bank Anacostia River | Maryland | Town of Hyattsville. |
| Baltimore | Washngton, DC | National Park Service Section | District of Columbia | Washington, DC. |

U.S. ARMY CORPS OF ENGINEERS LEVEES OF MAINTENANCE CONCERN, FEBRUARY 1, 2007—Continued

| District | Project Name | Segment Name | State | City |
|---|---|---|---|---|
| Baltimore | Washington, DC | Potomac Park Levee | District of Columbia | Washington, DC |
| Baltimore | Washington, DC | US Naval Air Station Section | District of Columbia | Washington, DC. |
| Baltimore | Wiliamsport-South Williamsport | South Williamsport | Pennsylvania | Borough of South Williamsport. |
| New England | East Hartford, CT | East Hartford, CT | Connecticut | East Hartford. |
| New England | Lincoln, NH | Lincoln NH | New Hampshire | Lincoln. |
| New England | West Springfield, MA | West Springfield, Ma | Massachusetts | West Springfield. |
| New England | Canton, MA | Canton, MA | Massachusetts | Canton. |
| New England | Chicopee, MA | Chic Riv Dike/Wall | Massachusetts | Chicopee. |
| New England | Lowell, MA | Lakeview | Massachusetts | Lowell. |
| New England | Springfield, MA | Conn River segment | Massachusetts | Springfield |
| New England | Torrington, CT (E. Branch) | Torrington, CT (E. Branch) | Connecticut | Torrington. |
| New England | Torrington, CT (W. Branch) | Torrington, CT (W. Branch) | Connecticut | Torrington. |
| New England | Waterbury-Watertown, CT | Upper Naugatuck Dike | Connecticut | Waterbury and Watertown. |
| New England | Woonsocket, RI (lower) | Lower Mill River Dike | Rhode Island | Woonsocket. |
| New England | Woonsocket, RI (upper) | Singleton St Dike | Rhode Island | Woonsocket. |
| Kansas City | Bartley | Bartley | Nebraska | Bartley. |
| Kansas City | Ft Leavenworth, Kansas | Ft. Leavenworth | Kansas | Ft. Leavenworth Airport. |
| Omaha | Marmarth | Marmarth FCP | North Dakota | Marmarth. |
| Portland | Clatsop County Drainage District No. 1 | Blind Slough | Oregon | Brownsmead. |
| Portland | Clatsop Diking District No. 9 | Youngs River | Oregon | Agriculture. |
| Portland | Sunset Drainage District | Nehalem | Oregon | Agriculture. |
| Portland | Svensen Island Diking District | Prairie Channel/Svensen | Oregon | Agriculture. |
| Seattle | Green River Upper Russell | Upper Russell | Washington | Kent. |
| Seattle | Cedar River Getchman | Monk | Washington | Kent. |
| Seattle | Cedar River Rainbow Bend | County Road #8 | Washington | Kent. |
| Seattle | Green River Monk | Getchman | Washington | Renton. |
| Seattle | Cedar River Alquist | Rainbow Bend | Washington | Renton. |
| Seattle | Cedar River Herzman | Alquist | Washington | Renton. |
| Seattle | Cedar River WPA | Herzman | Washington | Renton. |
| Seattle | Tolt River Frew | WPA | Washington | Carnation. |
| Seattle | Tolt River Hwy to Bridge | Frew | Washington | Carnation. |
| Seattle | Green River County Road #8 | Hwy to Bridge | Washington | North Bend. |
| Seattle | SF Snoqualmie River Stanly Carlin | Stanly Carlin | Washington | North Bend. |
| Seattle | SF Snoqualmie River Prairie Acres | Prairie Acres | Washington | North Bend. |
| Seattle | SF Snoqualmie River McConkey | McConkey | Washington | North Bend. |
| Seattle | SF Snoqualmie River Reif Road | Reif Road | Washington | North Bend |
| Seattle | SF Snoqualmie River Si View | Si View | Washington | North Bend. |
| Seattle | SF Snoqualmie River Bendigo Left (upper) | Bendigo Left (upper) | Washington | North Bend. |
| Seattle | SF Snoqualmie River Bendigo Left (lower) | Bendigo Left (lower) | Washington | North Bend. |
| Seattle | SF Snoqualmie River Bendigo Right (lower) | Bendigo Right (lower) | Washington | North Bend |
| Seattle | SF Snoqualmie River Bendigo Right (upper) | Bendigo Right (upper) | Washington | North Bend. |
| Walla Walla | Ballantyne | Ballantyne | Idaho | Mountain Home. |
| Walla Walla | Milton-Freewater | Milton-Freewater | Oregon | Milton-Freewater. |
| Walla Walla | Sweetwater | Sweetwater | Idaho | Sweetwater. |
| Alaska | Salmon River Levee | Salmon River Levee | Alaska | Hyder (unincor orated). |
| Alaska | Skagway River Levee | Skagway River Levee | Alaska | Skagway. |
| Honolulu | Hanapepe River FCP | Hanapepe River FCP | Hawaii | Hanapepe. |
| Honolulu | Moanalua Stream FCP | Moanalua Stream | Hawaii | Moanalua Valley. |
| Honolulu | Waimea River FCP | Waimea River FCP | Hawaii | Waimea. |
| Jacksonville | C&SF Part IV—Herbert Hoover Dike | Reach 7 | Florida | Agriculture area. |
| Jacksonville | C&SF Part IV—Herbert Hoover Dike | Reach 2 | Florida | Clewiston. |
| Jacksonville | C&SF Part IV—Herbert Hoover Dike | Reach 3 | Florida | Clewiston, S Bay, Belle Glade. |
| Jacksonville | C&SF Part IV—Herbert Hoover Dike | Reach 1 | Florida | Pahokee. |
| Jacksonville | Humacao | Sec. 205 | Puerto Rico | Punta Santiago. |
| Jacksonville | Portugues & Bucana Flood Control | Sec. 205 | Puerto Rico | Ponce. |
| Jacksonville | Sabana Grande | Sec. 205 | Puerto Rico | Sabana Grande. |
| Jacksonville | Vega Baja | Sec 205 | Puerto Rico | Vega Baja. |
| Savannah | Macon Levee | Macon Levee | Georgia | Macon. |
| Wilmington | Roanoke, VA, Floodproofing of STP | Roanoke Floodproofing of STP | Virginia | Roanoke Sewage Treatment. |
| Albuquerque | Granada, Arkansas River | Granada, Arkansas River | Colorado | Granada. |
| Albuquerque | Abeytas to Bernardo, Rio Grande | Abeytas to Bernardo, Rio Grande | New Mexico | Bernardo. |
| Albuquerque | Albuquerque Unit, Middle Rio Grande Levee | Albuquerque Unit, Middle Rio Grande Levee | New Mexico | Albuquerque. |
| Albuquerque | Creede, Willow Creek | Creede Willow Creek | Colorado | Creede. |
| Albuquerque | Glenwood, Whitewater Creek, Levee Rehabilitation | Glenwood Whitewater Creek | New Mexico | Glenwood. |
| Los Angeles | Santa Maria River | Santa Maria River | California | Santa Maria |
| Sacramento | Bear Creek Project | Bear Creek, Stockton | California | Stockton. |
| Sacramento | Buchanan Dam (Eastman Lake) | Chowchilla River Ash and Berenda Sloughs | California | Madera. |
| Sacramento | Duck Creek | Duck Creek | California | Farmington, Stockton. |
| Sacramento | Fairfield Vicinity Streams | Fairfield Vicinity Streams | California | Fairfield. |
| Sacramento | Farmington Reservoir Project | Littlejohn Creek | California | Stockton |
| Sacramento | Green Valley Creek, Solano County | Green Valley Creek, Solano County | California | Vacaville. |
| Sacramento | Merced County Stream Group | Merced County Stream Group | California | Merced. |
| Sacramento | Middle Creek | Middle Creek | California | Upper Lake. |
| Sacramento | Mormon Slough | Mormon Slough | California | Stockton. |
| Sacramento | North Fork Pit River at Alturas | North Fork Pit River at Alturas | California | Alturas. |
| Sacramento | Pine Flat Lake & Kings River | Pine Flat Lake & Kings River | California | Riverdale, Hanford. |
| Sacrament | Redmond Channel | Redmond Channel | Utah | Redmond. |
| Sacramento | Sacramento River Flood Control | Chico & Mud Creeks, & Sandy Gulch | California | Chico. |
| Sacramento | Sacramento River Flood Control | City of Marysville | California | Marysville. |
| Sacramento | Sacramento River Flood Control | Deer Creek, Tehama County | California | Vina. |
| Sacramento | Sacramento River Flood Control | Elder Creek, Tehama County | California | Gerber. |
| Sacramento | Sacramento River Flood Control | Interceptor Canal, East, West | California | Sutter. |
| Sacramento | Sacramento River Flood Control | LD2–Glenn County | California | Princeton. |
| Sacramento | Sacramento River Flood Control | L03–Glenn County | California | Butte City. |
| Sacramento | Sacramento River Flood Control | RD 0150–Merritt Island | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | RD 0307–Lisbon | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | RD 0349–Sutter | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | RD 0369–Libby-McNeil | California | Walnut Grove. |
| Sacramento | Sacramento River Flood Control | RD 0501–Ryer Island | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | RD 0556–Upper Andrus | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | RD 0563–Tyler Island | California | Walnut Grove. |
| Sacramento | Sacramento River Flood Control | RD 0755–Randall | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | RD 0827–Elkhorn | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | RD 1600–Mull | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | RD 2098–Cache & Haas Slough Area | California | Agriculture. |
| Sacramento | Sacramento River Flood Control | Service Area 6 | California | Knights Landing. |
| Sacramento | San Joaquin River Flood Control | RD 0404–Boggs | California | Stockton. |
| Sacramento | San Joaquin River Flood Control | RD 0524–Middle Roberts Island | California | Agriculture. |
| Sacramento | San Joaquin River Flood Control | RD 2063–Crows Landing | California | Agriculture. |
| Sacramento | San Joaquin River Flood Control | RD 2064–River Junction | California | Ripon. |
| Sacramento | Walnut Creek, Contra Costa County | Walnut Creek, Contra Costa County | California | Walnut Creek, Concord. |
| San Francisco | Redwood Creek at Crick | Redwood Creek at Orrick | California | Orrick. |
| Little Rock | Conway County Levee District No. 8 | Conway County Levee No. 8 | Arkansas | Atkins. |

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

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

AMENDMENT NO. 4706

Mr. SHELBY. Mr. President, I rise in strong opposition to the amendment offered by Senator LANDRIEU, my friend from Louisiana, which would allow the mandatory purchase provision for areas behind levees and dams to be eliminated.

Currently, the flood insurance program suffers from a $17 billion deficit, mostly as a result of payments made to individuals living behind manmade structures such as levees and dams.

The fact that people behind manmade flood protections do not have to purchase flood insurance clearly sends the wrong message. As we all know now, flood protections sometimes fail. Telling people they need not protect themselves from the risks associated with those failures provides a false sense of security.

Keep in mind that all of these individuals will be required to pay a rate that reflects the risk associated with living behind flood mitigation devices. Currently the rates behind many of these structures would suggest an individual homeowner would pay approximately $316 for coverage up to $350,000. That is less than $1 per day for full flood protection; $1 dollar a day. This bill eliminates the entire debt associated with this program that is owed to the Federal Government, but it also demands that in the future people begin to pay a fair price for the risk associated with living in high-risk areas.

This amendment would require that we undertake a study as to the effect of requiring insurance behind manmade structures. I believe we have learned all we need to know about the risk associated with living behind manmade flood protection devices.

The insurance premium takes into account the real risk properties face. Levees fail. They fail all the time. They do not eliminate all risk. Flood insurance protects people against unforeseen risk.

These amendments do not recognize that fact. A prudent course is risk-based premiums for everyone at risk. I strongly oppose this amendment. I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I wish to speak for a few minutes on the bill itself.

The PRESIDING OFFICER. The Senator has that right.

Mr. BUNNING. I wish to speak about the flood insurance bill before the Senate and about the program in general.

The flood insurance program is one I care about a great deal. It is vitally important to States such as Kentucky that are surrounded and crossed by major rivers and exposed to flooding.

In 2004, former Senator Sarbanes, Senator SHELBY, and I sat down to make some important changes to the program and we did. My bill was a step in the right direction for fixing the program. Our reforms established a mitigation program to reduce further losses, charge higher premiums if property owners refused to reduce their risk.

Unfortunately, we were not able to address all of the problems in the bill, but I am glad some of the things we wanted to do back then are being done in this bill before us today.

As we saw from the storms of 2005, the flood insurance program is not financially sound. This bill builds on the reforms of the 2004 law by ending the subsidy for the most costly and least deserving properties. It requires more at-risk people to purchase flood insurance, and increases penalties on the lenders for not following the law.

It also sets up a reserve fund to keep the program from going into debt in future years with significant flood losses. This bill does not fix all of the problems in the program, but it is a strong bill which I support. While I do not like forgiving the program's debt, it is a necessary step to stop policyholders in Kentucky and across this country from having to foot the bill for the gulf coast's problems.

Every Senator should think about that $18 billion we are forgiving when they consider the additional cost of amendments being offered. We have 40 years of experience that says the Government is a terrible insurance company. Adding wind insurance will drive out private insurers and put the taxpayers throughout the entire country on the hook for the risks taken by those who choose to live in the path of hurricanes.

The sponsors of the amendment claim premiums will reflect the actual risk, but I would point out to them the 18 billion reasons why I do not believe that will happen. Several other amendments are worth mentioning. One would create a Federal backstop for State disaster insurance funds. I understand why the Gulf Coast States would want a Federal backstop for the risk, but I do not understand why my State or anyone else's State should be put on the hook for the decisions of coastal State legislators who choose to socialize insurance.

Other amendments would increase coverage limits or decrease the amount policyholders would have to pay. One would even make a certain earmark for an area in Illinois for lower premiums. Those amendments would defeat the entire purpose of this bill. Instead of making the program more financially sound, they would make the current problems worse by charging policyholders less than their actual risk.

After some version of this bill becomes law, we will have to keep an eye on how FEMA acts on these reforms. It took FEMA more than 2 years to implement some of the 2004 reforms, and they did that only after the Vice President and the Secretary of Homeland Security intervened. We must make sure the program is run the way Congress intended, not as the bureaucrats think it should be run.

I congratulate Senator DODD and Senator SHELBY and their staffs for writing a good bill. I also thank former Senator Sarbanes for his help in writing the 2004 bill and setting the foundation for this bill today.

Finally, I wish to say I am glad Senator MCCONNELL has brought up the important issue of energy. The American people are watching gas prices go through the roof, and this summer electric bills are going to do the same. I have heard the other side talk about energy before, but I have not seen them do one thing about the problem. The problem is, we do not have enough supply. The solution is expanding domestic production of energy any way we can. We can drill for oil safely in Alaska, we can get more natural gas from the Gulf of Mexico.

But beyond the usual ways to increase production, we can use new technologies to change the game for energy prices. That is why I have supported and will keep pushing coal-to-liquid fuels. We are sitting on hundreds of years' worth of coal, and through a proven and environmentally sound process, we can turn that coal into gasoline for our cars, diesel for our trucks, and jet fuel for our planes.

I have met with the Air Force many times. This is one of the most important security issues they face. We cannot rely on Middle Eastern oil to provide fuel for our jet fighters and our tanks. With secure domestic alternative fuels, we can guarantee the military the fuel they need.

The American people deserve a Congress that takes action. Every barrel of fuel made in America is a barrel of fuel we do not have to buy from the Middle East. Increasing production of energy in America will bring down energy costs and protect jobs.

For too long we have heard about manufacturers and companies moving good-paying jobs to China or the Middle East because of cheap energy. Today, with this package we can do something about it. We can give American companies the energy they need to build cars, fly planes, and produce goods with American workers.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry: What are we on now?

The PRESIDING OFFICER. The Senate is considering amendment No. 4705 offered by Senator LANDRIEU.

AMERICAN ENERGY PRODUCTION ACT

Mr. DOMENICI. We have been setting aside the pending amendments?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I plan to speak for about 15 or 20 minutes here, for those who might be interested.

I rise not to talk about the work that has been done by the committee on

flood insurance, although it is obvious that is important, and they have done a great job and we ought to be finding our way through that thicket before too long. But attached to that bill, for the purpose of making an issue and seeing to it that we give everybody in this body an opportunity to vote for the production of more American energy for the American people, for the automobiles that drive on our streets, the trucks that drive on our streets, the airplanes, both domestic and military, that fly, and all other sources of energy, we are going to have a chance to vote on whether we want to produce more energy which we now import, either crude oil or crude oil products or substitute products that can be produced in the United States. Do we want to do that?

The Democrats today had a press conference after we have been talking about this bill that we call the American Energy Production Act, and they are talking about what they might want to do. I regret I cannot talk in detail about what they propose, but I will say I will be very surprised if the sum total of their suggestions produces one new barrel of oil or one cubic foot of natural gas, one cubic foot of American-produced natural gas, because it seems to me they are too busy trying to find out what they can do to the oil companies of the United States and windfall profits and those kinds of things.

But we are going to give everyone this opportunity, an opportunity to take a look at some very simple propositions that could yield large quantities of crude oil, natural gas, derivatives of coal that can be used in trucks, diesel fuel in airplanes, for military and the domestic airplanes.

I want to suggest the following: Last week I introduced a bill which would fundamentally change America's reliance upon foreign oil in a shorter time period than I have seen of any proposal thus far.

The American Energy Production Act is cosponsored by 19 of my colleagues and would produce a minimum of 24 billion barrels of American oil. Americans, in my opinion, are sick and tired of such high prices for gasoline, and unless we take action, the situation is going to only get worse. One can talk all one wants about why it is, but the biggest reason the price is going up and continues up—and we do not even know where it will stop—is because the demand for crude oil in the world is getting bigger than the production of crude oil in the world. So supply and demand is principally the reason for the increasing cost of crude oil.

There may be other things we have to do, but essentially the only way to alter that rising price and cause it to come down and, thus, give the American people some relief is to produce more crude oil and derivatives of coal and otherwise that we can use to take the place of crude oil products. So if the American people are sick and tired of paying high prices and want to know what can be done, we are telling them we think it is time we face up to the fact that we can produce much more in America. But for some reason, we have decided to vote no on some very imposing and powerful supply sources. It is time we take another look at those, especially with crude oil at $120 a barrel and rising.

What we have done is looked around at what we have refused to do in the past, new things we could do that would accomplish what I have suggested. Congress has made a great deal of progress already in promoting conservation and developing renewable energy technology such as wind and solar. I am for doing more of those, if we can and when we are ready. I stand ready to work on those. I have been leading the charge on those fronts as either chairman of the Energy Committee or ranking member. I believe we should develop all our energy sources as soon as we can.

The bottom line is that America is not going to stop using oil in the near term, so we need to take action to make sure the oil we do use is produced domestically, all of it we can, rather than coming from unstable regions. Congress has not done such a good job in this area. In fact, almost every time we have tried to boost domestic production, Democrats—mostly Democrats—have blocked our efforts. But with oil now at $122 a barrel and rising, I implore my colleagues on the other side of the aisle to rethink their position. Times have changed. Now America's response needs to change as well.

The American Energy Production Act, which is an amendment on this bill, which I indicated we will vote on one way or another before this bill is finished, is an excellent place to start. The bill allows for States on the Atlantic and Pacific coasts to petition the Federal Government to opt out of a broad moratorium that for two decades has locked up America's assets and forced us to turn to unstable foreign nations to power our lives.

Together, the Atlantic and Pacific Oceans contain oil reserves of up to 14 billion barrels, and that is a minimum. We know it is a minimum, and we have not been allowed to spend the money to do an in-depth evaluation which I believe would show much more. The reserves of natural gas are thought to be 55 trillion cubic feet. These regions contain substantially more oil and gas than the areas we opened in 2006 in the Gulf of Mexico Energy Security Act. The area that is left, that we had this moratorium on for more than 20 years, is much bigger than the area we opened as part of the Gulf of Mexico Energy Security Act, much bigger, much larger space, and much more in reserves.

This legislation also opens 2,000 of the 19 million acres of the Arctic Plain of ANWR for oil and gas leasing.

Over the past week, I have heard Members from the other side of the aisle say that ANWR won't help because it will take 8 to 10 years to bring it on line. That is the same thing they have been saying for two decades. Had we acted when we had a chance, we would have 1 million barrels of oil a day available to us, oil that we are now forced to buy overseas.

I heard a Member of the Senate from the other side of the aisle, the Senator from New York—the Senator from New York who is not running for President—say that if we could get the OPEC cartel to just add 500,000 barrels of production, it would have a big impact on bringing down the price of oil. If that is the case, if we had a million barrels of oil a day coming from ANWR, that surely would do as much or more. It would bring down the price just as well, if not more than the Senator was speaking of from oil the cartel would produce. That is because it is a supply-demand situation he is talking about. ANWR would yield more than the 500,000 barrels to which he alluded.

Additionally, even after revenue sharing, ANWR oil could bring over $2 billion to our Federal Treasury annually. It is past time that we started producing our own oil and generating revenues for our own Government instead of buying foreign oil and sending billions of dollars to unstable, unfriendly regimes.

The Republican bill I have talked about also makes it easier to build refineries. We haven't built a new refinery for 30 years, and our Nation cannot afford to go 30 more years without doing so. We provide some incentives and some very natural ways to cause that to happen.

While I have resisted calls to suspend filling the Strategic Petroleum Reserve in the past, I have indicated to the chairman of the subcommittee on which I serve, the Energy and Water Committee, I have told the Senator who is promoting discontinuing filling of the SPR for 6 months to a year, providing 70,000 additional barrels of light sweet crude a day to the marketplace, that I would support him on that at this time because the price of oil is so high that it is worth doing. That is in this bill. By its very nature, this 70,000 barrels from SPR is just a fraction of the oil that would be gained through the OCS production and ANWR production, but in today's environment every small amount helps.

In the area of alternative resources, this bill requires studies on ethanol to help ensure that smart decisions are made as we move toward cellulosic and other advanced biofuels. This bill also provides incentives for the advancement of breakthrough energy technologies such as battery-powered vehicles. That is necessary and something we could do. It is ready and right.

It is also important to mention that this bill will promote the use of coal-to-liquids technologies, as long as it results in no more greenhouse gases than the fuels we are already using. Bringing 6 billion gallons of this fuel to market, if we started immediately working

on it, could be done quickly. They are already doing it in South Africa. It would reduce our projected imports by 4 percent by the year 2022. The coal-to-liquids mandate is just one-sixth the size of the ethanol mandate placed into law last year. To push the coal-to-liquids technology, we must send a signal to the marketplace that America is serious about using some of its abundant, reliable American energy resource—coal.

In addition, this bill repeals the moratorium on oil shale regulations that was put into an omnibus appropriations bill in the dark of night, when those of us who had been involved were not around and could not object. The shale beneath our Western States amounts to three times the conventional oil reserves in Saudi Arabia. We need to accelerate this project's resources and repeal the $4,000 fee for drilling permits which hit America's smallest family-owned oil and gas companies the hardest. This, too, was done in an appropriations rider. It is time to take it off, while we talk about producing more rather than less. We don't need more taxes and fees on American producers if we want to produce more.

It is my sincere hope that we can act soon on this measure. I have not talked about every provision, but they all are directed at producing more energy rather than directed at more attacks against energy companies and those things included in today's proposal by the Democratic leadership.

The United States needs to send a message to the marketplace, to OPEC, and to consumers that we will no longer continue to let billions of barrels of oil sit underground within our own domain while the price at the pump goes up and up. We must end the cycle of dependence and the flow of money overseas for foreign oil. We must do it as quickly as possible. If we can do it now, we should do it now.

I thank the Republican leader for bringing up this important issue. I urge my colleagues to think about it and ultimately to support it. What a message it would send.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am about to make a unanimous consent request dealing with a series of amendments we are going to vote on. Then following my unanimous consent request, I know the Senator from Alabama would like to be recognized. I ask unanimous consent that he be recognized at the conclusion of my request.

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

Mr. DODD. Mr. President, I ask unanimous consent that at 6 p.m., the Senate proceed to a vote in relation to the following amendments: Wicker amendment No. 4719; Vitter amendment No. 4722; Vitter amendment No. 4723; Landrieu amendment No. 4705, as modified further; further, I ask that there be 2 minutes of debate equally divided prior to each vote and that there be no second-degree amendments in order prior to the votes. Finally, I ask consent that the first vote be a 15-minute rollcall vote and the remaining votes be 10-minute votes.

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

Mr. DODD. I thank the Chair and my colleague.

The PRESIDING OFFICER (Mr. WEBB). Under the previous order, the junior Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I see Senator THUNE, who wanted to have 4 minutes to file an amendment. I ask unanimous consent that he be recognized when I finish my remarks.

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

Mr. SESSIONS. Mr. President, I so much appreciate the remarks of Senator DOMENICI. He has given his career in the Senate to dealing with energy issues. There is no one here who is more deeply steeped in those issues and the history of how we got here and how we could be in better shape today than Senator DOMENICI. We don't want to be in a blame game. We don't want to be saying, ''I told you so.'' In fact, I will admit that I have made decisions, when the price of a barrel of oil was $30 and $40. It is different when it is now $120, as the Senator from New Mexico pointed out. We are facing a crisis, and we need to do some things. We don't need to do a piece of legislation that is pending on this floor, that came out of the EPW Committee, that not only won't help us deal with our crisis in energy but will actually surge the cost of energy, which is the only big piece of legislation I know relevant to the question that is now pending, other than legislation Senator DOMENICI offered.

Gas today is over $3.60 a gallon. That is well over what it was 2 years ago. People are spending $60 to fill up with a tank of gas. The average family who has two cars is spending no doubt $50 to $100 more a month for the same amount of gasoline they were purchasing the previous few years. It is an enormous cost to that family. It is an impediment to economic vitality. It is a very significant, if not the most significant, factor in the economic slowdown we are dealing with. Electricity also will be going up. One expert has said that we could basically be seeing a $100-a-month increase in the average family's electricity bill. If we pass this cap-and-trade bill, it will be a lot more than that. Diesel priced fuel is up—too high, in my view. I can't understand why it is consistently 60 cents more per gallon than regular gasoline. An airline official told me not long ago that jet fuel is double.

So we have a problem. We really do. I know everybody has goals and visions about how we can solve this problem. Senator DOMENICI and I share a deep belief that nuclear power can be a primary source in the years to come to deal with this crisis. In fact, he has written a book about it. We have advocated this for some time. I think that reality is beginning to dawn more clearly on us today. But it is going to be maybe 7, 8, 10 years to get a new nuclear plant up and running. But we can generate large numbers of them if we follow smart procedures and have that come on line. But the point I think we are trying to make is: That is 10 years down the road. It may take 10 years to do ANWR. We can bring on coal-to-liquid technology. That can happen, but it takes some time. But we need to get started.

We are so hopeful we can do more with conservation. I supported the bill last year to raise our fuel standards, CAFE standards, automobile mileage standards up to 37, 35 miles per gallon, the entire fleet, including trucks. That is going to be difficult to achieve, but it will conserve a tremendous amount of fuel and be good for us. But that is not going to solve our problem either.

So what must we do? I think we must have a long-term policy. I believe that policy should focus on investing in the ideas and concepts that have potential to be breakthrough technologies to confront this problem. There are a number of them out there.

Hydrogen. President Bush pushed hydrogen for our automobiles, but from what I can understand, that is coming along slower than we would like. There are a number of very difficult technical problems with hydrogen. It takes some time. We would love to see the hybrid automobiles be able to be converted to plug-in hybrid automobiles, and progress is being made in that regard that is pretty exciting. We may be getting closer there than we think. That would convert from liquid fuel that runs our automobiles to electricity. We can utilize electricity generated in nuclear plants that emits no $CO_2$, no pollution into the atmosphere, and do that at night when they are not fully engaged and be able to drive, for most people, all they need to drive that day on a battery charge at night, utilizing no fuel in their automobile. What a great thing that would be.

We also have, as Senator DOMENICI has pointed out, though, great reserves of oil and gas and energy in our country. The sad fact is, we are not going to be able to get away from fossil fuels in the next few decades. We are just not going to be able to get away from that. People seem to have no problem that we buy it from foreign countries, some of which are not friendly to us. We can just buy from them. But if you talk about producing that oil and gas here in the United States, in our country, they get, for some reason, to objecting. We have seen it time and time again.

I was so pleased that last year, under Senator DOMENICI's leadership—the year before last, I guess—we passed legislation to open 8.5 million acres in the Gulf of Mexico. But we left closed to drilling huge areas in the Gulf of Mexico, some of which have tremendous reserves of oil and gas. We have opened

none off the Pacific coast, where there are huge resources, and none off the Atlantic coast. We have shown in the Gulf of Mexico that even with this powerful hurricane, these billion-dollar rigs can sustain the storm and not provide economic destruction or damage to the gulf. We can do that around the world. So the question is, Are we going to take that step? This legislation helps us go in that direction.

We have seen and shown you can convert coal. We have huge reserves of coal-to-liquid that can burn in our automobiles. That is technology which is ready to go today basically. We just need to prove it out in a large commercial area, and the Government should help establish that technology. But the point I would like to make is that would produce huge amounts of energy we can utilize in our vehicles and keep the money at home.

So there are many other things we can do and are doing.

I believe the concerns over ethanol raising food prices are exaggerated. Even President Bush, who has been somewhat skeptical of this—his own administration said they thought about 2 percent to 3 percent of the price of food was as a result of ethanol being produced from corn and soybeans for biodiesel. It is not the main factor in the rise of farm prices. But it certainly helped us not to have to import lots and lots of foreign oil into the United States.

I will recall for my colleagues that according to the Congressional Research Service, this year we will import into America $400 billion-plus worth of oil. Probably, the next year from this day—the next 12 months—it would be over $500 billion worth of oil. This is the greatest wealth transfer in the history of the world. It is money we have, as American citizens, that is ending up in the pockets of countries—small countries, some of them, building more skyscrapers than they have apartment complexes—unbelievable displays of wealth. We can do better about that. We need to produce more energy here at home, energy that we have. If we do so, we can reduce our dependence on foreign oil. And if we can reduce that amount through conservation, through local American production, the result could be that we could knock down the high demand that is out there, and we might even see the price of oil drop more than people think. Historically, it has been boom and bust in the oil industry. Some say we will not have a bust again because of the world demand, and they may be right. But I think there are some realistic possibilities we can.

So there are biofuels and solar and wind and biomass and new batteries. All of this is good, and I would support research and development on them. But I do not believe we ought to press down on the brow of the American working man some theoretical beliefs about clean energy that will not work or are exceedingly expensive and create only a burden on working families in America. We have to be careful about that.

So I am excited about the proposal that has been put forth. I believe we have great potential to produce more American oil and gas off our Continental Shelf. I have seen it right off from the coast where I live in Alabama. I have seen that production come in for decades now.

We know ANWR has great potential. It could reduce our imports by as much as 10 percent if it is brought on line.

We know coal-to-liquid can be done today for far less than the world price of oil. We know oil can be produced from these huge oil shale deposits in the West for less than the world price of oil today.

We know nuclear power has the potential to help us transform our vehicular traffic from fossil fuels to electricity. But we have to get busy doing it. We have not built a nuclear plant in 30 years. Since I have been in the Senate, for 12 years I have talked about nuclear power, how critical it is to our future. We have done nothing really to make that happen—until Senator DOMENICI, 2 years ago, as chairman of the Energy Committee, finally pushed through some legislation that took us from having zero applications for nuclear plants to over 30 today.

I think we have the potential to see a renewal of nuclear power. The British just announced they are going to build five new nuclear plants. France has 80 percent of their power or more from nuclear power. Japan does.

We also need to figure out how to deal with the question of recycling, which is not at all impossible to do. The British, the French, the Japanese, the Russians recycle. We want to work on legislation to create recycling of nuclear waste. That will both help us create more fuel and reduce the danger of the waste that is left.

These are things we can do. But it is time to get busy and do it, not have a policy of creating a massive bureaucracy, some cap-in-trade bureaucracy that has not worked in Europe. It just has not worked. A massive tax increase is what it amounts to in sheep's clothing.

So, Mr. President, I thank the Chair.

Mr. DOMENICI. Mr. President, before the Senator leaves the floor, will he answer a question?

Mr. SESSIONS. Yes.

Mr. DOMENICI. I ask the Senator, do you know what the price of a barrel of oil was when we sent the ANWR bill to the President of the United States, which was vetoed? Do you know how much it was per barrel?

Mr. SESSIONS. Mr. President, I know it was less, but I do not know.

Mr. DOMENICI. Nineteen dollars a barrel.

Mr. SESSIONS. Nineteen.

Mr. DOMENICI. So for those who do not think it is worth another try—that is, to have a vote and seriously consider ANWR—just think of the difference in economic impact on the United States of tying up that resource when we did it compared to now.

Also, we were estimating only 1 million barrels of oil as the production per day. We have not upped that, brought that current for $120-a-barrel oil. It might very well be that it is more than a million barrels a day just based upon price because it would justify far more investment in that little 2,000-acre footprint. Clearly, with such an increase in price, you probably will get more.

But I think some of the American people may have favored holding that 2,000 acres hostage and saying you cannot use it—they might have said, well, that is all right when it is $19 a barrel—but when we are suffering with $120-a-barrel oil, it may be a very close call even for those who have exaggerated in their dilemma and fear about ANWR. To say we can afford $19-a-barrel oil—lock it up—but should we lock it up for $120 a barrel is a very good question.

Mr. SESSIONS. That is six times as expensive.

Mr. DOMENICI. Right.

Mr. SESSIONS. It has increased six times in price since you first began to discuss it.

Mr. DOMENICI. So a million barrels a day becomes a different thing. A million barrels a day was $19 million. But now a million barrels is 120 times that. That is what you are losing to foreign countries.

You have alluded to the fact that maybe the American economy is suffering irreparable harm. You said it a different way than I. But I happen to believe—and have spoken to it two or three times on the floor—I think we are experiencing irreparable damage to the American economy because of the enormous price of crude oil and our inability to find a way to get along without it. We are just depleting our vitality, and we do not know quite how to figure it out. We do not know why the economy is having trouble. There are just all kinds of things we do not know. But I have an answer for most of them: It is too many dollars going overseas to get crude oil. That is an enormous drain on this economy, as strong as it is. That, plus the big debt we have accrued is hanging out there to be bought by the Chinese and others. You add them up, and it is frightening. If we can do something about it, we should. Isn't that why we are here?

Mr. SESSIONS. I could not agree more, I say to Senator DOMENICI.

Mr. DOMENICI. I yield floor and thank the Senator.

Mr. SESSIONS. It is very troubling to me. I say to the Senator, I know you also are knowledgeable—I do not know if you have a minute; I think you mentioned it in your remarks. But you have pointed out, as I understand it, in the West, in the shale oil areas of the West, we can actually produce shale oil for far less than $120 a barrel; is that correct?

Mr. DOMENICI. That is correct.

Mr. SESSIONS. Under current technology. I assume it will get better in the years to come, but even right now with the technology we have?

Mr. DOMENICI. There is no question. One of the major oil companies has invested a huge amount of money. I think the initial investment allowed was $4 billion to experiment with a project that would in situ, on sight—rather than picking mines, they would boil the oil in the ground and siphon it out. That price was put around $50, $50 to $60 before they would consider it feasible to invest money. We are long past that, for that kind of an experiment. If it works, then the next steps have to be taken. It will be expensive, but $50 a barrel versus $120, there is a lot of room for play.

Mr. SESSIONS. That keeps the money at home, hiring American workers who pay taxes to the United States of America.

Mr. DOMENICI. Yes. And this bill we are talking about here tonight has a provision in it about it. Because in the dead of night, in an appropriations bill in the Department of the Interior, somebody in the House—we think we know who—decided to put a moratorium on the final regulations for shale development, even though in the Energy bill you helped us write, the comprehensive bill, we provided for oil shale leases of the right size to permit activity, permit this research, this experimentation. Well, they put a moratorium on it and that thwarts the company that is putting the investment in it. This bill says no, that has to come off. So I don't know whether we will have a chance to vote on it another way, but maybe since it is one year at a time, we may take it off of appropriations. I don't know.

Mr. SESSIONS. Senator DOMENICI has some interest. We have had talks about coal to liquids. It is my understanding—is it yours—that we have technology today that can take our massive coal reserves and convert that to a good liquid fuel for our automobiles at less than $120 a barrel, the world market price of oil today?

Mr. DOMENICI. Well, I choose to take one step back on that and say, there is no question but that South African technology is available to convert clean coal into liquid diesel. Its principal use at that point would be American airplanes, both commercial and military, American military equipment, and that would be a huge amount. This bill limits it to 9 million, the equivalent of 9 million barrels a day is what we would produce. That would be so we could be sure we weren't having a negative impact on the environment. How do we do that? Well, the energy produced by the conversion would not contribute any more than the crude oil we would buy would contribute and we would use it anyway, so we don't think we are harming the environment. But we are not going to go all out and produce the whole amount that coal can produce but, rather, learn how to do it, do it well, and send a signal that the great American ingenuity is ready to do something, and do something big. That is what that one would be, a big one that would frighten those who have us captive, because they would say they are finally going to do something and something that is important.

The same thing would happen if we had a breakthrough on oil shale. There is no question, that would be an enormous signal. Now I am not saying that is as ready as coal to liquid. One is ready rather quickly, the other one would take a little while. But we only put things in that are doable and that are important, and if they are not doable immediately, they are doable in the sense of sending a signal that the country is doing something.

I thank the Senator for yielding.

Mr. SESSIONS. I thank the Senator.

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

Mr. THUNE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Landrieu amendment No. 4705 is pending.

Mr. THUNE. Mr. President, I ask unanimous consent to be able to call up amendment No. 4731 which I filed earlier today with my colleague from South Dakota, Senator TIM JOHNSON.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THUNE. Mr. President, I wish to congratulate the Senator from New Mexico for his comprehensive energy bill which he introduced. It is a solution we need to take a hard look at, perhaps moving to it sometime in the not too distant future here in the Senate. I think his bill starts the debate.

Unfortunately, he has tried over and over and over again to start the debate here in the Senate. The legislation he introduced—and I am a cosponsor of that bill last week—is comprehensive in that it addresses the supply issue. We can't address America's high energy costs absent addressing the issue of supply. We are sending, as was already noted, $1.6 billion every single day outside the United States and, in some cases, to countries that would do us harm, in order to meet our demand for energy here at home. The Senator from New Mexico has put forward a solution which is broad based and which addresses the supply issue by making available some of the reserves we have in this country on the North Slope of Alaska, on the Outer Continental Shelf, and he addresses the need for additional refinery capacity. We haven't built a refinery in 30 years, since 1976. He also addresses some of the new technologies such as coal to liquid, which was talked about earlier.

I should say he changes a definition that was modified very late in the Energy bill debate last year that precludes forest waste residues from being a source of cellulosic ethanol because in many respects, the future of renewable energy in this country is transitioning from corn-based ethanol to cellulosic ethanol. We have enormous biomass available in this country in forests in the form of switchgrass that can be grown in abundance on the prairies in this country and other forms of biomass that can be available and can be converted into cellulosic ethanol. So his solution is to create additional supply—the supply of fuels but also the capacity of refineries—in order to be able to process more of those natural resources into refined gasoline. If we don't do that, we are going to continue to send billions and billions and billions of dollars every single year to countries outside the United States which, in many cases, use those very dollars to turn around and fund terrorist organizations that attack Americans, that to the tune of about almost $500 billion. Half a trillion dollars last year left the United States in order to meet the demand we have for energy here at home.

I congratulate the Senator from New Mexico and hope we can get a debate going here in the Senate that addresses the supply issue.

I am all for conservation measures. There are some conservation measures as well, and there are lots of steps we can be taking. Last year as part of the Energy bill, we created the first change in a long time—something like 20 years—in fuel efficiency standards. That is something we need to be pursuing as well. But at the end of the day, our appetite for energy in this country and the world's appetite for energy is not going away. In fact, the Department of Energy estimates that even with intensive conservation efforts in place, maintaining our economic growth through the year 2025 will require a 36-percent increase in energy supply, including a 39-percent increase in oil consumption. Sixty percent of our oil is currently imported. So as demand rises and domestic supply is not increased, we are subject to prices that are set by foreign countries, including, as I mentioned, some hostile regimes.

Senator DOMENICI has put forward several ideas in his plan that are not new. Some of them have been debated previously, some of them blocked by bipartisan politics. But I hope that $3.50, $4-a-gallon gasoline will change some of that. In my State of South Dakota, the average price of gasoline today is $3.60. Oil, of course, traded at an all-time high of $122 per barrel. Diesel is $4.18 a gallon. As the farmers in my State continue another planting season, they are faced with those diesel fuel costs that are substantially higher than previous years. They are faced with higher fertilizer costs because natural gas prices have gone up.

This is a crisis that reaches into the pocketbooks of every American. I was talking in my State of South Dakota

this week with someone in the tourism business who was saying the numbers this year are already down 11 percent from the previous year. I think that is a sign of more to come in terms of the economic hardship that is going to be imposed on the economy all across this country. My State of South Dakota, because it is so energy dependent as a result of tourism and agriculture and some of the industries that are very energy intensive, is particularly hard hit. Since I was first elected to Congress over 10 years ago, we voted on opening a small section of ANWR at least five times. Most recently, in the 2006 Defense appropriations bill, we had that vote.

It is important to note at that time the Senate Democrats blocked oil and gas exploration in ANWR oil was trading for just over $50 a barrel. Well, now it is at $122 a barrel, and at that time it was argued it would take at least 10 years to develop the resources in ANWR. But I think it is high time we began the process of authorizing that exploration and production. We have up to 16 billion barrels of oil, we are told, up there, or a million barrels of oil each day that could be coming into our pipeline in this country and taking pressure off of gas prices. So I hope the fact that today the high price of gasoline is impacting more and more consumers across this country, more and more small business owners, more and more families, we will see a change in the mindset that will enable us to move forward with legislation such as that introduced by my colleague from New Mexico that will get at the heart of this problem. The problem is we don't have enough supply to keep up with the demand either at home or around the world, but at a minimum, we ought to be coming up with those solutions that are domestic, that are home grown, and by that I mean the oil reserves we have here in the United States or off our shores, the infinite amounts of coal we have that can be converted into fuels, the enormous potential we have out there for renewable energy such as ethanol made not only from corn but from other sources of biomass, and that we take steps to add refinery capacity.

It is absolutely critical, in my mind and in my view, that we start moving in this direction. I heard a report earlier today that some projections are that oil prices could get up to somewhere around $200 a barrel. I can't imagine that happening or what the impact would be on our economy, but it is never too late to do the right thing, and we need to move quickly now and decisively on an energy policy that will increase our supply, our domestic supply, take pressure off of oil prices and prices at the pump that American consumers are dealing with every single day.

I congratulate again the Senator from New Mexico for his bill. I am happy to be a cosponsor of it. I hope we are able to get a vote on it, and I hope we can do something once and for all about high gas prices and bring some relief to the American consumer.

Mr. President, I yield the floor.

Ms. CANTWELL. Mr. President, I rise to join in this discussion. I know my colleagues on the other side of the aisle have been out here talking about energy issues and the high price of gasoline.

I certainly know when the Senate works together on energy policy, we get things done. The 2000 Senate Energy bill is an example of that, of how we worked in a bipartisan fashion. That bill, when it is fully implemented over the next 20 years, will save families over $1,000 a year at gas stations. That is because we put a good policy into place.

The question is where we are going to go from here. I have listened to some of the things my colleagues on the other side of the aisle have said, and I hope when we are done with our statements, we can sit down and work together on trying to implement more legislation that will help the American consumer. But I think the notion that where we are today is a rational market and that supply and demand is driving what we are seeing, a 100-percent increase over last year in oil prices, is not correct.

We just had a hearing in the Commerce Committee where airline executives were testifying, and they said they don't think this is supply and demand, and it has obviously caused a great impact on their industry. They would like us to be more aggressive in policing the markets, and they offered some suggestions. But many of my colleagues have been out here talking about opening drilling in the Arctic Wildlife Refuge. Well, we have had this debate. We have had it numerous times. I always like the administration's own Energy Information Agency that says drilling in the Arctic Wildlife Refuge would result, when it is fully implemented 10 or 20 years from now, in 1-penny-per-gallon savings. So that means when you take the average driving of a consumer at 400 or 500 gallons of gasoline in a year, you would have saved $5 on your annual gas bill from drilling in the Arctic Wildlife Refuge.

God only gave the United States 3 percent of the world's oil reserves. We are not going to drill our way out of this situation. But I ask my colleagues to look at what is causing this problem because we have oil company executives who are saying oil should be at $50 to $55 a barrel. This is the oil companies testifying in April. So they are saying the market isn't functioning correctly when it is at $120 a barrel.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. CANTWELL. I thank the Chair.

AMENDMENT NO. 4719

Mr. KENNEDY. Mr. President, The issue of wind coverage is important and is a concern of many families across the country and in my home State of Massachusetts and the Cape. Legislation must be developed that helps those families facing the threat of wind damage without harming those who already have flood insurance. I have the assurance from the chairman of the Banking Committee, my friend the senior Senator from Connecticut, that this is his intention as well and that he intends for a commission to study the issue and present to Congress a set of responsible recommendations for addressing this need.

For this reason, I oppose the Wicker amendment at this time in order to allow further study of the matter and that a consensus approach may be put forward in the Senate in the near future.

AMENDMENT NO. 4719

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote in relation to amendment No. 4719 offered by the Senator from Mississippi, Mr. WICKER.

Who yields time?

The Senator from Mississippi is recognized.

Mr. WICKER. Mr. President, I understand we now have 1 minute each to close on the amendment; is that the order of the day?

The PRESIDING OFFICER. The Senator is correct.

Mr. WICKER. Mr. President, I tell my colleagues that this is a multiple perils amendment to the National Flood Insurance Program. It is backed by the National Association of Realtors.

The CBO will tell you it is budget neutral because the premiums have to be based on risk and actuarially sound. There are changes that could be made to make a good amendment perfect. We might not have those tonight. But I can assure my colleagues of this: The passage of the Wicker amendment tonight will ensure that a solution will come quicker to the problem of millions and millions of Americans not being able to ensure against wind and water damage at the same time. I urge passage of the Wicker amendment for that reason, if for no other.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The senior Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I have great respect for our colleague from Mississippi. The point we wish to make on this amendment is not that we disagree. The simple question, as pointed out by Senator NELSON from Florida, is that this amendment, as presently crafted, could end up costing billions more than we anticipated. There were $17 billion in claims in excess of the $1.5 billion in funds. Some predict this could be as much as $60 billion to $100 billion.

We have a commission we are working on as part of the bill. We have to grapple with wind. We have to have an actuarially sound program. The last thing we want to do is destroy a flood program, which we could do by overwhelming it as a result of claims under

wind, without standards under which we judge those conditions and concerns. Based on what happened in 2005, the claims under wind might have been five times $17 billion.

I am determined as a member of the committee to spend more time on this. In fact, we would have spent more time but for the foreclosure crisis to try to come up with answers. At this juncture, to adopt this amendment would cause the program to be put in great jeopardy.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4719.

Mr. SHELBY. 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 legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. HAGEL), the Senator from Arizona (Mr. MCCAIN), and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 19, nays 74, as follows:

[Rollcall Vote No. 117 Leg.]

YEAS—19

| | | |
|---|---|---|
| Chambliss | Lincoln | Schumer |
| Cochran | Martinez | Snowe |
| Craig | McConnell | Stevens |
| Graham | Menendez | Vitter |
| Isakson | Murkowski | Wicker |
| Landrieu | Nelson (FL) | |
| Lautenberg | Pryor | |

NAYS—74

| | | |
|---|---|---|
| Akaka | Crapo | Levin |
| Alexander | DeMint | Lieberman |
| Allard | Dodd | Lugar |
| Barrasso | Dole | McCaskill |
| Baucus | Domenici | Murray |
| Bayh | Dorgan | Nelson (NE) |
| Bennett | Durbin | Reed |
| Bingaman | Ensign | Reid |
| Bond | Enzi | Roberts |
| Boxer | Feingold | Rockefeller |
| Brown | Feinstein | Salazar |
| Brownback | Grassley | Sanders |
| Bunning | Gregg | Sessions |
| Burr | Harkin | Shelby |
| Byrd | Hatch | Smith |
| Cantwell | Hutchison | Specter |
| Cardin | Inhofe | Stabenow |
| Carper | Inouye | Sununu |
| Casey | Johnson | Tester |
| Coburn | Kennedy | Thune |
| Coleman | Kerry | Voinovich |
| Collins | Klobuchar | Webb |
| Conrad | Kohl | Whitehouse |
| Corker | Kyl | Wyden |
| Cornyn | Leahy | |

NOT VOTING—7

| | | |
|---|---|---|
| Biden | McCain | Warner |
| Clinton | Mikulski | |
| Hagel | Obama | |

The amendment (No. 4719) was rejected.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have had a number of conversations with Senator MCCONNELL today. I have had a number of conversations with the two managers of the bill. I think we have a plan for finishing this legislation tomorrow. We have had good cooperation on both sides.

What we are going to try to do is finish this bill. There are a number of Senators who want to offer amendments tonight. We can have the votes tonight or in the morning. The way things are looking, we can have them after morning business in the morning because there are not a lot of amendments.

It is our goal to finish this bill tomorrow. If that is the case, then we wouldn't have to be in Friday. We have a lot of things to do legislatively, hearings, and other such business. What we will do is come in Monday and vote on the amendment that has been filed by the Republican leader dealing with energy. It is the Domenici energy package. We will have a side-by-side. I already explained to the Republican leader and others what that will be. It should be fairly direct and to the point. We will have a 60-vote margin on both of those.

Following that, we will move to legislation that is bipartisan in nature. We will need to invoke cloture on it. It is the JUDD GREGG firefighters legislation. That will get us through Monday.

We have 2 weeks left. Hang on to your hats; we have a lot to do. We do not know if we are going to get the supplemental next week. We thought we would early next week, but we have learned today there may be some problems developing in the House. We are doing our very best to do that.

I congratulate Senators HARKIN and CHAMBLISS and Senators BAUCUS and GRASSLEY. We think—we don't think, we know the farm bill has been put to rest. We are going to be able to bring a bipartisan conference report to the Senate floor, hopefully, next week. There is no reason we should not be able to do that next week. Those are just a few of the moving parts we have.

The supplemental is not going to be easy, as it never is. Once we get it from the House, we can do our job over here fairly rapidly.

Mr. DOMENICI. Mr. President, can the leader explain how he is going to handle the two Energy bills? It seemed he was saying we would be finished with this bill before that. That is not the case, is it? These two amendments will be voted on as part of this bill.

Mr. REID. What we would like to do—we certainly will work with the distinguished Republican leader at a later time. I don't think Senators SHELBY and DODD want energy to be part of this bill. If we can get 60 votes on it, we will be happy to stick it in this bill.

What Senator MCCONNELL and I talked about—I think it is fair, and we do a lot of business with 60 votes around here. We are not trying to stop anybody from doing anything.

Mr. DOMENICI. It is going to be freestanding.

Mr. REID. Absolutely.

Mr. DOMENICI. As long as there is ample time to discuss it.

Mr. REID. Absolutely.

Mr. DOMENICI. I thank the Senator.

Mr. REID. Mr. President, I say to Senator DOMENICI, even though he and I have disagreed on a few issues over the years—few in number—I personally know how strongly the Senator from New Mexico feels about this energy issue. I hope the Senator doesn't get 60 votes, but we will do everything we can to ensure he gets a vote.

Mr. President, able staff, both on the majority and minority side, say I may not have phrased everything right regarding the energy legislation. But I think Senator MCCONNELL and I understand we are going to have two votes on energy Monday night. The exact terminology procedurally, I may not have outlined it properly, but I think we know where we are going.

AMENDMENT NO. 4722

The PRESIDING OFFICER. Under previous the order, there is now 2 minutes for debate equally divided prior to a vote on amendment No. 4722 offered by the junior Senator from Louisiana. Who yields time?

The junior Senator from Louisiana is recognized for 1 minute.

Mr. VITTER. Mr. President, this amendment is very simple and modest. It simply updates the coverage limits available for a flood policy which have not been updated at all since 1994. It does not even take into account all inflation since then, just most inflation. It is what the House did. And under the CBO study of the House bill, the CBO said it does not increase the cost of the bill because people will obviously pay significantly higher premiums for the higher limits.

This is a very modest updating of the limits. I ask for the support of my colleagues.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Alabama.

Mr. SHELBY. Mr. President, I oppose the Vitter amendment. The purpose of the Dodd-Shelby bill is to increase the actuarial soundness of the flood insurance program. This amendment by Senator VITTER would undermine greatly that effort. The amendment would extend flood insurance subsidies, crowd out private markets, and lead to larger program losses down the road.

I urge my colleagues to join Senator DODD and me in opposing the Vitter amendment.

Mr. VITTER. Mr. President, reclaiming the remainder of my time, again I think it is very important to note the CBO analysis, with regard to this issue in the House bill, said it does not cost any more. It does not get in the way of actuarial soundness at all. This is only updating the limits for less than inflation since 1994.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SHELBY. Mr. President, I ask for the yeas and nays.

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

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent due to illness.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. HAGEL), the Senator from Arizona (Mr. MCCAIN), and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 27, nays 66, as follows:

[Rollcall Vote No. 118 Leg.]

YEAS—27

| | | |
|---|---|---|
| Bingaman | Hatch | Murray |
| Boxer | Hutchison | Nelson (FL) |
| Burr | Klobuchar | Pryor |
| Cantwell | Landrieu | Salazar |
| Coburn | Lautenberg | Schumer |
| Cochran | Lincoln | Stabenow |
| Feinstein | Martinez | Stevens |
| Graham | Menendez | Vitter |
| Harkin | Murkowski | Wicker |

NAYS—66

| | | |
|---|---|---|
| Akaka | Crapo | Lieberman |
| Alexander | DeMint | Lugar |
| Allard | Dodd | McCaskill |
| Barrasso | Dole | McConnell |
| Baucus | Domenici | Nelson (NE) |
| Bayh | Dorgan | Reed |
| Bennett | Durbin | Reid |
| Bond | Ensign | Roberts |
| Brown | Enzi | Rockefeller |
| Brownback | Feingold | Sanders |
| Bunning | Grassley | Sessions |
| Byrd | Gregg | Shelby |
| Cardin | Inhofe | Smith |
| Carper | Inouye | Snowe |
| Casey | Isakson | Specter |
| Chambliss | Johnson | Sununu |
| Coleman | Kennedy | Tester |
| Collins | Kerry | Thune |
| Conrad | Kohl | Voinovich |
| Corker | Kyl | Webb |
| Cornyn | Leahy | Whitehouse |
| Craig | Levin | Wyden |

NOT VOTING—7

| | | |
|---|---|---|
| Biden | McCain | Warner |
| Clinton | Mikulski | |
| Hagel | Obama | |

The amendment (No. 4722) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote and move to reconsider the previous vote as well.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4723 offered by the Senator from Louisiana, Mr. VITTER.

AMENDMENT NO. 4723

Mr. VITTER. Mr. President, periodically new flood maps are issued by FEMA. When a new flood map comes out, some properties that used to not be in a flood zone may now be in a flood zone, or move from a lesser to a more severe part of a flood zone.

This amendment would simply say we are going to charge higher premiums, absolutely, but we will transition that over 5 years instead of the 2 years in the bill. The 5 years is the same provision as in the House bill. I think it is a reasonable transition, still getting to that new higher premium.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I oppose the Vitter amendment No. 4273. Most homes mapped into the mandatory coverage areas will only see limited increases in their premium rates.

Homes or properties mapped into the higher risk areas should pay higher rates to match the reality of higher risk. Out-of-date maps that have vastly underclassified risk need to be updated, and delay in requiring property owners to pay their full freight is an extension of the inadvertent subsidies provided by inaccurate maps.

I urge my colleagues to join Senator DODD and me in opposing the Vitter amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Maryland (Ms. MIKULSKI), the Senator from Illinois (Mr. OBAMA), and the Senator from Nevada (Mr. REID) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. HAGEL), the Senator from Arizona (Mr. MCCAIN), and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 23, nays 69, as follows:

[Rollcall Vote No. 119 Leg.]

YEAS—23

| | | |
|---|---|---|
| Boxer | Harkin | Murray |
| Cantwell | Hutchison | Nelson (FL) |
| Cochran | Landrieu | Pryor |
| Cornyn | Lautenberg | Schumer |
| Craig | Lincoln | Stabenow |
| Crapo | Martinez | Vitter |
| Durbin | McCaskill | Wicker |
| Feinstein | Menendez | |

NAYS—69

| | | |
|---|---|---|
| Akaka | Brownback | Collins |
| Alexander | Bunning | Conrad |
| Allard | Burr | Corker |
| Barrasso | Byrd | DeMint |
| Baucus | Cardin | Dodd |
| Bayh | Carper | Dole |
| Bennett | Casey | Domenici |
| Bingaman | Chambliss | Dorgan |
| Bond | Coburn | Ensign |
| Brown | Coleman | Enzi |
| Feingold | Kyl | Sessions |
| Graham | Leahy | Shelby |
| Grassley | Levin | Smith |
| Gregg | Lieberman | Snowe |
| Hatch | Lugar | Specter |
| Inhofe | McConnell | Stevens |
| Inouye | Murkowski | Sununu |
| Isakson | Nelson (NE) | Tester |
| Johnson | Reed | Thune |
| Kennedy | Roberts | Voinovich |
| Kerry | Rockefeller | Webb |
| Klobuchar | Salazar | Whitehouse |
| Kohl | Sanders | Wyden |

NOT VOTING—8

| | | |
|---|---|---|
| Biden | McCain | Reid |
| Clinton | Mikulski | Warner |
| Hagel | Obama | |

The amendment (No. 4723) was rejected.

Mr. DODD. I move to reconsider the vote.

Mrs. LINCOLN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4705, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided in relation to amendment No. 4705, as modified, offered by the Senator from Louisiana, Ms. LANDRIEU.

AMENDMENT NO. 4705, AS FURTHER MODIFIED

Ms. LANDRIEU. Mr. President, I ask unanimous consent that amendment No. 4705 be modified further with the changes at the desk and that Senators DORGAN, LINCOLN, and PRYOR be added as cosponsors.

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

The amendment, as further modified, is as follows:

On page 9, strike line 12 and all that follows through page 10, line 16, and insert the following:

(c) STUDY ON MANDATORY PURCHASE REQUIREMENTS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall conduct and submit to Congress a study assessing the impact, effectiveness, and feasibility of amending the provisions of the Flood Disaster Protection Act of 1973 regarding the properties that are subject to the mandatory flood insurance coverage purchase requirements under such Act to extend such requirements to properties located in any area that would be designated as an area having special flood hazards but for the existence of a structural flood protection system.

(2) CONTENT OF REPORT.—In carrying out the study required under paragraph (1), the Comptroller General shall determine—

(A) the regulatory, financial and economic impacts of extending the mandatory purchase requirements described under paragraph (1) on the costs of homeownership, the actuarial soundness of the National Flood Insurance Program, the Federal Emergency Management Agency, local communities, insurance companies, and local land use;

(B) the effectiveness of extending such mandatory purchase requirements in protecting homeowners from financial loss and in protecting the financial soundness of the National Flood Insurance Program; and

(C) any impact on lenders of complying with or enforcing such extended mandatory requirements.

Ms. LANDRIEU. Mr. President, if this amendment does not pass, significant portions of many States will be

required to have flood insurance which has never been required before. The underlying bill says everywhere there is a dike, a dam, or a levy, regardless of the situation behind the dike, dam, or levy, regardless of how strong the dike, dam, or levy is, you will be required to have flood insurance. That is a very different jump from where we are today. Our amendment strikes that language and instead says there shall be a study and evaluation to make better determinations.

This is a tough issue because we were behind levees that broke. It would have been a good idea, but this is a tax and fees on people without the appropriate study. That is what our amendment does.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me take 30 seconds to say to Members, if they have any amendments on this bill, I will stay around this evening. Anyone who has an amendment, we will consider them this evening. There will be no votes until tomorrow, but I will stay around tonight to engage in debate on amendments.

Let me express my opposition to the Landrieu amendment. This is less than $1 a day; at the most it is $350 a year for 350,000 dollars' worth of insurance. Twenty-five percent of all the claims against the flood insurance program come out of residual risk areas. One percent of the policies are coming out of that area. If we are going to have an actuarially sound program, you have to ask people to contribute.

Here is a list of dikes and dams that are failing right now. There is no guarantee these are going to last forever. We learned that painfully in Louisiana. When they don't, just like homeowner policies, you want to have something in place that will allow people to get back on their feet again other than coming to raid the Treasury to do so. Again, $350,000 for the maximum of less than $1 a day is very little to ask for a program that is actuarially sound. That is what we are trying to do with this bill so we don't end up raiding the Treasury in the long run.

I urge defeat of the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. 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 called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Maryland (Mrs. MIKULSKI), the Senator from Illinois (Mr. OBAMA), and the Senator from Nevada (Mr. REID) are necessarily absent.

I also announce that the Senator from Delaware (Mr. BIDEN) is absent because of illness.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. HAGEL), the Senator from Arizona (Mr. MCCAIN), and the Senator from Virginia (Mr. WARNER).

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

The result was announced—yeas 30, nays 62, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—30

| | | |
|---|---|---|
| Baucus | Hutchison | McCaskill |
| Bingaman | Inhofe | Menendez |
| Cantwell | Klobuchar | Murray |
| Cochran | Kyl | Nelson (FL) |
| Coleman | Landrieu | Nelson (NE) |
| Conrad | Lautenberg | Pryor |
| Cornyn | Levin | Stabenow |
| Dorgan | Lieberman | Tester |
| Durbin | Lincoln | Vitter |
| Harkin | Martinez | Wicker |

NAYS—62

| | | |
|---|---|---|
| Akaka | Crapo | McConnell |
| Alexander | DeMint | Murkowski |
| Allard | Dodd | Reed |
| Barrasso | Dole | Roberts |
| Bayh | Domenici | Rockefeller |
| Bennett | Ensign | Salazar |
| Bond | Enzi | Sanders |
| Boxer | Feingold | Schumer |
| Brown | Feinstein | Sessions |
| Brownback | Graham | Shelby |
| Bunning | Grassley | Smith |
| Burr | Gregg | Snowe |
| Byrd | Hatch | Specter |
| Cardin | Inouye | Stevens |
| Carper | Isakson | Sununu |
| Casey | Johnson | Thune |
| Chambliss | Kennedy | Voinovich |
| Coburn | Kerry | Webb |
| Collins | Kohl | Whitehouse |
| Corker | Leahy | Wyden |
| Craig | Lugar | |

NOT VOTING—8

| | | |
|---|---|---|
| Biden | McCain | Reid |
| Clinton | Mikulski | Warner |
| Hagel | Obama | |

The amendment (No. 4705), as further modified, was rejected.

Mr. DODD. 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 Florida.

AMENDMENT NO. 4709 TO AMENDMENT NO. 4707

(Purpose: To establish a National Catastrophe Risks Consortium and a National Homeowners' Insurance Stabilization Program, and for other purposes)

Mr. NELSON of Florida. Mr. President, I send amendment No. 4709 to the desk. It has been filed, and I call it up.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself, Mrs. CLINTON, Mr. MARTINEZ, and Ms. LANDRIEU, proposes an amendment numbered 4709 to amendment No. 4707.

(The amendment is printed in the RECORD of Tuesday, May 6, 2008, under ''Text of Amendments.'')

Mr. NELSON of Florida. Mr. President, this is an amendment to recognize what we have been discussing on this floor earlier: that the big one is coming. The big one is either a category 5 hurricane that is hitting an urbanized area of the coast, of which there is some loss of $50 billion of insurance losses in wind losses, or it is an 8.5 earthquake on the Richter scale that hits downtown San Francisco or downtown Memphis—either one of which no one State could withstand that kind of economic loss. There is no one insurance company that can withstand that economic loss.

It is clear that the package of bills Senator MARTINEZ and I—and he, by the way, is a cosponsor of this amendment—the package of bills we have filed to address the plethora of subjects having to do with catastrophic risk—a national catastrophe fund is one of those bills. That is not going to pass. The White House opposes it. But what could pass is what has already passed the House of Representatives and is down here and is the essence of this amendment; that is, it sets up two things. It sets up, on the one hand, a consortium whereby if a State's catastrophe fund goes dry and they need additional bonding, that State then has set up a consortium where it is easy to go into the private bond market for catastrophe bonds and get that bonding back to the State catastrophe fund. That is one part of this bill. The other part of this bill is also where the State has a State catastrophe fund.

What is a catastrophe fund? It is a reinsurance fund. It reinsures insurance companies against the catastrophic risk. In the case of Florida, it is hurricanes. In the case of California, it is earthquakes. In the case of Memphis, TN, it is earthquakes. In the case of the gulf coast, the Atlantic seaboard, it is hurricanes. That is what a State catastrophe fund is.

Florida has that fund. There are a lot of other States that do not. So this amendment would only apply to those that set up and address the catastrophic risk at the State level first. Therefore, if a State has a State catastrophe fund, it would have another opportunity to have the Federal Government help it. If the well ran dry in its State catastrophe fund and was out of money, it then could borrow cash from the Federal Government at market rates to replenish the cash until it could get its own cash reserves replenished by its mechanism which, in the case of Florida, is that they assess all of the policyholders—the property and casualty policyholders—in the State. Now, that is the way Florida does it.

This is not a new Federal program. This is a Federal incentive to the States solving this problem but recognizing that the big one is coming—either a hurricane or an earthquake—that when the big one does, if the State catastrophe fund, the reinsurance fund cannot handle it, the Federal Government is going to step in but only to the extent of helping the State catastrophe fund facilitate getting bonds in the private marketplace—catastrophe bonds—or, No. 2, help the State catastrophe fund have ready quick access to cash from the Federal Government but lent at fair market rates.

Now, this is utilizing the private marketplace. This is not a new Federal

program. It is a commonsense solution. It has already passed the House overwhelmingly. This is the vehicle that we have to offer it all. Even though this is a flood insurance bill, it is an insurance bill. We are not trying to monkey around with the flood insurance program; we are merely trying to have a vehicle by which we can bring this up.

Now, they are going to say it is not germane because it is not flood insurance. So that means we are going to have to get the 60-vote threshold to waive a point of order that it is not germane, and that is a high threshold. But nevertheless, we have to try.

I notice my colleague from Florida is here, and he is a cosponsor. I wish to thank him for that cosponsorship.

I ask unanimous consent that a detailed explanation of my amendment be printed in the RECORD at this point.

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

SUMMARY OF THE HOMEOWNERS DEFENSE

The Homeowners Defense amendment establishes a Consortium, a non-Federal entity that States may choose to join. The Consortium is designed to encourage and facilitate the transfer of catastrophe risk from State catastrophe reinsurance facilities/funds into the private markets, notably, the catastrophe bond markets.

In addition the bill also creates a Federal loan program to provide financing for qualified reinsurance programs and state residual insurance market entities that choose to participate to help cover the cost of paying out in the event of a disaster.

The bill includes general eligibility and underwriting requirement provisions that would:

Ensure that the savings realized form Titles I and II are passed through to primary policy holders

Encourage compliance with loss mitigation requirements

Ensure that actuarial rates are charged

Ensure that State reinsurance programs only underwrite truly catastrophic events (i.e. Katrina)

TITLE I—THE NATIONAL CATASTROPHE RISK CONSORTIUM

Title I establishes the National Catastrophe Risk Consortium, an organization that States can choose to join for the purposes of transferring catastrophe risk to the private market. To be clear, the Consortium would not assume the States' disaster risk. The risk transfer would be achieved through the issuance of risk-linked securities catastrophe bonds) or through negotiate reinsurance contracts. The consortium is designed to function as a conduit, so that at no time would risk transfer either to or from the Federal government.

The Consortium would be governed by a board comprised of Federal and participating State representatives with all members having a single vote. All States are eligible to join. Much of the Consortium's needs for risk modeling, financial consulting, and relations with the capital markets would be arranged for on a contract basis rather than provided by a permanent staff.

The Consortium offers States and private market participants a unique opportunity to benefit from combining catastrophic risks diversified by the type of peril and geographic regions. The Consortium staff would work in coordination with participating States to catalogue inventories of catastrophic risk.

Catastrophe bond underwriters and other market participants would be able to access this database to structure bonds or reinsurance contracts and treaties.

The Consortium would serve as a conduit issuer of catastrophe bonds on behalf of the participating States, but not actually take possession of any bond proceeds, coupon payments, or underlying risk. Through the aggregation and maintenance of market statistics, the Consortium would develop industry standards for the catastrophe bond and risk transference markets. Such standards include, but are not limited to, the terms of bond offerings, the nature of triggers used and the definitions of risks.

$20,000,000 per year is authorized to cover the costs of the establishing and administering the consortium.

TITLE II—NATIONAL HOMEOWNERS INSURANCE STABILIZATION PROGRAM

This title creates a National Homeowners Insurance Stabilization Program within the Department of Treasury designed to ensure a stable private insurance market by extending Federal loans to qualified reinsurance programs in States wishing to participate in the program. Specifically, the program would make two types of loans of last resort available: liquidity loans and catastrophic loans.

Liquidity loans would be extended to qualified reinsurance programs that have a capital liquidity shortage due to and following an insured catastrophic event.

The amount of the loan cannot exceed the ceiling coverage level for the reinsurance program. The liquidity loan would have an interest rate set at 3 percentage points higher than marketable obligations of the Treasury having the same term to maturity of between 5 and 10 years.

Catastrophic loans would be extended to a qualified reinsurance program when it has sustained losses above its maximum underwriting capacity. The catastrophic loan will have an annual interest rate set at 0.20 percentage points higher than marketable obligations of the Treasury having the same term to maturity and maturity of no less than 10 years.

As a transitional measure, during the first five years of the program, States that do not have a qualified reinsurance plan would be eligible to participate in the Title II program through their residual insurance market entities. Currently 36 states have a residual market entity that would meet the requirements of this bill.

Mr. NELSON of Florida. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I thank Senator NELSON, my dear colleague from the State of Florida, for bringing this bill forward, of which I am a cosponsor. I wish to associate myself with his comments regarding this very important proposal for the State of Florida. What already passed in the House ought to be given an opportunity to be considered by the Senate. I believe it could make a big difference to a lot of Florida homeowners who today are hurting because of high insurance costs because of unavailability of insurance and this is a way of safeguarding and actually it is a way of planning ahead for the inevitable storm.

Senator NELSON likes to say the big one is coming. The fact is it is inevitable that we will have other storms and some of them are going to be substantially large storms. As that occurs, the Federal Government will have a response. Inevitably, FEMA will be there, and there will be other responses to help people. Wouldn't it make much more sense to have a Federal backstop to an insurance program that could then provide, in an orderly way, the relief that surely will come to Florida or whatever other State is afflicted by the big natural disaster as we know Katrina was and other terrible storms can be.

I met today with the Director of the National Hurricane Center. I presume Senator NELSON may have met him as well. He was coming around to tell us about their programs, the terrific job they do of forecasting, but it is also a reminder that the hurricane season is upon us. About a month from now will be the official beginning of the hurricane season. As that happens, surely I will join with Senator NELSON in saying the big one is sure to come, and when it does it will be nice to have the kinds of funds the Klein-Mahoney legislation envisions and which I fully support.

I thank the Chair and I yield the floor.

Mr. DODD. Mr. President, pending some language to be drafted on a UC request, let me respond to the comments of Senators NELSON and MARTINEZ of Florida.

First, I commend BILL NELSON and the two House Members who crafted this legislative proposal to deal with the national catastrophe events. I commend them because they thought about this in a constructive way as to how they can possibly get resources to come into the States to deal with national catastrophes. Every one of us is confronted with this problem, whether you are in Florida with hurricane season, or in the Midwest with cyclones and tornadoes and floods, or whatever else may occur. We have all been confronted with how to deal with devastating natural disasters. It has been a long-time interest of mine.

Some years ago, going back almost 20 years, Senators STEVENS, INOUYE, others, and I tried to craft exactly something like this. We didn't get very far back in those days. The idea was to try to come up with a national plan that would allow us to be able to deal with these issues.

I begin my comments about the Nelson amendment as a complimentary one. We tried to accommodate it to some degree, because there are a lot of different ideas on how to do this. The authors of the original idea in the other body have a very creative idea. I welcome that. And there are others; it is not the only one. Rather than trying to adopt this in the middle of a flood insurance bill, as you heard Senator NELSON talk about earlier, we adopted a commission study for 9 months to examine these various ideas, and to come back to us with recommendations within that 9-month period. So we will

look clearly at this idea, but there are others as well. That is the intention.

We also included in the legislation several other ideas to try and deal with some of these problems. Two initiatives particularly, I admit, don't address the overall problem. They assist homeowners in communities faced with these problems. One is to provide a tax credit to homeowners who live in coastal areas—and it is not in the bill; it is a separate piece of legislation—who have seen property insurance rates substantially increase. That is certainly the case in Florida, where they have seen significant increases in those rates.

The bill I have introduced would give homeowners an immediate relief to offset part of the rise in premiums as we grapple with the long-term solutions. Again, it is not an answer, but it is some financial relief before we sort out this issue. I hope it will be on an appropriate vehicle, and I hope we will have an opportunity to offer that idea in the next several weeks.

I have also introduced a bill to provide grants and loans to home and business owners to undertake mitigation efforts. The best we can do for people in harm's way is to help them lessen the risk in the first place, with things such as storm shutters, hurricane clips, elevating essential utilities, and even elevating an entire house, in some cases. That will not only reduce insurance costs but save lives.

Mitigation costs are not inexpensive. We thought it might be a great help to assist in this so when problems arise, there is an effort to reduce the amount of damage that would occur. First, I admit these are not solutions to the issue raised by our colleague from Florida. I urge my colleagues at this juncture to add a specific idea such as this. But this is going a little beyond where we are prepared to go. That is my note of caution.

There is a vote on this tomorrow. I will be voting against the amendment offered by Senator NELSON, but not because I am opposed to the idea. In fact, I would make a case that I believe there may be legal authority that exists today to do some things already that he is talking about in his amendment. Some may be redundant based on what existing law would allow States to do to assist with funds in these areas. Some would clearly require new authority.

I urge colleagues, when considering this, not to give up. We will get to it. We have to. I think the best way to approach it is in a more comprehensive fashion. I thank them for their ideas, and I commend the two House Members of the Florida delegation, the principal authors of this idea. I commend Senator MARTINEZ, as well, for addressing these issues. I met with both of the House Members in my office several weeks ago and, ironically, at the time they came to my office, the chief executive officer of the Travelers Insurance Company, Jay Fishman, a very good friend of mine, a good fellow, was in the office, and he has authored his own idea that has attracted broad-based interest. Despite the fact that somebody would say it has come from the CEO of an insurance company, he is an original thinker; he thinks outside of the box. In fact, both of the members of the Florida delegation were quite taken with his idea and thought it was very creative as a national model. That is one other idea that is out there that we happened to discuss that day in the lengthy conversation we had on this issue.

There are many ideas, a lot of which have very sound merit, but they need to be thought out. I am a little uneasy about taking an idea and adopting it as an amendment as part of a flood insurance bill without understanding the full implications of what is involved in it. For those reasons, I will be objecting, or at least asking my colleagues to turn down this particular approach—not because it is a bad idea or it may not work but because we are not quite ready to accept that at this juncture.

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

AMENDMENT NO. 4711 TO AMENDMENT NO. 4707

Mr. DEMINT. Mr. President, I wish to call up two amendments and then make some brief comments about them. The first amendment is amendment No. 4711, which I believe is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4711 to amendment No. 4707.

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 require the Director to conduct a study on the impact, effectiveness, and feasibility of amending section 1361 of the National Flood Insurance Act of 1968 to include widely used and nationally recognized building codes as part of the floodplain management criteria developed under such section)

At the end, add the following:

**SEC. _____. REPORT ON INCLUSION OF BUILDING CODES IN FLOODPLAIN MANAGEMENT CRITERIA.**

Not later than 6 months after the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall conduct a study and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the impact, effectiveness, and feasibility of amending section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) to include widely used and nationally recognized building codes as part of the floodplain management criteria developed under such section, and shall determine—

(1) the regulatory, financial, and economic impacts of such a building code requirement on homeowners, States and local communities, local land use policies, and the Federal Emergency Management Agency;

(2) the resources required of State and local communities to administer and enforce such a building code requirement;

(3) the effectiveness of such a building code requirement in reducing flood-related damage to buildings and contents;

(4) the impact of such a building code requirement on the actuarial soundness of the National Flood Insurance Program;

(5) the effectiveness of nationally recognized codes in allowing innovative materials and systems for flood-resistant construction; and

(6) the feasibility and effectiveness of providing an incentive in lower premium rates for flood insurance coverage under such Act for structures meeting whichever of such widely used and nationally recognized building code or any applicable local building code provides greater protection from flood damage.

AMENDMENT NO. 4710, AS MODIFIED, TO AMENDMENT NO. 4707

Mr. DEMINT. Mr. President, my next amendment is actually a modification which I need to send to the desk. It is amendment No. 4710.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 4710, as modified.

Mr. DEMINT. Mr. President, I ask that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 8, line 13, strike ''and''.

On page 8, line 16, strike ''policy.''.'' and insert the following: ''policy; and

''(3) any property purchased on or after the date of enactment of the Flood Insurance Reform and Modernization Act of 2007.''.

Mr. DEMINT. Mr. President, if I could take a couple of minutes to explain these, my hope is that I can even get the chairman's support of this.

Amendment No. 4711 is actually a study that I hope we can all agree on. It is a study that would try to determine the feasibility of using incentives of lower flood insurance rates when consumers or businesses have their homes or business locations comply with nationally recognized building codes. A number of codes are out there. If we could encourage better construction of buildings, to make them more resistant to storms, it is likely we could save the flood insurance program a lot of money. So this amendment would simply study the feasibility of those incentives and what it might do to insurance rates, as well as to saving Government money.

My second amendment, No. 4710, ends the practice of permanently subsidizing premiums for older homes in flood zones, which can be as large as 65-percent. The bill does a good job phasing out these subsidies for just about every other property: businesses, vacation rentals, and primary residences that have been renovated since the flood zone mapping was determined. But there are a number of homes that

are grandfathered into subsidies up to 65 percent. These are homes that were built before 1975 or when their area's flood mapping was actually done. These primary residences enjoy this subsidy, and will continue to under the current bill.

What my amendment does not do is change the insurance rates or the subsidy for those who are grandfathered into the current rate that we call prefirm, or before flood insurance rate maps were completed; in other words, these are folks who could legitimately have said they did not know they were in a flood plain when they bought their home. I think their rates and subsidies should stay the same.

What my amendment does is make the premiums for pre-firm properties sold after this bill's enactment the same actuarial rates of homes that were built after the new mapping was complete, or post-firm. So it is a relatively simple amendment, and I think it gives more equity to the total bill by making sure all properties are eventually treated equally.

So I will provide more detail tomorrow, but I hope the chairman will consider both of those amendments because I would love to have his support.

With that, I yield the floor.

Mr. DODD. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT—MOTION TO PROCEED

Mr. DODD. Mr. President, I ask unanimous consent that upon the disposition of H.R. 3121, the House-passed Flood Insurance Act, the Senate proceed to the consideration of Calendar No. 275, H.R. 980, an act to provide collective bargaining rights for public safety officers employed by States and political subdivisions.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. Mr. President, on behalf of several of my colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. Mr. President, I wonder if consent would be granted to proceed to H.R. 980 at a time to be determined by the majority leader following consultation with the Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. Mr. President, on behalf of several of my colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. Mr. President, in light of these objections, I now move to proceed to Calendar No. 275, H.R. 980, and I send a cloture motion to the desk.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 275, H.R. 980, the Public Safety Employer-Employee Cooperation Act.

Edward M. Kennedy, Robert Menendez, Russell D. Feingold, Patty Murray, Daniel K. Inouye, Amy Klobuchar, Debbie Stabenow, Ron Wyden, Barbara Boxer, Christopher J. Dodd, John D. Rockefeller, IV, Jon Tester, Sheldon Whitehouse, Frank R. Lautenberg, Sherrod Brown, Jeff Bingaman, John F. Kerry.

Mr. DODD. Mr. President, I now ask unanimous consent that the cloture vote occur on Monday, May 12, upon disposition of H.R. 3121; and that on Monday, May 12, all time after the Senate convenes until 5:30 p.m. be equally divided and controlled between the two leaders or their designees, with the mandatory quorum waived, and I withdraw the motion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from South Dakota is recognized.

## FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007—Continued

AMENDMENT NO. 4731

Mr. THUNE. Mr. President, I have an amendment which I understand the manager for the majority will object to me calling up, but I would like to make some remarks about it, if I might, at this time.

Mr. DODD. Mr. President, if my colleague would yield, I appreciate his recognition of that. Again, our hope is something can be worked out. The objection is not based on the substance of the amendment as much as it is a question of whether the committee of jurisdiction which this matter is being considered under has raised some concerns with our colleague from South Dakota, and my hope is they can be resolved. So I would have to object if he brought up the amendment, but certainly I welcome his opportunity to talk about this amendment, and my hope is that between now and tomorrow sometime, whatever the differences are can be worked out, and we will be able to consider his amendment.

Mr. THUNE. I thank the chairman, the Senator from Connecticut, for those words. Let me, if I might, make a couple of remarks with regard to the amendment and again suggest that if at all possible, we could figure out a way to make it a part of this Flood Insurance Reform and Modernization Act. I think it is very fitting on this bill. There are some jurisdictional issues that have been raised. But what I would like to point out is that this is a bill which obviously has a lot of important content and legislation that needs to be acted upon by the Congress, by the Senate. The amendment that Senator JOHNSON and I have offered is directly relevant to the bill because it seeks to reduce the potential impact of FEMA's revised flood map for residents of Sioux Falls, SD, which is the largest city in my State. Above all, this amendment allows the City of Sioux Falls to have the ability to advance the funds associated with the Big Sioux Flood Control Project which was authorized by the Congress in 1996.

Keep in mind, roughly 20 years ago, the U.S. Army Corps of Engineers determined that the original flood control project in Sioux Falls was ineffective due to two significant flood events that occurred in 1957 and in 1969. The city and the Federal Government have been working since 2000 to raise the height of the levees and to construct a dam. However, without the authority contained in this amendment, the completion of the Big Sioux Flood Control Project will languish until the Federal Government's remaining share of the project is appropriated.

Effectively, with roughly $21 million in remaining Federal costs and the fact that the average funding provided by Congress over the past 7 years has been about $2 million per year, the city is at the mercy of the Federal Government to complete this important project. If these flood protection improvements are not made, roughly $750 million in property damage could result in homes and businesses in a major flood event.

Adding to the urgency for completing this important flood control project is the fact that following Hurricane Katrina, the Federal Emergency Management Agency proposed modifications to the city's 100-year flood plain, just as FEMA has done in other communities across the country, to ensure that homeowners are aware of potential flood risks. As a result of FEMA's proposed flood plain modifications in Sioux Falls, until the Army Corps certifies completion of its project, roughly 1,600 homeowners and businesses will be required to purchase flood insurance. The quickest way to eliminate or reduce the need for flood insurance for the 1,600 homeowners and businesses is to complete construction of the Big Sioux Flood Control Project as soon as possible.

While the city has expressed a willingness to advance fund the Federal Government's remaining portion of the project, this would require Congress to act in a couple of ways. One is to allow the Army Corps to accept advance funding from the city for the Federal Government's portion of the project; second, to authorize the Army Corps to reimburse the city through future appropriations from the Federal Government's portion of the project.

This straightforward amendment doesn't add any costs to the Federal Government. In fact, allowing the city to advance fund the remainder of the project would actually reduce the Federal Government's overall cost because the project would be completed in a much shorter timeframe.

Such authorities have been extended to other Federal flood control projects in the past. Senator JOHNSON and I are simply seeking additional flexibility that will allow the city to expedite construction of the Big Sioux Flood Control Project. I believe the city's willingness to advance fund this flood control project underscores their commitment to finishing this much needed project.

I look forward to working with the bill managers to try to get this amendment voted on, to get it included in the underlying bill as we work to reform our Nation's flood insurance program.

I hope we can work through this jurisdictional issue because this is an issue of timing. There is another WRDA bill that may come down the road, but the last one took 7 years to get on the floor of the Senate. I don't believe the next one will take that long. In any case, the city of Sioux Falls—the largest community in my State—is looking at 11 years to complete this project.

As soon as FEMA designates this flood plain, 1,600 homeowners will be faced with an insurance bill. All the city is trying to do is take the initiative to complete this project in a more timely way by advance funding it and then allowing the Federal Government, through the Corps, to reimburse through what would be annual appropriations, which could take perhaps 11 or more years to get. I think this is a commonsense, practical solution. The city has stepped forward on this. I hope we can include it in this bill before we get to final passage.

Thank you, Mr. President.

I thank the Senator from Connecticut.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, I ask unanimous consent that all amendments to S. 2284 must be offered during Thursday's session, May 8; that the only amendments in order on Monday be the pending substitute amendment; further that a managers' amendment still be in order if cleared by the managers and leaders, the McConnell amendment No. 4720, with the Allard amendment No. 4721 withdrawn prior to a vote in relation to the McConnell amendment; a Reid and others amendment relating to the subject of energy; that the McConnell and Reid amendments be subject to a 60-affirmative-vote threshold; that if either amendment achieves that threshold, then the amendment be agreed to and the motion to reconsider be laid upon the table; that if neither achieves the 60-affirmative-vote threshold, then it be withdrawn; that the vote with respect to the McConnell amendment No. 4720 occur at 5:30 p.m. Monday, May 12, to be followed by a vote in relation to the Reid, et al., amendment; that upon disposition of all amendments, the substitute amendment, as amended, if amended, be agreed to; the bill read a third time, and the Senate then vote on passage of S. 2284, as amended; further that the previous order which referenced H.R. 3121 be changed to reflect passage of a flood insurance bill, either S. 2284 or H.R. 3121, and the cloture motion on amendment No. 4720 be withdrawn.

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

Mr. DODD. Mr. President, I thank all involved. I thank the majority staff, the minority staff, and the respective Members who helped us put this agreement together. Basically, what it says is we have to offer, debate, and vote on all amendments by the end of business tomorrow, and then leaving off until next week the issue involving the energy issues which the majority leader talked about earlier this evening. That will allow us to hopefully complete consideration of the flood insurance bill.

I know I speak for Senator SHELBY and other members of the committee, as I mentioned earlier, we passed this bill unanimously out of the Banking Committee some months ago. The fact that we will be able to come to closure on the bill by the end of business tomorrow is good news for literally millions of people who are counting on having a good flood insurance program.

I would like to make some unanimous consent requests.

## MORNING BUSINESS

Mr. DODD. 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.

## USS ''COLE'' INVESTIGATION

Mr. FEINGOLD. Mr. President, this past weekend a front page article in the Washington Post reminded us of the devastating attack on the USS *Cole* and the inability—or unwillingness—of the administration to see the investigation to the finish line. Nearly 8 years since the attack on the *Cole*, and 6½ since September 11, 2001, an attack directly linked to al-Qaida—and to bin Laden himself—remains stalled, at best, with few answers to key questions.

I would like to take a minute to remind my colleagues of the attack I am referring to—an attack perhaps not as seared into our memories as those horrific ones of 9/11, but one that is equally as painful for those who lost loved ones and are still waiting to hold someone to account. On October 12, 2000, as the USS Navy destroyer *Cole* stopped briefly to refuel in the harbor of Aden, Yemen, it was attacked by a small boat loaded with explosives. The attack killed 17 members of the ship's crew, including a sailor from my home State of Wisconsin. At least 39 others were wounded. According to the 9/11 Commission Report, ''The plot . . .was a full-fledged al Qaida operation, supervised directly by [Osama] bin Laden.'' Although teams from the FBI and other U.S. agencies were immediately sent to Yemen to investigate, the Yemeni government was hesitant to participate in the investigation.

While the Yemenis eventually agreed to a joint investigation, the 9/11 Commission Report notes that the CIA described Yemeni support for the investigation as ''slow and inadequate'' and that in the early stages of the investigation President Clinton, Secretary Albright, and others had to intervene to help. What followed was a number of arrests by the Yemeni government of people connected to the attack—including those found to have close links to al-Qaida—but less than 3 years after their arrest, 10 were able to escape from prison.

Shortly after the jail break, the Justice Department unveiled a 51-count indictment against two of the escapees, including cell leader Jamal al-Badawi. Both were indicted on various terror offenses, included the murder of U.S. nationals and U.S. military personnel. Yet Yemen refused to extradite al-Badawi. Despite a trial in 2004 that condemned him to death—a sentence which was later reduced to 15 years in prison al-Badawi dug his way to freedom in 2006 with a number of other convicts. Although he surrendered 20 months later, al-Badawi was able to strike a deal with the government which rendered him a free man. No one has been charged in U.S. courts and none of those imprisoned remain behind bars. The USS *Cole* investigation remains unfinished as there has been no real accountability for the deaths of 17 Americans.

I am deeply troubled by the message we are sending to our enemies by allowing this investigation to languish, while many of those involved in the attack walk free. Since 2003, I have repeatedly requested information from the State and Defense Departments, CIA, and FBI about these attacks, the circumstances surrounding the detention and escape of the suspects, and efforts to find and detain those involved. In 2006, I wrote to Secretary Rice and the Director of National Intelligence, DNI, expressing grave concern about al-Badawi's multiple escapes and in 2007 I strongly condemned the Yemeni government's decision to release him.

There is little to inspire confidence in our efforts to hold these terrorists to account for their actions and even less to show for our work to date. Our reliance on the government of Yemen to detain and prosecute these known members of al-Qaida—and their inability or unwillingness to do so—calls into question the partnerships and relationships we have secured in our efforts to meet the number one threat we face. The State Department's 2007 ''Country Terrorism Report'' notes that Yemen has ''experienced several setbacks to its counterterrorism efforts'' and recounts multiple examples of the Yemeni government's inability to apprehend escaped convicts—many of whom are members of al-Qaida and are associated with the USS *Cole* attack. Furthermore, for the past two years Yemen has been listed as a terrorist safe haven because of al-Qaida's ability to ''reconstitute operational cells there'' and carry out ''several terrorist attacks against tourist targets.''

How reliable is the Yemeni government as a partner in the fight against al-Qaida and its affiliates if it has been designated as a safe haven for terrorists? What efforts are being taken to ensure the Yemenis commit to combating terrorists and work with us to hold those responsible for the USS *Cole* attack accountable? Can we assure the American people that the Yemenis will ensure al-Qaida is denied access to resources, opportunities and safe spaces from which to operate? We cannot simply rely on others to do our work—especially when they are clearly not doing the job that needs to be done. We cannot sit back and allow others to take the reins while we remain distracted.

The war in Iraq has brought about a dramatic and regrettable shift in our priorities—a shift away from the top threat to our national security. Despite the persistent calls from the majority of Americans, we remain bogged down in Iraq—while it drains our resources, saps our attention, and depletes us of our ability to focus on our top national security concerns. I am concerned that this same lack of focus may be behind the administration's failures with respect to the attack on the *Cole*. The administration has paid relatively little attention to the marginalization of the USS *Cole* investigation, despite how critically important it remains to our national interest.

The global fight against al-Qaida and its affiliates must be our top priority, and the administration must take seriously its responsibility to ensure that the al-Qaida operatives behind the attack on the USS *Cole* are held to account for their heinous actions.

## NATIONAL ARSON AWARENESS WEEK

Mrs. BOXER. Mr. President, I take this opportunity to recognize National Arson Awareness Week, May 4–10, and its theme for 2008: ''Toy-like Lighters Playing with Fire.''

The major goal of National Arson Awareness Week is to promote national recognition, awareness and understanding of the arson problem in the United States. By creating a new theme each year, the National Arson Awareness Week encourages local communities to come together and promote a different aspect of arson awareness information. Intentionally set fires are a leading cause of fire deaths and a frequent cause of financial losses in the United States. The theme for this year's Arson Awareness Week, ''Toy-like Lighters—Playing with Fire,'' focuses public attention on the dangers of toy-like or novelty lighters in the hands of children.

Novelty lighters are frequently mistaken by children for play toys, some complete with visual effects, flashing lights and musical sounds. Such cases of mistaken identity often carry devastating consequences.

National Arson Awareness Week greatly benefits communities in California and across the Nation, as it highlights awareness of the dangers posed by arson-related issues throughout local communities. I commend the local fire departments and localities that have worked to promote awareness of the dangers posed by toy-like and novelty lighters through the National Arson Awareness Week of 2008.

## CELEBRATING PEARL HARBOR NAVAL SHIPYARD'S 100TH ANNIVERSARY

Mr. AKAKA. Mr. President, today, Senator INOUYE and I celebrate the 100th anniversary of the Pearl Harbor Naval Shipyard. The Pearl Harbor Naval Shipyard has held a significant place in both Hawaii and our Nation's history. Even before Congress passed an act in 1908 officially creating the Pearl Harbor Navy Yard, Pearl Harbor has been an important port for ships and sailors from across the world.

Early in the 19th century, Pearl Harbor, or ''Wai-Momi,'' served as a primary port for exploration and trade. By the late 1800s, the United States was looking toward Pearl Harbor to serve as the center of its expanding Pacific Fleet. On May 13, 1908, Congress solidified Pearl Harbor's strategic importance by appropriating $3 million to officially establish the Navy Yard at Pearl Harbor. Over the next 33 years, the new naval facility at Pearl Harbor was transformed into a site capable of basing the then-newly formed U.S. Pacific Fleet, and changed the face of Hawaii in the Pacific forever.

Every schoolchild in the United States learns about the events on the morning of December 7, 1941. That was the day the U.S. Naval forces at Pearl Harbor were devastated by the Imperial Japanese Navy's surprise attack. Nine ships of the U.S. Pacific Fleet sank, and more than 2,300 American lives were lost. However, our children are taught far less often about the courageous resolve and dedication demonstrated by the shipyard's employees. After resurrecting much of the fleet from the bottom of Pearl Harbor, and repairing 18 of 21 severely damaged vessels, the workers earned the motto, ''We Keep Them Fit to Fight.'' Their commitment to duty became a model of the U.S. war effort during World War II.

The effort and hard work by Pearl Harbor Naval Shipyard personnel to maintain the ships of the U.S. Navy helped to turn the tide of war at sea in the Battle of Midway. Their tireless work ultimately ensured that of the ships damaged on December 7, salvaged, repaired, and returned to service, one, the USS West Virginia, survived the duration of the war to sail triumphantly into Tokyo Bay in August 1945. The integrity, ethos, and determination of Pearl Harbor Shipyard workers continued throughout the Cold War, and provided the United States with a national treasure and a strategically critical base of operations for Pacific naval and air power.

Mr. INOUYE. Mr. President, the rich history and unflagging service of the men and women at Pearl Harbor Naval Shipyard highlighted by Senator AKAKA continues today.

Once again our Nation is at war, and our Naval Forces engaged in the global war on terror can rely on the shipyard to provide top quality support. The shipyard's work focuses on the U.S. Pacific Fleet, and makes the shipyard the largest repair facility between the west coast of the United States and the Far East. The shipyard provides full-service maintenance for both the Pacific Fleet's ships and submarines throughout the Asia-Pacific theater. In addition to this significant responsibility, the shipyard has demonstrated its diverse capabilities by supporting our nation's space exploration, Antarctic expeditions, missile defense, and its ability to rapidly respond by deploying worldwide to perform emergency repairs.

Pearl Harbor Naval Shipyard is a national treasure, and it is known as ''No Ka Oi,'' or ''The Best'' Shipyard. In the tradition of upholding this moniker, it has earned multiple national awards for its excellent safety and environmental stewardship programs. These awards include the prestigious Occupational Safety and Health Administration Star, and the White House Closing the Circle Environmental Quality Awards.

Beyond the numerous contributions to our U.S. Navy, the shipyard is also an integral part of Hawaii. It is the largest single industrial employer in the State, and its direct annual economic impact is greater than $600 million in Hawaii. Through its apprentice, engineer co-op, and other student hire programs, Hawaii residents are provided with extraordinary training, employment, and career opportunities. For some families this tradition to keep our ships and submarines ''fit to fight'' runs throughout a generation

and is being passed down to the next generation.

Mr. AKAKA. Honor, courage, and commitment are the core values of the Pearl Harbor Naval Shipyard. These words speak volumes about both the local and national contributions of the proud men and women who have served under its banner. I ask my colleagues to join with me in honoring these outstanding Americans by celebrating the 100th anniversary of the Pearl Harbor Naval Shipyard, and to wish it as much success over the next century as it attained during the last.

Mr. INOUYE. When Congress established the ''Navy Yard Pearl Harbor'' in 1908, Hawaii and the U.S. Navy were inextricably linked together. Just as it did in 1908, America understands the need for a strong presence in the Asia-Pacific region. Both the shipyard and its achievements are special. However, it is the shipyard's heart, the dedicated men and women who work there, that make those achievements possible. I join my colleague Senator AKAKA in celebrating the 100th anniversary of the Pearl Harbor Naval Shipyard, and I look forward to celebrating its future successes in the next 100 years.

## HONORING MONSIGNOR JOSEPH G. QUINN

Mr. CASEY. Mr. President, it is with the greatest respect and personal gratitude that I stand today to honor our guest Chaplain, Monsignor Joseph G. Quinn, and thank him for his humble and moving blessing upon us this morning. I am proud to say that Monsignor Quinn hails from my hometown of Scranton, PA, and lives and works there today as pastor of St. Rose of Lima Parish in Carbondale.

Monsignor Quinn is one of the most dedicated and committed servants of God whom I have ever had the privilege to know. I am honored to say that he is my good friend and has been an invaluable and steadfast friend to my family for decades. He has provided us comfort and strength in times of sorrow and loss. When my father, Governor Casey, was ill and when he died in May of 2000, Monsignor Quinn grieved with us. In times of happiness and celebration like christenings and other occasions or celebrations, he has brought his sense of humor and his warmth.

Monsignor Quinn is a beloved church servant. He has made extraordinary contributions to his family, the city and diocese of Scranton and all of northeastern Pennsylvania. Interestingly, Monsignor Quinn's journey to the priesthood first took a detour through a short, but remarkable, legal career. I would like to highlight just a few of his accomplishments over the last three decades.

After graduating from the University of Scranton and Seton Hall University School of Law in 1976, he was appointed a Federal magistrate-judge for the U.S. District Court for the Middle District of Pennsylvania. Then 25 years of age, he was the youngest person in the country to serve in that position. After 6 years of distinguished service in the judiciary, he answered his call to the priesthood and went on to complete his studies at the North American College in Rome and was ordained in 1985.

Monsignor Quinn's numerous professional contributions include serving as: parish priest and pastor; dean of the Scranton Central Deanery of the Diocese of Scranton; member of the Pennsylvania State Ethics Commission; diocesan moderator of the Bishop's Annual Appeal for the 1998, 1999 and 2000 campaigns; member of both the Diocesan College of Consultors and the Diocesan Presbyteral Council; chairman of the Diocesan Communications Commission; member of the Board of Trustees of the University of Scranton; and personal representative of the Bishop of Scranton to the Pennsylvania Catholic Conference, a statewide body that addresses and advances public policy issues on behalf of the Pennsylvania Bishops.

Monsignor Quinn has been a key contributor to the community in a wide variety of capacities, and has been honored with numerous awards. The following are just a sampling: the B'nai B'rith Americanism Award; the Scranton Preparatory School Outstanding Alumnus of the Year as well as its most significant honor, The Ignatian Award; a Marywood University Presidential Scholarship in his honor; and the Lackawanna Bar Association's President's Award as well its highest award, the Chief Justice Michael J. Eagan Award. The University of Scranton honored Monsignor Quinn with its O'Hara Award in recognition of his community service, and in the fall of 2004, the Monsignor's nearly 30 years of service by naming a Presidential scholarship in his honor. In 2005, Scranton's Central City Ministerium named Monsignor Quinn its Clergyman of the Year.

These are only a few of Monsignor Quinn's many awards and accomplishments. He should be proud of these commendations but I have no doubt that his tremendous joy in serving God through service to his brothers and sisters in Christ, each and every day is what continues to inspire him. Monsignor Quinn is a truly beloved servant of the Church and its people. It is heartening to me, both personally and as a Member of the Senate, to listen to today's blessing by Monsignor Quinn and to welcome his vision of God's grace for our world into this Chamber.

## ADDITIONAL STATEMENTS

### RECOGNIZING BRIDGER HIGH SCHOOL

● Mr. BAUCUS. Mr. President, I wish to give special recognition to the music department of Bridger High School for putting together an award-winning music education program. By demonstrating outstanding commitment to music education, Bridger High School won this year's GRAMMY® Signature School Award. This distinction is a national honor and a cause for celebration for the town of Bridger in my home State of Montana.

Music plays an integral part in our daily lives. It helps to define who we are as individuals and as a nation. Through music we celebrate, we laugh, we grieve and we heal. An old song, like an old friend, helps to recall feelings and memories lost in time.

The power of music is undeniable. Music education, therefore, is a sound investment. It teaches discipline and provides an avenue to express deep and powerful emotions. It enhances a student's performance in other subject areas. It makes a fundamental difference in the quality of life.

It makes an even bigger difference in the lives of students from economically underserved school districts. Bridger is a small town with a population less than 1,000. Under the watchful guidance of their music director Michel Sticka and principal John Ballard, the 28 music students from Bridger High strived to distinguish themselves and their school. They have succeeded. And so, they deserve our respect and admiration.

Being selected as a GRAMMY® Signature School is no small task. Bridger High School competed against 20,000 other public schools across the Nation to capture the distinction. In addition, the students at Bridger High went on to win the GRAMMY® Signature Schools Enterprise Award. The award recognizes three schools across the country for their efforts towards achieving music excellence. This national honor comes with a grant of $5,000 designed to benefit Bridger High's music program.

Because of a strong music education, for the students of Bridger High, the greatest reward comes from the lifelong benefit of being able to lead richer and fuller lives.

I couldn't be more proud of the students and faculty members at Bridger High School. They have gone above and beyond to put Bridger, MT, on the map, setting the standard for all Montana schools. I join my fellow Montanans in a chorus of praise for these 28 bright students on their extraordinary achievements: Benton D. Asbury, Katryna N. Asbury, Samantha J. Bobby, Jonathan E. Bostwick, Devon B. Caballero, Jenny M. Cooke, Jessica Denney, Karissa J. DeRudder, Sommer D. Dykstra, Rebekah Edelman, Hayden D. Forsythe, Hannah Goetz, Jacey K. Griswold, Elliott G. McCarthy, Forrest C. McCarthy, Kimberly M. McClurg, Heidi R. Mudd, Wendi N. Mudd, Tara R. Murray, Lenore K. Pierson, Cole D. Schwend, Edward Stevenson, Andrea D. Sticka, Bailee M. Vaugh, Ryan J. Witt, Kyla M. Young, Tyler D. Young, Brittany N. Zentner.●

## TRIBUTE TO LOUISIANA WWII VETERANS

• Ms. LANDRIEU. Mr. President, I am proud to honor a group of 97 World War II veterans from Louisiana who are traveling to Washington, DC, this weekend to visit the various memorials and monuments that recognize the sacrifices of our Nation's invaluable servicemembers.

Louisiana HonorAir, a group based in Lafayette, LA, is sponsoring this Saturday's trip to the Nation's Capital. The organization is honoring each surviving World War II Louisiana veteran by giving them an opportunity to see the memorials dedicated to their service. On this trip, the veterans will visit the World War II, Korea, Vietnam and Iwo Jima memorials. They will also travel to Arlington National Cemetery to lay a wreath on the Tomb of the Unknowns.

This is the ninth flight Louisiana HonorAir will make to Washington, DC.

World War II was one of America's greatest triumphs, but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American service members were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there remain today more than 40,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. The oldest in this HonorAir group was born in 1913. They began their service as early as 1938, before the bombing of Pearl Harbor, and some members of this group served as late as 1979. They served in various branches of the military—34 members in the Army; 14 in the Army Air Corps; 37 in the Navy; 8 in the Marines; 1 in the USO; and 3 in the U.S. Coast Guard.

Our heroes served across the globe, participating in major invasions such as those at Iwo Jima, Okinawa, Guadalcanal, Leyte, the Phillippines, and southern France. One was a prisoner of war in Italy, another served under General Patton, and one flew 35 bombing missions over Europe.

Many of these veterans earned Purple Hearts, Bronze Star Medals, Air Medals and Navy Crosses.

I ask the Senate to join me in honoring these 97 veterans, all Louisiana heroes, that we welcome to Washington this weekend and Louisiana HonorAir for making these trips a reality.•

## RECOGNIZING TINA FLETCHER

• Mrs. LINCOLN. Mr. President, I wish to recognize the work of an outstanding young woman who has served Arkansas and our Nation this spring as an intern in my office, Tina L. Fletcher of Plumerville, AK.

Last month, Tina, a senior at the University of Arkansas, was named the 2008 recipient of the Henry Woods Student Leadership Award, which recognizes one outstanding student leader and his or her contributions to the University of Arkansas campus community. She is the ninth recipient of the Woods award and will receive a $750 scholarship.

Friends and associates of Henry Woods created this award to honor his 25 years of service in the Washington, DC, area. While in Washington, Woods worked for U.S. Representative Bill Alexander and U.S. Senators David Pryor and Dale Bumpers. I was also fortunate enough to have Henry work in my Washington office for a short time and lend his years of experience to my staff. Prior to his professional service with in Congress, Henry was active in numerous campus organizations and served for 2 years as editor of the Razorback yearbook while attending the University of Arkansas.

In addition to winning the Henry Woods award, Tina is a Silas H. Hunt distinguished scholar and member of the Political Science Honor Society, Pi Sigma Alpha. She is a graduating senior in the J. William Fulbright College of Arts and Sciences completing a combined major in political science and African-American studies.

In addition to serving as the former secretary of Pi Sigma Alpha, Tina also served as the 2007 president of the Kappa Iota Chapter of Alpha Kappa Alpha Sorority, Inc., the 2007 vice-president of the Black Students Association, and is the founder and first President of S.A.S.S.: Students Advocating Stronger Sisterhood. Tina is an active member of the Connections Mentoring Program, Order of Omega, and Tri-Council.

In November 2007, Tina was selected as one of 10 students to serve as a Congressional Black Caucus/Wal-Mart Emerging Leaders intern. She was among the first group of students to receive the Silas H. Hunt distinguished scholarship. Tina has also received many additional honors and awards since arriving at the University of Arkansas as a freshman in 2004 including being named the NAACP's University of Arkansas Legend.

Recently admitted into Harvard University, Tina will pursue her masters of education degree in political philosophy/political science and history during the upcoming school year. After receiving her master's degree, Tina plans to teach high school within the Delta region's urban and impoverished school districts.

Mr. President, it goes without saying that the future looks bright for Tina Fletcher. While we will certainly miss her, we wish her the best in all her future endeavors.•

## REMEMBERING LEW WILLIAMS, JR.

• Ms. MURKOWSKI. Mr. President, today I wish to talk about one of Alaska's greatest newspaper publishers and newsmen. Lew Williams, Jr. was a fixture in Ketchikan, AK, one of the State's largest cities as I was growing up in nearby Wrangell. Lew unfortunately passed away at age 83 this past Saturday, leaving a hole in the fabric of Alaska journalism that may never be fully patched.

Mr. Williams was a successful publisher, no simple accomplishment when publishing newspapers in relatively small Alaska towns is expensive, newsprint had to come by barge from thousands of miles away, and advertisers and readers were sometimes far too scarce. But he never scrimped on his product and was fearless in writing strong, clear and always factually accurate and well reasoned editorials.

Lew was a champion in supporting statehood for Alaska back in the mid-1950s. Along with Robert Atwood, the former publisher of the Anchorage Times, and C.J. Snedden, the long-time publisher of the Fairbanks News Miner, Mr. Williams was one of the three pioneer publishers and editors in Alaska who did more to establish modern Alaska than most community leaders and politicians. Avoiding the trend to sell his publication to outside chains, his daughter Tena remains as publisher of the newspaper today.

He also was a leading light in improving journalism in Alaska, being the founder in 1965, just 6 years after Statehood, of the Alaska Newspaper Publishers' Association, the forerunner to today's Alaska Newspaper Association. He served as president of each organization and later as director of the regional Allied Daily Newspaper Association.

Mr. Williams was born in Spokane, WA, in November 1924, the son of two reporters, Lew M. Williams, Sr., and Winfred—Dow—Williams, who worked for newspapers in Tacoma, WA. The Williams family moved to Juneau in 1935, where his father worked for the Juneau Empire. In 1939 Lew Williams, Sr., purchased the Wrangell Sentinel, starting a history of newspaper publishing in Alaska which continues to this day.

After serving as a sergeant in the paratroopers in World War II, Lew Jr. ran the Wrangell Sentinel for the family. He married Dorothy M. Baum in July 1954. The couple bought the Petersburg Press and acquired the Wrangell Sentinel from Mr. Williams' parents when they retired. They later sold the two newspapers and bought the Daily Sitka Sentinel—Sitka being the site of Alaska's first pulp mill started after WW II—and also bought an interest in the Ketchikan Daily News.

Ketchikan, a sawmill town in the heart of the Tongass National Forest, later saw its own pulp mill develop. The Williams sold the Sitka paper to

concentrate on the Ketchikan paper. But Lew was quick to help reestablish small papers in both Petersburg and Wrangell.

Like many newspaper publishers, Lew Jr. was active in his community. He served on the Wrangell School Board, as mayor of Petersburg, and on numerous State boards including the Alaska Judicial Council, on the Board of Regents of the University of Alaska and as a member of the Board of Governors of the Alaska Bar Association. He served on the State boards under every State Governor, Democratic or Republican, through his retirement in 1999. He also served as the first secretary of the Petersburg Fish and Game Advisory Board just after statehood, helping to foster the State's strong fisheries ethics that helped salmon to recover from the catch disasters of the 1950s to the all-time records for salmon harvest currently being produced in Alaska.

Besides government positions, Mr. Williams was a lifetime member of the Petersburg Elks Lodge 1615, the American Legion, the Pioneers of Alaska, a past president of Rotary, and for 29 years was an adult leader in the Boy Scout program. He also was active in the Democratic Party and was awarded an honorary doctorate of humanities by the University of Alaska Southeast. He also was the founder of the regional Southeast Conference and was named Citizen of the Year by both the Alaska State Chamber of Commerce and the Greater Ketchikan Chamber of Commerce in the early 1980s. He won statewide recognition as the Alaskan of the Year in 1991.

But this speech is not meant as an obituary, but as a way for me to state my deepest appreciation for a man who epitomized Alaska during the past 70 years. He was a man who loved the beauty of Alaska, enjoying hunting and fishing on the nearby Stikine River. He also pushed for the development of Alaska from its timber industry in the southeast to the fishing industry around the State. He was a strong voice in favor of the aquaculture movement in the 1970s that helped the State preserve and grow its wild salmon populations. He also was a tireless supporter of environmentally sensitive oil and gas development, first in Cook Inlet and later in northern Alaska. Lew, having lived in the grinding poverty of Alaska long before statehood, always understood that Alaskans needed and still need good jobs and a strong economy so that the State can develop an economy strong enough to support good educational institutions, community infrastructure and allow the development of good health care and social service programs. He knew that Alaskans could grow the economy and protect our wildlife and environment. He never set up an artificial confrontation between the two goals.

After his retirement, Lew wrote with the late Evangeline Atwood, the book ''Bent Pins to Chains: Alaska and its Newspapers.'' The 2006 book is a lively history of Alaska as described through the development of its newspaper industry. The book, better than most, tells the tales of life in both the territory and State of Alaska as seen through reporters, editors and publishers. Lew, undoubtedly wrote the book as a way of honoring the many talented writers and editors that have practiced in Alaska over the past 49 years since statehood, many of them reporters he helped recruit out of journalism schools, and helped mentor and train once they arrived.

As his obituary earlier this week in the Ketchikan Daily News said, ''He believed the editorial was the heart and strength of any newspaper. He editorialized for Alaska State, for the creation of the state ferry system, for the trans-Alaska pipeline, for power development, in support of the timber and fishing industries, and for airports, harbors and roads.''

Alaskans have seen countless columns and editorials explaining to Americans—who never wanted to really understand the issue—why it was fully proper for some of Alaska's Federal highway funds to go for construction of a bridge from downtown Ketchikan to the city's airport, so that those who needed to fly out of the State's fifth largest city could actually get to their flights when high winds or low tides rendered the ferry system to the airport inoperative. For those who needed to catch emergency medivac flights, a bridge was no expensive trinket, but a life-saving link to the outside world. Lew always championed Alaska.

I can only say to his wife Dorothy, to his daughters Christena—Tena for short—and Kathryn, his son Lew III, and his daughter-in-law Vicki, and granddaughters Kristie, Jodi, and Melissa Williams, and great-grandson Milan Browne, all of Ketchikan; and his sisters: Susan Pagenkopf of Juneau and Jane Ferguson of California, how much he will be missed. Those in public life will miss his balanced and fair editorials, his prodding and his support. We will miss his ethics and deep-seated sense of fair-play and ethics. And we will miss his wise counsel and thoughtfulness and compassion.

Alaska, and the Nation, has lost a great citizen. Goodbye Lew, we will never forget you.●

## HONORING READY SEAFOOD

● Ms. SNOWE. Mr. President, today I celebrate the outstanding achievements of two brothers from Portland, ME, who recently won the U.S. Small Business Administration's Young Entrepreneurs of the Year Award on the local, regional, and national levels. John and Brendan Ready are the founders and owners of Ready Seafood and Catch a Piece of Maine, two highly successful firms that have transformed the Maine lobster market. I had the pleasure of meeting with the brothers just 2 weeks ago, and they are a true reflection of the dedication and zeal of Maine's legendary lobstermen.

The Ready brothers grew up in Cape Elizabeth, on Maine's picturesque coast, where they quickly grew fond of the sea. Venturing out with their uncle to catch lobsters, the pair learned the intricacies of the trade before their teenage years, and they continued to fish throughout high school. Attentive to their lifelong passion for lobstering, the brothers returned from college during summer breaks and even weekends to lobster. Additionally, John spent an extra year at Boston University to participate as a lobsterman in a co-op program.

When they arrived back in Maine following college—John from Boston University and Brendan from Stonehill College—the duo immediately sought to enter the Maine seafood market. In 2004, they opened Ready Seafood, a thriving wholesaler of fresh lobster and other seafood to domestic clients, as well as customers as far away as Italy, China, and Japan. To promote Maine's rich history of lobstering, the firm provides both internships and unique educational opportunities to high school and college students in the region, including an inside look at how Portland's waterfront works. The brothers have visibly transformed the company into a $10 million business in just 4 short years.

In October 2007, seeking to create a one of its kind company in the crowded seafood industry, the Ready brothers launched Catch a Piece of Maine, a remarkable and innovative company that allows individuals and corporate clients alike to purchase lobsters caught especially for them. The buyers pay an annual fee, which entitles them to have their own personal lobsterman set their traps and collect their lobsters. The company began with 400 traps for 2008, all of which were in place by last Thursday, and each is guaranteed to garner a minimum of 40 lobsters throughout the remainder of the year. The lobsters are shipped at intervals scheduled by the client, and each shipment includes one pound of mussels and clams, a Maine dessert, and the traditional bibs and utensils essential to enjoying Maine's famed crustacean.

The program includes some additional distinctive features. Customers keep in touch with their personal lobstermen through the Internet by logging onto an individualized and regularly updated summary, including how many lobsters have been caught and when the traps were checked. Moreover, clients can have their lobsters shipped anywhere in the continental United States, making a great holiday gift, corporate thank you, or special anniversary dinner. Ever mindful of the future of Maine's gorgeous coast and those who rely on it, the Ready brothers send 10 percent of their profits to the Gulf of Maine Research Institute for marine ecosystem education programs for schoolchildren throughout the State.

The fundamentally forthright business philosophy of the Ready brothers is truly impressive. They represent the next generation of Maine lobstermen, and as such they continue and share the heritage of the State's prized tradition. Through both Ready Seafood and Catch a Piece of Maine, the brothers have already taken great steps to doing just that. I commend both Brendan and John for their originality and dedication—and for garnering the U.S. Small Business Administration's Young Entrepreneurs of the Year Award—and wish them well in their extremely bright futures.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13338 OF MAY 11, 2004, WITH RESPECT TO THE BLOCKING OF PROPERTY OF CERTAIN PERSONS AND PROHIBITION OF EXPORTATION AND RE-EXPORTATION OF CERTAIN GOODS TO SYRIA—PM 46

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice, stating that the national emergency declared in Executive Order 13338 of May 11, 2004, and expanded in scope in Executive Order 13399 of April 25, 2006, and Executive Order 13460 of February 13, 2008, authorizing the blocking of property of certain persons and prohibiting the exportation and re-exportation of certain goods to Syria, is to continue in effect beyond May 11, 2008.

The actions of the Government of Syria in supporting terrorism, interfering in Lebanon, pursuing weapons of mass destruction and missile programs including the recent revelation of illicit nuclear cooperation with North Korea, and undermining U.S. and international efforts with respect to the stabilization and reconstruction of Iraq pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue in effect the national emergency declared with respect to this threat and to maintain in force the sanctions I have ordered to address this national emergency.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 7, 2008*.

## REPORT ON THE PRINCIPAL AGREEMENT AND ADMINISTRATIVE ARRANGEMENT THAT HAS BEEN ESTABLISHED BETWEEN THE U.S. AND CZECH REPUBLIC RELATIVE TO SOCIAL SECURITY—PM 47

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 Finance:

*To the Congress of the United States:*

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95–216, 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement Between the United States of America and the Czech Republic on Social Security, which consists of two separate instruments: a principal agreement and an administrative arrangement. The Agreement was signed in Prague on September 7, 2007.

The United States-Czech Republic Agreement is similar in objective to the social security agreements already in force with Australia, Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Japan, Korea, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the lost benefit protection that can occur when workers divide their careers between two countries. The United States-Czech Republic Agreement contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Agreement, along with a paragraph-by-paragraph explanation of the provisions of the principal agreement and the related administrative arrangement. Annexed to this report is the report required by section 233(e)(1) of the Social Security Act, which describes the effect of the Agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Agreement. The Department of State and the Social Security Administration have recommended the Agreement and related documents to me.

I commend to the Congress the United States-Czech Republic Social Security Agreement and related documents.

GEORGE W. BUSH.
THE WHITE HOUSE, *May 7, 2008*.

## MESSAGES FROM THE HOUSE

At 3:26 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2929. An act to temporarily extend the programs under the Higher Education Act of 1965.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3658. An act to amend the Foreign Service Act of 1980 to permit rest and recuperation travel to United States territories for members of the Foreign Service.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 317. Concurrent resolution condemning the Burmese regime's undemocratic draft constitution and scheduled referendum.

## ENROLLED BILL SIGNED

At 7:55 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5919. An act to make technical corrections regarding the Newborn, Screening Saves Lives Act of 2007.

## MEASURES REFERRED

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

H.R. 3658. An act to amend the Foreign Service Act of 1980 to permit rest and recuperation travel to United States territories for members of the Foreign Service; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 317. Condemning the Burmese regime's undemocratic draft constitution and scheduled referendum; to the Committee on Foreign Relations.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2991. A bill to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6089. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to a review of the Joint Air-to-Surface Standoff Missile program; to the Committee on Armed Services.

EC–6090. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting the report of an officer authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–6091. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General John G. Castellaw, United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–6092. A communication from the Deputy Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, a report relative to a public-private competition for administrative support services being performed by civilian employees at the Fleet Readiness Center in Havelock, North Carolina; to the Committee on Armed Services.

EC–6093. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Burma that was declared in Executive Order 13047 of May 20, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–6094. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13067 of November 3, 1997, with respect to Sudan; to the Committee on Banking, Housing, and Urban Affairs.

EC–6095. A communication from the Acting Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Technical Corrections to the Export Administration Regulations Based Upon a Systematic Review of the CCL'' (RIN0694–AE32) received on May 2, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6096. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (73 FR 20810) received on May 2, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–6097. A communication from the Assistant Secretary, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Annual Report for fiscal year 2007; to the Committee on Commerce, Science, and Transportation.

EC–6098. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, an annual report relative to fraud in the market for educational financial aid; to the Committee on Commerce, Science, and Transportation.

EC–6099. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Promoting Diversification of Ownership in the Broadcasting Services, Report and Order and Third Further Notice of Proposed Rulemaking'' (FCC 07-217) received on May 5, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6100. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Carriage of Digital Television Broadcast Signals: Amendment to Part 76 of the Commission's Rules; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues'' (FCC 08-86) received on May 5, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6101. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Promotion of Competitive Networks in Local Telecommunications Markets'' (FCC 08-87) received on May 5, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6102. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''DTV Consumer Education Initiative'' (FCC 08-119) received on May 5, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6103. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area'' (RIN0648-XH13) received on May 2, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6104. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice - Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; Fishery Closure; Correction Notice'' (RIN0648-XG90) received on May 2, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6105. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648-XH03) received on May 2, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6106. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel by Vessels in the Amendment 80 Limited Access Fishery in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area'' (RIN0648-XH07) received on May 2, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6107. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice - Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; Fishery Closure'' (RIN0648-XG90) received on May 2, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6108. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by American Fisheries Act Catcher Processors Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648-XG86) received on May 2, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6109. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish, Pacific Ocean Perch, and Pelagic Shelf Rockfish in the Western Regulatory Area and West Yakutat District of the Gulf of Alaska'' (RIN0648–XH00) received on May 2, 2008; to the Committee on Commerce, Science, and Transportation.

EC–6110. A communication from the Secretary of Transportation, transmitting, pursuant to law, an annual report relative to the regulatory status of each recommendation on the National Transportation Safety Board's Most Wanted List; to the Committee on Commerce, Science, and Transportation.

EC–6111. A communication from the Chairman, Pacific Fishery Management Council, transmitting a letter relative to recommendations from the Council on actions to take to end overfishing in certain areas; to the Committee on Commerce, Science, and Transportation.

EC–6112. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Economic Stimulus Payments and Tax-Favored Accounts'' (Announcement 2008–44) received on May 6, 2008; to the Committee on Finance.

EC–6113. A communication from the Acting Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Suspension of the Statutes of Limitations in Third-Party and John Doe Summons Disputes and Expansion of Taxpayers' Rights to Receive Notice and Seek Judicial Review of Third-Party Summonses'' ((RIN1545–BA31) (TD 9395)) received on May 2, 2008; to the Committee on Finance.

EC–6114. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Prospective Payment System for Long-Term Care Hospitals RY 2009: Annual Payment Rate Updates, Policy Changes, and Clarifications; and Electronic Submission of Costs Reports Revisions to Effective Date of Cost Reporting Period'' ((RIN0938–AO94) (RIN0938–AN97)) received on May 2, 2008; to the Committee on Finance.

EC–6115. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Changes for Long-Term Hospitals Required by Certain Provisions of the Medicare, Medicaid, SCHIP Extension Act of 2007: 3-Year Delay in the Application of Payment Adjustments for Short Stay Outliers and Changes to the Standard Federal Rate'' (RIN0938–AP33) received on May 2, 2008; to the Committee on Finance.

EC–6116. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2008'' (RIN0938–AO92) received on May 2, 2008; to the Committee on Finance.

EC–6117. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, (5) reports relative to vacancy announcements within the Department, received on May 2, 2008; to the Committee on Finance.

EC–6118. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a report relative to the use of funds appropriated by the Deficit Reduction Act of 2005; to the Committee on Finance.

EC–6119. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Visas: Documentation of Nonimmigrants under the Immigration and Nationality Act, as Amended'' (22 CFR Parts 40 and 41) received on May 6, 2008; to the Committee on Foreign Relations.

EC–6120. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, (12) reports relative to vacancy announcements within the Department, received on May 5, 2008; to the Committee on Foreign Relations.

EC–6121. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the suspension of certain sales and leases; to the Committee on Foreign Relations.

EC–6122. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Secretary of State's certification of the importation of shrimp harvesting technology that may adversely affect certain sea turtles; to the Committee on Foreign Relations.

EC–6123. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2008–55–2008–61); to the Committee on Foreign Relations.

EC–6124. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to technical assistance to Iran that was provided by the International Atomic Energy Agency during calendar year 2007; to the Committee on Foreign Relations.

EC–6125. A communication from the Assistant General Counsel for Regulations, Office of Safe and Drug Free Schools, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Models of Exemplary, Effective, and Promising Alcohol or Other Drug Abuse Prevention Programs on College Campuses'' (73 FR 17868) received on May 6, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6126. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report relative to the Low Income Home Energy Assistance Program for fiscal year 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–6127. A communication from the White House Liaison, Office of Legislation and Congressional Affairs, Department of Education, transmitting, pursuant to law, the report of the designation of an acting officer for the position of Assistant Secretary, received on May 2, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–6128. A communication from the Administrator, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to the results of agencies' competitive sourcing efforts for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–6129. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Inspector General's Semiannual Report for the six-month period ending March 31, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–6130. A communication from the Deputy Solicitor, Federal Labor Relations Authority, transmitting, pursuant to law, the report of a nomination for the position of General Counsel, received on May 2, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–6131. A communication from the Chairman, U.S. Parole Commission, transmitting, pursuant to law, the Commission's Annual Report for fiscal year 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–6132. A communication from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a vacancy, change in previously reported information and discontinuation of service in an acting role for the position of Deputy Director for State, Local and Tribal Affairs, received on May 2, 2008; to the Committee on the Judiciary.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

*Kameran L. Onley, of Washington, to be an Assistant Secretary of the Interior.

*Jeffrey F. Kupfer, of Maryland, to be Deputy Secretary of Energy.

*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 Ms. LANDRIEU:

S. 2985. A bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to correct a reference relating to a transit project in Orleans Parish, Louisiana; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 2986. A bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to modify the project description for a project for the city of Lake Charles, Louisiana; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 2987. A bill to amend the Transportation Equity Act for the 21st Century to modify the project description for a highway project for Jefferson Parish, Louisiana; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN:

S. 2988. A bill to amend the Public Health Service Act to enhance public and private research efforts to develop new tools and therapies that prevent, detect, and cure diseases; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself and Mr. DOMENICI):

S. 2989. A bill to direct the Secretary of Health and Human Services to implement a National Neurotechnology Initiative, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself, Mr. ALEXANDER, and Ms. STABENOW):

S. 2990. A bill to amend title XVIII of the Social Security Act to improve access of Medicare beneficiaries to intravenous immune globulins; to the Committee on Finance.

By Mr. REID (for himself, Mr. SCHUMER, Mr. LEVIN, Mr. WYDEN, Mr. INOUYE, Mr. CARDIN, Ms. STABENOW, Mr. BROWN, Mr. WHITEHOUSE, Mrs. FEINSTEIN, Mr. JOHNSON, Mr. KENNEDY, Ms. KLOBUCHAR, Mr. LAUTENBERG, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mrs. MCCASKILL, and Mr. DURBIN):

S. 2991. A bill to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes; read the first time.

By Mr. REID (for Mrs. CLINTON (for herself and Mr. SCHUMER)):

S. 2992. A bill to amend title 38, United States Code, to enhance housing loan authorities for veterans and to otherwise assist veterans and members of the Armed Forces in avoiding the foreclosure of their homes, and for other purposes; to the Committee on Veterans' Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KERRY (for himself, Mr. LUGAR, Mr. BIDEN, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. DURBIN, Mr. DODD, Mr. OBAMA, Mr. WEBB, Ms. MURKOWSKI, Mr. KENNEDY, Mr. MENENDEZ, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. HAGEL, Mrs. BOXER, Mrs. CLINTON, Mrs. DOLE, Mr. MCCAIN, and Mr. COLEMAN):

S. Res. 554. A resolution expressing the Sense of the Senate on humanitarian assistance to Burma after Cyclone Nargis; considered and agreed to.

By Mr. HAGEL (for himself, Mr. GREGG, Mr. KERRY, Mr. REED, Mr. REID, Ms. SNOWE, and Mr. STEVENS):

S. Con. Res. 80. A concurrent resolution urging the President to designate a National Airborne Day in recognition of persons who are serving or have served in the airborne forces of the Armed Services; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Ms. SNOWE, Ms. MIKULSKI, and Mr. DODD):

S. Con. Res. 81. A concurrent resolution supporting the goals and ideals of National Women's Health Week; considered and agreed to.

ADDITIONAL COSPONSORS

S. 335

At the request of Mr. DORGAN, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 335, a bill to prohibit the Internal Revenue Service from using private debt collection companies, and for other purposes.

S. 579

At the request of Mr. REID, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 579, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 594

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 594, a bill to limit the use, sale, and transfer of cluster munitions.

S. 617

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 617, a bill to make the National Parks and Federal Recreational Lands Pass available at a discount to certain veterans.

S. 819

At the request of Mr. DORGAN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 819, a bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes.

S. 958

At the request of Mr. SESSIONS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 958, a bill to establish an adolescent literacy program.

S. 1117

At the request of Mr. BOND, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1117, a bill to establish a grant program to provide vision care to children, and for other purposes.

S. 1130

At the request of Mr. SMITH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1130, a bill to amend the Internal Revenue Code of 1986 to restore, increase, and make permanent the exclusion from gross income for amounts received under qualified group legal services plans.

S. 1310

At the request of Mr. SCHUMER, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1310, a bill to amend title XVIII of the Social Security Act to provide for an extension of increased payments for ground ambulance services under the Medicare program.

S. 1328

At the request of Mr. LEAHY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1328, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 1457

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1457, a bill to provide for the protection of mail delivery on certain postal routes, and for other purposes.

S. 2059

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2059, a bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

S. 2162

At the request of Mr. AKAKA, the names of the Senator from Maine (Ms. COLLINS) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2162, a bill to improve the treatment and services provided by the Department of Veterans Affairs to veterans with post-traumatic stress disorder and substance use disorders, and for other purposes.

S. 2316

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2316, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 2320

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2320, a bill to amend title XVIII of the Social Security Act to provide continued entitlement to coverage for immunosuppressive drugs furnished to beneficiaries under the Medicare Program that have received a kidney transplant and whose entitlement to coverage would otherwise expire, and for other purposes.

S. 2453

At the request of Mr. ALEXANDER, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 2453, a bill to amend title VII of the Civil Rights Act of 1964 to clarify requirements relating to nondiscrimination on the basis of national origin.

S. 2504

At the request of Mr. NELSON of Florida, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Ohio (Mr. BROWN) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 2504, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 2510

At the request of Ms. LANDRIEU, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2510, a bill to amend the Public Health Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations, and for other purposes.

S. 2606

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2606, a bill to reauthorize the United States Fire Administration, and for other purposes.

S. 2619

At the request of Mr. COBURN, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 2619, a bill to protect innocent Americans from violent crime in national parks.

S. 2630

At the request of Mr. KENNEDY, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2630, a bill to amend the Public Health Service Act to establish a Federal grant program to provide increased health care coverage to and access for uninsured and underinsured workers and families in the commercial fishing industry, and for other purposes.

S. 2638

At the request of Mr. KOHL, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2638, a bill to change the date for regularly scheduled Federal elections and establish polling place hours.

S. 2641

At the request of Mr. KOHL, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from West Virginia (Mr. BYRD) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 2641, a bill to amend title XVIII and XIX of the Social Security Act to improve the transparency of information on skilled nursing facilities and nursing facilities and to clarify and improve the targeting of the enforcement of requirements with respect to such facilities.

S. 2666

At the request of Ms. CANTWELL, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2666, a bill to amend the Internal Revenue Code of 1986 to encourage investment in affordable housing, and for other purposes.

S. 2681

At the request of Mr. INHOFE, the names of the Senator from California

(Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Hawaii (Mr. AKAKA), the Senator from Illinois (Mr. DURBIN) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 2681, a bill to require the issuance of medals to recognize the dedication and valor of Native American code talkers.

S. 2689

At the request of Mr. SMITH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2689, a bill to amend section 411h of title 37, United States Code, to provide travel and transportation allowances for family members of members of the uniformed services with serious inpatient psychiatric conditions.

S. 2719

At the request of Mrs. DOLE, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 2719, a bill to provide that Executive Order 13166 shall have no force or effect, and to prohibit the use of funds for certain purposes.

S. 2722

At the request of Mrs. DOLE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 2722, a bill to prohibit aliens who are repeat drunk drivers from obtaining legal status or immigration benefits.

S. 2742

At the request of Mr. COCHRAN, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 2742, a bill to reduce the incidence, progression, and impact of diabetes and its complications and establish the position of National Diabetes Coordinator.

S. 2756

At the request of Mr. BIDEN, the names of the Senator from North Carolina (Mrs. DOLE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2756, a bill to amend the National Child Protection Act of 1993 to establish a permanent background check system.

S. 2764

At the request of Mr. KERRY, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 2764, a bill to amend the Servicemembers Civil Relief Act to enhance protections for servicemembers relating to mortgages and mortgage foreclosures, and for other purposes.

S. 2785

At the request of Ms. STABENOW, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 2785, a bill to amend title XVIII of the Security Act to preserve access to physicians' services under the Medicare program.

S. 2790

At the request of Ms. LANDRIEU, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2790, a bill to amend title XVIII of the Social Security Act to provide for coverage of comprehensive cancer care planning under the Medicare program and to improve the care furnished to individuals diagnosed with cancer by establishing a Medicare hospice care demonstration program and grants programs for cancer palliative care and symptom management programs, provider education, and related research.

S. 2819

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2819, a bill to preserve access to Medicaid and the State Children's Health Insurance Program during an economic downturn, and for other purposes.

S. 2839

At the request of Mr. CORNYN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2839, a bill to provide emergency relief for United States businesses and industries currently employing temporary foreign workers and for other purposes.

S. 2874

At the request of Mrs. FEINSTEIN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2874, a bill to amend titles 5, 10, 37, and 38, United States Code, to ensure the fair treatment of a member of the Armed Forces who is discharged from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early discharge of a member who is the only surviving child in a family in which the father or mother, or one or more siblings, served in the Armed Forces and, because of hazards incident to such service, was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently disabled, and for other purposes.

S. 2904

At the request of Mrs. MCCASKILL, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2904, a bill to improve Federal agency awards and oversight of contracts and assistance and to strengthen accountability of the Government-wide suspension and debarment system.

S. 2916

At the request of Mr. BAYH, his name was added as a cosponsor of S. 2916, a bill to ensure greater transparency in the Federal contracting process, and to help prevent contractors that violate criminal laws from obtaining Federal contracts.

S. 2938

At the request of Mr. GRAHAM, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 2938, a bill to amend titles 10 and 38, United States Code, to improve educational assistance for members of the Armed Forces and veterans in order to enhance recruitment and retention for the Armed Forces, and for other purposes.

S. 2958

At the request of Mr. DOMENICI, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Idaho (Mr. CRAIG) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2958, a bill to promote the energy security of the United States, and for other purposes.

S. 2971

At the request of Mr. BAYH, his name was added as a cosponsor of S. 2971, a bill to amend the Internal Revenue Code of 1986 to provide for a suspension of the highway fuel tax, and for other purposes.

S. 2973

At the request of Mr. DOMENICI, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 2973, a bill to promote the energy security of the United States, and for other purposes.

S. 2979

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2979, a bill to exempt the African National Congress from treatment as a terrorist organization, and for other purposes.

S. RES. 512

At the request of Mr. DEMINT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 512, a resolution honoring the life of Charlton Heston.

AMENDMENT NO. 4705

At the request of Ms. LANDRIEU, the names of the Senator from Missouri (Mrs. MCCASKILL), the Senator from North Dakota (Mr. CONRAD) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of amendment No. 4705 proposed to S. 2284, an original bill to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

AMENDMENT NO. 4709

At the request of Mr. NELSON of Florida, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 4709 proposed to S. 2284, an original bill to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU:

S. 2985. A bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to correct a reference relating to a transit project in Orleans Parish, Louisiana; to the Committee on Environment and Public Works.

Ms. LANDRIEU. Mr. President, I rise today to ask that the Senate support technical corrections to a few highway bill projects in Louisiana. Specifically,

a modified alignment to a project in Lake Charles, an expanded project area for Jefferson Parish and expanded use for a project in New Orleans.

These limited technical corrections will improve transportation in Louisiana and get the dollars previously directed toward this work into the economy. Notably, the corrections do not change the previously authorized level of spending, nor do they fundamentally alter the scope of the project.

I look forward to working with the Environment and Public Works Committee to address these technical corrections.

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Mr. LIEBERMAN:

S. 2988. A bill to amend the Public Health Service Act to enhance public and private research efforts to develop new tools and therapies that prevent, detect, and cure diseases; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I rise today to introduce a new bill, the Accelerating Cures Act of 2008, to enhance public and private research efforts to develop new tools and therapies that prevent, detect, and cure diseases more quickly from bench to bedside. I introduced an earlier version of this legislation in December 2005, the American Center for Cures Act of 2005, S. 2104. Fundamentally, the Accelerating Cures Act of 2008 has the same intent to promote clinical and translational research within the National Institutes of Health while incorporating many of the recommendations made from the 2003 National Academy of Sciences Report, ''Enhancing the Vitality of the National Institutes of Health: Organizational Change to Meet New Challenges.''

The NIH is a successful, worldwide leader in biomedical research whose mission is to support ''science in pursuit of fundamental knowledge about the nature and behavior of living systems and the application of that knowledge to extend healthy life and reduce the burdens of illness and disability.'' Our national investment in NIH is integral to our Nation's capacity to respond safely and effectively to public and population health threats, chronic disease prevention and management, and burdensome orphan diseases. The 2006 NIH reauthorization strengthened the agency even further, and also brought a greater focus on clinical and translational research to its mission.

The Accelerating Cures Act of 2008 would build upon the progress of NIH reauthorization and further enhance the ability of the agency to address clinical and translational research barriers. For example, it is estimated to take up to 17 years for a scientific discovery to be translated into a clinical application. This gap will not be resolved unless we take serious action to implement clinical and translational research initiatives, critically evaluate the impact of health care delivery, promote multi- and cross-disciplinary collaboration, increase the number of clinicians engaged in clinical and translational research, and foster efforts that streamline the translational development process to result in product commercialization.

The Accelerating Cures Act of 2008 would address these issues by creating new programs that fund high-risk, high-reward research, to oversee and direct promising avenues of translational research, to increase the translational and clinical research workforce, and to provide new funds and authorities to evaluate the clinical effectiveness of various treatments and procedures at the NIH. The bill expands upon existing infrastructure in the Office of Portfolio Analysis and Strategic Initiatives and encourages intra- and inter-agency collaboration to build on strengths of NIH's 27 institutes and centers and other Federal agencies such as the Department of Defense, Food and Drug Administration, and the Agency for Healthcare Research and Quality. Lastly, the Accelerating Cures Act of 2008 uniquely adds resources to guide researchers through the 'Valley of Death,' a stage in biomedical development between research and commercialization where the success of an initiative is dependent on feasibility and profitability that can only be established by a market that, by definition, has not yet developed. With the bill's strengthening and broadening of the Small Business Innovation Research and Small Business Technology Transfer programs and making available resources such as the Rapid Access to Intervention Development and Translational Development programs, investigators, institutions, small businesses, and other entities, will be better suited to navigate the regulatory and commercialization processes.

To summarize, the NIH has been and continues to be our Nation's premier biomedical research investment in areas of basic science and clinical and translational research. My legislation seeks to expand upon existing clinical and translational research efforts not only to meet the healthcare needs of this Nation, but to maintain the NIH's status as the most respected research institution in the World. This bill will not only increase our overall Federal investment in the NIH, but enhance our translational and clinical research capacities overall. I urge my Senate colleagues, patient advocacy groups, and researchers to work together to bring new hope to Americans that we can fight and conquer disease.

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. 2988

*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 ''Accelerating Cures Act of 2008''.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:



**SEC. 3. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress finds the following:

(1) The National Institutes of Health (referred to in this section as the ''NIH'') is the United States premier biomedical research investment with annual appropriations exceeding $29,200,000,000.

(2) The goals of the NIH are to—

(A) foster fundamental creative discoveries, innovative research strategies, and their applications as a basis to significantly advance the Nation's capacity to protect and improve health;

(B) develop, maintain, and renew scientific human and physical resources that will ensure the Nation's capacity to prevent disease;

(C) expand the knowledge base in medical and associated sciences in order to enhance the Nation's economic well-being and ensure a continued high return on the public investment in research; and

(D) exemplify and promote the highest level of scientific integrity, public accountability, and social responsibility in the conduct of science.

(3) Thus, the NIH is tasked with applying basic science discoveries to protect and improve health. This includes, translational research, which is the scientific work necessary to develop a clinical application from a basic science discovery.

(4) The United States translational research investment will be key to the Nation responding effectively—

(A) to public and population health threats;

(B) to the complex nature of chronic diseases, which are responsible for 7 out of 10 deaths in the United States, for 75 percent of

the $2,300,000,000,000 spent annually on healthcare in the United States, and for 16 percent of gross domestic product;

(C) to research and development vacuums in the private for-profit market, such as in the fields of vaccine and antibiotic production, drugs for Third World diseases, orphan drugs, and medical tools for pediatric populations; and

(D) to facilitate the process of converting medical innovations into commercial products.

(5) Key components of the translational research process include research prioritization, a strengthening and maintenance of an expert workforce, multidisciplinary collaborative work, strategic risk taking, support of small innovative businesses caught along common pathways in the research and development Valley of Death, simplification and promotion of the clinical research endeavor, and early involvement of private entities that are skilled in the manufacturing and marketing process in the translational research endeavor.

(6) A National Academy of Sciences/Institute of Medicine report made recommendations for reorganizing NIH to meet new challenges facing the biomedical research endeavor. The committee report contained specific recommendations aimed at strengthening clinical and translational research including: increasing trans-NIH research, promoting innovation and risk taking in intramural research, creating a ''special projects'' program, and increasing funding for research management and support.

(7) The Government Accountability Office reported that although the pharmaceutical industry has increased its research and development investment by 147 percent from 1993 to 2004, new drug applications to the Food and Drug Administration have only increased by 39 percent; thus, the productivity of the industry's research and development expenditures is declining. The report cited that a limited scientific understanding of how to translate research discoveries into safe and effective drugs is contributing to the problem and recommended that training researchers who can translate drug discoveries into effective medicines is necessary.

(8) It is estimated to take 17 years for a science discovery to be translated from the point of proof of concept to clinical application. The percent of physicians engaged in research has declined steadily from a peak of 4.6 percent in 1985 to 1.8 percent in 2003.

(9) A report by the Infectious Disease Society of America cited concerns with the lack of new antibiotics to treat infectious diseases. The report commended the NIH Roadmap, but also recommended that NIH aggressively expand the translational research components of the Roadmap, increase grants to small businesses, universities, and nonprofits working in antibiotics research and development, and seek more opportunities to partner with pharmaceutical and biotech companies.

(10) Clinical effectiveness results provide patients, payers, and clinicians with tools to evaluate the benefits versus risks of the ever evolving number of prevention, diagnosis, and treatment strategies available.

(11) The Common Fund is an annual set aside account created from an agreed upon percentage of the annual budget that supports innovative and trans-NIH initiatives to improve and accelerate research to impact health.

(12) The ''Valley of Death'' is a stage in biomedical development between research and commercialization where the success of a product is dependent on its profitability.

(b) PURPOSE.—The purpose of this Act is to create a new pathway to curing disease by enhancing public and private research to translate new discoveries from bench to bedside.

**SEC. 4. ACCELERATING CURES ACT OF 2008.**

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following:

**''PART J—ACCELERATING CURES**

**''Subpart 1—Pathways to Cures Subcommittee**

**''SEC. 499A. PATHWAYS TO CURES SUBCOMMITTEE.**

''(a) DEFINITION OF TRANSLATIONAL RESEARCH.—In this section, the term 'translational research' means research that transforms scientific discoveries arising from laboratory, clinical, or population studies into clinical application to reduce disease incidence, morbidity, and mortality.

''(b) ESTABLISHMENT OF PATHWAYS TO CURES SUBCOMMITTEE.—There is established a Pathways to Cures Subcommittee within the Council of Councils of the Office of Portfolio Analysis and Strategic Initiatives of the National Institutes of Health that shall convene not less frequently than twice a year to help advise and direct the translational research priorities of the Office of Portfolio Analysis and Strategic Initiatives (referred to in this part as the 'OPASI').

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The subcommittee established under subsection (b) may be composed of the following members:

''(A) The Director of NIH and the Director of OPASI who shall be subcommittee cochairs.

''(B) The heads of the institutes and centers of the National Institutes of Health.

''(C) Heads from Federal agencies, including—

''(i) the Administrator for the Substance Abuse and Mental Health Services Administration;

''(ii) the Under Secretary for Science and Technology of the Department of Homeland Security;

''(iii) the Commanding General for the United States Army Medical Research and Materiel Command;

''(iv) the Director of the Centers for Disease Control and Prevention;

''(v) the Commissioner of Food and Drugs;

''(vi) the Director of the Office of Science of the Department of Energy;

''(vii) the President of the Institute of Medicine;

''(viii) the Director of the Agency for Healthcare Research and Quality; and

''(ix) the Director of the Defense Advanced Research Projects Agency.

''(2) OTHER MEMBERS.—The subcommittee established under subsection (b) shall also include not fewer than 3 leaders from the small business medical research community, 3 leaders from large pharmaceutical or biotechnology companies, and 3 leaders from academia and patient advocacy organizations, all of whom shall be appointed by the Director of NIH.

''(d) RECOMMENDATIONS; COORDINATION; FUNDING.—

''(1) SETTING PRIORITIES.—The subcommittee established under subsection (b) shall make recommendations to assist the Director of OPASI in setting translational research priorities.

''(2) RECOMMENDATIONS.—In making recommendations, the subcommittee shall—

''(A) consider risk and burden of disease as well as lines of research uniquely poised to deliver effective diagnostics and therapies; and

''(B) be mission-driven and identify research that shows specific promise for a new treatment or cure for a disease.

''(3) COORDINATION.—The subcommittee shall ensure sharing of research agendas among the institutes and centers of the National Institutes of Health for the purpose of coordinating translational research priorities, where appropriate, across such institutes and centers.

''(4) FUNDING.—The subcommittee and the Director of OPASI—

''(A) shall identify research with application or commercialization potential; and

''(B) may fund such research.

''(e) REPORT.—The subcommittee established under subsection (b) shall submit an annual report to Congress on progress towards finding new treatments and cures.

**''Subpart 2—Clinical Effectiveness; FFRDC**

**''SEC. 499B. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER.**

''(a) ESTABLISHMENT OF CENTER.—

''(1) IN GENERAL.—The Director of NIH, in conjunction with the Director of the Agency for Healthcare Research and Quality (referred to in this subpart as the 'AHRQ'), shall establish a Federally Funded Research and Development Center (referred to in this subpart as the 'FFRDC') on clinical effectiveness research.

''(2) DEFINITION OF CLINICAL EFFECTIVENESS RESEARCH.—In this section, the term 'clinical effectiveness research' means research that—

''(A) provides information for health care decision makers, including patients, providers, and public and private payers, to make evidence-based decisions about the delivery of health care; and

''(B) considers specific subpopulations.

''(3) DIRECTOR OF THE FFRDC.—The Director of NIH, in conjunction with the Director of the AHRQ, shall appoint a Director of the FFRDC.

''(b) DUTIES OF THE DIRECTOR OF THE FFRDC.—The Director of the FFRDC shall—

''(1) review, synthesize, and disseminate clinical effectiveness research;

''(2) set priorities for, and fund, trials, such as randomized controlled trials, adaptive trials, and practical trials, observational studies, secondary data analysis in areas of clinical effectiveness research where evidence is lacking, systematic reviews of existing research, as necessary, and cost-effectiveness studies;

''(3) make recommendations regarding the findings of paragraphs (1) and (2);

''(4) study the differential outcomes of interventions on subpopulations within diseases;

''(5) use competitive award processes, including, but not solely, competitive peer review, and examine methods of rapid review cycles to reduce delays in funding decisions;

''(6) encourage the development and use of electronic health data to conduct clinical effectiveness research for the goal of improving clinical care delivery;

''(7) support the development of methodological standards to be used when conducting studies of clinical effectiveness and value in order to help ensure accurate and effective comparisons and update such standards not less frequently than annually;

''(8) include, and collaborate and consult with, as necessary, the Food and Drug Administration, the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, the Department of Defense, the Department of Veterans Affairs, and other Federal agencies, and the Institute of Medicine, as well as private payers, insurers, pharmaceutical and device companies, patient advocacy and public interest groups, professional societies, hospitals, academic institutions, and health foundations;

''(9) establish a public review or hearing process, which includes the Food and Drug Administration, to examine findings of studies;

''(10) determine the best approach to make available the findings resulting from subparagraphs (A) and (B) to relevant Federal agencies, private and public stakeholders in the health care system, and consumers;

''(11) provide a public forum for addressing conflicting guidelines and recommendations; and

''(12) submit annual reports to Congress on the research activities and findings of the FFRDC.

''(c) CLINICAL EFFECTIVENESS ADVISORY BOARD.—

''(1) ESTABLISHMENT AND FUNCTION.—The Director of the FFRDC shall establish, in conjunction with the Director of NIH and the Director of the AHRQ, an independent Clinical Effectiveness Advisory Board (referred to in this section as the 'Advisory Board'), to include not more than 20 appointed members, in order to provide expert advice and guidance on the research priorities of the FFRDC.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—Membership on the Advisory Board shall be comprised of—

''(i) representatives of the National Institutes of Health, the AHRQ, the Food and Drug Administration, the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, the Department of Defense, the Department of Veterans Affairs, and other Federal agencies, and the Institute of Medicine; and

''(ii) private payers, insurers, pharmaceutical and device companies, patient advocacy and public interest groups, professional societies, hospitals, academic institutions, and health foundations.

''(B) EXPERTS.—Membership on the Advisory Board shall consist of leading experts from diverse disciplinary areas, including physicians, social scientists, statisticians, health services researchers, economists, and other health care professionals.

''(C) TERMS.—Terms for members of the Advisory Board shall be fixed, multiyear, and staggered.

''(D) APPOINTMENT.—The members of the Advisory Board who are described in subparagraph (A)(ii) shall be appointed by the Director of the FFRDC, the Director of NIH, and the Director of the AHRQ.

''(E) CHAIR.—The Director of the AHRQ shall be chair of the Advisory Board.

''(3) CONFLICTS OF INTEREST.—Members of the Advisory Board shall disclose any financial, political, or organizational conflicts of interest in conducting the work of the Advisory Board.

''(4) DUTIES.—The Advisory Board shall—

''(A) recommend priorities for clinical effectiveness research to be undertaken by the FFRDC, taking into consideration significant gaps in clinical effectiveness research, including research needs for information on subpopulations and diverse populations, including women, children, and racial and ethnic minorities, and on individuals with comorbid diseases;

''(B) identify existing and novel research designs and methods that may be considered by the FFRDC in conducting clinical effectiveness research;

''(C) review clinical effectiveness research methods;

''(D) review the FFRDC processes to determine whether the research conducted is objective, credible, developed through a transparent process that includes consultations with appropriate stakeholders, including consumers, patient organizations, and the public, and is clinically relevant;

''(E) make recommendations to the AHRQ and the National Institutes of Health for the effective dissemination of the findings of the FFRDC supported research to clinicians, payers, and consumers, and patient organizations; and

''(F) following the first year, review current and previous research agendas and make recommendations regarding research agendas.

''(5) INITIAL MEETING.—The initial meeting of the Advisory Board shall be no later than 6 months after the date of enactment of the Accelerating Cures Act of 2008.

''(6) ADVISORY NATURE OF BOARD.—The recommendations of the Advisory Board shall not be binding, but shall be considered by the Director of the FFRDC when developing the clinical effectiveness research agenda.

''(d) RESEARCH AGENDA.—The Director of the FFRDC shall establish the research agenda of the FFRDC, based on the priorities established by the Advisory Board, and shall update such agenda not less frequently than annually, and shall—

''(1) focus on—

''(A) identifying gaps in clinical effectiveness research relating to medical procedures, medical technologies, pharmaceuticals, health information technologies, and other relevant services and products that significantly contribute to health care outcomes and expenditures;

''(B) funding trials, studies, and reviews, and coordinating these efforts with ongoing research efforts in the Federal Government, academic institutions, and private entities to fill gaps identified under subparagraph (A);

''(C) synthesizing and reviewing clinical effectiveness research to fill gaps identified under subparagraph (A); and

''(D) supporting the development of an evidence base for the development of clinical care guidelines based on the results of clinical effectiveness research;

''(2) convene such working groups on clinical effectiveness research as the Director of the FFRDC determines necessary;

''(3) meet with members representing the National Institutes of Health, the AHRQ, the Food and Drug Administration, the Centers for Medicare & Medicaid Services, the Centers for Disease Control and Prevention, the Department of Defense, the Department of Veterans Affairs, and other Federal agencies, and the Institute of Medicine, as well as private payers, insurers, pharmaceutical and device companies, patient advocacy and public interest groups, professional societies, hospitals, academic institutions, practice based research networks health foundations, and the general public to promote communication and transparency; and

''(4) notify the public well in advance of any public meetings.

''(e) REPORTS.—

''(1) GUIDANCE OR RECOMMENDATIONS.—The Director of the FFRDC, in conjunction with the Director of NIH and the Director of the AHRQ, shall provide, not less frequently than annually, guidance or recommendations to health care providers, payers, and consumers, and Congressional committees of jurisdiction on the comparative effectiveness of health care services.

''(2) STATUS REPORTS.—The Director of the FFRDC shall provide annual status reports on the work of the FFRDC to Congressional committees of jurisdiction.

''(f) AVAILABILITY OF RESEARCH FINDINGS.—The Director of the FFRDC shall develop and identify efficient and effective methods of disseminating the findings of the clinical effectiveness assessments of medical procedures, technologies, and therapeutics, including by making these available on the Internet. Any relevant reports (including interim progress reports, draft final clinical effectiveness reviews, and final progress reports on new research submitted for publication) on the results of clinical effectiveness research supported by the FFRDC shall be made available on the Internet, not later than 90 days after the report is completed.

''(g) EVALUATIONS AND REPORTS OF FFRDC.—The Director of NIH, in conjunction with the Director of the AHRQ, shall enter into regular agreements with entities, such as the Institute of Medicine, to—

''(1) evaluate the FFRDC and its functioning; and

''(2) produce reports on priority setting for the FFRDC, and on research methods developed and employed by the FFRDC, among other purposes.

**''Subpart 3—Health Advanced Research Projects Program**

**''SEC. 499C. HEALTH ADVANCED RESEARCH PROJECTS PROGRAM.**

''(a) ESTABLISHMENT.—There is established within the OPASI, a Health Advanced Research Projects Program (referred to in this section as the 'Research Projects Program') that shall be headed by a Director of the Research Projects Program who is appointed by the Director of NIH.

''(b) COMPOSITION.—The Research Projects Program shall be composed of portfolio managers in key health areas, which are determined by the Director of the Research Projects Program in conjunction with the Director of OPASI, the Director of NIH, and the Pathways to Cures Subcommittee established under section 499A.

''(c) GUIDANCE.—The Research Projects Program shall be guided by and shall undertake grand challenges that encourage innovative, multidisciplinary, and collaborative research across institutes and centers of the National Institutes of Health, across Federal agencies, and between public and private partners of the National Institutes of Health.

''(d) MANAGEMENT GUIDANCE.—The Research Projects Program shall be guided by the following management and organizing principles in directing the Research Projects Program:

''(1) Keep the Research Projects Program small, flexible, entrepreneurial, and nonhierarchical, and empower portfolio managers with substantial autonomy to foster research opportunities with freedom from bureaucratic impediments in administering the manager's portfolios.

''(2) Seek to employ the strongest scientific and technical talent in the Nation in research fields in which the Research Projects Program is working.

''(3) Rotate a significant portion of the staff after 3 to 5 years of experience to ensure continuous entry of new talent into the Research Projects Program.

''(4) Use, whenever possible, research and development investments by the Research Projects Program to leverage comparable matching investment and coordinated research from other institutes and centers of the National Institutes of Health, from other Federal agencies, and from the private and nonprofit research sectors.

''(5) Utilize supporting technical, contracting, and administrative personnel from other institutes and centers of the National Institutes of Health in administering and implementing research efforts to encourage participation, collaboration, and cross-fertilization of ideas across the National Institutes of Health.

''(6) Utilize a challenge model in Research Projects Program research efforts, creating a translational research model that supports fundamental research breakthroughs, early and late stage applied development, prototyping, knowledge diffusion, and technology deployment.

''(7) Establish metrics to evaluate research success and periodically revisit ongoing research efforts to carefully weigh new research opportunities against ongoing research.

''(8) Support risk-taking in research pursuits and tolerate productive failure.

''(9) Ensure that revolutionary and breakthrough technology research dominates the Research Projects Program's research agenda and portfolio.

''(e) ACTIVITIES.—Using the funds and authorities provided to the Director of NIH, the Research Projects Program shall carry out the following activities:

''(1) The Research Projects Program shall support basic and applied health research to promote revolutionary technology changes that promote health.

''(2) The Research Projects Program shall advance the development, testing, evaluation, prototyping, and deployment of critical health products.

''(3) The Research Projects Program, consistent with recommendations of the Pathways to Cures Subcommittee established under section 499A, with the priorities of OPASI, and with the grand challenges that encourage innovative, multidisciplinary, and collaborative research, shall emphasize—

''(A) translational research efforts, including efforts conducted through collaboration with the private sector, that pursue—

''(i) innovative health products that could address acute health threats such as a flu pandemic, spread of antibiotic resistant hospital acquired infections, or other comparable problems;

''(ii) remedies for diseases afflicting lesser developed countries;

''(iii) remedies for orphan diseases for which the for-profit sector is not finding new treatments;

''(iv) alternative technologies with significant health promise that are not well-supported in the system of health research, such as adjuvant technology or technologies for vaccines based on the innate immunological response; and

''(v) fast track development, including development through accelerated completion of animal and human clinical trials, for emerging remedies for significant public health problems; and

''(B) other appropriate translational research efforts for critical health issues.

''(4) The Research Projects Program shall utilize funds to provide support to outstanding research performers in all sectors and encourage cross-disciplinary research collaborations that will allow scientists from fields such as information and computer sciences, nanotechnology, chemistry, physics, and engineering to work alongside top researchers with more traditional biomedical backgrounds.

''(5) The Research Projects Program shall provide selected research projects with single-year or multiyear funding and require researchers for such projects to provide interim progress reports, including milestones on progress, to the Research Projects Program on not less frequently than a biannual basis.

''(6) The Research Projects Program shall award competitive, merit-reviewed grants, cooperative agreements, or contracts to public or private entities, including businesses, federally-funded research and development centers, and universities.

''(7) The Research Projects Program shall provide advice to the Director of OPASI concerning funding priorities.

''(8) The Research Projects Program may solicit proposals for competitions to address specific health vulnerabilities identified by the Director of NIH and the Director of OPASI and award prizes for successful outcomes.

''(9) The Research Projects Program shall periodically hold health research and technology demonstrations to improve contact among researchers, technology developers, vendors, and acquisition personnel.

''(10) The Research Projects Program shall carry out other activities determined appropriate by the Director of NIH.

''(f) EMPLOYEES.—

''(1) HIRING.—The Director of the Research Projects Program, in hiring employees for positions with the Research Projects Program, shall have the same hiring and management authorities as described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note).

''(2) TERM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term of such appointments for employees of the Research Projects Program may not exceed 5 years.

''(B) EXTENSION.—The Director of the Research Projects Program may, in the case of a particular employee of the Research Projects Program, extend the term to which employment is limited under subparagraph (A) by not more than 2 years if the Director of the Research Projects Program determines that such action is necessary to promote the efficiency of the Research Projects Program.

''(g) FLEXIBILITY.—The Director of the Research Projects Program shall have the authority to flexibly fund projects, including the prompt awarding, releasing, enhancing, or withdrawal of monies in accordance with the assessment of the Research Projects Program and project manager.

**''Subpart 4—Clinical Trials**

**''SEC. 499D. GRANTS FOR QUALITY CLINICAL TRIAL DESIGN AND EXECUTION.**

''The Director of OPASI—

''(1) shall award grants for clinical trial design and execution to academic centers and practice-based research networks to fund multidisciplinary clinical research teams, which clinical research teams may be composed of members who include project managers, clinicians, epidemiologists, social scientists, and clinical research coordinators; and

''(2) may award grants for clinical trial design and execution to researchers.

**''SEC. 499D–1. STREAMLINING THE REGULATORY PROCESS GOVERNING CLINICAL RESEARCH.**

''(a) ESTABLISHMENT OF CENTRALIZED INSTITUTIONAL REVIEW BOARDS.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT AND OVERSIGHT.—The Director of OPASI shall appoint a Director of Centralized Institutional Review Boards (referred to in this part as the 'Director of CIRBs') who shall establish and oversee the functioning and progress of a series of Centralized Institutional Review Boards (referred to in this part as 'CIRBs') to serve as human subject safety and well-being custodians for multi-institutional clinical trials that are funded partially or in full by public research dollars.

''(B) WORK WITH FDA.—The Director of CIRBs shall work with the Commissioner of Food and Drugs to make regulations governing multi-site clinical trials and the regulatory requirements of the Food and Drug Administration more consistent in order to reduce barriers to commercialization of new treatments.

''(2) EXISTING GUIDELINES AND BEST PRACTICES.—CIRBs shall be established in accordance with professional best practices and Good Clinical Practice (GCP) guidelines so that institutions involved in multi-institutional studies may—

''(A) use joint review;

''(B) rely upon the review of another qualified institutional review board; or

''(C) use similar arrangements to avoid duplication of effort and to assure a high-quality of expert oversight.

''(b) HOUSED.—Each CIRB shall be housed—

''(1) at the institute or center of the National Institutes of Health with expertise on the subject of the clinical trial; or

''(2) at a public or private institution with comparable organizational capacity, such as the Department of Veterans Affairs.

''(c) SERVICE.—The use of CIRBs shall be available, as appropriate, at the request of public or private institutions and shall be funded through user fees of the CIRBs or the National Institutes of Health's funds.

''(d) REVIEW PROCESS.—

''(1) IN GENERAL.—Each CIRB shall review research protocols and subject informed consent forms to ensure the protection of safety and well-being of research participants enrolled in multi-institutional clinical trials.

''(2) PROCESS.—The CIRB review process shall consist of contractual agreements between the CIRB and the study sites of multi-institutional clinical trials. The CIRB shall act on behalf, in whole or in part, of the bodies ordinarily responsible for the safety of research subjects in a locality. In the case in which a locality does not have such a body, the locality shall depend solely on the CIRB to oversee the protection of human subjects and the CIRB shall assume responsibility for ensuring adequate assessment of the local research context.

''(e) RESEARCH APPLICATIONS.—

''(1) IN GENERAL.—Each CIRB shall review and package research applications for facilitated electronic review by local institutional review boards participating in a multi-institutional clinical trial.

''(2) CIRB REVIEW.—A local institutional review board may accept or reject a CIRB review. In the case in which a local institutional review board accepts a CIRB review, the CIRB shall assume responsibility for annual, amendment, and adverse event reviews. If a local institutional review board elects to decline participation in the CIRB, the local institutional review board shall appoint a liaison to the CIRB.

''(f) WORK IN CONCERT.—In the case in which a local institutional review board works in concert with a CIRB, the local institutional review board shall be responsible for taking into consideration local characteristics (including ethnicity, educational level, and other demographic characteristics) of the population from which research subjects will be drawn, which influence, among other things, whether there is sound selection of research subjects or whether adequate provision is made to minimize risks to vulnerable populations.

''(g) COMMUNICATION OF IMPORTANT INFORMATION.—Each CIRB shall regularly communicate important information in electronic form to the local institutional review boards or, in cases where a local institutional review board does not exist, to the principal investigator, including regular safety updates or requirements to change a research protocol in order to improve safety.

''(h) COORDINATION.—Each CIRB shall fully coordinate with the institute or center of the National Institutes of Health that has specialized knowledge of the research area of the clinical trial. Other Federal agencies and private entities undertaking clinical trials may contract with the National Institutes of Health to use a CIRB.

**''SEC. 499D–2. CLINICAL RESEARCH STUDY AND CLINICAL TRIAL.**

''(a) IN GENERAL.—The Director of NIH shall—

''(1) commission the Institute of Medicine to study the rules that protect patient safety

and anonymity so that in a contemporary clinical research context, a better balance can be achieved between clinical research promotion and regulatory requirements governing research subject safety and privacy;

''(2) examine informed consent processes; and

''(3) request that the Institute of Medicine issue a written report not later than 18 months after the date of enactment of the Accelerating Cures Act of 2008 that shall—

''(A) consider changes to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) and the amendments made by such Act that further promote the clinical research endeavor; and

''(B) include recommendations for changes that shall not be limited to legislation but shall include changes to healthcare systems, including health information technology, and to researcher practice that facilitate the clinical research endeavor.

**''Subpart 5—Training Clinical and Translational Researchers of the Future**

**''SEC. 499E. TRAINING TRANSLATIONAL AND CLINICAL RESEARCHERS OF THE FUTURE.**

''(a) IN GENERAL.—

''(1) ESTABLISHMENT OF PROGRAM.—The Director of OPASI shall establish training programs to increase the number of, and maintain existing, translational and clinical researchers, including researchers trained in community-based research.

''(2) PURPOSE.—The purpose of the training programs described in paragraph (1) shall be to train a cadre of researchers in core competencies in the translational and clinical sciences for the ultimate goal of improving healthcare delivery, healthcare options to the public, the use of healthcare by patients, and healthcare outcomes.

''(b) GRANTS.—

''(1) IN GENERAL.—The Director of OPASI shall award grants to, and enter into contracts with, public and nonprofit educational entities to establish, strengthen, or expand training programs for researchers to be trained in the translational and clinical sciences.

''(2) AWARDING OF GRANTS.—The Director of OPASI shall award grants to, and enter into contracts with, applicants that—

''(A) support multidisciplinary approaches in training;

''(B) utilize collaborative strategies for conducting research across various disciplines to translate basic science discoveries; and

''(C) train researchers focused on improving care and patient outcomes.

''(3) REQUIRED USE OF FUNDS.—The Director of OPASI shall award grants to, and enter into contracts with, entities for the following purposes:

''(A) To establish training programs for M.D. and Ph.D. researchers in translational or clinical research.

''(B) To establish training programs for individuals at predoctoral levels, including those in medical school, and for allied health professionals, in translational or clinical research.

''(C) To establish training programs for nurses in translational and clinical research.

''(D) To strengthen or expand existing training programs for translational or clinical researchers.

''(E) To establish a wide range of training programs, including one-year training programs, summer programs, pre- and postdoctoral clinical or translational research fellowships, and advanced research training programs for mid-career researchers and clinicians.

''(F) To provide stipends and allowances, including for travel and subsistence expenses, in amounts the Director of OPASI determines appropriate, to support the training of translational or clinical researchers.

''(G) To provide financial assistance to public and nonprofit educational entities for the purpose of supporting the training of translational or clinical researchers, through clinical education, curricula, and technological support, and other measures.

''(H) To measure the impact of the translational and clinical research training programs on the biomedical sciences and on clinical practice.

''(c) FUNDS AVAILABLE.—The Director of OPASI may make funds available to support training programs for translational or clinical researchers at the National Institutes of Health for entities awarded grants or contracts under subsection (b).

''(d) NOVEL AND BEST PRACTICES.—The Director of OPASI shall convene, on not less frequently than a biannual basis, members of training institutions to share novel and best practices in training translational or clinical researchers.

''(e) TRAINING.—A trainee of a program funded under a grant or contract awarded under this section may conduct part of the trainee's training at the Health Advanced Research Projects Program.

''(f) CONSISTENT DEFINITIONS AND METHODOLOGIES.—For the purposes of funding training programs for clinical researchers, the Director of NIH shall develop consistent definitions and methodologies to classify and report clinical research.

**''SEC. 499E–1. TRANSLATIONAL RESEARCH TRAINING PROGRAM.**

''The Director of NIH shall ensure that each institute and center of the National Institutes of Health has established, or contracted for the establishment of, a translational research training program at the institute or center.

**''Subpart 6—The 'Valley of Death'**

**''SEC. 499F. SMALL BUSINESS PARTNERSHIPS.**

''(a) IN GENERAL.—An independent advisory board shall be established at the National Academy of Sciences to conduct periodic evaluations of the Small Business Innovation Research program (referred to in this subpart as the 'SBIR program') and the Small Business Technology Transfer program (referred to in this subpart as the 'STTR program') of the Office of Extramural Research in the Office of the Director of the National Institutes of Health for the purpose of improving management of the programs through data-driven assessment. The advisory board shall consist of the Director of NIH, the Director of the SBIR program, senior National Institutes of Health agency managers, university and industry experts, and program stakeholders.

''(b) SBIR AND STTR GRANTS AND CONTRACTS.—

''(1) IN GENERAL.—

''(A) PROGRAM MANAGERS WITH SUFFICIENT EXPERTISE.—Not less than 25 percent of the grants and contracts awarded by each of the SBIR and STTR programs shall be awarded on a competitive basis by an SBIR or STTR program manager who has sufficient managerial, technical, and translational research expertise to expertly assess the quality of a SBIR or STTR proposal.

''(B) EXPERIENCE OF PROGRAM MANAGERS.—In hiring new SBIR or STTR program managers, the Director of NIH shall consider experience in commercialization or industry.

''(C) EMPHASIS ON GRANT AND CONTRACT AWARDS.—In awarding grants and contracts under the SBIR program and the STTR program—

''(i) each SBIR and STTR program manager shall place an emphasis on applications that identify from the onset products with commercial potential to prevent, diagnose, and treat diseases, as well as promote health and well-being; and

''(ii) risk-taking shall be supported and productive failure shall be tolerated.

''(2) EXAMINATION OF COMMERCIALIZATION AND OTHER METRICS.—The independent advisory board described in subsection (a) shall evaluate the success of the requirement under paragraph (1)(A) by examining increased commercialization and other metrics, to be determined and collected by SBIR and STTR programs.

''(3) SUCCESS.—Each recipient of a SBIR or STTR grant or contract, as a condition of receiving such grant or contract, shall report to the SBIR or STTR program—

''(A) whether there was eventual commercial success of the product developed with the assistance of the grant or contract; and

''(B) on other metrics as determined by the SBIR or STTR program to capture broader measures of success.

''(c) POTENTIAL PURCHASERS OR INVESTORS.—The SBIR and STTR programs shall administer nonpeer review grants and contracts pursuant to this section through program managers who shall place special emphasis on partnering grantees and entities awarded contracts from the very beginning of the research and development process with potential purchasers or investors of the product, including large pharmaceutical or biotechnology companies, venture capital firms, and Federal agencies (including the National Institutes of Health).

''(d) PHASE I AND II.—The SBIR and STTR programs shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR and STTR programs to—

''(1) 6 months; or

''(2) less than 6 months if the grantee or entity awarded a contract demonstrates that the grantee or entity awarded a contract has interest from third parties to buy or fund the product development with the grant or contract.

''(e) PHASE III.—A SBIR or STTR program manager may petition the Director of NIH for Phase III funding of a grant or contract for a project that requires a boost to finalize procurement of a product. The maximum funding for Phase III funding shall be $2,000,000 for each of a maximum of 2 years. Such Phase III funding may come from the Common Fund of the NIH.

''(f) EVALUATION AND REPORTING REQUIREMENTS.—In order to enhance the evidence base guiding SBIR and STTR program decisions and changes, the SBIR and STTR programs shall—

''(1) conduct regular internal and external evaluations of the program;

''(2) review current data collection methods for the purpose of identifying gaps and deficiencies, and develop a formal plan for evaluation and assessment of program success, including operational benchmarks for success; and

''(3) conduct a review on the number of SBIR and STTR awards made to women and minorities and develop outreach and review strategies to increase the number of awards to women and minorities.

''(g) PILOT PROGRAMS.—

''(1) IN GENERAL.—The SBIR and STTR programs may initiate pilot programs, based on the development of a formal mechanism for designing, implementing, and evaluating pilot programs, to spur innovation and to test new strategies that may enhance the effectiveness of the program.

''(2) CONSIDERATIONS.—The SBIR and STTR programs shall consider, among other issues, conducting pilot programs on including individuals with commercialization experience

in study sections, hiring individuals with industry experience for staff positions, separating the commercial and scientific review processes, and examining the impact of the trend toward larger awards on the overall program.

''(h) ELECTRONIC RECORDS.—

''(1) IN GENERAL.—The SBIR and STTR programs shall keep a publicly accessible electronic record of all SBIR or STTR investments in research and development.

''(2) CONTENT OF RECORD.—The record described in paragraph (1) shall include, at a minimum, the following information:

''(A) The grantee or entity awarded a grant or contract.

''(B) A description of the research being funded.

''(C) The amount of money awarded in each phase of SBIR or STTR funding.

''(D) If applicable, the purchaser of the product, current use of the product, and estimated annual revenue resulting from the procurement.

''(E) Dates of Phases I, II, and III awards, as applicable.

''(F) Other metrics as determined by the SBIR or STTR programs.

''(i) MEETING.—The Director of NIH shall convene a meeting, not less frequently than annually, consisting of the National Institutes of Health SBIR/STTR program coordinator or manager and each institute and center of the National Institutes of Health to share best practices, report on program activities, and review existing policies.

''(j) REPORT TO CONGRESS.—The Director of NIH shall submit an annual report to Congress and the independent advisory board described in subsection (a) on the SBIR and STTR programs' activities.

**''SEC. 499F–1. RAPID ACCESS TO INTERVENTION DEVELOPMENT.**

''(a) IN GENERAL.—The Director of OPASI shall expand the existing Rapid Access to Intervention Development Program (referred to in this subpart as the 'RAID') that—

''(1) is designed to assist the translation of promising, novel, and scientifically meritorious therapeutic interventions to clinical use by helping investigators navigate the product development pipeline;

''(2) shall aim to remove barriers between laboratory discoveries and clinical trials of new molecular therapies, technologies, and other clinical interventions;

''(3) shall aim to progress, augment, and complement the innovation and research conducted in private entities to reduce duplicative and redundant work using public funds;

''(4) shall coordinate with the offices of the National Institutes of Health that promote translational research in the pre-clinical phase across the National Institutes of Health;

''(5) shall identify, for the OPASI, those research projects with promise for clinical application or commercialization; and

''(6) shall, in collaboration with the Translational Development Program for New Innovations, facilitate the translation of new innovations through the development process.

''(b) PROJECTS.—

''(1) IN GENERAL.—The RAID, in collaboration with the Director of OPASI, shall carry out a program that shall select, in accordance with paragraph (2), projects of eligible entities to receive access to laboratories, facilities, and other support resources of the National Institutes of Health for the preclinical development of drugs, biologics, diagnostics, and devices.

''(2) SELECTION.—Not less than 25 percent of the projects selected under paragraph (1) shall be selected on a competitive basis—

''(A) by a program manager with sufficient managerial, technical, and translational research expertise to adequately assess the quality of a project proposal; or

''(B) from a peer review process.

''(3) ELIGIBLE ENTITIES.—In this subsection, the term 'eligible entity' means—

''(A) a university researcher;

''(B) a nonprofit research organization; or

''(C) a firm of less than 100 employees in collaboration with 1 or more universities or nonprofit organizations such as a community health center.

''(4) DISCONTINUE SUPPORT.—The RAID may discontinue support of a project if the project fails to meet commercialization success criteria established by the RAID.

''(c) DISCOVERIES FROM LAB TO CLINICAL PRACTICE.—The program under subsection (b) shall accelerate the process of bringing discoveries in medical technology and drugs from the laboratory to the clinic.

''(d) ONGOING REVIEW.—The RAID shall review, on an ongoing basis, potential products and may not support products past the proof-of-principle stage.

**''SEC. 499F–2. TRANSLATIONAL DEVELOPMENT PROGRAM FOR NEW INNOVATIONS.**

''(a) IN GENERAL.—The Director of OPASI shall develop a Translational Development Program for New Innovations to guide institutions of higher education, small businesses, for-profits, nonprofits, or other such entities through the translational research development process by facilitating the following:

''(1) Triage screening of applications for promising innovations expected to reduce disease incidence, morbidity, and mortality.

''(2) Outlining the tasks, timelines, and costs required to navigate and complete the development process for such innovations.

''(3) Providing project management support for the recommended development tasks.

''(4) Interfacing with the Food and Drug Administration and the entity to devise a plan that safely and rapidly brings new drugs, biologics devices, diagnostics, and other interventions to approval.

''(b) COORDINATION.—The Translational Development Program for New Innovations shall—

''(1) collaborate with the RAID; and

''(2) be comprised of personnel with extensive experience with investigational new drug applications and in commercialization.

**''Subpart 7—Translational Research Fund**

**''SEC. 449G. TRANSLATIONAL RESEARCH FUND.**

''(a) ACCOUNT.—There is established an account to be known as the Translational Research Fund that shall consist of amounts appropriated for translational research priorities as described in subsection (b). Such account shall not be funded from amounts otherwise provided to the National Institutes of Health.

''(b) AUTHORIZATION OF APPROPRIATIONS.—For each fiscal year, there is authorized to be appropriated for the Translational Research Fund to carry out the activities under this part an amount equal to the amount set aside for the Common Fund for such fiscal year.

''(c) ALLOTMENT TO HEALTH ADVANCED RESEARCH PROJECTS PROGRAM.—Not less than half of the annual amount appropriated for the Translational Research Fund shall be allotted to the Health Advanced Research Projects Program.''.

**SEC. 5. APPLICATION OF RESEARCH REQUIREMENT.**

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following:

**''SEC. 404I. APPLICATION OF RESEARCH REQUIREMENT.**

''Each application for, and summary of, a project, grant, or contract from the National Institutes of Health, shall include a statement on the possible application of the research for detecting, treating, or curing a health condition or disease state.''.

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By Mrs. MURRAY (for herself and Mr. DOMENICI):

S. 2989. A bill to direct the Secretary of Health and Human Services to implement a National Neurotechnology Initiative, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. MURRAY. Mr. President, it is estimated that 199 million Americans—or one in three—suffer from some kind of brain or nervous system illness, injury or disorder. Among these illnesses are debilitating diseases and conditions, including: Alzheimer's, multiple sclerosis, epilepsy, Parkinson's disease, and traumatic brain injury. These diseases are challenging for the patients and for their loved ones, who often have intense caretaker burdens.

In addition, our men and women fighting overseas are suffering from these conditions in record numbers. The signature injuries of the current conflicts in Iraq and Afghanistan are brain and spinal cord injuries, such as traumatic brain injury, post-traumatic stress disorder, and paralysis. For example, it is estimated that as many as 12 percent to 20 percent of servicemembers who have served in Iraq suffer from PTSD alone.

The combined economic burden of these illnesses and disorders is estimated at $1 trillion annually—and this cost is rising quickly as our population ages and our military conflicts continue. Recent discoveries are revolutionizing our understanding of the human brain, and new uses for these discoveries are emerging almost every day. At the same time, researchers still have a limited understanding of the human brain and how best to diagnose, treat, and cure its diseases. The current research system for neurological diseases is disjointed and often limits this life altering research from reaching the patients in need. For example, compared to the average drug, it costs nearly $100 million more—and takes 2 years longer—to bring a drug that treats a neurological disease to the market.

We need a targeted, coordinated, national effort to support the development of neurotechnology. It is vitally important that public infrastructure be developed to ensure that today's neurotechnology discoveries quickly become tools to improve the human condition. This research has the potential to transform highly specialized areas of medicine, computing, and defense. It could dramatically change Americans' everyday lives.

The National Neurotechnology Initiative Act addresses each of these issues. I am proud to be an original cosponsor with my colleague from New Mexico. Under this proposal, the National Institutes of Health would receive funds to coordinate research and

move research into innovative companies developing the next generation of treatments.

This legislation will also accelerate research and treatment of neurological diseases by removing key bottlenecks in the system. It will coordinate neurological research across Federal agencies, create a coordinated blueprint for neuroscience at the NIH, and streamline the FDA approval process for life changing neuro drugs—without sacrificing safety. All of this will mean more treatments faster for millions of Americans.

This act is an investment in America's neurological health. Investigation into the mechanisms and functions of the brain will lead to vastly improved understanding of brain disease and injuries and human behavior. It will give us an unprecedented ability to treat and heal those in need. The act also will dramatically reduce healthcare costs while expanding the American neurotechnology industry and creating good American jobs. Finally, this bill will help us honor our debt to the brave men and women of America's armed forces.

Today, I am proud to introduce this legislation with Senator DOMENICI. I thank him for his leadership on this issue, and I look forward to working with him and my other colleagues to pass this important legislation.

Mr. DOMENICI. Mr. President, I rise today to join my colleague, Senator MURRAY, to introduce the National Neurotechnology Initiative Act of 2008. Our bill will coordinate and accelerate federal brain and nervous system research, and will help move that research from the laboratory into the hands of patients.

It is estimated that approximately 100 million Americans—one in three—suffer from some kind of neurological illness, disorder, or injury. These include some of the most debilitating illnesses, such as Alzheimer's disease, Parkinson's disease, multiple sclerosis, autism, schizophrenia, and stroke. They include issues with a neurological basis that often goes unnoticed, such as obesity and hearing loss. They also include issues of particular importance to Senator MURRAY and me: traumatic brain injury, spinal cord injury, posttraumatic stress disorder, and other neurological effects suffered by the brave men and women of our armed forces as they execute their missions throughout the world.

The total economic burden of these neurological illnesses, disorders, and injuries is estimated to be more than one trillion dollars every year. These costs include direct medical treatment, long-term care for senior citizens who have been incapacitated by a neurological disease, addiction-related costs, secondary medical costs related to obesity, and so on.

As the baby boom generation ages, the cost associated with these illnesses will increase rapidly, straining our healthcare resources even further than they already are. Now is the time to act to promote the development of diagnostics, treatments, and cures that will restore health and reduce costs.

Our armed forces too often suffer from a traumatic brain injury, which is among the primary types of casualty that disables our service members. Some soldiers also suffer from posttraumatic stress disorder as well. We owe it to these heroic warriors to help them heal as quickly and as completely as possible.

The National Neurotechnology Initiative Act is designed to address four key issues currently slowing the development of neurological treatments, and to rapidly accelerate R&D for only three percent of the annual NIH brain research budget. The first is a lack of coordination between the many agencies that conduct brain research. The bill creates a coordinating office that will help ensure that the Department of Defense, the Department of Veterans Affairs, the National Institutes of Health, and other agencies know what every other agency is doing, and that they work together toward common goals.

The second issue is insufficient coordination within the National Institutes of Health. Sixteen different Institutes, Centers, and offices within NIH conduct research on the brain and nervous system, and they have begun to work together through a program called the Blueprint for Neuroscience Research. This bill authorizes and fully funds that program.

The third issue is the need to translate basic research into treatments. Advances in neurotechnology are useless if they merely sit in the lab. This bill boosts neuroscience-related technology transfer through the SBIR and STTR programs.

The fourth issue is regulatory approval of new neurotechnology drugs, diagnostics, and devices. Brain-related treatments take much longer and cost much more to approve than other treatments. This bill will increase the timeliness and safety of the neurotechnology review process by allowing the FDA to hire and train neuroscience experts and to work with industry to develop neurotechnology standards.

The bill also supports the analysis of societal implications of neuroscience and neurotechnology, so that we know we are proceeding thoughtfully and carefully in our research.

Brain and nervous system research is an issue that has been extremely important to me throughout my time in the Senate. I have long been a supporter of the MIND Research Network, which does amazing work on these issues in New Mexico; and I have worked hard to advance our ability to treat and cure brain and nervous system diseases and disorders. I hope that this legislation will be part of my legacy in this area.

I want to thank my good friend Senator MURRAY for asking me to join her on this very important issue. I appreciate her commitment to advancing this important research and I look forward to working with her to pass this legislation this Congress.

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By Mr. KERRY (for himself, Mr. ALEXANDER, and Ms. STABENOW):

S 2990. A bill to amend title XVIII of the Social Security Act to improve access of Medicare beneficiaries to intravenous immune globulines; to the Committee on Finance.

Mr. KERRY. Mr. President, we have the opportunity this year to help a group of Medicare beneficiaries who are currently subject to costly, bureaucratic red tape which is delaying essential, life-saving treatments to some of our most vulnerable citizens. Addressing this problem will increase the quality of life for many patients and ease financial burdens for their medical providers.

Between 6,000 and 10,000 Medicare beneficiaries have primary immunodeficiency diseases, PIDD, and require intravenous immunoglobulin, IVIG treatment to maintain a healthy immune system.

Primary Immunodeficiency Diseases are disorders in which part of the body's immune system is missing or does not function properly. These disorders are caused by intrinsic or genetic defects in the immune system. Untreated primary immune deficiencies result in frequent life-threatening infections and debilitating illnesses. Even illnesses such as the common cold or the flu, while unpleasant for most of us, can be deadly for someone with PIDD.

Because of advances in our medical understanding and treatment of primary immune deficiency diseases, individuals who in the past would not have survived childhood are now able to live nearly normal lives. While there is still no cure for PIDD, there are effective treatments available. Nearly 70 percent of primary immune deficient patients use intravenous immunoglobulin to maintain their health.

Immunoglobulin is a naturally occurring collection of highly specialized proteins, known as antibodies, which strengthen the body's immune response. It is derived from human plasma donations and is administered through an IV to the patient every three to four weeks.

Currently, Medicare beneficiaries needing IVIG treatments are experiencing access problems—an unintended result of the way Medicare has determined the payment for IVIG. The current IVIG access and care issue began in January 2005 as a result of the Medicare Modernization Act under Part B, which changed the way physicians and hospital outpatient departments were paid under Medicare. The law reduced IVIG reimbursement rates such that most physicians in outpatient settings could no longer afford to treat Medicare patients requiring IVIG. In addition, access to home based infusion

therapy is limited since Medicare currently pays only for the cost of IVIG, and not nursing services and supplies required for infusion.

As a result, patients are experiencing delays in receiving this life saving treatment and are being shifted to more expensive care settings such as inpatient hospitals. In addition to incurring extra expenses, hospital-based care results in patients being in close proximity to countless microorganisms, an unsafe prospect for those who have suppressed immune systems.

In April 2007, the U.S. Department of Health and Human Services Office of the Inspector General, OIG,reported that Medicare reimbursement for IVIG was inadequate to cover the cost many providers must pay for the product. In fact, the OIG found that 44 percent of hospitals and 41 percent of physicians were unable to purchase IVIG at the Medicare reimbursements rate during the 3rd quarter of 2006. The previous quarter had been even worse—77.2 percent of hospitals and 96.5 percent of physicians were unable to purchase IVIG at the Medicare reimbursement rate.

We have a rare opportunity to fix this very real problem with a compassionate and common sense solution. We can improve the quality of life for PIDD patients and cut inpatient expenses by improving reimbursement procedures for IVIG treatments for physicians and outpatient facilities and allowing for home treatments and coverage for related services.

Today, I am introducing—along with Senators ALEXANDER and STABENOW—the bipartisan Medicare IVIG Access Act, a bill that will grant the Secretary of Health & Human Services temporary authority to update the payment for IVIG, if necessary based on new or existing data, and to provide coverage for related items and services currently excluded from the existing Medicare home infusion therapy benefit. This bill is endorsed by several national organizations from the patient and physician communities, including the Immune Deficiency Foundation, IDF, GBS/CIDP Foundation International, the Jeffrey Modell Foundation JMF, the Platelet Disorder Support Association, PDSA, the National Patient Advocate Foundation, NPAF, and the Clinical Immunology Society, CIS.

The patients, physicians, caretakers, researchers, and plasma donors have all done their part—now it's time for us to do ours.

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. 2990

*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 ''Medicare IVIG Access Act of 2008''.

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



**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Intravenous immune globulin (IVIG) is a human blood plasma derived product, which over the past 25 years has become an invaluable therapy for many primary immunodeficiency diseases, as well as a number of neurological, autoimmune, and other chronic conditions and illnesses. For many of these disorders, IVIG is the most effective and viable treatment available, and has dramatically improved the quality of life for persons with these conditions and has become a life-saving therapy for many.

(2) The Food and Drug Administration recognizes each IVIG brand as a unique biologic. The differences in basic fractionation and the addition of various modifications for further purification, stabilization, and virus inactivation/removal yield clearly different biological products. As a result, IVIG therapies are not interchangeable, with patient tolerance differing from one IVIG brand to another.

(3) The report of the Office of the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, ''Analysis of Supply, Distribution, Demand, and Access Issues Associated with Immune Globulin Intravenous (IGIV)'', that was issued in May 2007, found that IVIG manufacturing is complex and requires substantial up-front cash outlay and planning and takes between 7 and 12 months from plasma collection at donor centers to lot release by the Food and Drug Administration.

(4) The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2066) changed Medicare's reimbursement methodology for IVIG from average wholesale price (AWP) to average sales price plus 6 percent (ASP+6 percent), effective January 1, 2005, for physicians, and January 1, 2006, for hospital outpatient departments, thereby reducing reimbursement rates paid to those providers of IVIG on behalf of Medicare beneficiaries.

(5) An April 2007 report of the Office of Inspector General of the Department of Health and Human Services, ''Intravenous Immune Globulin: Medicare Payment and Availability'', found that Medicare reimbursement for IVIG was inadequate to cover the cost many providers must pay for the product. During the third quarter of 2006, 44 percent of IVIG sales to hospitals and 41 percent of sales to physicians by the 3 largest distributors occurred at prices above Medicare payment amounts.

(6) The report of the Office of the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, ''Analysis of Supply, Distribution, Demand, and Access Issues Associated with Immune Globulin Intravenous (IGIV)'' notes that, after the new reimbursement rules for physicians were instituted in 2005, 42 percent of Medicare beneficiaries who had received their IVIG treatment in their physician's office at the end of 2004 were shifted to the hospital outpatient setting by the beginning of 2006. This shift in site of care has resulted in a lack of continuity of care and has had an adverse impact on health outcomes and quality of life.

(7) The Office of Inspector General of the Department of Health and Human Services also reported that 61 percent of responding physicians indicated that they had sent patients to hospitals for IVIG treatment, largely because of their inability to purchase IVIG at prices below the Medicare payment amounts. In addition, the Office of Inspector General found that some physicians had stopped providing IVIG to Medicare beneficiaries altogether.

(8) The Office of Inspector General's 2007 report concluded that whatever improvement some providers saw in the relationship of Medicare reimbursement for IVIG to prices paid during the first 3 quarters of 2006 would be eroded if manufacturers were to increase prices for IVIG in the future.

(9) The Centers for Medicare & Medicaid Services, in recognition of dislocations experienced by patients and providers in obtaining IVIG since the change to the ASP+6 reimbursement methodology, has provided a temporary additional payment during 2006 and 2007 for IVIG preadministration-related services to compensate physicians and hospital outpatient departments for the extra resources they have had to expend in locating and obtaining appropriate IVIG products and in scheduling patient infusions.

(10) Approximately 10,000 Medicare beneficiaries receive IVIG treatment for their primary immunodeficiency disease in a variety of different settings. Those beneficiaries have no other effective treatment for their condition.

(11) The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 established an IVIG home infusion benefit for persons with primary immune deficiency disease, paying only for IVIG and specifically excluding coverage of items and services related to administration of the product.

(12) The report of the Office of the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, ''Analysis of Supply, Distribution, Demand, and Access Issues Associated with Immune Globulin Intravenous (IGIV)'', noted that, because of limitations in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 provision, Medicare's IVIG home infusion benefit is not designed to provide reimbursement for more than the cost of IVIG and does not cover the cost of infusion services (such as nursing and clinical services and supplies) in the home. As a consequence, the report found that home infusion providers generally do not accept new patients who have primary immune deficiency disease and only have Medicare coverage. These limitations in service are caused by health care providers—

(A) not being able to acquire IVIG at prices at or below the Medicare part B reimbursement level; and

(B) not being reimbursed for the infusion services provided by a nurse.

(13) Access to home infusion of IVIG for patients with primary immune deficiency disease, who have a genetic or intrinsic defect in their human immune system, will reduce their exposure to infections at a time when their antibodies are compromised and will improve the quality of care and health of the patient.

**SEC. 3. MEDICARE PAYMENT FOR INTRAVENOUS IMMUNE GLOBULINS.**

(a) IN GENERAL.—Section 1842(o) of the Social Security Act (42 U.S.C. 1395u(o)) is amended—

(1) in paragraph (1)(E)(ii), by inserting '', plus an additional amount (if applicable) under paragraph (7)'' before the period at the end;

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

''(7)(A) Not later than 6 months after the date of enactment of the Medicare IVIG Access Act of 2008, the Secretary shall—

''(i) collect data on the differences, if any, between payments to physicians for intravenous immune globulin under paragraph (1)(E)(ii) and costs incurred by physicians for furnishing such products; and

''(ii) review available data, including survey and pricing data collected by the Federal Government and data presented by members of the intravenous immune globulin community on the access of individuals eligible for services under this part to intravenous immune globulin and the differences described in clause (i).

''(B) Subject to subparagraph (C), in the case of intravenous immune globulin furnished on or after the date of enactment of this paragraph, the Secretary shall continue the IVIG preadministration-related services payment established under the final rule promulgated by the Secretary in the Federal Register on November 27, 2007 (72 Fed. Reg. 66254), until such time as the Secretary determines that payment for intravenous immune globulin is adequate.

''(C) Upon collection of data and completion of the review under subparagraph (A), the Secretary shall, during a 2-year period beginning not later than 7 months after such date of enactment, provide, if appropriate, to physicians furnishing intravenous immune globulins, a payment, in addition to the payment under paragraph (1)(E)(ii) and instead of the IVIG preadministration-related services payment under subparagraph (B), for all items related to the furnishing of intravenous immune globulin, in an amount the Secretary determines to be appropriate.''.

(b) AS PART OF HOSPITAL OUTPATIENT SERVICES.—Section 1833(t)(14) of such Act (42 U.S.C. 1395l(t)(14)) is amended—

(1) in subparagraph (A)(iii), by striking ''subparagraph (E)'' and inserting ''subparagraphs (E) and (I)''; and

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

''(I) ADDITIONAL PAYMENT FOR INTRAVENOUS IMMUNE GLOBULIN.—

''(i) DATA COLLECTION AND REVIEW.—Not later than 6 months after the date of enactment of the Medicare IVIG Access Act of 2008, the Secretary shall—

''(I) collect data on the differences, if any, between payments of intravenous immune globulin under subparagraph (A)(iii) and costs incurred by a hospital for furnishing such products; and

''(II) review available data, including survey and pricing data collected by the Federal Government and data presented by members of the intravenous immune globulin community on the access of individuals eligible for services under this part to intravenous immune globulin and the differences described in subclause (I).

''(ii) CONTINUATION OF SPECIAL PAYMENT RULE.—Subject to clause (iii), in the case of intravenous immune globulin furnished on or after the date of enactment of this subparagraph, the Secretary shall continue the IVIG preadministration-related services payment established under the final rule promulgated by the Secretary in the Federal Register on November 27, 2007 (72 Fed. Reg. 66697), until such time as the Secretary determines that payment for intravenous immune globulin is adequate.

''(iii) ADDITIONAL PAYMENT AUTHORITY.—Upon collection of data and completion of the review under clause (i), the Secretary shall, during a 2-year period beginning not later than 7 months after such date of enactment, provide, if appropriate, to hospitals furnishing intravenous immune globulin as part of a covered OPD service, in addition to the payment under subparagraph (A)(iii) and instead of the IVIG preadministration-related services payment under clause (ii), for all items related to the furnishing of intravenous immune globulin, in an amount the Secretary determines to be appropriate.''.

**SEC. 4. COVERAGE AND PAYMENT OF INTRAVENOUS IMMUNE GLOBULIN IN THE HOME.**

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

(1) in subsection (s)(2)(Z), by inserting ''and items and services related to the administration of intravenous immune globulin'' after ''globulin''; and

(2) in subsection (zz), by striking ''but not including items or services related to the administration of the derivative,''.

(b) PAYMENT FOR INTRAVENOUS IMMUNE GLOBULIN ADMINISTRATION IN THE HOME.—Section 1842(o) of the Social Security Act (42 U.S.C. 1395u(o), as amended by section 3, is amended—

(1) in paragraph (1)(E)(ii), by striking ''paragraph (7)'' and inserting ''paragraph (7) or (8)'';

(2) by redesignating paragraph ''(8)'' as paragraph ''(9)''; and

(3) by inserting after paragraph (7) the following new paragraph:

''(8)(A) Subject to subparagraph (B), in the case of intravenous immune globulins described in section 1861(s)(2)(Z) that are furnished on or after January 1, 2008, the Secretary shall provide for a separate payment for items and services related to the administration of such intravenous immune globulins in an amount that the Secretary determines to be appropriate based on a review of available published and unpublished data and information, including the Study of Intravenous Immune Globulin Administration Options: Safety, Access, and Cost Issues conducted by the Secretary (CMS Contract #500–95–0059). Such payment amount may take into account the following:

''(i) Pharmacy overhead and related expenses.

''(ii) Patient service costs.

''(iii) Supply costs.

''(B) The separate payment amount provided under this paragraph for intravenous immune globulins furnished in 2009 or a subsequent year shall be equal to the separate payment amount determined under this paragraph for the previous year increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year.''.

**SEC. 5. REPORTS.**

(a) REPORT BY THE SECRETARY.—Not later than 7 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 submit a report to Congress on the following:

(1) The results of the data collection and review conducted by the Secretary under subparagraph (A) of section 1842(o)(7) of the Social Security Act, as added by section 3(a), and clause (i) of section 1833(t)(14)(I) of such Act, as added by section 3(b).

(2) Whether the Secretary plans to use the authority under subparagraph (C) of such section 1842(o)(7) and clause (iii) of such section 1833(t)(14)(I) to provide an additional payment to physicians furnishing intravenous immune globulins.

(b) MEDPAC REPORT.—Not later than 2 years after the date of enactment of this Act, the Medicare Payment Advisory Commission shall submit a report to the Secretary and to Congress that contains the following:

(1) In the case where the Secretary has used the authority under sections 1842(o)(7)(C) and 1833(t)(14)(I)(iii) of the Social Security Act, as added by subsections (a) and (b), respectively, of section 3 to provide an additional payment to physicians furnishing intravenous immune globulins during the preceding year, an analysis of whether beneficiary access to intravenous immune globulins under the Medicare program under title XVIII of the Social Security Act has improved as a result of the Secretary's use of such authority.

(2) An analysis of the appropriateness of implementing a new methodology for payment for intravenous immune globulins under part B of title XVIII of the Social Security Act (42 U.S.C. 1395k et seq.).

(3) An analysis of the feasibility of reducing the lag time with respect to data used to determine average sales price under section 1847A of the Social Security Act (42 U.S.C. 1395w–3a).

(4) Recommendations for such legislation and administrative action as the Medicare Payment Advisory Commission determines appropriate, including recommendations for such legislation and administrative action as the Commission determines is necessary to implement any methodology analyzed under paragraph (2).

**SEC. 6. OFFSET.**

Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by adding at the end the following: ''Such term includes disposable drug delivery systems, including elastomeric infusion pumps, for the treatment of colorectal cancer.''.

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By Mr. REID (for himself, Mr. SCHUMER, Mr. LEVIN, Mr. WYDEN, Mr. INOUYE, Mr. CARDIN, Ms. STABENOW, Mr. BROWN, Mr. WHITEHOUSE, Mrs. FEINSTEIN, Mr. JOHNSON, Mr. KENNEDY, Ms. KLOBUCHAR, Mr. LAUTENBERG, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mrs. MCCASKILL, and Mr. DURBIN):

S. 2991. A bill to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes; read the first time.

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 placed in the RECORD, as follows:

S. 2991

*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 ''Consumer-First Energy Act of 2008''.

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

**SEC. 2. FINDINGS.**

Congress finds that—

(1) excessive prices for petroleum products have created, or imminently threaten to create, severe economic dislocations and hardships, including the loss of jobs, business failures, disruption of economic activity, curtailment of vital public services, and price increases throughout the economy;

(2) those hardships and dislocations jeopardize the normal flow of commerce and constitute a national energy and economic crisis that is a threat to the public health, safety, and welfare of the United States;

(3) consumers, workers, small businesses, and large businesses of the United States are particularly vulnerable to those price increase due to the failure of the President to aggressively develop alternatives to petroleum and petroleum products and to promote efficiency and conservation;

(4) reliable and affordable supplies of crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel) are vital to the economic and national security of the United States given current energy infrastructure and technology;

(5) the price of crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel) have skyrocketed to record levels and are continuing to rise;

(6) since 2001, oil prices have increased from $29 per barrel to levels near $120 per barrel and gasoline prices have more than doubled from $1.47 per gallon to more than $3.50 per gallon;

(7) the record prices for crude oil and products refined from crude oil (including gasoline, diesel fuel, heating oil, and jet fuel)—

(A) are hurting millions of consumers, workers, small businesses, and large businesses of the United States, and threaten long-term damage to the economy and security of the United States;

(B) are partially due to—

(i) the declining value of the dollar and a widespread lack of confidence in the management of economic and foreign policy by the President;

(ii) the accumulation of national debt and growing budget deficits under the failed economic policies of the President; and

(iii) high levels of military expenditures under the failed policies of the President in Iraq; and

(C) are no longer justified by traditional forces of supply and demand;

(8) rampant speculation in the markets for crude oil and products refined from crude oil has magnified the price increases and market volatility resulting from those underlying causes of price increases; and

(9) Congress must take urgent action to protect consumers, workers, and businesses of the United States from rampant speculation in the energy markets and the price increases resulting from the failed domestic and foreign policies of the President.

## TITLE I—TAX PROVISIONS RELATED TO OIL AND GAS

**SEC. 101. DENIAL OF DEDUCTION FOR MAJOR INTEGRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) in the case of any major integrated oil company (as defined in section 167(h)(5)(B)), the production, refining, processing, transportation, or distribution of oil, gas, or any primary product thereof during any taxable year described in section 167(h)(5)(B).''.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 102. ELIMINATION OF THE DIFFERENT TREATMENT OF FOREIGN OIL AND GAS EXTRACTION INCOME AND FOREIGN OIL RELATED INCOME FOR PURPOSES OF THE FOREIGN TAX CREDIT.**

(a) IN GENERAL.—Subsections (a) and (b) of section 907 of the Internal Revenue Code of 1986 (relating to special rules in case of foreign oil and gas income) are amended to read as follows:

''(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any foreign oil and gas taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

''(1) the amount of the combined foreign oil and gas income for the taxable year,

''(2) multiplied by—

''(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

''(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income.

''(b) COMBINED FOREIGN OIL AND GAS INCOME; FOREIGN OIL AND GAS TAXES.—For purposes of this section—

''(1) COMBINED FOREIGN OIL AND GAS INCOME.—The term 'combined foreign oil and gas income' means, with respect to any taxable year, the sum of—

''(A) foreign oil and gas extraction income, and

''(B) foreign oil related income.

''(2) FOREIGN OIL AND GAS TAXES.—The term 'foreign oil and gas taxes' means, with respect to any taxable year, the sum of—

''(A) oil and gas extraction taxes, and

''(B) any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid or accrued under section 902 or 960) during the taxable year with respect to foreign oil related income (determined without regard to subsection (c)(4)) or loss which would be taken into account for purposes of section 901 without regard to this section.''.

(b) RECAPTURE OF FOREIGN OIL AND GAS LOSSES.—Paragraph (4) of section 907(c) of the Internal Revenue Code of 1986 (relating to recapture of foreign oil and gas extraction losses by recharacterizing later extraction income) is amended to read as follows:

''(4) RECAPTURE OF FOREIGN OIL AND GAS LOSSES BY RECHARACTERIZING LATER COMBINED FOREIGN OIL AND GAS INCOME.—

''(A) IN GENERAL.—The combined foreign oil and gas income of a taxpayer for a taxable year (determined without regard to this paragraph) shall be reduced—

''(i) first by the amount determined under subparagraph (B), and

''(ii) then by the amount determined under subparagraph (C).

The aggregate amount of such reductions shall be treated as income (from sources without the United States) which is not combined foreign oil and gas income.

''(B) REDUCTION FOR PRE-2008 FOREIGN OIL EXTRACTION LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the foreign oil and gas extraction income of the taxpayer for the taxable year (determined without regard to this paragraph), or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, and before January 1, 2008, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph (as in effect before and after the date of the enactment of the Consumer-First Energy Act of 2008) for preceding taxable years beginning after December 31, 1982.

''(C) REDUCTION FOR POST-2008 FOREIGN OIL AND GAS LOSSES.—The reduction under this paragraph shall be equal to the lesser of—

''(i) the combined foreign oil and gas income of the taxpayer for the taxable year (determined without regard to this paragraph), reduced by an amount equal to the reduction under subparagraph (A) for the taxable year, or

''(ii) the excess of—

''(I) the aggregate amount of foreign oil and gas losses for preceding taxable years beginning after December 31, 2008, over

''(II) so much of such aggregate amount as was recharacterized under this paragraph for preceding taxable years beginning after December 31, 2008.

''(D) FOREIGN OIL AND GAS LOSS DEFINED.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil and gas loss' means the amount by which—

''(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the combined foreign oil and gas income for such year, is exceeded by

''(II) the sum of the deductions properly apportioned or allocated thereto.

''(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

''(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of

clause (i), there shall not be taken into account—

''(I) any foreign expropriation loss (as defined in section 172(h) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)) for the taxable year, or

''(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

''(iv) FOREIGN OIL EXTRACTION LOSS.—For purposes of subparagraph (B)(ii)(I), foreign oil extraction losses shall be determined under this paragraph as in effect on the day before the date of the enactment of the Consumer-First Energy Act of 2008.''.

(c) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS.—Section 907(f) of the Internal Revenue Code of 1986 (relating to carryback and carryover of disallowed credits) is amended—

(1) by striking ''oil and gas extraction taxes'' each place it appears and inserting ''foreign oil and gas taxes'', and

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

''(4) TRANSITION RULES FOR PRE-2009 AND 2009 DISALLOWED CREDITS.—

''(A) PRE-2009 CREDITS.—In the case of any unused credit year beginning before January 1, 2009, this subsection shall be applied to any unused oil and gas extraction taxes carried from such unused credit year to a year beginning after December 31, 2008—

''(i) by substituting 'oil and gas extraction taxes' for 'foreign oil and gas taxes' each place it appears in paragraphs (1), (2), and (3), and

''(ii) by computing, for purposes of paragraph (2)(A), the limitation under subparagraph (A) for the year to which such taxes are carried by substituting 'foreign oil and gas extraction income' for 'foreign oil and gas income' in subsection (a).

''(B) 2009 CREDITS.—In the case of any unused credit year beginning in 2009, the amendments made to this subsection by the Consumer-First Energy Act of 2008 shall be treated as being in effect for any preceding year beginning before January 1, 2009, solely for purposes of determining how much of the unused foreign oil and gas taxes for such unused credit year may be deemed paid or accrued in such preceding year.''.

(d) CONFORMING AMENDMENT.—Section 6501(i) of the Internal Revenue Code of 1986 is amended by striking ''oil and gas extraction taxes'' and inserting ''foreign oil and gas taxes''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

**SEC. 103. WINDFALL PROFITS TAX.**

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

**''CHAPTER 56—WINDFALL PROFITS ON CRUDE OIL**



**''SEC. 5896. IMPOSITION OF TAX.**

''(a) IN GENERAL.—In addition to any other tax imposed under this title, there is hereby imposed on any applicable taxpayer an excise tax in an amount equal to 25 percent of the excess of—

''(1) the windfall profit of such taxpayer, over

''(2) the amount of the qualified investment of such applicable taxpayer.

''(b) APPLICABLE TAXPAYER.—For purposes of this chapter, the term 'applicable taxpayer' means any major integrated oil company (as defined in section 167(h)(5)(B)).

**''SEC. 5897. WINDFALL PROFIT; QUALIFIED INVESTMENT.**

''(a) GENERAL RULE.—For purposes of this chapter, the term 'windfall profit' means the excess of the adjusted taxable income of the applicable taxpayer for the taxable year over the reasonably inflated average profit for such taxable year.

''(b) ADJUSTED TAXABLE INCOME.—For purposes of this chapter, with respect to any applicable taxpayer, the adjusted taxable income for any taxable year is equal to the taxable income for such taxable year (within the meaning of section 63 and determined without regard to this subsection)—

''(1) increased by any interest expense deduction, charitable contribution deduction, and any net operating loss deduction carried forward from any prior taxable year, and

''(2) reduced by any interest income, dividend income, and net operating losses to the extent such losses exceed taxable income for the taxable year.

In the case of any applicable taxpayer which is a foreign corporation, the adjusted taxable income shall be determined with respect to such income which is effectively connected with the conduct of a trade or business in the United States.

''(c) REASONABLY INFLATED AVERAGE PROFIT.—For purposes of this chapter, with respect to any applicable taxpayer, the reasonably inflated average profit for any taxable year is an amount equal to the average of the adjusted taxable income of such taxpayer for taxable years beginning during the 2001–2005 taxable year period (determined without regard to the taxable year with the highest adjusted taxable income in such period) plus 10 percent of such average.

''(d) QUALIFIED INVESTMENT.—For purposes of this chapter—

''(1) IN GENERAL.—The term 'qualified investment' means, with respect to any applicable taxpayer, means any amount paid or incurred with respect to—

''(A) section 263(c) costs,

''(B) qualified refinery property (as defined in section 179C(c) and determined without regard to any termination date),

''(C) any qualified facility described in paragraph (1), (2), (3), or (4) of section 45(d) (determined without regard to any placed in service date), or

''(D) any facility for the production renewable fuel or advanced biofuel (as defined in section 211(o) of the Clean Air Act 942 U.S.C. 7545).

''(2) SECTION 263(c) COSTS.—For purposes of this subsection, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

**''SEC. 5898. SPECIAL RULES AND DEFINITIONS.**

''(a) WITHHOLDING AND DEPOSIT OF TAX.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896.

''(b) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information as the Secretary may by regulations prescribe.

''(c) RETURN OF WINDFALL PROFIT TAX.—The Secretary shall provide for the filing and the time of such filing of the return of the tax imposed under section 5896.

''(d) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

''(e) BUSINESSES UNDER COMMON CONTROL.—For purposes of this chapter, all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:



(c) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—The first sentence of section 164(a) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The windfall profit tax imposed by section 5896.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 104. ENERGY INDEPENDENCE AND SECURITY TRUST FUND.**

(a) ESTABLISHMENT.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

**''SEC. 9511. ENERGY INDEPENDENCE AND SECURITY TRUST FUND.**

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as 'Energy Independence and Security Trust Fund' (referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the increase in the revenues received in the Treasury as the result of the amendments made by sections 101, 102, and 103 of the Consumer-First Energy Act of 2008.

''(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for the purposes of reducing the dependence of the United States on foreign and unsustainable energy sources and reducing the risks of global warming through programs and measures that—

''(1) reduce the burdens on consumers of rising energy prices;

''(2) diversify and expand the use of secure, efficient, and environmentally-friendly energy supplies and technologies;

''(3) result in net reductions in emissions of greenhouse gases; and

''(4) prevent energy price gouging, profiteering, and market manipulation.''.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following new item:



(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**TITLE II—PRICE GOUGING**

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''Petroleum Consumer Price Gouging Protection Act''.

**SEC. 202. DEFINITIONS.**

In this title:

(1) AFFECTED AREA.—The term ''affected area'' means an area covered by a Presidential declaration of energy emergency.

(2) SUPPLIER.—The term ''supplier'' means any person engaged in the trade or business of selling or reselling, at retail or wholesale, or distributing crude oil, gasoline, petroleum distillates, or biofuel.

(3) PRICE GOUGING.—The term ''price gouging'' means the charging of an unconscionably excessive price by a supplier in an affected area.

(4) UNCONSCIONABLY EXCESSIVE PRICE.—The term ''unconscionably excessive price'' means an average price charged during an energy emergency declared by the President in an area and for a product subject to the declaration, that—

(A)(i)(I) constitutes a gross disparity from the average price at which it was offered for sale in the usual course of the supplier's business during the 30 days prior to the President's declaration of an energy emergency; and

(II) grossly exceeds the prices at which the same or similar crude oil, gasoline, petroleum distillates, or biofuel was readily obtainable by purchasers from other suppliers in the same relevant geographic market within the affected area; or

(ii) represents an exercise of unfair leverage or unconscionable means on the part of the supplier, during a period of declared energy emergency; and

(B) is not attributable to increased wholesale or operational costs, including replacement costs, outside the control of the supplier, incurred in connection with the sale of crude oil, gasoline, petroleum distillates, or biofuel, and is not attributable to local, regional, national, or international market conditions.

(5) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

**SEC. 203. ENERGY EMERGENCY AND ADDITIONAL PRICE GOUGING ENFORCEMENT.**

(a) IN GENERAL.—During any energy emergency declared by the President under section 204 of this title, it is unlawful for any supplier to sell, or offer to sell crude oil, gasoline, petroleum distillates, or biofuel subject to that declaration in, or for use in, the area to which that declaration applies at an unconscionably excessive price.

(b) FACTORS CONSIDERED.—In determining whether a violation of subsection (a) has occurred, there shall be taken into account, among other factors, whether—

(1) the price charged was a price that would reasonably exist in a competitive and freely functioning market; and

(2) the amount of gasoline, other petroleum distillates, or biofuel the seller produced, distributed, or sold during the period the Proclamation was in effect increased over the average amount during the preceding 30 days.

**SEC. 204. PRESIDENTIAL DECLARATION OF ENERGY EMERGENCY.**

(a) IN GENERAL.—If the President finds that the health, safety, welfare, or economic well-being of the citizens of the United States is at risk because of a shortage or imminent shortage of adequate supplies of crude oil, gasoline, petroleum distillates, or biofuel due to a disruption in the national distribution system for crude oil, gasoline, petroleum distillates, or biofuel (including such a shortage related to a major disaster (as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2))), or significant pricing anomalies in national energy markets for crude oil, gasoline, petroleum distillates, or biofuel the President may declare that a Federal energy emergency exists.

(b) SCOPE AND DURATION.—The emergency declaration shall specify—

(1) the period, not to exceed 30 days, for which the declaration applies;

(2) the circumstance or condition necessitating the declaration; and

(3) the area or region to which it applies which may not be limited to a single State; and

(4) the product or products to which it applies.

(c) EXTENSIONS.—The President may—

(1) extend a declaration under subsection (a) for a period of not more than 30 days;

(2) extend such a declaration more than once; and

(3) discontinue such a declaration before its expiration.

**SEC. 205. ENFORCEMENT BY THE FEDERAL TRADE COMMISSION.**

(a) ENFORCEMENT.—This title shall be enforced by the Federal Trade Commission in the same manner, by the same means, and with the same jurisdiction as though all applicable terms of the Federal Trade Commission Act were incorporated into and made a part of this title. In enforcing section 203 of this title, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of crude oil, gasoline, petroleum distillates, and biofuel in excess of $500,000,000 per year but shall not exclude enforcement actions against companies with total United States wholesale sales of $500,000,000 or less per year.

(b) VIOLATION IS TREATED AS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—The violation of any provision of this title shall be treated as an unfair or deceptive act or practice proscribed under a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(c) COMMISSION ACTIONS.—Following the declaration of an energy emergency by the President under section 204 of this title, the Commission shall—

(1) maintain within the Commission—

(A) a toll-free hotline that a consumer may call to report an incident of price gouging in the affected area; and

(B) a program to develop and distribute to the public informational materials to assist residents of the affected area in detecting, avoiding, and reporting price gouging;

(2) consult with the Attorney General, the United States Attorney for the districts in which a disaster occurred (if the declaration is related to a major disaster), and State and local law enforcement officials to determine whether any supplier in the affected area is charging or has charged an unconscionably excessive price for crude oil, gasoline, petroleum distillates, or biofuel in the affected area; and

(3) conduct investigations as appropriate to determine whether any supplier in the affected area has violated section 203 of this title, and upon such finding, take any action the Commission determines to be appropriate to remedy the violation.

**SEC. 206. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 203 of this title, or to impose the civil penalties authorized by section 207 for violations of section 203, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a supplier engaged in the sale or resale, at retail or wholesale, or distribution of crude oil, gasoline, petroleum distillates, or biofuel in violation of section 203 of this title.

(b) NOTICE.—The State shall serve written notice to the Commission of any civil action under subsection (a) prior to initiating the action. The notice shall include a copy of the complaint to be filed to initiate the civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting the civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Commission may intervene in the civil action and, upon intervening—

(1) may be heard on all matters arising in such civil action; and

(2) may file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the Attorney General by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which—

(A) the defendant operates;

(B) the defendant was authorized to do business; or

(C) where the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action or an administrative action for violation of this title, a State attorney general, or official or agency of a State, may not bring an action under this section during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this title alleged in the Commission's civil or administrative action.

(g) NO PREEMPTION.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a civil or criminal statute of that State.

**SEC. 207. PENALTIES.**

(a) CIVIL PENALTY.—

(1) IN GENERAL.—In addition to any penalty applicable under the Federal Trade Commission Act, any supplier—

(A) that violates section 203 of this title is punishable by a civil penalty of not more than $1,000,000; and

(B) that violates section 203 of this title is punishable by a civil penalty of—

(i) not more than $500,000, in the case of an independent small business marketer of gasoline (within the meaning of section 324(c) of the Clean Air Act (42 U.S.C. 7625(c))); and

(ii) not more than $5,000,000 in the case of any other supplier.

(2) METHOD.—The penalties provided by paragraph (1) shall be obtained in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the court shall take into consideration, among other factors, the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

(b) CRIMINAL PENALTY.—Violation of section 203 of this title is punishable by a fine of not more than $5,000,000, imprisonment for not more than 5 years, or both.

**SEC. 208. EFFECT ON OTHER LAWS.**

(a) OTHER AUTHORITY OF THE COMMISSION.—Nothing in this title shall be construed to limit or affect in any way the Commission's authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) STATE LAW.—Nothing in this title preempts any State law.

## TITLE III—STRATEGIC PETROLEUM RESERVE

**SEC. 301. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.**

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) RESUMPTION.—Not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is $75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(c) EXISTING CONTRACTS.—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil for a period of not less than 1 year, in accordance with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.

## TITLE IV—NO OIL PRODUCING AND EXPORTING CARTELS

**SEC. 401. NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2008.**

(a) SHORT TITLE.—This section may be cited as the ''No Oil Producing and Exporting Cartels Act of 2008'' or ''NOPEC''.

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

**''SEC. 7A. OIL PRODUCING CARTELS.**

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.''.

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) in which the action is brought under section 7A of the Sherman Act.''.

## TITLE V—MARKET SPECULATION

**SEC. 501. SPECULATIVE LIMITS AND TRANSPARENCY FOR OFF-SHORE OIL TRADING.**

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—In the case of any foreign board of trade for which the Commission has granted or is considering an application to grant a board of trade located outside of the United States relief from the requirement of subsection (a) to become a designated contract market, derivatives transaction execution facility, or other registered entity, with respect to an energy commodity that is physically delivered in the United States, prior to continuing to or initially granting the relief, the Commission shall determine that the foreign board of trade—

''(A) applies comparable principles or requirements regarding the daily publication of trading information and position limits or accountability levels for speculators as apply to a designated contract market, derivatives transaction execution facility, or other registered entity trading energy commodities physically delivered in the United States; and

''(B) provides such information to the Commission regarding the extent of speculative and nonspeculative trading in the energy commodity that is comparable to the information the Commission determines necessary to publish a Commitment of Traders report for a designated contract market, derivatives transaction execution facility, or other registered entity trading energy commodities physically delivered in the United States.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—During the period beginning 1 year after the date of enactment of this subsection and ending 18 months after the date of enactment of this subsection, the Commission shall determine whether to continue to grant relief in accordance with paragraph (1) to any foreign board of trade for which the Commission granted relief prior to the date of enactment of this subsection.''.

**SEC. 502. MARGIN LEVEL FOR CRUDE OIL.**

(a) IN GENERAL.—Section 2(a)(1) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)) is amended by adding at the end the following:

''(G) MARGIN LEVEL FOR CRUDE OIL.—Not later than 90 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations to set a substantial increase in margin levels for crude oil traded on any trading facility or as part of any agreement, contract, or transaction covered by this Act in order to reduce excessive speculation and protect consumers.''.

(b) STUDIES.—

(1) STUDY RELATING TO EFFECT OF CERTAIN REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Commodity Futures Trading Commission shall submit to the appropriate committees of Congress a report describing the effect of the amendment made by subsection (a) on any trading facilities and agreements, contracts, and transactions covered by the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(2) STUDY RELATING TO EFFECTS OF CHANGES IN MARGIN LEVELS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report describing the effect (including any effect relating to trade volume or volatility) of any change of a margin level that occurred during the 10-year period ending on the date of enactment of this Act.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 554—EXPRESSING THE SENSE OF THE SENATE ON HUMANITARIAN ASSISTANCE TO BURMA AFTER CYCLONE NARGIS

Mr. KERRY (for himself, Mr. LUGAR, Mr. BIDEN, Mr. MCCONNELL, Mrs. FEINSTEIN, Mr. DURBIN, Mr. DODD, Mr. OBAMA, Mr. WEBB, Ms. MURKOWSKI, Mr. KENNEDY, Mr. MENENDEZ, Mr. FEINGOLD, Mr. LIEBERMAN, Mr. HAGEL, Mrs. BOXER, Mrs. CLINTON, Mrs. DOLE, Mr. MCCAIN, and Mr. COLEMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 554

Whereas, on May 3, 2008, Cyclone Nargis devastated Burma, leaving an estimated 22,500 people dead, 41,000 missing, and 1,000,000 homeless;

Whereas, on May 5, 2008, the United States embassy in Burma issued a disaster declaration authorizing $250,000 in immediate humanitarian assistance to the people of Burma;

Whereas, on May 5, 2008, First Lady Laura Bush stated that the United States will ''work with the U.N. and other international nongovernmental organizations to provide water, sanitation, food, and shelter. More assistance will be forthcoming'';

Whereas, on May 5, 2008, Department of State Deputy Spokesman Tom Casey stated that the United States has ''a disaster assistance response team that is standing by and ready to go in to Burma to help try to assess need there'';

Whereas, on May 6, 2008, President George W. Bush said, ''The United States has made an initial aid contribution, but we want to do a lot more. We're prepared to move U.S. Navy assets to help find those who've lost their lives, to help find the missing, to help stabilize the situation. But in order to do so, the military junta must allow our disaster assessment teams into the country.'';

Whereas, on May 6, 2008, President Bush pledged $3,000,000 in emergency assistance to victims of Cyclone Nargis, and stated that allowing the disaster assistance response team to enter the country would facilitate additional support;

Whereas the European Union has pledged to deliver $3,000,000 in initial emergency disaster assistance to Burma;

Whereas according to the United Nations Country Team in Burma, the average household in Burma is forced to spend almost ¾ of its budget on food and 1 in 3 children under the age of 5 is suffering from malnutrition;

Whereas the prevalence of tuberculosis in Burma is among the highest in the world, with nearly 97,000 new cases detected annually, malaria is the leading cause of mortality in Burma, with 70 percent of the population living in areas at risk, at least 37,000 died of HIV/AIDS in Burma in 2005 and over 600,000 are currently infected, and the World Health Organization has ranked the health sector of Burma as 190th out of 191 countries;

Whereas the failure of Burma's ruling State Peace and Development Council to meet the most basic humanitarian needs of the people of Burma has caused enormous suffering inside Burma and driven hundreds of thousands of Burmese citizens to seek refuge in neighboring countries, creating a threat to regional peace and stability; and

Whereas, in the aftermath of Cyclone Nargis, the State Peace and Development Council continues to restrict the access and freedom of movement of international nongovernmental organizations to deliver humanitarian assistance throughout Burma: Now, therefore, be it

*Resolved,* That it is the Sense of the Senate—

(1) to express deep sympathy to and strong support for the people of Burma, who have endured tremendous hardships over many years and face especially dire humanitarian conditions in the aftermath of Cyclone Nargis;

(2) to support the decision of President Bush to provide immediate emergency humanitarian assistance to Burma through nongovernmental organizations that are not affiliated with the Burmese regime or its officials and can effectively provide such assistance directly to the people of Burma;

(3) to stand ready to appropriate additional funds, beyond existing emergency international disaster assistance resources, if necessary to help address dire humanitarian conditions throughout Burma in the aftermath of Cyclone Nargis and beyond;

(4) to call upon the State Peace and Development Council to immediately lift restrictions on delivery of humanitarian assistance and allow free and unfettered access to the United States Government's disaster assistance response team and any organizations that legitimately provide humanitarian assistance; and

(5) that the United States Agency for International Development should conduct a comprehensive evaluation of which organizations are capable of providing humanitarian assistance directly to the people throughout Burma without interference by the State Peace and Development Council.

## SENATE CONCURRENT RESOLUTION 80—URGING THE PRESIDENT TO DESIGNATE A NATIONAL AIRBORNE DAY IN RECOGNITION OF PERSONS WHO ARE SERVING OR HAVE SERVED IN THE AIRBORNE FORCES OF THE ARMED SERVICES

Mr. HAGEL (for himself, Mr. GREGG, Mr. KERRY, Mr. REED, Mr. REID, Ms. SNOWE, and Mr. STEVENS) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 80

Whereas the airborne forces of the Armed Forces have a long and honorable history as units of adventuresome, hardy, and fierce warriors who, for the national security of the United States and the defense of freedom and peace, project the effective ground combat power of the United States by Air Force air transport to the far reaches of the battle area and, indeed, to the far corners of the world;

Whereas August 16 marks the anniversary of the first official Army parachute jump on August 16, 1940, an event that validated the innovative concept of inserting United States ground combat forces behind the battle line by means of a parachute;

Whereas the United States experiment of airborne infantry attack began on June 25, 1940, when the Army Parachute Test Platoon was first authorized by the Department of War, and was launched when 48 volunteers began training in July 1940;

Whereas the success of the Parachute Test Platoon in the days immediately preceding the entry of the United States into World War II led to the formation of a formidable force of airborne units that have served with distinction and have had repeated success in armed hostilities;

Whereas among those airborne units are the former 11th, 13th, and 17th Airborne Divisions, the venerable 82nd Airborne Division, the versatile 101st Airborne Division (Air Assault), and the airborne regiments and battalions (some as components of those divisions, some as separate units) that achieved distinction as the elite 75th Ranger Regiment, the 173rd Airborne Brigade, the 187th Infantry (Airborne) Regiment, the 503rd, 507th, 508th, 517th, 541st, and 542nd Parachute Infantry Regiments, the 88th Glider Infantry Regiment, the 509th, 551st, and 555th Parachute Infantry Battalions, and the 550th Airborne Infantry Battalion;

Whereas the achievements of the airborne forces during World War II prompted the evolution of those forces into a diversified force of parachute and air assault units that, over the years, have fought in Korea, Vietnam, Grenada, Panama, the Persian Gulf region, and Somalia, and have engaged in peacekeeping operations in Lebanon, the Sinai Peninsula, the Dominican Republic, Haiti, Bosnia, and Kosovo;

Whereas the modern-day airborne force that has evolved from those World War II beginnings is an agile, powerful force that, in large part, is composed of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), and the 75th Ranger Regiment;

Whereas the modern-day airborne force also includes other elite forces composed entirely of airborne trained and qualified special operations warriors, including Army Special Forces, Marine Corps Reconnaissance units, Navy SEALs, and Air Force combat control teams, all or most of which comprise the forces of the United States Special Operations Command;

Whereas in the aftermath of the terrorist attacks on the United States on September 11, 2001, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division and the 101st Airborne Division (Air Assault), together with other units of the Armed Forces, have been prosecuting the war against terrorism by carrying out combat operations in Afghanistan, training operations in the Philippines, and other operations elsewhere;

Whereas in the aftermath of the President's announcement of Operation Iraqi Freedom in March 2003, the 75th Ranger Regiment, special forces units, and units of the 82nd Airborne Division, the 101st Airborne Division (Air Assault), the 173rd Airborne Brigade, and the 4th Brigade Combat Team (Airborne) of the 25th Infantry Division, together with other units of the Armed Forces, have been prosecuting the war against terrorism, carrying out combat operations, conducting civil affairs missions, and assisting in establishing democracy in Iraq;

Whereas the airborne forces are and will continue to be at the ready and the forefront until the Global War on Terrorism is concluded;

Whereas of the members and former members of the United States combat airborne forces, all have achieved distinction by earning the right to wear the airborne's ''Silver Wings of Courage'', thousands have achieved the distinction of making combat jumps, 69 have earned the Medal of Honor, and hundreds have earned the Distinguished-Service Cross, Silver Star, or other decorations and awards for displays of such traits as heroism, gallantry, intrepidity, and valor;

Whereas the members and former members of the United States combat airborne forces are members of a proud and honorable fraternity of the profession of arms that is made exclusive by those distinctions which, together with their special skills and achievements, distinguish them as intrepid combat parachutists, special operation forces, and (in former days) glider troops;

Whereas the history and achievements of the members and former members of the airborne forces of the United States Armed Forces warrant special expressions of the gratitude of the American people; and

Whereas, since the airborne community celebrates August 16 as the anniversary of the first official jump by the Army Parachute Test Platoon, August 16 would be an appropriate day to recognize as National Airborne Day: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress urges the President to designate a National Airborne Day.

## SENATE CONCURRENT RESOLUTION 81—SUPPORTING THE GOALS AND IDEALS OF NATIONAL WOMEN'S HEALTH WEEK

Mr. FEINGOLD (for himself, Ms. SNOWE, Ms. MIKULSKI, and Mr. DODD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 81

Whereas women of all backgrounds have the power to greatly reduce their risk of common diseases through preventive measures, such as leading a healthy lifestyle that includes engaging in regular physical activity, eating a nutritious diet, and visiting a healthcare provider to receive regular checkups and preventative screenings;

Whereas significant disparities exist in the prevalence of disease among women of different backgrounds, including women with disabilities, African-American women, Asian-Pacific Islander women, Latinas, and American Indian-Alaska Native women;

Whereas healthy habits should begin at a young age;

Whereas preventive care saves Federal dollars designated for health care;

Whereas it is important to educate women and girls about the significance of awareness of key female health issues;

Whereas the offices of women's health within the Department of Health and Human Services, the Food and Drug Administration,

the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the National Institutes of Health, and the Agency for Healthcare Research and Quality are vital to providing critical services that support women's health research and education and other necessary services that benefit women of all ages, races, and ethnicities;

Whereas National Women's Health Week begins on Mother's Day each year and celebrates the efforts of national and community organizations that work with partners and volunteers to improve awareness of key women's health issues; and

Whereas, in 2008, the week of May 11 through May 17 is dedicated as National Women's Health Week: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) recognizes the importance of preventing diseases that commonly affect women;

(2) supports the goals and ideals of National Women's Health Week;

(3) calls on the people of the United States to use National Women's Health Week as an opportunity to learn about health issues that face women;

(4) calls on the women of the United States to observe National Women's Check-Up Day on May 12, 2008 by receiving preventive screenings from their healthcare providers; and

(5) recognizes the importance of Federally funded programs that provide research and collect data on diseases that commonly affect women.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4713. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table.

SA 4714. Mr. SCHUMER (for himself, Mrs. CLINTON, and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4715. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4716. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4717. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4718. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4719. Mr. WICKER (for himself, Mr. MARTINEZ, Mrs. CLINTON, Mr. VITTER, Ms. LANDRIEU, Mr. COCHRAN, and Mr. NELSON of Florida) proposed an amendment to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra.

SA 4720. Mr. McCONNELL (for himself, Mr. DOMENICI, Mr. ROBERTS, Mr. GREGG, Mrs. HUTCHISON, Mr. ISAKSON, Mr. STEVENS, Mr. INHOFE, Mr. ALLARD, Mr. BENNETT, Mr. BUNNING, Ms. MURKOWSKI, Mr. BOND, Mr. SESSIONS, Mr. ENZI, Mr. CHAMBLISS, and Mr. BARRASSO) proposed an amendment to the bill S. 2284, supra.

SA 4721. Mr. ALLARD proposed an amendment to amendment SA 4720 proposed by Mr. McCONNELL (for himself, Mr. DOMENICI, Mr. ROBERTS, Mr. GREGG, Mrs. HUTCHISON, Mr. ISAKSON, Mr. STEVENS, Mr. INHOFE, Mr. ALLARD, Mr. BENNETT, Mr. BUNNING, Ms. MURKOWSKI, Mr. BOND, Mr. SESSIONS, Mr. ENZI, Mr. CHAMBLISS, and Mr. BARRASSO) to the bill S. 2284, supra.

SA 4722. Mr. VITTER (for himself and Ms. LANDRIEU) proposed an amendment to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra.

SA 4723. Mr. VITTER (for himself and Ms. LANDRIEU) proposed an amendment to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra.

SA 4724. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4725. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4726. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4727. Mrs. McCASKILL submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4728. Mrs. McCASKILL submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4729. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4730. Mrs. DOLE submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4731. Mr. THUNE (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, supra; which was ordered to lie on the table.

SA 4732. Mr. PRYOR (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 2284, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 4713.** Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes.; which was ordered to lie on the table; as follows:

On page 25, line 2, strike ''; and'' and insert a semicolon.

On page 25, line 5, strike the period and insert a semicolon.

On page 25, between lines 5 and 6, insert the following:

(M) a representative of a State agency that has entered into a cooperating technical partnership with the Director and has demonstrated the capability to produce flood insurance rate maps; and

(N) a representative of a local government agency that has entered into a cooperating technical partnership with the Director and has demonstrated the capability to produce flood insurance rate maps.

**SA 4714.** Mr. SCHUMER (for himself, Mrs. CLINTON, and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. 133. MULTIPERIL COVERAGE FOR FLOOD AND WINDSTORM.**

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) MULTIPERIL COVERAGE FOR DAMAGE FROM FLOOD OR WINDSTORM.—

''(1) IN GENERAL.—Subject to paragraph (8), the national flood insurance program established pursuant to subsection (a) shall enable the purchase of optional insurance against loss resulting from physical damage to or loss of real property or personal property related thereto located in the United States arising from any flood or windstorm, subject to the limitations in this subsection and section 1306(b).

''(2) COMMUNITY PARTICIPATION REQUIREMENT.—Multiperil coverage pursuant to this subsection may not be provided in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate mitigation measures (with effective enforcement provisions) which the Director finds are consistent with the criteria for construction described in the International Code Council building codes relating to wind mitigation.

''(3) PROHIBITION AGAINST DUPLICATIVE COVERAGE.—Multiperil coverage pursuant to this subsection may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by flood insurance coverage made available under this title.

''(4) NATURE OF COVERAGE.—Multiperil coverage pursuant to this subsection shall—

''(A) cover losses only from physical damage resulting from flooding or windstorm; and

''(B) provide for approval and payment of claims under such coverage upon proof that such loss must have resulted from either windstorm or flooding, but shall not require for approval and payment of a claim that the specific cause of the loss, whether windstorm or flooding, be distinguished or identified.

''(5) ACTUARIAL RATES.—Multiperil coverage pursuant to this subsection shall be made available for purchase for a property only at chargeable risk premium rates that, based on consideration of the risks involved and accepted actuarial principles, and including operating costs and allowance and administrative expenses, are required in order to make such coverage available on an actuarial basis for the type and class of properties covered.

''(6) TERMS OF COVERAGE.—The Director shall, after consultation with persons and entities referred to in section 1306(a), provide by regulation for the general terms and conditions of insurability which shall be applicable to properties eligible for multiperil

coverage under this subsection, subject to the provisions of this subsection, including—

''(A) the types, classes, and locations of any such properties which shall be eligible for such coverage, which shall include residential and nonresidential properties;

''(B) subject to paragraph (7), the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such coverage;

''(C) the classification, limitation, and rejection of any risks which may be advisable;

''(D) appropriate minimum premiums;

''(E) appropriate loss deductibles; and

''(F) any other terms and conditions relating to insurance coverage or exclusion that may be necessary to carry out this subsection.

''(7) LIMITATIONS ON AMOUNT OF COVERAGE.—The regulations issued pursuant to paragraph (6) shall provide that the aggregate liability under multiperil coverage made available under this subsection shall not exceed the lesser of the replacement cost for covered losses or the following amounts, as applicable:

''(A) RESIDENTIAL STRUCTURES.—In the case of residential properties, which shall include structures containing multiple dwelling units that are made available for occupancy by rental (notwithstanding any treatment or classification of such properties for purposes of section 1306(b))—

''(i) for any single-family dwelling, $500,000;

''(ii) for any structure containing more than 1 dwelling unit, $500,000 for each separate dwelling unit in the structure, which limit, in the case of such a structure containing multiple dwelling units that are made available for occupancy by rental, shall be applied so as to enable any insured or applicant for insurance to receive coverage for the structure up to a total amount that is equal to the product of the total number of such rental dwelling units in such property and the maximum coverage limit per dwelling unit specified in this clause; and

''(iii) $150,000 per dwelling unit for—

''(I) any contents related to such unit; and

''(II) any necessary increases in living expenses incurred by the insured when losses from flooding or windstorm make the residence unfit to live in.

''(B) NONRESIDENTIAL PROPERTIES.—In the case of nonresidential properties (including church properties)—

''(i) $1,000,000 for any single structure; and

''(ii) $750,000 for—

''(I) any contents related to such structure; and

''(II) in the case of any nonresidential property that is a business property, any losses resulting from any partial or total interruption of the insured's business caused by damage to, or loss of, such property from flooding or windstorm, except that for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood or windstorm not occurred.

''(8) REQUIREMENT TO CEASE OFFERING COVERAGE IF BORROWING TO PAY CLAIMS.—If at any time the Director utilizes the borrowing authority under section 1309(a) for the purpose of obtaining amounts to pay claims under multiperil coverage made available under this subsection, the Director may not, during the period beginning upon the initial such use of such borrowing authority and ending upon repayment to the Secretary of the Treasury of the full amount of all outstanding notes and obligations issued by the Director for such purpose, together with all interest owed on such notes and obligations, enter into any new policy, or renew any existing policy, for coverage made available under this subsection.

''(9) EFFECTIVE DATE.—This subsection shall take effect on, and shall apply beginning on, June 30, 2008.''.

(b) PROHIBITION AGAINST DUPLICATIVE COVERAGE.—Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.), as amended by section 26, is further amended by adding at the end the following:

**''SEC. 1315. PROHIBITION AGAINST DUPLICATIVE COVERAGE.**

''Flood insurance under this title may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by multiperil insurance coverage made available pursuant to section 1304(c).''.

(c) COMPLIANCE WITH STATE AND LOCAL LAW.—Section 1316 of the National Flood Insurance Act of 1968 (42 U.S.C. 4023) is amended—

(1) by inserting ''(a) FLOOD PROTECTION MEASURES.—'' before ''No new''; and

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

''(b) WINDSTORM PROTECTION MEASURES.—No new multiperil coverage shall be provided under section 1304(c) for any property that the Director finds has been declared by a duly constituted State or local zoning authority, or other authorized public body to be in violation of State or local laws, regulations, or ordinances, which are intended to reduce damage caused by windstorms.''.

(d) CRITERIA FOR LAND MANAGEMENT AND USE.—Section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) is amended by adding at the end the following new subsection:

''(d) WINDSTORMS.—

''(1) STUDIES AND INVESTIGATIONS.—The Director shall carry out studies and investigations under this section to determine appropriate measures in wind events as to wind hazard prevention, and may enter into contracts, agreements, and other appropriate arrangements to carry out such activities. Such studies and investigations shall include laws, regulations, and ordinance relating to the orderly development and use of areas subject to damage from windstorm risks, and zoning building codes, building permits, and subdivision and other building restrictions for such areas.

''(2) CRITERIA.—On the basis of the studies and investigations pursuant to paragraph (1) and such other information as may be appropriate, the Direct shall establish comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will assist in reducing damage caused by windstorms, discourage density and intensity or range of use increases in locations subject to windstorm damage, and enforce restrictions on the alteration of wetlands coastal dunes and vegetation and other natural features that are known to prevent or reduce such damage.

''(3) COORDINATION WITH STATE AND LOCAL GOVERNMENTS.—The Director shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of criteria established under paragraph (2) and the adoption and enforcement of measures referred to in such paragraph.''.

(e) DEFINITIONS.—Section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121) is amended—

(1) in paragraph (14), by striking ''and'' at the end;

(2) in paragraph (15) by striking the period at the end and inserting ''; and''; and

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

''(16) the term 'windstorm' means any hurricane, tornado, cyclone, typhoon, or other wind event.''.

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**SA 4715.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, line 4 after the first period, insert the following:

''(h) USE OF MAPS TO ESTABLISH RATES FOR CERTAIN COUNTIES.—

''(1) IN GENERAL.—Until such time as the updating of flood insurance rate maps under section 19 of the Flood Modernization Act of 2007 is completed (as determined by the district engineer) for all areas located in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers, the Director shall not—

''(A) adjust the chargeable premium rate for flood insurance under this title for any type or class of property located in an area in that District; and

''(B) require the purchase of flood insurance for any type or class of property located in an area in that District not subject to such purchase requirement prior to the updating of such national flood insurance program rate map.

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, the term 'area' does not include any area (or subdivision thereof) that has chosen not to participate in the flood insurance program under this title as of the date of enactment of this subsection.''.

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**SA 4716.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. DISASTER ASSISTANCE.**

No person shall be eligible to receive disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or the Small Business Act (15 U.S.C. 631 et seq.) relating to damage to a property located in a 100-year floodplain caused by flooding, unless prior to such flooding that person purchased and maintained flood insurance for that property under the national flood insurance program established under chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

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**SA 4717.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 6, strike ''and''.

On page 8, line 9, strike ''policy.''.'' and insert the following: ''policy; and

''(3) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—

''(A) following a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); or

''(B) in connection with—

''(i) a repetitive loss property; or

''(ii) a severe repetitive loss property, as that term is defined under section 1361A.''.

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**SA 4718.** Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. 5-YEAR DISCOUNT OF FLOOD INSURANCE RATES FOR FORMERLY PROTECTED AREAS.**

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015), as previously amended by this Act, is further amended—

(1) in subsection (c), by inserting ''and subsection (i)'' before the first comma; and

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

''(i) 5-YEAR DISCOUNT OF FLOOD INSURANCE RATES FOR FORMERLY PROTECTED AREAS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law relating to chargeable risk premium rates for flood insurance coverage under this title, in the case of any area that previously was not designated as an area having special flood hazards because the area was protected by a flood protection system and that, pursuant to any updating, reviewing, or remapping of flood insurance program rate maps under this Act or any other subsequent Act, becomes designated as such an area as a result of the decertification of such flood protection system, during the 5-year period that begins upon the initial such designation of the area, the chargeable premium rate for flood insurance under this title with respect to any property that prior to the date of enactment of the Homeowner's Flood Insurance Protection Act of 2007 was located within such area shall be equal to 50 percent of the chargeable risk premium rate otherwise applicable under this title to the property.

''(2) RULE OF CONSTRUCTION.—For purposes of paragraph (1), any new property or structure developed, constructed, or otherwise built after the date of enactment of the Homeowner's Flood Insurance Protection Act of 2007 on any property described in such paragraph shall not be eligible for the chargeable premium rate discount under such paragraph.''.

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**SA 4719.** Mr. WICKER (for himself, Mr. MARTINEZ, Mrs. CLINTON, Mr. VITTER, Ms. LANDRIEU, Mr. COCHRAN, and Mr. NELSON of Florida) proposed an amendment to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; as follows:

At the end, insert the following:

**SEC. _____. MULTIPERIL COVERAGE FOR FLOOD AND WINDSTORM.**

(a) IN GENERAL.—Section 1304 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

''(c) MULTIPERIL COVERAGE FOR DAMAGE FROM FLOOD OR WINDSTORM.—

''(1) IN GENERAL.—Subject to paragraph (8), the national flood insurance program established pursuant to subsection (a) shall enable the purchase of optional insurance against loss resulting from physical damage to or loss of real property or personal property related thereto located in the United States arising from any flood or windstorm, subject to the limitations in this subsection and section 1306(b).

''(2) COMMUNITY PARTICIPATION REQUIREMENT.—Multiperil coverage pursuant to this subsection may not be provided in any area (or subdivision thereof) unless an appropriate public body shall have adopted adequate mitigation measures (with effective enforcement provisions) which the Director finds are consistent with the criteria for construction described in the International Code Council building codes relating to wind mitigation.

''(3) PROHIBITION AGAINST DUPLICATIVE COVERAGE.—Multiperil coverage pursuant to this subsection may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by flood insurance coverage made available under this title.

''(4) NATURE OF COVERAGE.—Multiperil coverage pursuant to this subsection shall—

''(A) cover losses only from physical damage resulting from flooding or windstorm; and

''(B) provide for approval and payment of claims under such coverage upon proof that such loss must have resulted from either windstorm or flooding, but shall not require for approval and payment of a claim that the specific cause of the loss, whether windstorm or flooding, be distinguished or identified.

''(5) ACTUARIAL RATES.—Multiperil coverage pursuant to this subsection shall be made available for purchase for a property only at chargeable risk premium rates that, based on consideration of the risks involved and accepted actuarial principles, and including operating costs and allowance and administrative expenses, are required in order to make such coverage available on an actuarial basis for the type and class of properties covered.

''(6) TERMS OF COVERAGE.—The Director shall, after consultation with persons and entities referred to in section 1306(a), provide by regulation for the general terms and conditions of insurability which shall be applicable to properties eligible for multiperil coverage under this subsection, subject to the provisions of this subsection, including—

''(A) the types, classes, and locations of any such properties which shall be eligible for such coverage, which shall include residential and nonresidential properties;

''(B) subject to paragraph (7), the nature and limits of loss or damage in any areas (or subdivisions thereof) which may be covered by such coverage;

''(C) the classification, limitation, and rejection of any risks which may be advisable;

''(D) appropriate minimum premiums;

''(E) appropriate loss deductibles; and

''(F) any other terms and conditions relating to insurance coverage or exclusion that may be necessary to carry out this subsection.

''(7) LIMITATIONS ON AMOUNT OF COVERAGE.—The regulations issued pursuant to paragraph (6) shall provide that the aggregate liability under multiperil coverage made available under this subsection shall not exceed the lesser of the replacement cost for covered losses or the following amounts, as applicable:

''(A) RESIDENTIAL STRUCTURES.—In the case of residential properties, which shall include structures containing multiple dwelling units that are made available for occupancy by rental (notwithstanding any treatment or classification of such properties for purposes of section 1306(b))—

''(i) for any single-family dwelling, $500,000;

''(ii) for any structure containing more than one dwelling unit, $500,000 for each separate dwelling unit in the structure, which limit, in the case of such a structure containing multiple dwelling units that are made available for occupancy by rental, shall be applied so as to enable any insured or applicant for insurance to receive coverage for the structure up to a total amount that is equal to the product of the total number of such rental dwelling units in such property and the maximum coverage limit per dwelling unit specified in this clause; and

''(iii) $150,000 per dwelling unit for—

''(I) any contents related to such unit; and

''(II) any necessary increases in living expenses incurred by the insured when losses from flooding or windstorm make the residence unfit to live in.

''(B) NONRESIDENTIAL PROPERTIES.—In the case of nonresidential properties (including church properties)—

''(i) $1,000,000 for any single structure; and

''(ii) $750,000 for—

''(I) any contents related to such structure; and

''(II) in the case of any nonresidential property that is a business property, any losses resulting from any partial or total interruption of the insured's business caused by damage to, or loss of, such property from flooding or windstorm, except that for purposes of such coverage, losses shall be determined based on the profits the covered business would have earned, based on previous financial records, had the flood or windstorm not occurred.

''(8) EFFECTIVE DATE.—This subsection shall take effect on, and shall apply beginning on, June 30, 2008.''.

(b) PROHIBITION AGAINST DUPLICATIVE COVERAGE.—Chapter 1 of The National Flood Insurance Act of 1968 is amended by adding at the end the following:

''PROHIBITION AGAINST DUPLICATIVE COVERAGE

''SEC. 1325. Flood insurance under this title may not be provided with respect to any structure (or the personal property related thereto) for any period during which such structure is covered, at any time, by multiperil insurance coverage made available pursuant to section 1304(c).''.

(c) COMPLIANCE WITH STATE AND LOCAL LAW.—Section 1316 of the National Flood Insurance Act of 1968 (42 U.S.C. 4023) is amended—

(1) by inserting ''(a) FLOOD PROTECTION MEASURES.—'' before ''No new''; and

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

''(b) WINDSTORM PROTECTION MEASURES.—No new multiperil coverage shall be provided under section 1304(c) for any property that the Director finds has been declared by a duly constituted State or local zoning authority, or other authorized public body to be in violation of State or local laws, regulations, or ordinances, which are intended to reduce damage caused by windstorms.''.

(d) CRITERIA FOR LAND MANAGEMENT AND USE.—Section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) is amended by adding at the end the following new subsection:

''(d) WINDSTORMS.—

''(1) STUDIES AND INVESTIGATIONS.—The Director shall carry out studies and investigations under this section to determine appropriate measures in wind events as to wind hazard prevention, and may enter into contracts, agreements, and other appropriate arrangements to carry out such activities. Such studies and investigations shall include laws, regulations, and ordinance relating to

the orderly development and use of areas subject to damage from windstorm risks, and zoning building codes, building permits, and subdivision and other building restrictions for such areas.

''(2) CRITERIA.—On the basis of the studies and investigations pursuant to paragraph (1) and such other information as may be appropriate, the Direct shall establish comprehensive criteria designed to encourage, where necessary, the adoption of adequate State and local measures which, to the maximum extent feasible, will assist in reducing damage caused by windstorms, discourage density and intensity or range of use increases in locations subject to windstorm damage, and enforce restrictions on the alteration of wetlands coastal dunes and vegetation and other natural features that are known to prevent or reduce such damage.

''(3) COORDINATION WITH STATE AND LOCAL GOVERNMENTS.—The Director shall work closely with and provide any necessary technical assistance to State, interstate, and local governmental agencies, to encourage the application of criteria established under paragraph (2) and the adoption and enforcement of measures referred to in such paragraph.''.

(e) DEFINITIONS.—Section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121) is amended—

(1) in paragraph (14), by striking ''and'' at the end;

(2) in paragraph (15) by striking the period at the end and inserting ''; and''; and

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

''(16) the term 'windstorm' means any hurricane, tornado, cyclone, typhoon, or other wind event.''.

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**SA 4720.** Mr. MCCONNELL (for himself, Mr. DOMENICI, Mr. ROBERTS, Mr. GREGG, Mrs. HUTCHISON, Mr. ISAKSON, Mr. STEVENS, Mr. INHOFE, Mr. ALLARD, Mr. BENNETT, Mr. BUNNING, Ms. MURKOWSKI, Mr. BOND, Mr. SESSIONS, Mr. ENZI, Mr. CHAMBLISS, and Mr. BARRASSO) proposed an amendment to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; as follows:

On page 72, line 15, of the bill strike ''House of Representatives'' and insert: House of Representatives.

**SECTION 33. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''American Energy Production Act of 2008''.

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



**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term ''Secretary'' means the Secretary of Energy.

## TITLE I—TRADITIONAL RESOURCES

### Subtitle A—Outer Continental Shelf

**SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.**

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Domestic Energy Production Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

**SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.**

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

**''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.**

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the

new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available under for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

''(iv) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

**SEC. 103. CONFORMING AMENDMENT.**

Sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

## Subtitle B—Leasing Program for Land Within Coastal Plain

**SEC. 111. DEFINITIONS.**

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

**SEC. 112. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.**

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

**SEC. 113. LEASE SALES.**

(a) IN GENERAL.—Land may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than September 30, 2012, conduct a second lease sale under this subtitle; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

**SEC. 114. GRANT OF LEASES BY THE SECRETARY.**

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 113 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

**SEC. 115. LEASE TERMS AND CONDITIONS.**

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 16½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 112(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this subtitle negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

**SEC. 116. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 112, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;
(C) North Slope Borough, Alaska; and
(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

**SEC. 117. EXPEDITED JUDICIAL REVIEW.**

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), during the 90-day period beginning on the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

**SEC. 118. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.**

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

**SEC. 119. CONVEYANCE.**

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

**SEC. 120. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.**

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 122(2), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 122(2)(A).

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

**SEC. 121. PROHIBITION ON EXPORTS.**

An oil or gas lease issued under this subtitle shall prohibit the exportation of oil or gas produced under the lease.

**SEC. 122. ALLOCATION OF REVENUES.**

Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.) or any other provision of law, of the adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this subtitle:

(1) 50 percent shall be deposited in the general fund of the Treasury.

(2) The remainder shall be available as follows:

(A) $35,000,000 shall be deposited by the Secretary of the Treasury into the fund created under section 120(a)(1).

(B) The remainder shall be disbursed to the State of Alaska.

**Subtitle C—Permitting**

**SEC. 131. REFINERY PERMITTING PROCESS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated authority by the Federal Government, or authorized under Federal law, to issue permits.

(4) REFINER.—The term ''refiner'' means a person that—

(A) owns or operates a refinery; or

(B) seeks to become an owner or operator of a refinery.

(5) REFINERY.—

(A) IN GENERAL.—The term ''refinery'' means—

(i) a facility at which crude oil is refined into transportation fuel or other petroleum products; and

(ii) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other fuel.

(B) INCLUSIONS.—The term ''refinery'' includes an expansion of a refinery.

(6) REFINERY EXPANSION.—The term ''refinery expansion'' means a physical change in a refinery that results in an increase in the capacity of the refinery.

(7) REFINERY PERMITTING AGREEMENT.—The term ''refinery permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under subsection (b).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(b) STREAMLINING OF REFINERY PERMITTING PROCESS.—

(1) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a refinery permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a refinery shall be streamlined using a systematic interdisciplinary multimedia approach as provided in this section.

(2) AUTHORITY OF ADMINISTRATOR.—Under a refinery permitting agreement—

(A) the Administrator shall have authority, as applicable and necessary, to—

(i) accept from a refiner a consolidated application for all permits that the refiner is required to obtain to construct and operate a refinery;

(ii) in consultation and cooperation with each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit, establish a schedule under which each agency shall—

(I) concurrently consider, to the maximum extent practicable, each determination to be made; and

(II) complete each step in the permitting process; and

(iii) issue a consolidated permit that combines all permits issued under the schedule established under clause (ii); and

(B) the Administrator shall provide to State and Indian tribal government agencies—

(i) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under subparagraph (A)(ii); and

(ii) technical, legal, and other assistance in complying with the refinery permitting agreement.

(3) AGREEMENT BY THE STATE.—Under a refinery permitting agreement, a State or governing body of an Indian tribe shall agree that—

(A) the Administrator shall have each of the authorities described in paragraph (2); and

(B) each State or Indian tribal government agency shall—

(i) in accordance with State law, make such structural and operational changes in the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(ii) comply, to the maximum extent practicable, with the applicable schedule established under paragraph (2)(A)(ii).

(4) DEADLINES.—

(A) NEW REFINERIES.—In the case of a consolidated permit for the construction of a new refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body

of the Indian tribe, 90 days after the expiration of the deadline established under clause (i).

(B) EXPANSION OF EXISTING REFINERIES.—In the case of a consolidated permit for the expansion of an existing refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under clause (i).

(5) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under paragraph (2)(A)(ii).

(6) JUDICIAL REVIEW.—Any civil action for review of any permit determination under a refinery permitting agreement shall be brought exclusively in the United States district court for the district in which the refinery is located or proposed to be located.

(7) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this title.

(8) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a refinery are not approved on or before any deadline established under paragraph (4), the Administrator may issue a consolidated permit that combines all other permits that the refiner is required to obtain other than any permits that are not approved.

(9) SAVINGS.—Nothing in this subsection affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a refinery.

(10) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(12) EFFECT ON LOCAL AUTHORITY.—Nothing in this subsection affects—

(A) the authority of a local government with respect to the issuance of permits; or

(B) any requirement or ordinance of a local government (such as a zoning regulation).

(c) FISCHER-TROPSCH FUELS.—

(1) IN GENERAL.—In cooperation with the Secretary of Energy, the Secretary of Defense, the Administrator of the Federal Aviation Administration, Secretary of Health and Human Services, and Fischer-Tropsch industry representatives, the Administrator shall—

(A) conduct a research and demonstration program to evaluate the air quality benefits of ultra-clean Fischer-Tropsch transportation fuel, including diesel and jet fuel;

(B) evaluate the use of ultra-clean Fischer-Tropsch transportation fuel as a mechanism for reducing engine exhaust emissions; and

(C) submit recommendations to Congress on the most effective use and associated benefits of these ultra-clean fuel for reducing public exposure to exhaust emissions.

(2) GUIDANCE AND TECHNICAL SUPPORT.—The Administrator shall, to the extent necessary, issue any guidance or technical support documents that would facilitate the effective use and associated benefit of Fischer-Tropsch fuel and blends.

(3) REQUIREMENTS.—The program described in paragraph (1) shall consider—

(A) the use of neat (100 percent) Fischer-Tropsch fuel and blends with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(B) the production costs associated with domestic production of those ultra clean fuel and prices for consumers.

(4) REPORTS.—The Administrator shall submit to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(A) not later than 1 year, an interim report on actions taken to carry out this subsection; and

(B) not later than 2 years, a final report on actions taken to carry out this subsection.

**SEC. 132. REMOVAL OF ADDITIONAL FEE FOR NEW APPLICATIONS FOR PERMITS TO DRILL.**

The second undesignated paragraph of the matter under the heading ''MANAGEMENT OF LANDS AND RESOURCES'' under the heading ''BUREAU OF LAND MANAGEMENT'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2098) is amended by striking ''to be reduced'' and all that follows through ''each new application,''.

### Subtitle D—Strategic Petroleum Reserve

**SEC. 141. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.**

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the 180-day period beginning on the date of enactment of this Act—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) RESUMPTION.—Effective beginning on the day after the end of the period described in subsection (a)—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

### Subtitle E—Restoration of State Revenue

**SEC. 151. RESTORATION OF STATE REVENUE.**

The matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''MINERALS MANAGEMENT SERVICE'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2109) is amended by striking ''Notwithstanding'' and all that follows through ''Treasury.''.

## TITLE II—ALTERNATIVE RESOURCES

### Subtitle A—Renewable Fuel and Advanced Energy Technology

**SEC. 201. DEFINITION OF RENEWABLE BIOMASS.**

Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended by striking subparagraph (I) and inserting the following:

''(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

''(i) nonmerchantable materials or precommercial thinnings that—

''(I) are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

''(aa) to reduce hazardous fuels;

''(bb) to reduce or contain disease or insect infestation; or

''(cc) to restore forest health;

''(II) would not otherwise be used for higher-value products; and

''(III) are harvested from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702))—

''(aa) where permitted by law; and

''(bb) in accordance with applicable land management plans and the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) and the requirements for large-tree retention of subsection (f) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

''(ii) any organic matter that is available on a renewable or recurring basis from non-Federal land or from land belonging to an Indian tribe, or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(I) renewable plant material, including—

''(aa) feed grains;

''(bb) other agricultural commodities;

''(cc) other plants and trees; and

''(dd) algae; and

''(II) waste material, including—

''(aa) crop residue;

''(bb) other vegetative waste material (including wood waste and wood residues);

''(cc) animal waste and byproducts (including fats, oils, greases, and manure); and

''(dd) food waste and yard waste.''.

**SEC. 202. ADVANCED BATTERY MANUFACTURING INCENTIVE PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device suitable for vehicle applications.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) incorporation of qualifying components into the design of advanced batteries; and

(B) design of tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced batteries.

(b) ADVANCED BATTERY MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to advanced battery manufacturers to pay not more than 30 percent of the cost of reequipping, expanding, or establishing a manufacturing facility in the United States to produce advanced batteries.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $25,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

(2) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in

which, as determined by the Secretary, the award recipient—

(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(C) has met such other criteria as may be established and published by the Secretary.

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary; and

(D) shall be made by the Federal Financing Bank.

(e) FEES.—The cost of administering a loan made under this section shall not exceed $100,000.

(f) SET ASIDE FOR SMALL MANUFACTURERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term ''covered firm'' means a firm that—

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.

**SEC. 203. BIOFUELS INFRASTRUCTURE AND ADDITIVES RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Assistant Administrator of the Office of Research and Development of the Environmental Protection Agency (referred to in this section as the ''Assistant Administrator''), in consultation with the Secretary and the National Institute of Standards and Technology, shall carry out a program of research and development of materials to be added to biofuels to make the biofuels more compatible with infrastructure used to store and deliver petroleum-based fuels to the point of final sale.

(b) REQUIREMENTS.—In carrying out the program described in subsection (a), the Assistant Administrator shall address—

(1) materials to prevent or mitigate—

(A) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;

(B) dissolving of storage tank sediments;

(C) clogging of filters;

(D) contamination from water or other adulterants or pollutants;

(E) poor flow properties relating to low temperatures;

(F) oxidative and thermal instability in long-term storage and use; and

(G) microbial contamination;

(2) problems associated with electrical conductivity;

(3) alternatives to conventional methods for refurbishment and cleaning of gasoline and diesel tanks, including tank lining applications;

(4) strategies to minimize emissions from infrastructure;

(5) issues with respect to certification by a nationally recognized testing laboratory of components for fuel-dispensing devises that specifically reference compatibility with alcohol-blended fuels and other biofuels that contain greater than 15 percent alcohol;

(6) challenges for design, reforming, storage, handling, and dispensing hydrogen fuel from various feedstocks, including biomass, from neighborhood fueling stations, including codes and standards development necessary beyond that carried out under section 809 of the Energy Policy Act of 2005 (42 U.S.C. 16158);

(7) issues with respect to at which point in the fuel supply chain additives optimally should be added to fuels; and

(8) other problems, as identified by the Assistant Administrator, in consultation with the Secretary and the National Institute of Standards and Technology.

**SEC. 204. STUDY OF INCREASED CONSUMPTION OF ETHANOL-BLENDED GASOLINE WITH HIGHER LEVELS OF ETHANOL.**

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, and after providing notice and an opportunity for public comment, shall conduct a study of the feasibility of increasing consumption in the United States of ethanol-blended gasoline with levels of ethanol that are not less than 10 percent and not more than 40 percent.

(b) STUDY.—The study under subsection (a) shall include—

(1) a review of production and infrastructure constraints on increasing consumption of ethanol;

(2) an evaluation of the economic, market, and energy-related impacts of State and regional differences in ethanol blends;

(3) an evaluation of the economic, market, and energy-related impacts on gasoline retailers and consumers of separate and distinctly labeled fuel storage facilities and dispensers;

(4) an evaluation of the environmental impacts of mid-level ethanol blends on evaporative and exhaust emissions from on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(5) an evaluation of the impacts of mid-level ethanol blends on the operation, durability, and performance of on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(6) an evaluation of the safety impacts of mid-level ethanol blends on consumers that own and operate off-road and marine engines, recreational boats, vehicles, or equipment; and

(7) an evaluation of the impacts of increased use of renewable fuels derived from food crops on the price and supply of agricultural commodities in both domestic and global markets.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study conducted under this section.

**SEC. 205. STUDY OF DIESEL VEHICLE ATTRIBUTES.**

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as the vehicles compare to comparable gasoline fueled, E-85 fueled, and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

## Subtitle B—Clean Coal-Derived Fuels for Energy Security

**SEC. 211. SHORT TITLE.**

This subtitle may be cited as the ''Clean Coal-Derived Fuels for Energy Security Act of 2008''.

**SEC. 212. DEFINITIONS.**

In this subtitle:

(1) CLEAN COAL-DERIVED FUEL.—

(A) IN GENERAL.—The term ''clean coal-derived fuel'' means aviation fuel, motor vehicle fuel, home heating oil, or boiler fuel that is—

(i) substantially derived from the coal resources of the United States; and

(ii) refined or otherwise processed at a facility located in the United States that captures up to 100 percent of the carbon dioxide emissions that would otherwise be released at the facility.

(B) INCLUSIONS.—The term ''clean coal-derived fuel'' may include any other resource that is extracted, grown, produced, or recovered in the United States.

(2) COVERED FUEL.—The term ''covered fuel'' means—

(A) aviation fuel;

(B) motor vehicle fuel;

(C) home heating oil; and

(D) boiler fuel.

(3) SMALL REFINERY.—The term ''small refinery'' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

**SEC. 213. CLEAN COAL-DERIVED FUEL PROGRAM.**

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall promulgate regulations to ensure that covered fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of clean coal-derived fuel determined in accordance with paragraph (4).

(2) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under paragraph (1)—

(A) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that—

(i) the requirements of this subsection are met; and

(ii) clean coal-derived fuels produced from facilities for the purpose of compliance with this subtitle result in life cycle greenhouse gas emissions that are not greater than gasoline; and

(B) shall not—

(i) restrict geographic areas in the contiguous United States in which clean coal-derived fuel may be used; or

(ii) impose any per-gallon obligation for the use of clean coal-derived fuel.

(3) RELATIONSHIP TO OTHER REGULATIONS.—Regulations promulgated under this paragraph shall, to the maximum extent practicable, incorporate the program structure, compliance and reporting requirements established under the final regulations promulgated to implement the renewable fuel program established by the amendment made by section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1067).

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years 2015 through 2022 shall be determined in accordance with the following table:

| Calendar year: | Applicable volume of clean coal-derived fuel (in billions of gallons): |
|---|---|
| 2015 | 0.75 |
| 2016 | 1.5 |
| 2017 | 2.25 |
| 2018 | 3.00 |
| 2019 | 3.75 |
| 2020 | 4.5 |
| 2021 | 5.25 |
| 2022 | 6.0 |

(B) CALENDAR YEAR 2023 AND THEREAFTER.—Subject to subparagraph (C), for the purposes of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be determined by the President, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2015 through 2022, including a review of—

(i) the impact of clean coal-derived fuels on the energy security of the United States;

(ii) the expected annual rate of future production of clean coal-derived fuels; and

(iii) the impact of the use of clean coal-derived fuels on other factors, including job creation, rural economic development, and the environment.

(C) MINIMUM APPLICABLE VOLUME.—For the purpose of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of covered fuel that the President estimates will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(I) 6,000,000,000 gallons of clean coal-derived fuel; bears to

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

(B) REQUIRED ELEMENTS.—The clean coal-derived fuel obligation determined for a calendar year under subparagraph (A) shall—

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

(B) to account for the use of clean coal-derived fuel during the previous calendar year by small refineries that are exempt under subsection (f).

(c) VOLUME CONVERSION FACTORS FOR CLEAN COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

(1) IN GENERAL.—For the purpose of subsection (a), the President shall assign values to specific types of clean coal-derived fuel for the purpose of satisfying the fuel volume requirements of subsection (a)(4) in accordance with this subsection.

(2) ENERGY CONTENT RELATIVE TO DIESEL FUEL.—For clean coal-derived fuels, 1 gallon of the clean coal-derived fuel shall be considered to be the equivalent of 1 gallon of diesel fuel multiplied by the ratio that—

(A) the number of British thermal units of energy produced by the combustion of 1 gallon of the clean coal-derived fuel (as measured under conditions determined by the Secretary); bears to

(B) the number of British thermal units of energy produced by the combustion of 1 gallon of diesel fuel (as measured under conditions determined by the Secretary to be comparable to conditions described in subparagraph (A)).

(d) CREDIT PROGRAM.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the clean coal-derived fuel requirement of this section.

(2) MARKET TRANSPARENCY.—In carrying out the credit program under this subsection, the President shall facilitate price transparency in markets for the sale and trade of credits, with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(e) WAIVERS.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, may waive the requirements of subsection (a) in whole or in part on petition by 1 or more States by reducing the national quantity of clean coal-derived fuel required under subsection (a), based on a determination by the President (after public notice and opportunity for comment), that—

(A) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(B) extreme and unusual circumstances exist that prevent distribution of an adequate supply of domestically-produced clean coal-derived fuel to consumers in the United States.

(2) PETITIONS FOR WAIVERS.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall approve or disapprove a State petition for a waiver of the requirements of subsection (a) within 90 days after the date on which the petition is received by the President.

(3) TERMINATION OF WAIVERS.—A waiver granted under paragraph (1) shall terminate after 1 year, but may be renewed by the President after consultation with the Secretary and the Administrator of the Environmental Protection Agency.

(f) SMALL REFINERIES.—

(1) TEMPORARY EXEMPTION.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply to small refineries until calendar year 2018.

(B) EXTENSION OF EXEMPTION.—

(i) STUDY BY SECRETARY.—Not later than December 31, 2013, the Secretary shall submit to the President and Congress a report describing the results of a study to determine whether compliance with the requirements of subsection (a) would impose a disproportionate economic hardship on small refineries.

(ii) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary determines under clause (i) would be subject to a disproportionate economic hardship if required to comply with subsection (a), the President shall extend the exemption under subparagraph (A) for the small refinery for a period of not less than 2 additional years.

(2) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the President for an extension of the exemption under paragraph (1) for the reason of disproportionate economic hardship.

(B) EVALUATION OF PETITIONS.—In evaluating a petition under subparagraph (A), the President, in consultation with the Secretary, shall consider the findings of the study under paragraph (1)(B) and other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) $25,000 for each day of the violation; and

(ii) the amount of economic benefit or savings received by the person resulting from the violation, as determined by the President.

(B) COLLECTION.—Civil penalties under subparagraph (A) shall be assessed by, and collected in a civil action brought by, the Secretary or such other officer of the United States as is designated by the President.

(2) INJUNCTIVE AUTHORITY.—

(A) IN GENERAL.—The district courts of the United States shall have jurisdiction to—

(i) restrain a violation of a regulation promulgated under subsection (a);

(ii) award other appropriate relief; and

(iii) compel the furnishing of information required under the regulation.

(B) ACTIONS.—An action to restrain such violations and compel such actions shall be brought by and in the name of the United States.

(C) SUBPOENAS.—In the action, a subpoena for a witness who is required to attend a district court in any district may apply in any other district.

(h) EFFECTIVE DATE.—Except as otherwise specifically provided in this section, this section takes effect on January 1, 2016.

**Subtitle C—Oil Shale**

**SEC. 221. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.**

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

**Subtitle D—Department of Defense Facilitation of Secure Domestic Fuel Development**

**SEC. 231. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.**

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

**SEC. 232. MULTIYEAR CONTRACT AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR THE PROCUREMENT OF SYNTHETIC FUELS.**

(a) MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF SYNTHETIC FUELS AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

**''§ 2410r. Multiyear contract authority: purchase of synthetic fuels**

''(a) MULTIYEAR CONTRACTS AUTHORIZED.—The head of an agency may enter into contracts for a period not to exceed 25 years for the purchase of synthetic fuels.

''(b) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

''(2) The term 'synthetic fuel' means any liquid, gas, or combination thereof that—

''(A) can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks); and

''(B) is produced by chemical or physical transformation of domestic sources of energy.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

''2410r. Multiyear contract authority: purchase of synthetic fuels.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations providing that the head of an agency may initiate a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), only if the head of the agency has determined in writing that—

(1) there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(2) the technical risks associated with the technologies for the production of synthetic fuel under the contract are not excessive; and

(3) the contract will contain appropriate pricing mechanisms to minimize risk to the Government from significant changes in market prices for energy.

(c) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under the authority in section 2410r of title 10, United States Code (as so added), until the regulations required by subsection (b) are prescribed.

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**SA 4721.** Mr. ALLARD proposed an amendment to amendment SA 4720 proposed by Mr. MCCONNELL to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency to the flood insurance fund, and for other purposes; as follows:

On Page 1, strike all after ''TITLE I—TRADITIONAL RESOURCES'' and insert:



**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term ''Secretary'' means the Secretary of Energy.

**TITLE I—TRADITIONAL RESOURCES**

**Subtitle A—Outer Continental Shelf**

**SEC. 101. PUBLICATION OF PROJECTED STATE LINES ON OUTER CONTINENTAL SHELF.**

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended—

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by inserting before the period at the end the following: ''not later than 90 days after the date of enactment of the Domestic Energy Production Act of 2008''; and

(3) by inserting after clause (i) (as so designated) the following:

''(ii)(I) The projected lines shall also be used for the purpose of preleasing and leasing activities conducted in new producing areas under section 32.

''(II) This clause shall not affect any property right or title to Federal submerged land on the outer Continental Shelf.

''(III) In carrying out this clause, the President shall consider the offshore administrative boundaries beyond State submerged lands for planning, coordination, and administrative purposes of the Department of the Interior, but may establish different boundaries.''.

**SEC. 102. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.**

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

**''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.**

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) (as in effect on the day before the date of enactment of this section).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area within the offshore administrative boundaries beyond the submerged land of a State that is located greater than 50 miles from the coastline of the State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has, within the offshore administrative boundaries beyond the submerged land of the State, a new producing area available for oil and gas leasing under subsection (b).

''(5) OFFSHORE ADMINISTRATIVE BOUNDARIES.—The term 'offshore administrative boundaries' means the administrative boundaries established by the Secretary beyond State submerged land for planning, coordination, and administrative purposes of the Department of the Interior and published in the Federal Register on January 3, 2006 (71 Fed. Reg. 127).

''(6) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) PETITION FOR LEASING NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Beginning on the date on which the President delineates projected State lines under section 4(a)(2)(A)(ii), the Governor of a State with a new producing area within the offshore administrative boundaries beyond the submerged land of the State may submit to the Secretary a petition requesting that the Secretary make the new producing area available for oil and gas leasing.

''(2) ACTION BY SECRETARY.—Notwithstanding section 18, as soon as practicable after receipt of a petition under paragraph (1), the Secretary shall approve the petition if the Secretary determines that leasing the new producing area would not create an unreasonable risk of harm to the marine, human, or coastal environment.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l* –8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available under for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

''(iv) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.''.

**SEC. 103. CONFORMING AMENDMENT.**

Sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118) are repealed.

## Subtitle B—Leasing Program for Land Within Coastal Plain

**SEC. 111. DEFINITIONS.**

In this subtitle:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as the ''1002 Coastal Plain Area'' on the map.

(2) FEDERAL AGREEMENT.—The term ''Federal Agreement'' means the Federal Agreement and Grant Right-of-Way for the Trans-Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term ''Final Statement'' means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term ''map'' means the map entitled ''Arctic National Wildlife Refuge'', dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service and in coordination with a State coordinator appointed by the Governor of the State of Alaska.

**SEC. 112. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.**

(a) IN GENERAL.—

(1) AUTHORIZATION.—Congress authorizes the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain.

(2) ACTIONS.—The Secretary shall take such actions as are necessary—

(A) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain while taking into consideration the interests and concerns of residents of the Coastal Plain, which is the homeland of the Kaktovikmiut Inupiat; and

(B) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(i) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(ii) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.)—

(A) the oil and gas pre-leasing and leasing program, and activities authorized by this section in the Coastal Plain, shall be considered to be compatible with the purposes for which the Arctic National Wildlife Refuge was established; and

(B) no further findings or decisions shall be required to implement that program and those activities.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The Final Statement shall be considered to satisfy the requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) that apply with respect to pre-leasing activities, including exploration programs and actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this subtitle before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(e) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that—

(A) respects and protects the Native people of the area; and

(B) preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(g) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, in consultation with appropriate agencies of the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, the Secretary shall issue such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, and subsistence resources of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary may periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant scientific or engineering data that come to the attention of the Secretary.

**SEC. 113. LEASE SALES.**

(a) IN GENERAL.—Land may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—For the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than September 30, 2012, conduct a second lease sale under this subtitle; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

**SEC. 114. GRANT OF LEASES BY THE SECRETARY.**

(a) IN GENERAL.—Upon payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 113 a lease for any land on the Coastal Plain.

(b) SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) CONDITION FOR APPROVAL.—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

**SEC. 115. LEASE TERMS AND CONDITIONS.**

(a) IN GENERAL.—An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 16½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) upon application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 112(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and regulations issued under this subtitle.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this subtitle, and in recognizing the proprietary interest of the Federal Government in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this subtitle (including the special concerns of the parties to those leases), shall require that each lessee, and each agent and contractor of a lessee, under this subtitle negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

**SEC. 116. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—In accordance with section 112, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of

pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific environmental analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan occur after consultation with—

(A) each agency having jurisdiction over matters mitigated by the plan;

(B) the State of Alaska;

(C) North Slope Borough, Alaska; and

(D) the City of Kaktovik, Alaska.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements;

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary, after consultation with the State of Alaska, North Slope Borough, Alaska, and the City of Kaktovik, Alaska, determines to be necessary.

(e) CONSIDERATIONS.—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC–ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) OBJECTIVES.—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LAND.—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

**SEC. 117. EXPEDITED JUDICIAL REVIEW.**

(a) FILING OF COMPLAINTS.—

(1) DEADLINE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), during the 90-day period beginning on the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) VENUE.—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia.

(3) SCOPE.—

(A) IN GENERAL.—Judicial review of a decision of the Secretary under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) PRESUMPTIONS.—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) LIMITATION ON OTHER REVIEW.—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

**SEC. 118. RIGHTS-OF-WAY AND EASEMENTS ACROSS COASTAL PLAIN.**

For purposes of section 1102(4)(A) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3162(4)(A)), any rights-of-way or easements across the Coastal Plain for the exploration, development, production, or transportation of oil and gas shall be considered to be established incident to the management of the Coastal Plain under this section.

**SEC. 119. CONVEYANCE.**

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corporation under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

**SEC. 120. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.**

(a) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—As a condition on the receipt of funds under section 122(2), the State of Alaska shall establish in the treasury of the State, and administer in accordance with this section, a fund to be known as the ''Coastal Plain Local Government Impact Aid Assistance Fund'' (referred to in this section as the ''Fund'').

(2) DEPOSITS.—Subject to paragraph (1), the Secretary of the Treasury shall deposit into the Fund, $35,000,000 each year from the amount available under section 122(2)(A).

(3) INVESTMENT.—The Governor of the State of Alaska (referred to in this section as the ''Governor'') shall invest amounts in the Fund in interest-bearing securities of the United States or the State of Alaska.

(b) ASSISTANCE.—The Governor, in cooperation with the Mayor of the North Slope Borough, shall use amounts in the Fund to provide assistance to North Slope Borough, Alaska, the City of Kaktovik, Alaska, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, or any Alaska Native Regional Corporation acting on behalf of the villages and communities within its region whose lands lie along the right of way of the Trans Alaska Pipeline System, as determined by the Governor.

(c) APPLICATION.—

(1) IN GENERAL.—To receive assistance under subsection (b), a community or Regional Corporation described in that subsection shall submit to the Governor, or to the Mayor of the North Slope Borough, an application in such time, in such manner, and containing such information as the Governor may require.

(2) ACTION BY NORTH SLOPE BOROUGH.—The Mayor of the North Slope Borough shall submit to the Governor each application received under paragraph (1) as soon as practicable after the date on which the application is received.

(3) ASSISTANCE OF GOVERNOR.—The Governor shall assist communities in submitting applications under this subsection, to the maximum extent practicable.

(d) USE OF FUNDS.—A community or Regional Corporation that receives funds under subsection (b) may use the funds—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services;

(3) to compensate residents of the Coastal Plain for significant damage to environmental, social, cultural, recreational, or subsistence resources; and

(4) in the City of Kaktovik, Alaska—

(A) to develop a mechanism for providing members of the Kaktovikmiut Inupiat community an opportunity to—

(i) monitor development on the Coastal Plain; and

(ii) provide information and recommendations to the Governor based on traditional aboriginal knowledge of the natural resources, flora, fauna, and ecological processes of the Coastal Plain; and

(B) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(i) to coordinate with and advise developers on local conditions and the history of areas affected by development;

(ii) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development;

(iii) to collect from residents of the Coastal Plain information regarding the impacts of development on fish, wildlife, habitats, subsistence resources, and the environment of the Coastal Plain; and

(iv) to ensure that the information collected under clause (iii) is submitted to—

(I) developers; and

(II) any appropriate Federal agency.

**SEC. 121. PROHIBITION ON EXPORTS.**

An oil or gas lease issued under this subtitle shall prohibit the exportation of oil or gas produced under the lease.

**SEC. 122. ALLOCATION OF REVENUES.**

Notwithstanding the Mineral Leasing Act (30 U.S.C. 181 et seq.) or any other provision of law, of the adjusted bonus, rental, and royalty receipts from Federal oil and gas leasing and operations authorized under this subtitle:

(1) 50 percent shall be deposited in the general fund of the Treasury.

(2) The remainder shall be available as follows:

(A) $35,000,000 shall be deposited by the Secretary of the Treasury into the fund created under section 120(a)(1).

(B) The remainder shall be disbursed to the State of Alaska.

**Subtitle C—Permitting**

**SEC. 131. REFINERY PERMITTING PROCESS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PERMIT.—The term ''permit'' means any permit, license, approval, variance, or other form of authorization that a refiner is required to obtain—

(A) under any Federal law; or

(B) from a State or Indian tribal government agency delegated authority by the Federal Government, or authorized under Federal law, to issue permits.

(4) REFINER.—The term ''refiner'' means a person that—

(A) owns or operates a refinery; or

(B) seeks to become an owner or operator of a refinery.

(5) REFINERY.—

(A) IN GENERAL.—The term ''refinery'' means—

(i) a facility at which crude oil is refined into transportation fuel or other petroleum products; and

(ii) a coal liquification or coal-to-liquid facility at which coal is processed into synthetic crude oil or any other fuel.

(B) INCLUSIONS.—The term ''refinery'' includes an expansion of a refinery.

(6) REFINERY EXPANSION.—The term ''refinery expansion'' means a physical change in a refinery that results in an increase in the capacity of the refinery.

(7) REFINERY PERMITTING AGREEMENT.—The term ''refinery permitting agreement'' means an agreement entered into between the Administrator and a State or Indian tribe under subsection (b).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(9) STATE.—The term ''State'' means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico; and

(D) any other territory or possession of the United States.

(b) STREAMLINING OF REFINERY PERMITTING PROCESS.—

(1) IN GENERAL.—At the request of the Governor of a State or the governing body of an Indian tribe, the Administrator shall enter into a refinery permitting agreement with the State or Indian tribe under which the process for obtaining all permits necessary for the construction and operation of a refinery shall be streamlined using a systematic interdisciplinary multimedia approach as provided in this section.

(2) AUTHORITY OF ADMINISTRATOR.—Under a refinery permitting agreement—

(A) the Administrator shall have authority, as applicable and necessary, to—

(i) accept from a refiner a consolidated application for all permits that the refiner is required to obtain to construct and operate a refinery;

(ii) in consultation and cooperation with each Federal, State, or Indian tribal government agency that is required to make any determination to authorize the issuance of a permit, establish a schedule under which each agency shall—

(I) concurrently consider, to the maximum extent practicable, each determination to be made; and

(II) complete each step in the permitting process; and

(iii) issue a consolidated permit that combines all permits issued under the schedule established under clause (ii); and

(B) the Administrator shall provide to State and Indian tribal government agencies—

(i) financial assistance in such amounts as the agencies reasonably require to hire such additional personnel as are necessary to enable the government agencies to comply with the applicable schedule established under subparagraph (A)(ii); and

(ii) technical, legal, and other assistance in complying with the refinery permitting agreement.

(3) AGREEMENT BY THE STATE.—Under a refinery permitting agreement, a State or governing body of an Indian tribe shall agree that—

(A) the Administrator shall have each of the authorities described in paragraph (2); and

(B) each State or Indian tribal government agency shall—

(i) in accordance with State law, make such structural and operational changes in

the agencies as are necessary to enable the agencies to carry out consolidated project-wide permit reviews concurrently and in coordination with the Environmental Protection Agency and other Federal agencies; and

(ii) comply, to the maximum extent practicable, with the applicable schedule established under paragraph (2)(A)(ii).

(4) DEADLINES.—

(A) NEW REFINERIES.—In the case of a consolidated permit for the construction of a new refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 360 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 90 days after the expiration of the deadline established under clause (i).

(B) EXPANSION OF EXISTING REFINERIES.—In the case of a consolidated permit for the expansion of an existing refinery, the Administrator and the State or governing body of an Indian tribe shall approve or disapprove the consolidated permit not later than—

(i) 120 days after the date of the receipt of the administratively complete application for the consolidated permit; or

(ii) on agreement of the applicant, the Administrator, and the State or governing body of the Indian tribe, 30 days after the expiration of the deadline established under clause (i).

(5) FEDERAL AGENCIES.—Each Federal agency that is required to make any determination to authorize the issuance of a permit shall comply with the applicable schedule established under paragraph (2)(A)(ii).

(6) JUDICIAL REVIEW.—Any civil action for review of any permit determination under a refinery permitting agreement shall be brought exclusively in the United States district court for the district in which the refinery is located or proposed to be located.

(7) EFFICIENT PERMIT REVIEW.—In order to reduce the duplication of procedures, the Administrator shall use State permitting and monitoring procedures to satisfy substantially equivalent Federal requirements under this title.

(8) SEVERABILITY.—If 1 or more permits that are required for the construction or operation of a refinery are not approved on or before any deadline established under paragraph (4), the Administrator may issue a consolidated permit that combines all other permits that the refiner is required to obtain other than any permits that are not approved.

(9) SAVINGS.—Nothing in this subsection affects the operation or implementation of otherwise applicable law regarding permits necessary for the construction and operation of a refinery.

(10) CONSULTATION WITH LOCAL GOVERNMENTS.—Congress encourages the Administrator, States, and tribal governments to consult, to the maximum extent practicable, with local governments in carrying out this subsection.

(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(12) EFFECT ON LOCAL AUTHORITY.—Nothing in this subsection affects—

(A) the authority of a local government with respect to the issuance of permits; or

(B) any requirement or ordinance of a local government (such as a zoning regulation).

(c) FISCHER-TROPSCH FUELS.—

(1) IN GENERAL.—In cooperation with the Secretary of Energy, the Secretary of Defense, the Administrator of the Federal Aviation Administration, Secretary of Health and Human Services, and Fischer-Tropsch industry representatives, the Administrator shall—

(A) conduct a research and demonstration program to evaluate the air quality benefits of ultra-clean Fischer-Tropsch transportation fuel, including diesel and jet fuel;

(B) evaluate the use of ultra-clean Fischer-Tropsch transportation fuel as a mechanism for reducing engine exhaust emissions; and

(C) submit recommendations to Congress on the most effective use and associated benefits of these ultra-clean fuel for reducing public exposure to exhaust emissions.

(2) GUIDANCE AND TECHNICAL SUPPORT.—The Administrator shall, to the extent necessary, issue any guidance or technical support documents that would facilitate the effective use and associated benefit of Fischer-Tropsch fuel and blends.

(3) REQUIREMENTS.—The program described in paragraph (1) shall consider—

(A) the use of neat (100 percent) Fischer-Tropsch fuel and blends with conventional crude oil-derived fuel for heavy-duty and light-duty diesel engines and the aviation sector; and

(B) the production costs associated with domestic production of those ultra clean fuel and prices for consumers.

(4) REPORTS.—The Administrator shall submit to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives—

(A) not later than 1 year, an interim report on actions taken to carry out this subsection; and

(B) not later than 2 years, a final report on actions taken to carry out this subsection.

**SEC. 132. REMOVAL OF ADDITIONAL FEE FOR NEW APPLICATIONS FOR PERMITS TO DRILL.**

The second undesignated paragraph of the matter under the heading ''MANAGEMENT OF LANDS AND RESOURCES'' under the heading ''BUREAU OF LAND MANAGEMENT'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2098) is amended by striking ''to be reduced'' and all that follows through ''each new application,''.

### Subtitle D—Strategic Petroleum Reserve

**SEC. 141. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.**

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the 180-day period beginning on the date of enactment of this Act—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) RESUMPTION.—Effective beginning on the day after the end of the period described in subsection (a)—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

### Subtitle E—Restoration of State Revenue

**SEC. 151. RESTORATION OF STATE REVENUE.**

The matter under the heading ''ADMINISTRATIVE PROVISIONS'' under the heading ''MINERALS MANAGEMENT SERVICE'' of title I of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2109) is amended by striking ''Notwithstanding'' and all that follows through ''Treasury.''.

## TITLE II—ALTERNATIVE RESOURCES

### Subtitle A—Renewable Fuel and Advanced Energy Technology

**SEC. 201. DEFINITION OF RENEWABLE BIOMASS.**

Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended by striking subparagraph (I) and inserting the following:

''(I) RENEWABLE BIOMASS.—The term 'renewable biomass' means—

''(i) nonmerchantable materials or precommercial thinnings that—

''(I) are byproducts of preventive treatments, such as trees, wood, brush, thinnings, chips, and slash, that are removed—

''(aa) to reduce hazardous fuels;

''(bb) to reduce or contain disease or insect infestation; or

''(cc) to restore forest health;

''(II) would not otherwise be used for higher-value products; and

''(III) are harvested from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702))—

''(aa) where permitted by law; and

''(bb) in accordance with applicable land management plans and the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) and the requirements for large-tree retention of subsection (f) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512); or

''(ii) any organic matter that is available on a renewable or recurring basis from non-Federal land or from land belonging to an Indian tribe, or an Indian individual, that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including—

''(I) renewable plant material, including—

''(aa) feed grains;

''(bb) other agricultural commodities;

''(cc) other plants and trees; and

''(dd) algae; and

''(II) waste material, including—

''(aa) crop residue;

''(bb) other vegetative waste material (including wood waste and wood residues);

''(cc) animal waste and byproducts (including fats, oils, greases, and manure); and

''(dd) food waste and yard waste.''.

**SEC. 202. ADVANCED BATTERY MANUFACTURING INCENTIVE PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) ADVANCED BATTERY.—The term ''advanced battery'' means an electrical storage device suitable for vehicle applications.

(2) ENGINEERING INTEGRATION COSTS.—The term ''engineering integration costs'' includes the cost of engineering tasks relating to—

(A) incorporation of qualifying components into the design of advanced batteries; and

(B) design of tooling and equipment and developing manufacturing processes and material suppliers for production facilities that produce qualifying components or advanced batteries.

(b) ADVANCED BATTERY MANUFACTURING FACILITY.—The Secretary shall provide facility funding awards under this section to advanced battery manufacturers to pay not more than 30 percent of the cost of reequipping, expanding, or establishing a manufacturing facility in the United States to produce advanced batteries.

(c) PERIOD OF AVAILABILITY.—An award under subsection (b) shall apply to—

(1) facilities and equipment placed in service before December 30, 2020; and

(2) engineering integration costs incurred during the period beginning on the date of enactment of this Act and ending on December 30, 2020.

(d) DIRECT LOAN PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and subject to the availability of appropriated funds, the Secretary shall carry out a program to provide a total of not more than $25,000,000 in loans to eligible individuals and entities (as determined by the Secretary) for the costs of activities described in subsection (b).

(2) SELECTION OF ELIGIBLE PROJECTS.—The Secretary shall select eligible projects to receive loans under this subsection in cases in which, as determined by the Secretary, the award recipient—

(A) is financially viable without the receipt of additional Federal funding associated with the proposed project;

(B) will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is expended efficiently and effectively; and

(C) has met such other criteria as may be established and published by the Secretary.

(3) RATES, TERMS, AND REPAYMENT OF LOANS.—A loan provided under this subsection—

(A) shall have an interest rate that, as of the date on which the loan is made, is equal to the cost of funds to the Department of the Treasury for obligations of comparable maturity;

(B) shall have a term equal to the lesser of—

(i) the projected life, in years, of the eligible project to be carried out using funds from the loan, as determined by the Secretary; and

(ii) 25 years;

(C) may be subject to a deferral in repayment for not more than 5 years after the date on which the eligible project carried out using funds from the loan first begins operations, as determined by the Secretary; and

(D) shall be made by the Federal Financing Bank.

(e) FEES.—The cost of administering a loan made under this section shall not exceed $100,000.

(f) SET ASIDE FOR SMALL MANUFACTURERS.—

(1) DEFINITION OF COVERED FIRM.—In this subsection, the term ''covered firm'' means a firm that—

(A) employs fewer than 500 individuals; and

(B) manufactures automobiles or components of automobiles.

(2) SET ASIDE.—Of the amount of funds used to provide awards for each fiscal year under subsection (b), the Secretary shall use not less than 10 percent to provide awards to covered firms or consortia led by a covered firm.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2009 through 2013.

**SEC. 203. BIOFUELS INFRASTRUCTURE AND ADDITIVES RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Assistant Administrator of the Office of Research and Development of the Environmental Protection Agency (referred to in this section as the ''Assistant Administrator''), in consultation with the Secretary and the National Institute of Standards and Technology, shall carry out a program of research and development of materials to be added to biofuels to make the biofuels more compatible with infrastructure used to store and deliver petroleum-based fuels to the point of final sale.

(b) REQUIREMENTS.—In carrying out the program described in subsection (a), the Assistant Administrator shall address—

(1) materials to prevent or mitigate—

(A) corrosion of metal, plastic, rubber, cork, fiberglass, glues, or any other material used in pipes and storage tanks;

(B) dissolving of storage tank sediments;

(C) clogging of filters;

(D) contamination from water or other adulterants or pollutants;

(E) poor flow properties relating to low temperatures;

(F) oxidative and thermal instability in long-term storage and use; and

(G) microbial contamination;

(2) problems associated with electrical conductivity;

(3) alternatives to conventional methods for refurbishment and cleaning of gasoline and diesel tanks, including tank lining applications;

(4) strategies to minimize emissions from infrastructure;

(5) issues with respect to certification by a nationally recognized testing laboratory of components for fuel-dispensing devises that specifically reference compatibility with alcohol-blended fuels and other biofuels that contain greater than 15 percent alcohol;

(6) challenges for design, reforming, storage, handling, and dispensing hydrogen fuel from various feedstocks, including biomass, from neighborhood fueling stations, including codes and standards development necessary beyond that carried out under section 809 of the Energy Policy Act of 2005 (42 U.S.C. 16158);

(7) issues with respect to at which point in the fuel supply chain additives optimally should be added to fuels; and

(8) other problems, as identified by the Assistant Administrator, in consultation with the Secretary and the National Institute of Standards and Technology.

**SEC. 204. STUDY OF INCREASED CONSUMPTION OF ETHANOL-BLENDED GASOLINE WITH HIGHER LEVELS OF ETHANOL.**

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation, and after providing notice and an opportunity for public comment, shall conduct a study of the feasibility of increasing consumption in the United States of ethanol-blended gasoline with levels of ethanol that are not less than 10 percent and not more than 40 percent.

(b) STUDY.—The study under subsection (a) shall include—

(1) a review of production and infrastructure constraints on increasing consumption of ethanol;

(2) an evaluation of the economic, market, and energy-related impacts of State and regional differences in ethanol blends;

(3) an evaluation of the economic, market, and energy-related impacts on gasoline retailers and consumers of separate and distinctly labeled fuel storage facilities and dispensers;

(4) an evaluation of the environmental impacts of mid-level ethanol blends on evaporative and exhaust emissions from on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(5) an evaluation of the impacts of mid-level ethanol blends on the operation, durability, and performance of on-road, off-road, and marine engines, recreational boats, vehicles, and equipment;

(6) an evaluation of the safety impacts of mid-level ethanol blends on consumers that own and operate off-road and marine engines, recreational boats, vehicles, or equipment; and

(7) an evaluation of the impacts of increased use of renewable fuels derived from food crops on the price and supply of agricultural commodities in both domestic and global markets.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study conducted under this section.

**SEC. 205. STUDY OF DIESEL VEHICLE ATTRIBUTES.**

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of Transportation, shall conduct a study to identify—

(1) the environmental and efficiency attributes of diesel-fueled vehicles as the vehicles compare to comparable gasoline fueled, E-85 fueled, and hybrid vehicles;

(2) the technical, economic, regulatory, environmental, and other obstacles to increasing the usage of diesel-fueled vehicles;

(3) the legislative, administrative, and other actions that could reduce or eliminate the obstacles identified under paragraph (2); and

(4) the costs and benefits associated with reducing or eliminating the obstacles identified under paragraph (2).

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

## Subtitle B—Clean Coal-Derived Fuels for Energy Security

**SEC. 211. SHORT TITLE.**

This subtitle may be cited as the ''Clean Coal-Derived Fuels for Energy Security Act of 2008''.

**SEC. 212. DEFINITIONS.**

In this subtitle:

(1) CLEAN COAL-DERIVED FUEL.—

(A) IN GENERAL.—The term ''clean coal-derived fuel'' means aviation fuel, motor vehicle fuel, home heating oil, or boiler fuel that is—

(i) substantially derived from the coal resources of the United States; and

(ii) refined or otherwise processed at a facility located in the United States that captures up to 100 percent of the carbon dioxide emissions that would otherwise be released at the facility.

(B) INCLUSIONS.—The term ''clean coal-derived fuel'' may include any other resource that is extracted, grown, produced, or recovered in the United States.

(2) COVERED FUEL.—The term ''covered fuel'' means—

(A) aviation fuel;

(B) motor vehicle fuel;

(C) home heating oil; and

(D) boiler fuel.

(3) SMALL REFINERY.—The term ''small refinery'' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

**SEC. 213. CLEAN COAL-DERIVED FUEL PROGRAM.**

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall promulgate regulations to ensure that covered fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable

volume of clean coal-derived fuel determined in accordance with paragraph (4).

(2) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under paragraph (1)—

(A) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that—

(i) the requirements of this subsection are met; and

(ii) clean coal-derived fuels produced from facilities for the purpose of compliance with this subtitle result in life cycle greenhouse gas emissions that are not greater than gasoline; and

(B) shall not—

(i) restrict geographic areas in the contiguous United States in which clean coal-derived fuel may be used; or

(ii) impose any per-gallon obligation for the use of clean coal-derived fuel.

(3) RELATIONSHIP TO OTHER REGULATIONS.—Regulations promulgated under this paragraph shall, to the maximum extent practicable, incorporate the program structure, compliance and reporting requirements established under the final regulations promulgated to implement the renewable fuel program established by the amendment made by section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1067).

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years 2015 through 2022 shall be determined in accordance with the following table:

| Calendar year: | Applicable volume of clean coal-derived fuel (in billions of gallons): |
|---|---|
| 2015 | 0.75 |
| 2016 | 1.5 |
| 2017 | 2.25 |
| 2018 | 3.00 |
| 2019 | 3.75 |
| 2020 | 4.5 |
| 2021 | 5.25 |
| 2022 | 6.0 |

(B) CALENDAR YEAR 2023 AND THEREAFTER.—Subject to subparagraph (C), for the purposes of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be determined by the President, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2015 through 2022, including a review of—

(i) the impact of clean coal-derived fuels on the energy security of the United States;

(ii) the expected annual rate of future production of clean coal-derived fuels; and

(iii) the impact of the use of clean coal-derived fuels on other factors, including job creation, rural economic development, and the environment.

(C) MINIMUM APPLICABLE VOLUME.—For the purpose of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of covered fuel that the President estimates will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(I) 6,000,000,000 gallons of clean coal-derived fuel; bears to

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

(B) REQUIRED ELEMENTS.—The clean coal-derived fuel obligation determined for a calendar year under subparagraph (A) shall—

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

(B) to account for the use of clean coal-derived fuel during the previous calendar year by small refineries that are exempt under subsection (f).

(c) VOLUME CONVERSION FACTORS FOR CLEAN COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

(1) IN GENERAL.—For the purpose of subsection (a), the President shall assign values to specific types of clean coal-derived fuel for the purpose of satisfying the fuel volume requirements of subsection (a)(4) in accordance with this subsection.

(2) ENERGY CONTENT RELATIVE TO DIESEL FUEL.—For clean coal-derived fuels, 1 gallon of the clean coal-derived fuel shall be considered to be the equivalent of 1 gallon of diesel fuel multiplied by the ratio that—

(A) the number of British thermal units of energy produced by the combustion of 1 gallon of the clean coal-derived fuel (as measured under conditions determined by the Secretary); bears to

(B) the number of British thermal units of energy produced by the combustion of 1 gallon of diesel fuel (as measured under conditions determined by the Secretary to be comparable to conditions described in subparagraph (A)).

(d) CREDIT PROGRAM.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the clean coal-derived fuel requirement of this section.

(2) MARKET TRANSPARENCY.—In carrying out the credit program under this subsection, the President shall facilitate price transparency in markets for the sale and trade of credits, with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(e) WAIVERS.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, may waive the requirements of subsection (a) in whole or in part on petition by 1 or more States by reducing the national quantity of clean coal-derived fuel required under subsection (a), based on a determination by the President (after public notice and opportunity for comment), that—

(A) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(B) extreme and unusual circumstances exist that prevent distribution of an adequate supply of domestically-produced clean coal-derived fuel to consumers in the United States.

(2) PETITIONS FOR WAIVERS.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall approve or disapprove a State petition for a waiver of the requirements of subsection (a) within 90 days after the date on which the petition is received by the President.

(3) TERMINATION OF WAIVERS.—A waiver granted under paragraph (1) shall terminate after 1 year, but may be renewed by the President after consultation with the Secretary and the Administrator of the Environmental Protection Agency.

(f) SMALL REFINERIES.—

(1) TEMPORARY EXEMPTION.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply to small refineries until calendar year 2018.

(B) EXTENSION OF EXEMPTION.—

(i) STUDY BY SECRETARY.—Not later than December 31, 2013, the Secretary shall submit to the President and Congress a report describing the results of a study to determine whether compliance with the requirements of subsection (a) would impose a disproportionate economic hardship on small refineries.

(ii) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary determines under clause (i) would be subject to a disproportionate economic hardship if required to comply with subsection (a), the President shall extend the exemption under subparagraph (A) for the small refinery for a period of not less than 2 additional years.

(2) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the President for an extension of the exemption under paragraph (1) for the reason of disproportionate economic hardship.

(B) EVALUATION OF PETITIONS.—In evaluating a petition under subparagraph (A), the President, in consultation with the Secretary, shall consider the findings of the study under paragraph (1)(B) and other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) $25,000 for each day of the violation; and

(ii) the amount of economic benefit or savings received by the person resulting from the violation, as determined by the President.

(B) COLLECTION.—Civil penalties under subparagraph (A) shall be assessed by, and collected in a civil action brought by, the Secretary or such other officer of the United States as is designated by the President.

(2) INJUNCTIVE AUTHORITY.—

(A) IN GENERAL.—The district courts of the United States shall have jurisdiction to—

(i) restrain a violation of a regulation promulgated under subsection (a);

(ii) award other appropriate relief; and

(iii) compel the furnishing of information required under the regulation.

(B) ACTIONS.—An action to restrain such violations and compel such actions shall be brought by and in the name of the United States.

(C) SUBPOENAS.—In the action, a subpoena for a witness who is required to attend a district court in any district may apply in any other district.

(h) EFFECTIVE DATE.—Except as otherwise specifically provided in this section, this section takes effect on January 1, 2016.

**Subtitle C—Oil Shale**

**SEC. 221. REMOVAL OF PROHIBITION ON FINAL REGULATIONS FOR COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.**

Section 433 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2152) is repealed.

**Subtitle D—Department of Defense Facilitation of Secure Domestic Fuel Development**

**SEC. 231. PROCUREMENT AND ACQUISITION OF ALTERNATIVE FUELS.**

Section 526 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142) is repealed.

**SEC. 232. MULTIYEAR CONTRACT AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR THE PROCUREMENT OF SYNTHETIC FUELS.**

(a) MULTIYEAR CONTRACTS FOR THE PROCUREMENT OF SYNTHETIC FUELS AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

**''§ 2410r. Multiyear contract authority: purchase of synthetic fuels**

''(a) MULTIYEAR CONTRACTS AUTHORIZED.—The head of an agency may enter into contracts for a period not to exceed 25 years for the purchase of synthetic fuels.

''(b) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

''(2) The term 'synthetic fuel' means any liquid, gas, or combination thereof that—

''(A) can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks); and

''(B) is produced by chemical or physical transformation of domestic sources of energy.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

''2410r. Multiyear contract authority: purchase of synthetic fuels.''.

(b) REGULATIONS.—Not later than 12 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations providing that the head of an agency may initiate a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), only if the head of the agency has determined in writing that—

(1) there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(2) the technical risks associated with the technologies for the production of synthetic fuel under the contract are not excessive; and

(3) the contract will contain appropriate pricing mechanisms to minimize risk to the Government from significant changes in market prices for energy.

(c) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under the authority in section 2410r of title 10, United States Code (as so added), until the regulations required by subsection (b) are prescribed.

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**SA 4722.** Mr. VITTER (for himself and Ms. LANDRIEU) proposed an amendment to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes, as follows:

At the appropriate place, insert the following:

**SEC. 33. MAXIMUM COVERAGE LIMITS.**

Subsection (b) of section 1306 of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amended—

(1) in paragraph (2), by striking ''$250,000'' and inserting ''$335,000'';

(2) in paragraph (3), by striking ''$100,000'' and inserting ''$135,000''; and

(3) in paragraph (4)—

(A) by striking ''$500,000'' each place such term appears and inserting ''$670,000''; and

(B) by inserting before ''; and'' the following: ''; except that, in the case of any nonresidential property that is a structure containing more than one dwelling unit that is made available for occupancy by rental (notwithstanding the provisions applicable to the determination of the risk premium rate for such property), additional flood insurance in excess of such limits shall be made available to every insured upon renewal and every applicant for insurance so as to enable any such insured or applicant to receive coverage up to a total amount that is equal to the product of the total number of such rental dwelling units in such property and the maximum coverage limit per dwelling unit specified in paragraph (2); except that in the case of any such multi-unit, nonresidential rental property that is a pre-FIRM structure (as such term is defined in section 578(b) of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4014 note)), the risk premium rate for the first $500,000 of coverage shall be determined in accordance with section 1307(a)(2) and the risk premium rate for any coverage in excess of such amount shall be determined in accordance with section 1307(a)(1)''.

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**SA 4723.** Mr. VITTER (for himself and Ms. LANDRIEU) proposed an amendment to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes, as follows:

On page 11, line 6, strike ''Any increase'' and all that follows through the second period on page 11, line 11, and insert the following: ''Any increase in the risk premium rate charged for flood insurance on any property that is covered by a flood insurance policy on the date of completion of the updating or remapping described in paragraph (1) that is a result of such updating or remapping shall be phased in over a 5-year period at the rate of 20 percent per year.''.

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**SA 4724.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. FEASIBILITY STUDY ON PRIVATE REINSURANCE.**

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct and submit a report to Congress on—

(1) the feasibility of requiring the Director, as part of carrying out the responsibilities of the Director under the National Flood Insurance Program, to purchase private reinsurance or retrocessional coverage, in addition to any such reinsurance coverage required under section 1335 of the National Flood Insurance Act of 1968 (42 U.S.C. 4055), to underlying primary private insurers for losses arising due to flood insurance coverage provided by such insurers;

(2) the feasibility of repealing the reinsurance requirement under such section 1335, and requiring the Director, as part of carrying out the responsibilities of the Director under the National Flood Insurance Program, to purchase private reinsurance or retrocessional coverage to underlying primary private insurers for losses arising due to flood insurance coverage provided by such insurer; and

(3) the estimated total savings to the taxpayer of taking each such action described in paragraph (1) or (2).

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**SA 4725.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 13, strike ''and''.

On page 8, line 16, strike ''policy.''.'' and insert the following: ''policy; and

''(3) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—

''(A) following a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); or

''(B) in connection with—

''(i) a repetitive loss property; or

''(ii) a severe repetitive loss property, as that term is defined under section 1361A.''.

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**SA 4726.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 10, strike ''under paragraph (1).'' and insert the following: ''under paragraph (1); and

''(3) charged premium rates at less than the estimated risk premium rates under section 1307(a)(1) and not described in section 1307(a)(4), shall be increased by 25 percent each year until the average risk premium

rate for such properties is equal to the average of risk premium rates for properties described under paragraph (1).

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**SA 4727.** Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

On page 50, between lines 3 and 4, insert the following:

(4) FAILURE TO COMPLY.—A property and casualty insurance company that is authorized by the Director to participate in the Write Your Own program which fails to comply with the reporting requirement under this subsection or the requirement under section 62.23(j)(1) of title 44, Code of Federal Regulations (relating to biennial audit of the flood insurance financial statements) shall be subject to a civil penalty in an amount equal to $1,000 per day for each day that the company remains in noncompliance with either such requirement.

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**SA 4728.** Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

**SEC. 133. POLICY DISCLOSURES.**

(a) IN GENERAL.—Notwithstanding any other provision of law, in addition to any other disclosures that may be required, each policy under the National Flood Insurance Program shall state all conditions, exclusions, and other limitations pertaining to coverage under the subject policy, regardless of the underlying insurance product, in plain English, in boldface type, and in a font size that is twice the size of the text of the body of the policy.

(b) VIOLATIONS.—Any person that violates the requirements of this section shall be subject to a fine of $10,000, per policy.

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**SA 4729.** Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 107.

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**SA 4730.** Mrs. DOLE submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

On page 25, line 11, strike ''; and'' and insert a semicolon.

On page 25, line 14, strike the period and insert a semicolon.

On page 25, between lines 14 and 15, insert the following:

(M) a representative of a State agency that has entered into a cooperating technical partnership with the Director and has demonstrated the capability to produce flood insurance rate maps; and

(N) a representative of a local government agency that has entered into a cooperating technical partnership with the Director and has demonstrated the capability to produce flood insurance rate maps.

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**SA 4731.** Mr. THUNE (for himself and Mr. JOHNSON) submitted an amendment intended to be proposed to amendment SA 4707 proposed by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE III—MISCELLANEOUS**

**SEC. 301. BIG SIOUX RIVER AND SKUNK CREEK, SIOUX FALLS, SOUTH DAKOTA.**

The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota, authorized by section 101(a)(28) of the Water Resources Development Act of 1996 (110 Stat. 3666), is modified—

(1) to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct the project at an estimated total cost of $51,000,000, with an estimated Federal cost of $38,250,000 and an estimated non-Federal cost of $12,750,000;

(2) to direct the Secretary to accept advance funding from the non-Federal interest for the remaining Federal share of the project, as needed to complete the project; and

(3) to authorize the Secretary to reimburse the non-Federal interest for funds advanced by the non-Federal interest for the Federal share of the project, only if additional Federal funds are appropriated for that purpose.

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**SA 4732.** Mr. PRYOR (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill S. 2284, to amend the National Flood Insurance Act of 1968, to restore the financial solvency of the flood insurance fund, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. LEVEE MODERNIZATION GRANT PROGRAM.**

(a) DEFINITIONS.—In this section—

(1) the terms ''local government'' and ''State'' have the meanings given such terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101); and

(2) the term ''program'' means the Levee Modernization Grant Program established under subsection (b).

(b) ESTABLISHMENT.—Not later than 12 months after the date of enactment of this Act, the Director shall establish the Levee Modernization Grant Program, under which the Director may provide technical and financial assistance to States and local governments to be used in accordance with subsection (e) to assist in the implementation of levee improvement and modernization measures that are cost-effective and are designed to protect against loss of life, limit damage and destruction of property, encourage rural economic development, and contribute to the ability of a community to prevent areas in that community from being designated as a 100-year floodplain.

(c) CRITERIA.—

(1) ALLOCATION OF FUNDS.—Not later than the date on which the Director establishes the program, the Director shall establish criteria to be used to determine the amount of financial assistance that will be made available to a State (including amounts made available to local governments located in the State) under the program.

(2) GRANT AWARDS.—In determining whether to provide technical and financial assistance to a State or local government under the program, the Director shall consider—

(A) the extent and nature of the flood risk to a State or local government;

(B) the imminence of need;

(C) the degree of commitment of the State or local government to perform ongoing levee maintenance;

(D) the extent to which the levee improvement and modernizations to be carried out using the technical and financial assistance under the program contribute to the economic development and mitigation goals and priorities established by the State;

(E) the extent to which the technical and financial assistance under the program is consistent with assistance provided under other grant programs of the Federal Emergency Management Agency or another Federal department or agency;

(F) the extent to which prioritized, cost-effective levee improvement activities that produce meaningful and definable outcomes in the State or jurisdiction of the local government are clearly identified;

(G) the opportunity to fund activities that maximize net benefits to society; and

(H) such other criteria as the Director, in consultation with States and local governments, may establish.

(d) STATE RECOMMENDATIONS OF PROJECTS.—

(1) IN GENERAL.—Not later than 3 months after the date that the Director establishes the program, and annually thereafter, the Governor of a State desiring to participate in the program during the following fiscal year shall submit to the Director a list of the projects that State that the Governor recommends receive technical and financial assistance (provided either directly to a local government or through the State) under the program.

(2) SELECTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), for each fiscal year the Director shall select projects to receive technical and financial assistance under the program from among the projects recommended under paragraph (1).

(B) EXCEPTIONS.—The Director may select a project to receive technical and financial assistance under the program that was not among the projects recommended under paragraph (1) for a fiscal year if the Director determines that—

(i) extraordinary circumstances justify the selection of the project; and

(ii) making the selection will further the purpose of the program, as described in subsection (b).

(e) USES OF TECHNICAL AND FINANCIAL ASSISTANCE.—A State or local government that receives technical and financial assistance for a project under the program may use such assistance—

(1) for an initial inspection of a levee by a private engineering firm or the Corps of Engineers;

(2) to implement such improvements as are determined necessary by an inspection described in paragraph (1) to prevent areas protected by such levee from being designated as a 100-year floodplain;

(3) to establish levee maintenance priorities and an appropriate levee modernization program; and

(4) for other purposes that further the goal of identifying or implementing levee improvement and modernization measures.

(f) FEDERAL SHARE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Federal share of levee improvement and modernization activities carried out with financial assistance under the program shall be not more than 50 percent.

(2) RURAL AND ECONOMICALLY DISADVANTAGED COMMUNITIES.—

(A) IN GENERAL.—The Federal share of levee improvement and modernization activities carried out in a community described in subparagraph (B) with financial assistance under the program shall be not more than 65 percent.

(B) COMMUNITIES.—A community described in this subparagraph is—

(i) a rural community (as determined by the Director);

(ii) a town with a population of not more than 20,000 individuals; or

(iii) an area in which the average income is ⅓ less then the State-wide median income for the applicable State, as determined by the Secretary of Housing and Urban Development.

(3) WAIVER.—The Director may waive paragraph (1) in extreme circumstances, as determined by the Director.

(g) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Director, in consultation with State and local governments, shall submit to Congress a report evaluating the efforts of the Director to carry out this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director $400,000,000 to carry out the program.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on May 7, 2008, at 10 a.m., to conduct a hearing entitled ''Turmoil in the Credit Markets: Examining the Regulation of Investment Banks by the Securities and Exchange Commission.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, May 7, 2008, at 9:30 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, May 7, 2008, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON 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 business meeting on Wednesday, May 7, 2008, 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 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 Wednesday, May 7, 2008, at 9:30 a.m., to hold a nomination hearing.

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 Wednesday, May 7, 2008, at 2:30 p.m., to hold a hearing on international treaties.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, May 7, 2008, at 10 a.m. to conduct a hearing entitled ''Fuel Subsidies: Is There an Impact on Food Supply and Prices?''.

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

COMMITTEE ON THE JUDICIARY

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Judicial Nominations'' on Wednesday, May 7, 2008, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. DODD. Mr. President, I ask unanimous consent for the Committee on Veterans' Affairs to be authorized to meet during the session of the Senate on Wednesday, May 7, 2008 to conduct a hearing. The Committee will meet in room 106 of the Dirksen Senate Office Building, at 9:30 a.m.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Concentration in Agriculture and an Examination of the JBS/Swift Acquisitions'' on Wednesday, May 7, 2008, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON PUBLIC SECTOR SOLUTIONS TO GLOBAL WARMING, OVERSIGHT, AND CHILDREN'S HEALTH PROTECTION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Public Sector Solutions to Global Warming, Oversight, and Children's Health Protection be authorized to meet during the session of the Senate on Wednesday, May 7, 2008 in room 406 of the Dirksen Senate Office Building to hold a hearing entitled, ''Oversight Hearing on Science and Environmental Regulatory Decisions.''

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

## PRIVILEGES OF THE FLOOR

Mr. President, I ask unanimous consent that Dionne Thompson, a fellow in my office, be granted privileges of the floor for the remainder of the 110th Congress.

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

## TEMPORARILY EXTENDING PROGRAMS UNDER THE HIGHER EDUCATION ACT OF 1965

Mr. DODD. Mr. President, I ask the Chair to lay before the Senate a message from the House on the bill, S. 2929, to temporarily extend the programs under the Higher Education Act of 1965.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 2929

*Resolved*, That the bill from the Senate (S. 2929) entitled ''An Act to temporarily extend the programs under the Higher Education Act of 1965'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. EXTENSION OF HIGHER EDUCATION PROGRAMS.***

*(a) EXTENSION OF PROGRAMS.—Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109–81; 20 U.S.C. 1001 note) is amended by striking ''April 30, 2008'' and inserting ''May 31, 2008''.*

*(b) RULE OF CONSTRUCTION.—Nothing in this section, or in the Higher Education Extension Act of 2005 as amended by this Act, shall be construed to limit or otherwise alter the authorizations of appropriations for, or the durations of, programs contained in the amendments made by the Higher Education Reconciliation Act of 2005 (Public Law 109–171) or by the College Cost Reduction and Access Act (Public Law 110–84) to the provisions of the Higher Education Act of 1965 and the Taxpayer-Teacher Protection Act of 2004.*

*(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on April 30, 2008.*

Mr. DODD. I ask unanimous consent that the Senate concur in the House amendment, and the motion to reconsider be laid upon the table with no intervening action or debate.

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

## AUTHORIZING THE USE OF THE CAPITOL GROUNDS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 308, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 308) authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 308) was agreed to.

## HUMANITARIAN ASSISTANCE TO BURMA AFTER CYCLONE NARGIS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 554, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 554) expressing the Sense of the Senate on humanitarian assistance to Burma after Cyclone Nargis.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Mr. President, I further ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

Mr. President, I also ask unanimous consent that I be included as a cosponsor of this resolution.

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

The resolution (S. Res. 554) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 554

Whereas, on May 3, 2008, Cyclone Nargis devastated Burma, leaving an estimated 22,500 people dead, 41,000 missing, and 1,000,000 homeless;

Whereas, on May 5, 2008, the United States embassy in Burma issued a disaster declaration authorizing $250,000 in immediate humanitarian assistance to the people of Burma;

Whereas, on May 5, 2008, First Lady Laura Bush stated that the United States will ''work with the U.N. and other international nongovernmental organizations to provide water, sanitation, food, and shelter. More assistance will be forthcoming'';

Whereas, on May 5, 2008, Department of State Deputy Spokesman Tom Casey stated that the United States has ''a disaster assistance response team that is standing by and ready to go in to Burma to help try to assess need there'';

Whereas, on May 6, 2008, President George W. Bush said, ''The United States has made an initial aid contribution, but we want to do a lot more. We're prepared to move U.S. Navy assets to help find those who've lost their lives, to help find the missing, to help stabilize the situation. But in order to do so, the military junta must allow our disaster assessment teams into the country.'';

Whereas, on May 6, 2008, President Bush pledged $3,000,000 in emergency assistance to victims of Cyclone Nargis, and stated that allowing the disaster assistance response team to enter the country would facilitate additional support;

Whereas the European Union has pledged to deliver $3,000,000 in initial emergency disaster assistance to Burma;

Whereas according to the United Nations Country Team in Burma, the average household in Burma is forced to spend almost ¾ of its budget on food and 1 in 3 children under the age of 5 is suffering from malnutrition;

Whereas the prevalence of tuberculosis in Burma is among the highest in the world, with nearly 97,000 new cases detected annually, malaria is the leading cause of mortality in Burma, with 70 percent of the population living in areas at risk, at least 37,000 died of HIV/AIDS in Burma in 2005 and over 600,000 are currently infected, and the World Health Organization has ranked the health sector of Burma as 190th out of 191 countries;

Whereas the failure of Burma's ruling State Peace and Development Council to meet the most basic humanitarian needs of the people of Burma has caused enormous suffering inside Burma and driven hundreds of thousands of Burmese citizens to seek refuge in neighboring countries, creating a threat to regional peace and stability; and

Whereas, in the aftermath of Cyclone Nargis, the State Peace and Development Council continues to restrict the access and freedom of movement of international nongovernmental organizations to deliver humanitarian assistance throughout Burma: Now, therefore, be it

*Resolved*, That it is the Sense of the Senate—

(1) to express deep sympathy to and strong support for the people of Burma, who have endured tremendous hardships over many years and face especially dire humanitarian conditions in the aftermath of Cyclone Nargis;

(2) to support the decision of President Bush to provide immediate emergency humanitarian assistance to Burma through nongovernmental organizations that are not affiliated with the Burmese regime or its officials and can effectively provide such assistance directly to the people of Burma;

(3) to stand ready to appropriate additional funds, beyond existing emergency international disaster assistance resources, if necessary to help address dire humanitarian conditions throughout Burma in the aftermath of Cyclone Nargis and beyond;

(4) to call upon the State Peace and Development Council to immediately lift restrictions on delivery of humanitarian assistance and allow free and unfettered access to the United States Government's disaster assistance response team and any organizations that legitimately provide humanitarian assistance; and

(5) that the United States Agency for International Development should conduct a comprehensive evaluation of which organizations are capable of providing humanitarian assistance directly to the people throughout Burma without interference by the State Peace and Development Council.

## SUPPORTING THE GOALS AND IDEALS OF NATIONAL WOMEN'S HEALTH WEEK

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 81, submitted earlier today by Senator FEINGOLD.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 81) supporting the goals and ideals of National Women's Health Week.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the measure be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 81) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 81

Whereas women of all backgrounds have the power to greatly reduce their risk of common diseases through preventive measures, such as leading a healthy lifestyle that includes engaging in regular physical activity, eating a nutritious diet, and visiting a healthcare provider to receive regular checkups and preventative screenings;

Whereas significant disparities exist in the prevalence of disease among women of different backgrounds, including women with disabilities, African-American women, Asian-Pacific Islander women, Latinas, and American Indian-Alaska Native women;

Whereas healthy habits should begin at a young age;

Whereas preventive care saves Federal dollars designated for health care;

Whereas it is important to educate women and girls about the significance of awareness of key female health issues;

Whereas the offices of women's health within the Department of Health and Human Services, the Food and Drug Administration, the Centers for Disease Control and Prevention, the Health Resources and Services Administration, the National Institutes of Health, and the Agency for Healthcare Research and Quality are vital to providing critical services that support women's health research and education and other necessary

services that benefit women of all ages, races, and ethnicities;

Whereas National Women's Health Week begins on Mother's Day each year and celebrates the efforts of national and community organizations that work with partners and volunteers to improve awareness of key women's health issues; and

Whereas, in 2008, the week of May 11 through May 17 is dedicated as National Women's Health Week: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) recognizes the importance of preventing diseases that commonly affect women;

(2) supports the goals and ideals of National Women's Health Week;

(3) calls on the people of the United States to use National Women's Health Week as an opportunity to learn about health issues that face women;

(4) calls on the women of the United States to observe National Women's Check-Up Day on May 12, 2008 by receiving preventive screenings from their healthcare providers; and

(5) recognizes the importance of Federally funded programs that provide research and collect data on diseases that commonly affect women.

Mr. DODD. Mr. President, I ask unanimous consent that I be added as a cosponsor of that resolution as well.

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

## SUPPORTING THE GOALS AND IDEALS OF THE INTERNATIONAL YEAR OF SANITATION

Mr. DODD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of S. Con. Res. 72, and the Senate proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 72) supporting the goals and ideals of the International Year of Sanitation.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DODD. I further ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to this measure be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 72) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 72

Whereas, at the 55th Session of the United Nations General Assembly in 2000, the United States, along with other world leaders, committed to achieving the Millennium Development Goals (MDGs), which provide a framework for countries and international organizations to combat such global social ills as poverty, hunger, and disease;

Whereas one target of the Millennium Development Goals is to halve by 2015 the proportion of people without access to safe drinking water and basic sanitation, the only target to be codified into United States law, in the Paul Simon Water for the Poor Act of 2005 (Public Law 109–121);

Whereas the lack of access to safe water and sanitation is one of the most pressing environmental public health issues in the world;

Whereas over 1,000,000,000 people live without potable water, and an estimated 2,600,000,000 people, including 980,000,000 children, do not have access to basic sanitation facilities;

Whereas, every 20 seconds, a child dies as a direct result of a lack of access to basic sanitation facilities;

Whereas only 36 percent of people in sub-Saharan Africa and 37 percent of people in South Asia have access to safe drinking water and sanitation, the lowest rates in the world;

Whereas, at any one time, almost half of the people in the developing world are suffering from diseases associated with lack of water, sanitation, and hygiene;

Whereas improved sanitation decreases the incidences of debilitating and deadly maladies such as cholera, intestinal worms, diarrhea, pneumonia, dysentery, and skin infections;

Whereas sanitation is the foundation of health, dignity, and development;

Whereas increased sanitation is fundamental for reaching all of the Millennium Development Goals;

Whereas access to basic sanitation helps economic and social development in countries where poor sanitation is a major cause of lost work and school days because of illness;

Whereas sanitation in schools enables children, particularly girls reaching puberty, to remain in the educational system;

Whereas, according to the World Health Organization, every dollar spent on proper sanitation by governments generates an average $7 in economic benefit;

Whereas improved disposal of human waste protects the quality of water sources used for drinking, preparation of food, agriculture, and bathing;

Whereas, at the 61st Session of the United Nations General Assembly in 2006, the United Nations declared 2008 as the International Year of Sanitation to recognize the progress made in achieving the global sanitation target detailed in the Millennium Development Goals, as well as to call upon all member states, United Nations agencies, regional and international organizations, civil society organizations, and other relevant stakeholders to renew their commitment to attaining that target;

Whereas the official launching of the International Year of Sanitation at the United Nations was on November 21, 2007; and

Whereas the thrust of the International Year of Sanitation has three parts, including raising awareness of the importance of sanitation and its impact on reaching other Millennium Development Goals, encouraging governments and its partners to promote and implement policies and actions for meeting the sanitation target, and mobilizing communities, particularly women's groups, towards changing sanitation and hygiene practices through sanitation health-education campaigns: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) supports the goals and ideals of the International Year of Sanitation;

(2) recognizes the importance of sanitation on public health, poverty reduction, economic and social development, and the environment; and

(3) encourages the people of the United States to observe the International Year of Sanitation with appropriate recognition, ceremonies, activities, and programs to demonstrate the importance of sanitation, hygiene, and access to safe drinking water in achieving the Millennium Development Goals.

## MEASURE READ THE FIRST TIME—S. 2991

Mr. DODD. Mr. President, I understand that S. 2991, introduced earlier today by Senator REID of Nevada, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 2991) to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes.

Mr. DODD. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. The objection having been heard, the bill will receive its second reading on the next legislative day.

## APPOINTMENTS

The Presiding Officer. The Chair, on behalf of the Vice President, pursuant to Public Law 110–53, appoints the following individuals to serve as members of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism: Robin Cleveland of Virginia and James Talent of Missouri.

The Chair, on behalf of the Vice President, pursuant to Public Law 110–53, appoints the following individuals to serve as members of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism: Graham Allison of Massachussetts and Richard Verma of Maryland.

The Chair, on behalf of the Vice President, pursuant to Public Law 110–53, appoints the following individual to serve as a member and Chairman of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism: The Honorable BOB GRAHAM of Florida.

## ORDERS FOR THURSDAY, MAY 8, 2008

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, Thursday, May 8; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day; that there be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10

minutes each and 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 final half; that following morning business, the Senate resume consideration of S. 2284, flood insurance, as under the previous order.

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

## FLOOD INSURANCE REFORM

Mr. DODD. Mr. President, before reading the concluding comments here, I wish to take a minute or so to summarize what happened today regarding the flood insurance bill.

I express my gratitude, first of all, to Senator REID, the majority leader, for insisting that this flood insurance matter come before the Senate. This is an important bill. There are a lot of issues that our constituents are facing,—the housing issue, on which I am spending a great deal of time, the economic issues generally, the price of gasoline, and the price of oil at $120 a barrel, causing staggering problems across our country. The flood insurance issue, as we enter hurricane season coming up, could make a great deal of difference for people in this country who are concerned about that issue and what could happen with the cost of premiums, whether they are going to have that coverage at all.

Senator SHELBY of Alabama, my ranking member and former chairman of the committee, along with Senator BUNNING and others actually passed this legislation in a previous Congress and weren't able to get it adopted. We adopted it again out of the Banking Committee earlier this year, and I am optimistic that we will be able to bring final closure to this issue.

In light of the fact that there is a tremendous amount of debt, FEMA—the Federal Emergency Management Agency—had to borrow $17 billion from the Federal Treasury to meet the claims of people who faced the devastating loss as a result of the flooding that occurred with the major natural disasters. Borrowing that money had an interest payment due on it, and that cost alone was raising the cost of premiums. This bill, which I hope we complete tomorrow, will forgive that debt. That will remove that cost that is added to the premiums, which are not inexpensive but absolutely necessary if you are going to have a flood insurance program.

I point out that the program generates about $2.5 billion worth of revenues each year with the premiums collected. About a billion dollars of that is administrative costs.

When you have demands, as we did out of 2005 of $17 billion just in the flood insurance area, you get some idea of how expensive this program can be if it is not well managed and actuarially sound. So we have made this significant effort, which I think will be valuable to people across the country and make a difference.

We still have major work to do on the housing issue. I would be remiss if I didn't say how disappointed I was earlier today to listen to the President of the United States standing with the Republican leadership of the House of Representatives, announcing that he intended to veto the housing legislation. Congressman FRANKS and his Republican counterparts are working on it in the House, and we are working on it in the Banking Committee. We are nowhere near having a bill per se, so I was shocked to hear the President saying he was vetoing something that doesn't exist yet. We are making an effort to have a bipartisan bill. I would have hoped he would say: I am watching what you are doing and I am interested, and I have ideas about what ought to be included, or excluded, and I invite the leadership in Congress to make sure we are involved. That would have been appropriate because we have dealt with the leadership of the administration's agencies that have been deeply involved in helping us craft the Hope for Homeowners Act. It was, therefore, shocking to have the President of the United States, despite the advice and counsel of some of the key economic advisers of the administration who have been constructive in working with us on a way to keep people in their own homes, announce he intended to veto something even before we have had a chance to put it together.

The good news is that I believe my colleagues on the Banking Committee, who are working on this, from the minority and Republican side, are still interested in hearing some ideas and working on this. That is not to suggest they have agreed to anything. They have not. But we are working—and our staffs are—to develop that compromise bill. They haven't been cowed by the announcement by the administration that they will veto anything we might do to keep hundreds of thousands of people in their homes.

I would be remiss if I didn't note that it was only about a month ago or a month and a half ago that the Federal Government committed $29 billion, without ever a vote occurring here, to make the merger between Bear Stearns and JPMorgan occur. That $29 billion the Federal Government put into that deal made it possible for it to actually be accomplished.

I happen to think they probably did the right thing that Sunday night of March 16. But I find it somewhat shocking that the President of the United States had little or nothing to say about that commitment of Federal dollars, and yet the idea that we might do something to make it possible for middle-income, hard-working families to stay in that most important possession, their home, he objects to—a bill before it exists that might accomplish that goal, done in a bipartisan fashion, involving his administration, key regulators from his own Government. That he would announce a veto of it is alarming to me, knowing how damaging this mortgage crisis is in so many aspects of our lives: commercial lending, student loans—they are all being adversely affected because of the mortgage crisis. The fact the President said, I am going to veto this bill no matter what you do up there, is disappointing.

My hope is in the coming days, as we move toward a markup in the Banking Committee on this issue, that we will get cooperation and support. I cannot guarantee what we are doing will work, but I know inaction is not an option and failure is not an option. Too many of our fellow citizens are hurting with rising energy prices, health care costs, the cost of higher education, not to mention all these other costs, commodity increases and the like, and they need to know their Government is making an effort to make it possible for them to stay in their homes. That is why I feel so strongly about it.

Although we are dealing with flood insurance today, I did not want to have people believe we are unmindful of what needs to be done in the area of home foreclosure. Mr. President, 7,000 to 8,000 foreclosures are filed every day, by 7,000 to 8,000 of our fellow citizens, and if you add our next door neighbors who are adversely affected, that is more than 20,000 people a day who have their life savings, their best investment put in jeopardy.

For those reasons, I am hopeful we can get more cooperation on that issue.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DODD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 9:01 p.m., adjourned until Thursday, May 8, 2008, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### DEPARTMENT OF JUSTICE

WILLIAM WALTER WILKINS, III, OF SOUTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF SOUTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE REGINALD I. LLOYD, RESIGNED.

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. (LH) KEVIN M. MCCOY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. WILLIAM D. CROWDER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. PETER H. DALY