At the request of Mr. DURBIN, the names of the Senator from Missouri (Mr. BOND) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 979, a bill to amend the Public Health Service Act to establish a nationwide health insurance purchasing pool for small businesses and the self-employed that would offer a choice of private health plans and make health coverage more affordable, predictable, and accessible.

At the request of Mrs. McCASKILL, her name was added as a cosponsor of S. 982, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

At the request of Mr. ISAKSON, his name was added as a cosponsor of S. 1012, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1012, supra.

At the request of Mr. BROWN, the names of the Senator from Ohio (Mr. COBURN) and the Senator from Texas (Mr. BONNIE) were added as cosponsors of S. 1012, supra.

At the request of Mr. CRUZ, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Missouri (Mr. MCCASKILL) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

At the request of Mr. CORNYN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1026, a bill to amend the Uniformed and Overseas Citizens Absentee Voting Act to improve procedures for the collection and delivery of marked absentee ballots of absent overseas uniformed service voters, and for other purposes.

At the request of Mr. SCHUMER, the names of the Senator from Michigan (Ms. STARENOW) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

At the request of Mr. CHAMBLISS, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1071, a bill to protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

At the request of Mr. BUNNING, the names of the Senator from Wyoming (Ms. CANTWELL), the Senator from New Mexico (Mr. UDALL), the Senator from Florida (Mr. NELSON) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. Res. 151, a resolution expressing support for a national day of remembrance on October 30, 2009, for nuclear weapons program workers.

At the request of Mr. SCHUMER, his name was added as a cosponsor of S. Res. 151, supra.

At the request of Mr. JOHANNES, his name was added as a cosponsor of amendment No. 1133 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1133
At the request of Mr. VITTER, his name was added as a cosponsor of amendment No. 1138 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1138
At the request of Mr. INHOFE, his name was added as a cosponsor of amendment No. 1139 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1139
At the request of Mr. RISCH, the name of the Senator from Idaho (Mr. CHAPO) was added as a cosponsor of amendment No. 1140 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1140
At the request of Mr. RISCH, the name of the Senator from Idaho (Mr. CHAPO) was added as a cosponsor of amendment No. 1143 proposed to H.R. 2346, supra.

AMENDMENT NO. 1143
At the request of Mr. CHAMBLISS, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Kansas (Mr. BACHMANN) were added as cosponsors of amendment No. 1144 proposed to H.R. 2346, a bill making supplemental appropriations for the fiscal year ending September 30, 2009, and for other purposes.

AMENDMENT NO. 1144
At the request of Mr. ENZI (for himself, Mr. DORGAN, Mr. JOHNSON, and Mr. GRASSLEY):

S. 1066. A bill to amend the Packets and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENZI. President, I rise to speak on the introduction of the Livestock Marketing Fairness Act. I want to also acknowledge that I am joined in introducing this legislation by Senators DORGAN, GRASSLEY, and JOHNSON. The Public Health Service Act of 1921 was enacted at a time when there was significant concentration in the livestock and poultry industry. That law has since provided livestock producers, the family farmers and ranchers of our country, with a remedy to protect themselves against manipulative and anti-competitive practices in the marketplace. However, since the early 1920s our domestic livestock industry has changed significantly and so too have the ways in which producers market their livestock. Gone are the days when a simple handshake between buyer and seller was all you needed. Changes in marketing have introduced new ways for bad actors to manipulate and this legislation is designed to strengthen the laws originally enacted in the Packers and Stockyards Act.

It is no secret that the packing industry in the U.S. has again become industry consolidations. In 1985, the four largest packers accounted for 39 percent of all cattle slaughtered in the U.S. Twenty years later, the top four firms controlled over 69 percent of the domestic cattle slaughter and this statistic does not even include acquisitions that have taken place in the industry since 2007. Being big in agriculture is not bad, but it does present opportunities for a select few to manipulate the market for their own gain. The Livestock Marketing Fairness Act strikes at the heart of one particular anti-competitive practice. Over the years, livestock producers, feeders, and packers have been given a number of new marketing tools for price discovery and hedging risk. One of those tools is the forward contract where a buyer and seller agree to a transaction at a specified point of time in the future. However, certain types of forward contracting agreements have become ripe for price manipulation. This is because a growing number of packing operations own their own livestock or control them through marketing agreements. These firms then can buy from themselves when prices are high and buy from others when prices are low. Captive supplies are animals that packers own and control prior to slaughter. The Livestock Marketing Fairness Act prohibits certain arrangements that provide packers with the opportunity to use their captive supplies to manipulate domestic livestock prices. First, the legislation requires that forward contracts contain a “firm base price” which is derived from an external source. Though not outlined in the legislation, commonly used external futures prices of price include the live cattle futures market or wholesale cattle prices. This ensures that both buyers and sellers have a basis for how pricing in a contract will be derived at the time.
the contract is agreed upon. Second, the bill requires that forward contracts be traded in open, public markets. This guarantees that multiple buyers and sellers can witness bids as well as offer their own. The Livestock Marketing Fairness Act also ensures that trading of cattle is prohibited in a manner that provides both small and large buyers and sellers access to the market. Contracts are to be traded in sizes approximate to the common number of cattle or pigs transported in a trailer, but the law does not prohibit trading from occurring in multiples of those contracts for larger livestock orders.

I travel to Wyoming nearly every weekend and have heard the same concerns from many of our ranchers. They want to be competitive in the market and sell the best animals possible so that they can continue the work that so many in their family have done for so many years. However, this problem is not isolated to Wyoming. Livestock products that cost the processor the most when they fail to manipulate—often due to consolidation—are fewer and fewer for large buyers for their animals and their options for marketing are being lost. This legislation not only increases openness in forward contracting but preserves the right for ranchers to choose the best methods for selling their animals without worry that their agreements will be subject to manipulation. The bill does not apply to producer cooperatives who often own their processing facility. The legislation also carefully targets the problem—large packers owning captive supplies—by also exempting packers that only own one facility and those that do not report for mandatory price reporting. The Livestock Marketing Fairness Act does not apply to agreements based on quality grading nor does it affect a producer’s ability to negotiate contracts one-on-one with buyers. Therefore, sellers can still choose from a variety of methods including the spot market, futures market, or other alternative marketing arrangements.

This bill is common sense and ensures that our ranchers have access to a competitive market in these difficult economic times. Ranchers aren’t asking for a handout. What I am asking for is a level-playing field and an equal opportunity for our ranchers to succeed. I am pleased to say that I am joined by my colleagues on both sides of the aisle in working to address this problem. I encourage my other colleagues to support the Livestock Marketing Fairness Act and to join me in giving ranchers an honest chance to make a living.

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:

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 “Livestock Marketing Fairness Act”.

SEC. 2. PURPOSE. The purpose of the amendments made by this Act is to prohibit the use of certain anti-competitive forward contracts—

(1) to require a firm base price in forward contracts; and

(2) to require that forward contracts be traded in open, public markets.

SEC. 3. LIMITATION ON USE OF ANTI-COMPETITIVE FORWARD CONTRACTS. (a) IN GENERAL.—Section 202 of the Packers and Stockyards Act, 1921 (7 U.S.C. 182a), is amended—

(1) by striking “Sec. 202. It shall be’’ and inserting the following:

“SEC. 202. UNLAWFUL PRACTICES. (a) IN GENERAL.—None of the practices described in this section may be engaged in by any person in any manner which—

(1) in any manner, any producer, packer, or broker shall enter into, induce, or cause to be induced, any forward contract that—

(A) is based on a formula price; or

(B) is based on a forward price for—

(i) in the case of cattle, 40 cattle; and

(ii) in the case of swine, 30 swine; and

(C) is based on a formula price or

(D) subject to subsection (b), provides for the sale of livestock in a quantity in excess of—

(i) in the case of cattle, 40 cattle; and

(ii) in the case of swine, 30 swine; and

(iii) in the case of other types of livestock, a comparable quantity of the type of livestock determined by the Secretary;’’; and

(2) by adding at the end the following:

“(c) EXEMPTION FOR COOPERATIVES.—Subsection (a)(6) shall not apply to—

(1) a cooperative or entity owned by a cooperative, if a majority of the ownership interest in the cooperative is held by active cooperative members that—

(A) own, feed, or control livestock; and

(B) provide the livestock to the cooperative for slaughter;

(2) a packer that is not required to report to the Secretary on each reporting day (as defined in section 212 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637)) information on the price and quantity of livestock purchased by the packer; or

(3) a packer that owns 1 livestock processing plant.”.

(b) DEFINITIONS.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182a(a)) is amended by adding at the end the following:

“(15) FIRM BASE PRICE.—The term ‘firm base price’ means a transaction using a reference price from an external source.

“(16) FORMULA PRICE.—

“(A) IN GENERAL.—The term ‘formula price’ means any price term that establishes a base from which a purchase price is calculated on the basis of a price that will not be determined or reported until a date after the forward price is established.

“(B) EXCLUSION.—The term ‘formula price’ does not include—

(i) any price term that establishes a base from which a purchase price is calculated on the basis of a futures market price; or

(ii) any adjustment to the base for quality, grade, or other factors relating to the value of livestock or livestock products that are readily verifiable market factors and are outside the control of the packer.

“(17) FORWARD CONTRACT.—The term ‘forward contract’ means an oral or written agreement to purchase the livestock that provides for the delivery of the livestock to a packer at a date that is more than 7 days after the date on which the contract is entered into, without regard to whether the contract is for—

(A) a specified lot of livestock; or

(B) a specified number of livestock over a certain period of time.”.

By Mr. KERRY:

S. 1086. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax incentives related to oil and gas; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Energy Fairness for America Act which repeals tax incentives for the oil and gas industry. This is the third consecutive Congress in which I have introduced this legislation. Some of the provisions of prior versions of my legislation were enacted last year, but more can be done. At a time when we are trying to implement clean energy, we cannot fail to continue to provide unnecessary tax incentives to the oil and gas industry.

The Energy Fairness for America Act would repeal the section 199 manufacturing deduction for income attributable to domestic production of oil and gas. The domestic manufacturing deduction was designed to replace export-related tax benefits that were successfully challenged by the European Union. Producers of oil and gas did not benefit from this tax break. Initial legislation proposed to address the repeal of the export-related tax benefits and to replace them with a new domestic manufacturing deduction. That legislation only provided the deduction to industries that benefited from the export-related tax benefits. However, the final product extended the deduction to include the oil and gas industry as well.

The tax code provides numerous other preferences to the oil and gas industry. This legislation would repeal provisions that do not promote low carbon energy sources and further our addiction to oil. The Energy Fairness
for America Act would repeal the credit for the crude oil and natural gas produced from marginal wells, expensing of intangible drilling costs and 60-month amortization and capitalized intangible drilling costs, exception from the passive loss rules for working interests in oil and gas properties, and percentage depletion for oil and gas wells. In addition, it would increase the amortization period from two years to seven years for geological and geophysical expenditures incurred by independent producers in connection with oil and gas exploration in the U.S.

This legislation will help align our tax code with our broader energy goals. Our focus should be on lowering carbon emissions and encouraging renewable energy sources, not rewarding the oil and gas industry. I urge my colleagues to join me in eliminating these unnecessary tax breaks.

By Mr. BAUCUS (for himself, Mr. CRAPO, Ms. CANTWELL, Mr. ROBERTS, Ms. LANDRIEU, Mr. BINGAMAN, Mrs. LINCOLN, Mr. HARKIN, Mrs. MURRAY, Mr. PEYOR, Mr. BOND, Mr. JOHNSON, Mr. DORGAN, Mr. WYDEN, Mr. LUGAR, Mr. MCCASKILL, and Mr. Enzi): S. 1089. A bill to facilitate the export of United States agricultural commodities and products to Cuba as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000, to establish a cultural export promotion program with respect to Cuba, to remove impediments to the export to Cuba of medical devices and medicines, to allow travel to Cuba by United States citizens and legal residents, to establish an agricultural export promotion program with respect to Cuba, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, this Nation and this body have debated divisive trade issues for more than a century. In the 1820s, the cotton, indigo, and rice exporting Southern States quarreled with northern States intent on protecting nascent manufacturing. In the 1930s, President Hoover’s appeals to save American jobs brought the Smoot-Hawley tariff.

Since the Second World War, America has moved to open the world’s markets and our own. We are better for it. But divisive trade debates do and will continue to be long and contentious as those regarding our economic sanctions on Cuba.

I am introducing legislation today to bring this divisive debate to an end. I do so not as an ideologue or a partisan. I am neither the Cuban government’s friend nor its staunchest enemy. I instead am a Montanan. Like most Montanans, I take no pleasure in disagreement. Like most Montanans, I try to make a deal when I can. Like most Montanans, I stick to the facts.

Here are the facts. Opening Cuba to our exports means money in the pockets of farmers and ranchers across America. Lifting financing and other restrictions on U.S. agriculture could increase U.S. beef exports from states like Montana and Colorado from $1 million to as much as $13 million. Lifting these restrictions would allow agricultural exporters in States like North Dakota and Arkansas to obtain near-monopoly prices on the world market, nearly 40 percent of its rice market, and more than 90 percent of its poultry market. Lifting these restrictions could allow America’s farmers and ranchers to export as much as $1.2 billion in total agricultural goods to Cuba.

The facts also show that European and other exporters already reap these benefits. Europe has scrapped its Cuba sanctions. Just last week, EU officials were in Havana calling for full normalization of ties. Those officials made no secret of wanting to solidify ties with Cuba now to get the jump on the U.S.

Those are the facts as I see them. But that is not all I see. I am not blind to the Cuban people suffering under the crimes of their government. I am not deaf to the calls for political and religious freedom just 90 miles off our shores. But I also see that increased trade ties historically have led to improved political ties. Argentina and Brazil in this hemisphere or between former rival nations in Europe.

Am I certain that increased trade will improve our political ties with Cuba? I am not. But I am certain that we have lifted these restrictions in place for over 5 decades. I am certain that five decades of sanctions have made no Cuban freer, no nation more prosperous, and no government more democratic. I am certain that one side has gotten its chance and its way. I am certain that the status quo must now change.

Here is how I propose to change our status quo with Cuba. My bill, which 15 other Democratic and Republican Senators support, would help U.S. farmers and ranchers sell their products to Cuba by facilitating cash payments for agricultural goods, authorizing direct transfers between U.S. and Cuban banks, and creating a U.S. agricultural export promotion fund. This bill also eases restrictions on exports of medicines and medical devices. It allows all Americans to travel to Cuba—not just one particular group.

John Stuart Mill wrote that “Commerce first taught nations to see with goodwill the wealth and prosperity of one another. Before, the patriot . . . wished all countries weak, poor, and ill-governed but his own . . .” For too long, America has stood atop our barri
cade of sanctions and looked down upon a weak, poor, and ill-governed Cuba. Let us now open our commerce with Cuba. Let us wish them wealth, prosperity, and an abundance of all that we value and hold dear in America.

By Mr. WYDEN (for himself and Ms. CANTWELL): S. 1090. A bill to amend the Internal Revenue Code of 1986 to provide tax credit parity for electricity produced from renewable resources; to the Committee on Finance.

Mr. WYDEN. Mr. President, I rise to discuss the subject of U.S. energy policy and to introduce a series of bills to address this issue, S. 1090–S. 1098.

Americans consume too much oil, and they pay too high a price for it. National security, the environment pays a price and the econ=
omy clearly pays a price. It’s clear that Americans can no longer afford the energy policy of the status quo.

Last summer, when crude oil prices approached $150 dollars a barrel, Americans were sending roughly $1.7 billion dollars a day to foreign countries to pay to cover their addiction to oil. That’s $1.7 billion a day that was not invested here at home. Rather it went into pockets of foreign countries—and often to countries that oppose America’s interests and undermine American security. A third of the oil Americans use comes from the OPEC oil cartel—a cartel that in
ccludes governments who are either openly hostile to the United States or who provide a haven and support to those who are. American dependence on their oil is a recipe for disaster.

Oil prices have retreated, but America’s addiction to oil has not let up. The Nation’s transportation system is almost entirely fueled by it. When the price of oil goes up, transportation costs go up, which means shipping costs and the cost of everything that has to be shipped goes up right along with it.

On top of all the other faults oil brings with it, burning fossil fuels is bad for our health and the health of our planet. Burning fossil fuels produces 86 percent of the man-made greenhouse gases released into the environment every year in the U.S. Motor fuels have become cleaner over the years, but they still heat up the environment with greenhouse gases, just like burning coal at electric generation plants. Continuing to rely on energy sources that do harm to the air, land and water is a failed policy and bad for America’s future.

Spelling out the problem, however, is the easy part. There is no silver bullet when it comes to remaking the way the entire nation consumes energy and encouraging the development of viable alternative sources. No one person, organization or piece of legislation can do it alone.

If America is going to get on the path to real energy independence, Americans not only have to build that path, every American is going to have to commit to changing the way they use energy. While I believe that Government cannot simply legislate such transformative change, it is my view that government can provide the incentives and framework needed to empower Americans to rise to the challenge.

While I cannot tell you where the next advancement in green energy will
come from. I know that given the right tools and incentives there is no limit to what American ingenuity can achieve. This is why today I am offering a series of proposals to speed up our progress toward a cleaner energy future. I will address the full spectrum of solutions needed to get there. They start with harnessing the intellectual power of our colleges and universities to invent new energy technologies. They create new incentives for homeowners to turn these technologies into new energy products. They give consumers incentives to buy and install those new energy technologies in their homes and businesses.

If America is going to cut back in its use of oil, then it needs to take a hard look at the single largest user of oil, the transportation sector. Today, I am proposing a three-pronged program to dramatically reduce the amount of oil Americans use every day to get to work, do their errands, and transport Americans elsewhere to market.

First, I propose to dramatically revise the Renewable Fuel Standard that now requires gasoline and diesel fuel providers to blend larger and larger amounts of ethanol and other biofuels into their products. This, as you may know, has undermined the continued development of biofuels, especially those that do not require the use of food grains like corn and oils used to make them. But as we have seen in recent years, you cannot displace large amounts of food grains and oils without impacting the supply and price of those commodities. Last year, nearly a third of the U.S. corn crop was used for ethanol production, leading to more expensive food for families at a time when they can least afford it. That does not make sense to me.

The current standard also does not do enough to genuinely reduce the amount of oil being consumed. In part this is because fuels like ethanol simply do not contain as much energy per gallon as the gasoline it is intended to replace. The existing standard is aimed at replacing less than 15 percent of U.S. gasoline and diesel fuel with renewable fuels. I think we can do better, which is why my proposal aims to replace a third of those fuels with new low-carbon fuels. Right now a third of the United States gasoline is imported from OPEC countries. Let us aim to get this country off OPEC oil once and for all.

I want to make it clear that I am not proposing these changes because I am opposed to using renewable fuels. I have already introduced legislation—S. 536—to allow biomass from Federal lands to be used in the production of biofuels. Under the existing Renewable Fuel Standard, biomass from Federal lands is prohibited from being used as a renewable fuel. This makes no sense from either an energy perspective or an environmental perspective. Allowing for the use of biomass derived from Federal lands will reduce the threat of catastrophic wildfires, help make those forests healthier, and open up a variety of economic opportunities for hard hit rural communities. It is also a step towards a sound national energy policy.

However, if the U.S. is going to have a Renewable Fuel Standard for motor fuels, it needs to be a technology-neutral standard open to all renewable fuels, not just a chosen few. This is why my legislation would allow a range of energy sources to qualify as motor “fuels” including electricity for plug-in cars, methane to fuel compressed natural gas vehicles, and hydrogen for fuel cells. Initially, these low-carbon fuels could come from conventional sources, such as electricity from the electric grid, but eventually they would need to come from renewable energy sources.

Singling out ethanol as the only additive approved for motor fuel only creates a market for ethanol, which in turn discourages research and investment in other fuels. Creating a technology neutral “low-carbon” standard to replace traditional fossil fuels with alternative lower-carbon domestic fuels opens the door for a whole host of advancements and innovations yet to be realized.

In addition to supplying new, cleaner, renewable transportation fuels, I will also be introducing legislation to authorize the U.S. Department of Transportation to designate “Energy Corridors” so that these fuels will be readily available for consumers. By working with trucking companies, fuel providers, and State and local officials, the Transportation Department would establish which alternative fuels would be available and where they could be purchased. They would standardize other features such as weight limit standards geared towards reducing fossil fuel use and the release of greenhouse gases. The corridors would also include designation of other methods of freight and passenger transportation, such as rail or mass transit—to help reduce transportation fuel use.

Beyond empowering Americans to make more energy efficient choices, my legislation would make sure that energy efficient choices are within the reach of more Americans. Because I believe that energy efficient vehicles should not just be a luxury item for affluent Americans, I will be introducing legislation to end the current tax penalty for vehicles killing fuel efficient vehicles. Vehicles getting at least 10 percent more than national average fuel efficiency would get a $900 tax credit. The credit would increase up to $2,500 as vehicle fuel efficiency increased. The bill also provides a tax credit for heavy truck owners to install fuel saving equipment. And it would increase both the gas guzzler tax and the civil penalty for vehicle manufacturers who miss their legally-required Corporate Average Fuel Economy, CAFE, requirements. The technology-neutral tax credit is designed to get more fuel-efficient vehicles on the road by making fuel-efficient vehicles an affordable choice for more Americans.

But reducing oil use by the transportation sector alone is not enough. Some forty percent of energy use in the U.S. is consumed in buildings. So I am also introducing legislation to empower American families—as well as small and mid-sized businesses—to save energy and install clean energy equipment. The “Re-Energize America Loan Program” will create a $10 billion revolving loan program to allow homeowners and property owners and small and mid-sized businesses, schools, hospitals and others to make clean energy investments. This zero-interest loan program would be administered at the State level, not by bureaucrats in Washington, DC, so it will be tailored to regional needs. It would be financed through the transfer of Federal energy royalties paid on the production of coal, gas and oil, and renewable energy from Federal land. It would empower homeowners and property owners to help themselves and help their country start laying the groundwork for an entirely different energy future.

States like Oregon have enormous potential for development of renewable energy projects built on wind, sun, water, and bio-mass, wave and tidal. The challenge is to find new ways to harness these energies. Renewable energy is also not just about fuel that goes into cars or electricity for homes or buildings. Renewable energy can also be used to heat homes and buildings, and power factories and businesses. So I am introducing legislation to provide tax credits for the production of energy from renewable sources, such as steam from geothermal wells, or biogas from feedlots or dairy farms that is sold directly to commercial and industrial customers. A separate credit would be available if this renewable energy is used right on site to heat a building or provide energy for the home.

The goal of this bill is to foster the development of new renewable energy technologies while expanding the market for renewable energy beyond the wind farms and electric generation plants already in place. The amount of the tax credit will no longer be tied to the way energy is produced but rather the amount of energy produced. This will help new energy technologies get in the game, and reward solutions that consume the most energy for the money. And it will introduce legislation to end the current tax penalty on biomass, hydroelectric, wave and tidal energies and other forms of renewable energy that are only eligible for half of the available Federal production tax credit. America needs all of these resources if it is going to move into a new energy future. My goal is to create a level playing field and give all of these technologies the full tax benefit in order to stimulate investment and get more renewable energy projects built.

One big advantage of renewable energy is that some form of it can be found on every corner, and in every
corner of the country. Whether it’s a solar panel on a home or store—or geothermal power plant—there is renewable energy potential virtually everywhere. One set of technologies that can make renewable energy even more available are energy storage technologies. These are solutions that can store solar energy during the day for use at night, or store wind energy when the wind blows, to be used when it does not.

Simply put, not enough attention has been paid to the use of energy storage technologies, which can also address daily and seasonal peaks in energy demand such as all of those air conditioners that Americans will soon be putting to good use during the summer’s hottest days. Federal funding for energy storage technologies has been virtually nonexistent. So I am introducing legislation to create an investment tax credit that will help pay for the installation of energy storage equipment. Energy can be directed to those who connect it to the electric transmission and distribution system and for on-site use in buildings, homes, and factories. Any number of different types of storage technology can qualify—batteries, flywheels, pumped storage, thermal, and hydrogen storage, to name a few. The credit would be based on the energy stored, not on the technology used.

The goal throughout the bills I am introducing today is not to pick winners and losers. Our goal is to encourage innovation and installation.

Last but not least, America not only needs new solutions to our energy problems. It needs a skilled workforce to make them a reality. So, I am also proposing an “Energy Grant” Higher Education program to provide $300 million a year to America’s colleges and universities to do research and develop education programs aimed at unique opportunities and challenges in each region of the country. Why rely solely on the Federal Government to research programs to come up with solutions for regional energy issues when labs and research departments at colleges and universities around the country can contribute to the effort?

The Senate Energy Committee has already adopted legislation I have proposed to create a $100 million a year community college based training program for skilled technicians to build, install and maintain the new American energy infrastructure of wind turbines, geothermal energy plants, fuel cells, and other 21st Century technologies. Without skilled workers, this infrastructure will not happen and without effective training programs there won’t be skilled workers to fill the jobs. I am also introducing this proposal as a stand-alone bill to help ensure that job training gets the attention that it needs. What good will “green jobs” do for Americans if Americans don’t have the skills that these jobs will demand?

My goal in formulating this agenda has been to mobilize Americans and American resources to achieve authentic energy independence and a new energy future. To really accomplish this goal, I believe we must employ every tool at our disposal. But in the end the success or failure of any effort to transform the way Americans use energy will ultimately rest with the American people. There is no question that this will not be easy, but I have faith that the energy challenges facing the nation today are no match for the collective ingenuity, talent and energy of the American people. Let us put those resources to work.

Mr. President, I ask unanimous consent that the text of the bills be printed in the Record, as follows:

SEC. 1. SHORT TITLE. This Act may be cited as the “Renewable Energy Parity and Investment Remedy Act” or “REPAIR Act”.

SEC. 2. TAX CREDIT PARITY FOR ELECTRICITY PRODUCED FROM RENEWABLE SOURCES. (a) In General.—Paragraph (1) of section 45(b)(1) of the Internal Revenue Code of 1986 is amended by striking “and” and inserting “and before 2010” after “any calendar year after 2006.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 3. ENERGY STORAGE PROPERTY CONNECTED TO THE GRID ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS. (a) In General.—Paragraph (1) of section 54(c)(d) of the Internal Revenue Code of 1986 is amended to read as follows:

“(1) QUALIFIED RENEWABLE ENERGY FACILITIES.—The term ‘qualified renewable energy facility’ means a facility which is—

(A)(i) a qualified facility (as determined under section 48(d)), without regard to paragraphs (8) and (10) thereof and to any placed in service date, or

(B) owned by a public power provider, a governmental body, or a cooperative electric company.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 4. ENERGY INVESTMENT CREDIT FOR ON-SITE ENERGY STORAGE. (a) CREDIT ALLOWED.—Clause (i) of section 48(a)(2)(A) of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking “and” at the end of subclause (II), and

(2) by inserting “and” at the end of subclause (IV), and

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

“(V) qualified onsite energy storage property;”

(b) QUALIFIED ONSITE ENERGY STORAGE PROPERTY.—Subsection (c) of section 48 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking “and” at the end of subclause (III),

(2) by inserting “and” at the end of subclause (IV), and

(3) by inserting a new subparagraph at the end:

“(Y) qualified onsite energy storage property;”

SEC. 5. QUALIFIED ENERGY STORAGE PROPERTY.—This Act may be cited as the “Storage Technology of Renewable and Green Energy Act of 2009” or the “STORAGE Act of 2009.”

SEC. 2. ENERGY INVESTMENT CREDIT FOR ENERGY STORAGE PROPERTY CONNECTED TO THE GRID. (a) In General.—Paragraph (1) of section 48(c)(5) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

“(C) ELECTRICAL GRID.—The term ‘electrical grid’ means the electrical transmission, distribution, and system facilities which—

(1) are under the jurisdiction of the Federal Energy Regulatory Commission or State public utility commissions, or

(2) are owned by—

(A) a State or any political subdivision of a State,

(B) an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), or that sells electricity for 4,000 megawatt hours of electricity per year, or

(C) any agency, authority, or instrumentality of any one or more of the entities described in subparagraphs (A) or (B), or any corporation which is wholly owned, directly or indirectly, by any one or more of such entities.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.
“(a) IN GENERAL.—The term ‘qualified on-site energy storage property’ means property which—

(i) provides supplemental energy to reduce peak energy requirements primarily on the same site where the storage is located, or

(ii) is designed and used primarily to receive and store intermittent renewable energy generated onsite and to deliver such energy primarily for onsite consumption.

Such term may include property used to charge plug-in and hybrid electric vehicles if such vehicles are equipped with smart grid services which control time-of-day charging and discharging of such vehicles. Such term shall not include any property for which any other credit is allowed under this chapter.

(b) DEFINITIONS.—The term ‘qualified on-site energy storage property’ shall not include any property unless such property in aggregate—

(i) has the ability to store the energy equivalent of at least 20 kilowatt hours of energy, and

(ii) has the ability to have an output of the energy equivalent of 5 kilowatts of electricity for a period of 4 hours.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 5. CREDIT FOR RESIDENTIAL ENERGY STORAGE EQUIPMENT.

(a) CREDIT ALLOWED.—Subsection (a) of section 25C of the Internal Revenue Code of 1986 is amended—

(1) by striking “and” at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

‘’(4) 30 percent of the amount paid or incurred by the taxpayer for qualified residential energy storage equipment installed during such taxable year, and’’.

(b) QUALIFIED RESIDENTIAL ENERGY STORAGE EQUIPMENT.—

(1) IN GENERAL.—Section 25C of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively, and

(B) by inserting after subsection (d) the following new subsection:

‘‘(I) the energy potential of the plans,;’’

(c) ALLOCATIONS TO STATES.—

(1) IN GENERAL.—In carrying out the Program, the Secretary shall allocate funds to States for use in providing zero-interest loans to qualified persons to carry out the ‘‘Reenergize America Loan Program’’.

(2) REEMPLOYMENT OF FUNDS RECEIVED.—The Secretary shall allocate funds among regions of the United States.

(3) REEMPLOYMENT OF FUNDS RECEIVED.—The Secretary shall consider—

(A) the energy conservation plans submitted and approved under section 362 and 363 of the Energy Policy and Conservation Act (42 U.S.C. 6232, 6233), respectively,

(B) the provisions of laws relating to such matters as the Congress determines to be necessary to provide allocations to States under subsection (c).

(d) ADMINISTRATIVE EXPENSES.—An amount shall be transferred to the Secretary of the Treasury to pay the administrative expenses of the Program.

(e) REENERGIZE AMERICA LOAN PROGRAM—

(1) DEFINITIONS.—In this section:

(A) IN GENERAL.—The term ‘‘qualified on-site energy storage property’’ means property which—

(i) provides supplemental energy to reduce peak energy requirements primarily on the same site where the storage is located, or

(ii) is designed and used primarily to receive and store intermittent renewable energy generated onsite and to deliver such energy primarily for onsite consumption.

Such term may include property used to charge plug-in and hybrid electric vehicles if such vehicles are equipped with smart grid services which control time-of-day charging and discharging of such vehicles. Such term shall not include any property for which any other credit is allowed under this chapter.

(2) CONFORMING AMENDMENT.—Section 1016(a)(33) of such Code is amended by striking “section 25C(f)” and inserting “section 25C(g)”.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act.

Title I. SHORT TITLE

This Act may be cited as the ‘‘Reenergize America Loan Program Act of 2009.”

SEC. 2. REENERGIZE AMERICA LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) FUND.—‘‘The term ‘Fund’ means the Reenergize America Loan Program Fund established by subsection (g).

(2) INDIAN TRIBE.—The term ‘‘Indian tribe’’ has the meaning given the term in section 316 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PROGRAM.—The term ‘‘Program’’ means the Green America Loan Program established by subsection (b).

(4) QUALIFIED PERSON.—The term ‘‘qualified person’’ means an individual or entity that is determined, by the Secretary, to meet all terms and conditions of a loan provided under this section based on the criteria and procedures approved by the Secretary in a plan submitted under section (d).

(5) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Energy.

(6) STATE.—The term ‘‘State’’ means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) any other territory or possession of the United States; and

(E) an Indian tribe.

(6) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ‘‘Reenergize America Loan Program Fund’, consisting of such amounts as are transferred to the Fund under subsection (2).

(2) TRANSFERS TO FUND.—From any Federal royalties, rents, and bonuses derived from Federal onshore and offshore oil, gas, coal, or alternative energy leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Mineral Leasing Act (30 U.S.C. 181 et seq.) that are deposited in the Treasury, and after distribution of any funds described in paragraph (1), the remainder shall be transferred to the Fund $1,000,000,000 for each of fiscal years 2010 through 2020.

(3) PRIOR DISTRIBUTIONS.—The distributions referred to in paragraph (2) are those required by law—

(A) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 181); and

(B) to other funds receiving amounts from Federal oil and gas leasing programs, including—

(i) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (33 U.S.C. 1337(g));

(ii) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Act of 1965 (16 U.S.C. 490–5(c));

(iii) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(iv) the coastal impact assistance program established under section 31 of the Outer Continental Shelf Lands Act (41 U.S.C. 1356a).

(4) EXPENDITURES FROM FUND.—

(A) IN GENERAL.—Subject to subparagraph (B), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines to be necessary to provide allocations to States under subsection (c).

(B) ADMINISTRATIVE EXPENSES.—An amount not exceeding 5 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this subsection.

(5) TRANSFERS FROM FUND—

(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund, on the basis of amounts made by the Secretary of the Treasury.

(B) ADJUSTMENTS.—Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.
(a) **Short Title; Amendment of 1986 Code.**—

(1) **Allowance of Credit.**—

(2) Personal Credit.——

(A) In the case of a new qualified fuel-efficient vehicle, the credit shall be allowed under subsection (a) for such taxable year (determined without regard to subsection (c)) that is at least 4 wheels.

(B) In the case of a non-passenger automobile which achieves:

<table>
<thead>
<tr>
<th>The fuel economy of:</th>
<th>The applicable amount:</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 32.2 but less than 34.2</td>
<td>$900.00</td>
</tr>
<tr>
<td>At least 34.2 but less than 35.2</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>At least 35.2 but less than 36.2</td>
<td>$1,100.00</td>
</tr>
<tr>
<td>At least 36.2 but less than 37.2</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>At least 37.2 but less than 38.2</td>
<td>$1,300.00</td>
</tr>
<tr>
<td>At least 38.2 but less than 39.2</td>
<td>$1,400.00</td>
</tr>
<tr>
<td>At least 39.2 but less than 40.2</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>At least 40.2 but less than 41.2</td>
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</tr>
<tr>
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</tr>
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</tr>
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</tr>
<tr>
<td>At least 45.2 but less than 46.2</td>
<td>$2,100.00</td>
</tr>
<tr>
<td>At least 46.2 but less than 47.2</td>
<td>$2,200.00</td>
</tr>
<tr>
<td>At least 47.2 but less than 48.2</td>
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</tr>
<tr>
<td>At least 48.2 but less than 49.2</td>
<td>$2,400.00</td>
</tr>
<tr>
<td>At least 49.2</td>
<td>$2,500.00</td>
</tr>
</tbody>
</table>

At least 41.5 but less than 42.5 | $2,000.00 |
At least 40.5 but less than 41.5 | $2,100.00 |
At least 39.5 but less than 40.5 | $2,200.00 |
At least 38.5 but less than 39.5 | $2,300.00 |
At least 37.5 but less than 38.5 | $2,400.00 |
At least 36.5 but less than 37.5 | $2,500.00 |
At least 35.5 but less than 36.5 | $2,600.00 |
At least 34.5 but less than 35.5 | $2,700.00 |
At least 33.5 but less than 34.5 | $2,800.00 |
At least 32.5 but less than 33.5 | $2,900.00 |
At least 31.5 but less than 32.5 | $3,000.00 |
At least 30.5 but less than 31.5 | $3,100.00 |
At least 29.5 but less than 30.5 | $3,200.00 |
At least 28.5 but less than 29.5 | $3,300.00 |
At least 27.5 but less than 28.5 | $3,400.00 |
At least 26.5 but less than 27.5 | $3,500.00 |
At least 25.5 but less than 26.5 | $3,600.00 |
At least 24.5 but less than 25.5 | $3,700.00 |
At least 23.5 but less than 24.5 | $3,800.00 |
At least 22.5 but less than 23.5 | $3,900.00 |
At least 21.5 but less than 22.5 | $4,000.00 |
At least 20.5 but less than 21.5 | $4,100.00 |
At least 19.5 but less than 20.5 | $4,200.00 |
At least 18.5 but less than 19.5 | $4,300.00 |
At least 17.5 but less than 18.5 | $4,400.00 |
At least 16.5 but less than 17.5 | $4,500.00 |
At least 15.5 but less than 16.5 | $4,600.00 |
At least 14.5 but less than 15.5 | $4,700.00 |
At least 13.5 but less than 14.5 | $4,800.00 |
At least 12.5 but less than 13.5 | $4,900.00 |
At least 11.5 but less than 12.5 | $5,000.00 |
At least 10.5 but less than 11.5 | $5,100.00 |
At least 9.5 but less than 10.5 | $5,200.00 |
At least 8.5 but less than 9.5 | $5,300.00 |
At least 7.5 but less than 8.5 | $5,400.00 |
At least 6.5 but less than 7.5 | $5,500.00 |
At least 5.5 but less than 6.5 | $5,600.00 |
At least 4.5 but less than 5.5 | $5,700.00 |
At least 3.5 but less than 4.5 | $5,800.00 |
At least 2.5 but less than 3.5 | $5,900.00 |
At least 1.5 but less than 2.5 | $6,000.00 |
At least 0.5 but less than 1.5 | $6,100.00 |

(b) New Qualified Fuel-Efficient Motor Vehicle.——

(1) **In General.**——

(2) **Application with Other Credits.**——

(3) **Applicable Amount.**——For purposes of paragraph (2), the amount determined under this paragraph shall be equal to—

(4) **Limitation Based on Amount of Tax.**——In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for such taxable year (determined without regard to subsection (c)) shall not exceed the excess of—

(5) **Recapture.**——The Secretary shall, by regulation, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.
(1) BUSINESS CREDIT.—Section 38(c)(4)(B) is amended by redesignating clauses (i) through (viii) as clauses (ii) through (ix), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:—

"(i) the credit determined under section 30E,";

(2) PERSONAL CREDIT.—(A) Section 30E(c)(2) is amended by striking "and 30D" and inserting "30D, and 30E".

(B) Section 25(e)(1)(C)(i)(II) is amended by inserting "30D," after "30D,".

(C) Section 26(a)(1) is amended by striking "and 30D" and inserting "30D, and 30E".

(D) Section 36(a)(1) is amended by striking "30D" and inserting "30D, and 30E".

(E) Section 45(a) is amended by striking "and 30D" and inserting "30D, and 30E".


(4) The term "Qualifying Fuel Savings Component" means any device or system of such vehicle placed in service after December 31, 2009.

(5) The term "qualified motor vehicle credit" means the credit described in subparagraph (A) with respect to such vehicle placed in service after December 31, 2009.

The amendments made by this section shall apply to property placed in service after December 31, 2009, in taxable years ending after such date.

SEC. 4. INCREASE IN GAS GUZZLER TAX.

(a) IN GENERAL.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed on the sale by the manufacturer of each automobile that is a tax equal to—

"(I) an amount based on each mile per gallon reduction below such 80 percent equal to—

"(II) $1,000 for the first mile per gallon reduction,

"(III) an aggregate amount equal to 125 percent of the previous dollar amount for each additional mile per gallon reduction, or

For purposes of subparagraph (B), any fraction of a mile per gallon shall be rounded to the nearest whole mile per gallon and any fraction of a dollar shall be rounded to the nearest dollar.

(2) APPLICABLE TAX AMOUNT.—For purposes of paragraph (1)(A), the applicable tax amount shall be determined as follows:

<table>
<thead>
<tr>
<th>Miles per Gallon</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 10.2</td>
<td>$0</td>
</tr>
<tr>
<td>At least 10.2 but less than 11.2</td>
<td>$1,000</td>
</tr>
<tr>
<td>At least 11.2 but less than 12.2</td>
<td>$2,250</td>
</tr>
<tr>
<td>At least 12.2 but less than 13.2</td>
<td>$3,563</td>
</tr>
<tr>
<td>At least 13.2 but less than 14.2</td>
<td>$5,193</td>
</tr>
<tr>
<td>At least 14.2 but less than 15.2</td>
<td>$6,960</td>
</tr>
<tr>
<td>At least 15.2 but less than 16.2</td>
<td>$7,515</td>
</tr>
<tr>
<td>At least 16.2 but less than 17.2</td>
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<td>$9,815</td>
</tr>
<tr>
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<td>$11,642</td>
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<tr>
<td>At least 19.2 but less than 20.2</td>
<td>$14,552</td>
</tr>
<tr>
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<td>$16,330</td>
</tr>
<tr>
<td>At least 21.2 but less than 22.2</td>
<td>$18,790</td>
</tr>
<tr>
<td>At least 22.2 but less than 23.2</td>
<td>$22,737</td>
</tr>
<tr>
<td>At least 23.2</td>
<td>$0</td>
</tr>
</tbody>
</table>

(b) DEFINITION.—Section 4064(b) (relating to definitions) is amended by adding the following new paragraph:

"(b) AVERAGE FUEL ECONOMY STANDARD.—

The term ‘average fuel economy standard’ has the meaning given such term under section 22222 of title 29, United States Code.";

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales made after December 31, 2009.

SEC. 5. INCREASE IN MANUFACTURER CAFE PENALTIES.

(a) IN GENERAL.—Section 32912 of title 49, United States Code, is amended—

(1) by striking "45R(d)(3)" and inserting "45R(d)(2)";

(2) by striking "45R(d)(4)" and inserting "45R(d)(3)";

(3) by striking "38D(a)(2)" and inserting "38D(a)(3)";

(4) by striking "45R(d)(5)" and inserting "45R(d)(4)";

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to model years beginning after December 31, 2011.
that—

auxiliary power unit, or other technology
advanced truck stop electrification system,
term 'idle reduction technology' means an
greenhouse gas and fuel-saving technologies.
ship of the Environmental Protection Agen-
time at which the main drive en-
duty vehicle with, or for delivery, of those
duty vehicle and any occupants of the heavy-
electricity, or communications, and is capa-
d of providing verifiable and auditable evi-
dence of use of those services, to a heavy-
duty vehicle with, or for delivery, of those
services.

(3) AUXILIARY POWER UNIT.—The term
'auxiliary power unit' means an integrated system
that—

(A) provides heat, air conditioning, en-
gine warming, or electricity to components
on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Reg-
ulations (or any successor regulation), as
meeting applicable emission standards.

(4) REDUCTION TECHNOLOGY.—The term 'heavy-duty vehicle' means a vehicle that
has a gross vehicle weight rating greater
than 8,500 pounds.

(5) DILUTION REDUCTION TECHNOLOGY.—The term 'idle reduction technology' means an
advanced truck stop electrification system,
auxiliary power unit, or other technology that—

(A) is used to reduce idling; and

(B) allows for the main drive engine or auxiliary refrigeration engine to be shut down.

(6) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term 'long-duration idling' means the operation of a main drive engine or auxiliary refrigeration engine during a routine stoppage associated with the transport of materials, passengers, or consumers.

(B) EXCLUSIONS.—The term 'long-duration idling' does not include the operation of a main drive engine or auxiliary refrigeration engine that fulfills one or more of the following criteria:

(a) reduces greenhouse gas emissions; or

(b) is certified by the Administrator.

(7) LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGY.—The term 'low-greenhouse gas and fuel-saving technology' means any de-
vice, system, or component that—

(A) reduces greenhouse gas emissions; or

(B) is certified by the Administrator.

(8) LOW-GREENHOUSE GAS AND FUEL-SAVING TECHNOLOGY DEPLOYMENT PROGRAM.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the OILSAVE Act, the Administrator, in consultation with the Secretary of Energy, shall implement, through the Vehicle Inventory and Use Survey as soon as practicable after the date of enactment of the OILSAVE Act, and at least every 5 years thereafter, as part of the economic census required under title 13, United States Code;

(2) define, collect, and publish data for other modes of goods transport (including rail and marine), as necessary.

(3) REPORT.—Not later than 18 months after the date on which funds are initially awarded under this section and on a biennial basis thereafter, the Administrator shall submit to Congress a report containing a
description of—

(i) actions taken to implement the low-
greenhouse gas and fuel-saving technology deployment program established under subsection (b), including—

(A) a measurement protocols;

(B) market-based incentives (such as Federal tax incentives, grants, and, low-cost loans) for the deployment of low-greenhouse gas and fuel-saving technologies; and

(C) the measurement protocols;

(ii) the SmartWay performance thresholds developed under paragraph (2)(B);

(iii) verify the greenhouse gas performance and fuel efficiency performance of the carriers, including carriers involved in rail, trucking, marine, and other goods movement operations;

(iv) develop tools for—

(A) verify the greenhouse gas performance of transportation technologies, including technologies for passenger transport and goods movement;

(B) identify greenhouse gas and fuel-saving technologies that provide superior en-
vironmental performance for each mode of passenger transportation and goods move-
ment; and

(C) publish a list of low-greenhouse gas and fuel-saving technologies:

(i) identify the greenhouse gas and fuel efficiency performance of each technology; and

(ii) identify those technologies that meet the SmartWay performance thresholds devel-
oped under subparagraph (B).

(4) STAKEHOLDER CONSULTATION.—

(A) IN GENERAL.—The Administrator shall consult the interested parties prior to establishing a new or revising an ex-
isting SmartWay technology category, measure-
ment protocol, or performance threshold.

(B) NOTICES.—On adoption of a new or re-
vised technology category, measurement protocol, or performance threshold, the Ad-
ministrator shall publish a notice and expla-
nation of any changes and, if appropriate, re-
sponses to comments submitted by inter-
ested parties.

(5) FREIGHT PARTNERSHIP.—

(A) IN GENERAL.—The Administrator shall implement, through the SmartWay Trans-
port Partnership, a program with shippers and carriers of goods to promote fuel-effi-
cient, low-greenhouse gas transportation.

(B) ADMINISTRATION.—The Administrator shall—

(i) verify the greenhouse gas performance and fuel efficiency performance of the carriers, including carriers involved in rail, trucking, marine, and other goods movement operations;

(ii) establish a comprehensive greenhouse gas and fuel efficiency performance index of freight modes (including rail, trucking, mar-
ine, and other modes of transporting goods) and companies that operate them;

(iii) develop and maintain, on a regular basis thereafter, the Administrator shall develop, and publish, a list of low-greenhouse gas and fuel-emissions technologies; and

(iv) develop, publish, and maintain, on a regular basis thereafter, the Administrator shall develop, and publish, a list of low-greenhouse gas and fuel-emissions technologies; and

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection $19,500,000 for each of fiscal years 2010 and later.

(II) at any facility during the 10-year pe-
dium beginning on the date such facility was
placed in service,

(iii) sold by the taxpayer to an unrelated
person during the taxable year.

(ii) not used for the production of elec-
tricity, and

(iii) sold by the taxpayer to an unrelated
person during the taxable year.

(2) DOLLAR AMOUNT.—The dollar amount determined under paragraph (2), and

(b) each million British thermal units (mBtu) of qualified fuel

(i) produced by the taxpayer,

(ii) from qualified energy resources, and

(iii) at any facility during the 10-year pe-
riod beginning on the date such facility was
placed in service,

(2) DOLLAR AMOUNT.—The dollar amount determined under this subsection shall be the equivalent, expressed in British thermal units, of the credit allowed under subsection (a) for 1 kilowatt-hour of electricity.

(3) REDUCTION FOR GRANTS, TAX EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—Rules similar to the rules of subsection (b)(3) shall apply for purposes of paragraph (1).

(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED FUEL.—The term qualified fuel means an energy product which is pro-
duced, extracted, converted, or synthesized from a qualified energy resource through a
controlled process, including pyrolysis, electrolysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

"(B) LOCATION OF CREDIT TO PATIONS OF AGRICULTURAL COOPERATIVES.—Rules similar to the rules of subsection (e)(1) shall apply for purposes of paragraph (1).

(2) The table of sections for subpart D part IV of subchapter A of chapter 1 of such Code is amended by striking "Electricity" in the item relating to section 45 and inserting "Energy".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. ENERGY CREDIT FOR ONSITE RENEWABLE NON-ELECTRIC ENERGY PRODUCTION FACILITIES.

(a) CREDIT ALLOWED.—Clause (i) of section 48(a)(2)(A) of the Internal Revenue Code of 1986 is amended—

(1) by striking "and" at the end of subclause (III), and

(2) adding at the end the following new subclause:

"(V) qualified onsite renewable non-electric energy production property."

(b) QUALIFIED SITE.—Section 48 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(5) QUALIFIED SITE.—The term 'qualified site' means property which—

(a) is used primarily on the same site where the site is located to replace an equivalent amount of non-renewable fuel (determined based on the number of British thermal units of non-renewable fuel consumed in the prior calendar year) or to provide energy primarily on such site for a use that did not exist prior to the later of the date of the enactment of this paragraph or the date such property was placed in service.

(b) DEFINITIONS.—For purposes of this paragraph—

(1) QUALIFIED FUEL.—The term 'qualified fuel' means an energy product which is produced, extracted, converted, or synthesized from a qualified energy resource through a conversion process, including pyrolysis, electrolysis, and anaerobic digestion, which results in a product consisting of methane, synthesis gas, hydrogen, steam, manufactured cellulose fuels, or any other form of energy provided under regulations by the Secretary and which is used solely as a source of energy.

(2) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' has the meaning given such term by paragraph (1) of section 45(c).

(3) QUALIFIED ONSITE.—The term 'qualified onsite' non-electric energy production property' shall not include any property for any period after the date which is 10 years after the date of the enactment of the Renewable Energy Alternative Production Act."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 45 of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 4. RENEWABLE NON-ELECTRIC ENERGY PRODUCTION FACILITIES ELIGIBLE FOR NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 54(c)(d) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a facility which is—

"(A) a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date), or

"(ii) a facility which produces qualified fuel (as defined in section 45(f)(4)(A)) that is derived from qualified energy resources (within the meaning of section 45(f)(4)(B)) and not used for the production of electricity, and

"(B) owned by a public power provider, a governmental body, or a cooperative electric company."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

S. 1095

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 "America's Low-Carbon Fuel Standard Act of 2009."

SEC. 2. LOW-CARBON FUEL PROGRAM.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by striking subsection (o) and inserting the following:

"(o) LOW-CARBON FUEL PROGRAM.—

"(1) DEFINITIONS.—In this subsection:

"(A) BASELINE LIFECYCLE GROUNDHIIEGREENHOUSE GAS EMISSIONS.—The term 'baseline lifecycle greenhouse gas emissions' means the average cumulative greenhouse gas emissions, as determined by the Administrator, after notice and comment, for transportation fuel sold or distributed as transportation fuel in 2005.

"(B) LIFECYCLE GROUNDHIIEGREENHOUSE GAS EMISSIONS.—The term 'lifecycle greenhouse gas emissions' means the aggregate quantity of greenhouse gas emissions (including direct emissions and significant indirect emissions such as significant emissions from land use changes), as determined by the Administrator, related to the full fuel lifecycle, including all stages of fuel and feedstock production, extraction, from feedstock generation or extraction through the distribution and delivery of fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

"(C) LOW-CARBON FUEL.—The term 'low-carbon fuel' means transportation fuel (including renewable fuel, electricity, hydrogen, and other forms of energy) that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that on annual average basis are equal to at least the following percentage less than baseline lifecycle greenhouse gas emissions, as determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar year</th>
<th>Applicable percentage less than baseline lifecycle greenhouse gas emissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>20.0</td>
</tr>
<tr>
<td>2016</td>
<td>19.5</td>
</tr>
<tr>
<td>2017</td>
<td>19.0</td>
</tr>
<tr>
<td>2018</td>
<td>18.5</td>
</tr>
<tr>
<td>2019</td>
<td>18.0</td>
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<tr>
<td>2020</td>
<td>17.5</td>
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<tr>
<td>2021</td>
<td>17.0</td>
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<tr>
<td>2022</td>
<td>16.5</td>
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<tr>
<td>2023</td>
<td>16.0</td>
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<tr>
<td>2024</td>
<td>15.5</td>
</tr>
<tr>
<td>2025</td>
<td>15.0</td>
</tr>
<tr>
<td>2026</td>
<td>14.5</td>
</tr>
<tr>
<td>2027</td>
<td>14.0</td>
</tr>
<tr>
<td>2028</td>
<td>13.5</td>
</tr>
<tr>
<td>2029</td>
<td>13.0</td>
</tr>
<tr>
<td>2030</td>
<td>12.5</td>
</tr>
<tr>
<td>2031 and thereafter</td>
<td>12.0</td>
</tr>
</tbody>
</table>

"(DD) old growth or late successional forest stands unless biomass from the stand is harvested as a byproduct of an ecological restoration treatment that fully mitigates, or contributes toward the restoration of, the structure and composition of an old growth forest stand taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining large trees contributing to old-growth structure;

"(EE) components of the National Landscape Conservation System; and

"(FF) National Monuments.

"(IV) Animal waste material and animal byproducts.

"(V) Slash and pre-commercial thinnings that are from non-Federal forestland, including forestland belonging to an Indian tribe or an Indian individual, that are held in trust by the United States or subject to a restriction against alienation imposed by the United States, but not forests or forestland that are ecological communities with a global or State ranking of critically imperiled, imperiled, or rare pursuant to a State Natural Heritage Program, old growth forest, or old-growth forests.

"(VI) Biomass from land in any ownership obtained from the immediate vicinity of
buildings and other areas regularly occupied by people, or of public infrastructure, at risk from wildfire.

(ii) the use of low-carbon fuel.

The term ‘low-carbon fuel’ means that—

(i) produced from renewable biomass; and

(ii) used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

‘(F) TRANSPORTATION FUEL.—The term ‘transportation fuel’ means fuel for use in motor vehicles, motor vehicle engines, or nonroad vehicles (except for ocean-going vessels).

‘(2) PROGRAM.—

‘(A) REGULATIONS.—

(i) IN GENERAL.—Not later than January 31, 2015, the Administrator shall promulgate regulations to ensure that the applicable percentage determined under subparagraph (B) of the transportation fuel sold or introduced into commerce in the United States, on an annual average basis, is low-carbon fuel.

(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

(1) shall contain compliance provisions applicable to producers, refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

(2) shall not—

(aa) restrict geographic areas in which low-carbon fuel may be used; or

(bb) impose any per-gallon obligation for the use of low-carbon fuel.

‘(3) APPLICABLE PERCENTAGES.—

‘(i) CALENDAR YEARS 2015 THROUGH 2030.—

For the purpose of subparagraph (A), the applicable percentage of the transportation fuel sold or introduced into commerce in the United States, on an annual average basis, that is low-carbon fuel for each of calendar years 2015 through 2030 shall be determined by the Administrator in consultation with the Secretary of Energy, in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable percent of transportation fuel sold that is low-carbon fuel</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>10.0</td>
</tr>
<tr>
<td>2016</td>
<td>11.5</td>
</tr>
<tr>
<td>2017</td>
<td>13.0</td>
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<tr>
<td>2018</td>
<td>14.5</td>
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<tr>
<td>2019</td>
<td>16.0</td>
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<td>2020</td>
<td>17.5</td>
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<td>2021</td>
<td>19.0</td>
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<td>2022</td>
<td>20.5</td>
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<td>22.0</td>
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<td>2024</td>
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<td>2026</td>
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<td>2027</td>
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<tr>
<td>2028</td>
<td>29.5</td>
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<tr>
<td>2029</td>
<td>31.0</td>
</tr>
<tr>
<td>2030</td>
<td>32.5</td>
</tr>
</tbody>
</table>

(ii) SUBSEQUENT CALENDAR YEARS.—

(i) IN GENERAL.—After the Administrator has promulgated a formula pursuant to paragraph (2)(A)(i) with respect to the method of determining lifecycle greenhouse gas emissions, the Administrator may adjust the applicable percentage that is greater than the reduction levels unless the Administrator determines that there has been a significant change in the analytical basis used for determining the lifecycle greenhouse gas emissions.

(ii) CRITERIA AND STANDARDS.—If the Administrator makes the determination that an adjustment is required, the Administrator shall—

(A) determine the applicable percentage that is greater than the quantity required under subparagraph (A)(i) with respect to the method of determining lifecycle greenhouse gas emissions.

(B) use the credits under subparagraph (A) to meet the requirements of paragraph (2).

(iii) 5-YEAR REVIEW.—If the Administrator makes any adjustment under this paragraph, the Administrator shall review and revise (based on the same criteria and standards as required for the initial adjustment) the level as adjusted by rule.

(iii) MODIFICATION OF GREENHOUSE GAS REDUCTION LEVELS.—

(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide for the generation of an appropriate quantity of credits by any person that refines, blends, imports, or distributes transportation fuel that contains a quantity of low-carbon fuel that is greater than the quantity required under paragraph (2).

(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

(C) DURATION OF CREDITS.—A credit generated under this paragraph shall remain valid to demonstrate compliance for the 12-month period beginning on the date of generation.

(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a low-carbon fuel deficit on condition that the person, in the calendar year following the year in which the low-carbon fuel deficit was incurred, achieves compliance with the low-carbon fuel requirement under paragraph (2).

(iii) generates or purchases additional low-carbon fuel credits to offset the low-carbon fuel deficit of the previous year.

(E) CREDITS FOR ADDITIONAL LOW-CARBON FUEL.—The Administrator may promulgate regulations providing—

(i) for the generation of an appropriate quantity of credits by any person that refines, blends, imports, or distributes additional low-carbon fuel specified by the Administrator; and

(ii) for the use of the credits by the generator, or the transfer of all or a portion of the credits to another person for the purpose of complying with paragraph (2).

(F) WAIVERS.—
which the petition is received by the Administrator, in consultation with the Secretary of Energy, shall approve or disapprove a petition for a waiver of the requirements of paragraph (2) not later than 90 days after the date on which the petition is received by the Administrator.

(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy and after public notice and opportunity for comment.

(D) MODIFICATION OF APPLICABLE PERCENTAGES.—

(1) In GENERAL.—In the case of any table established under this subsection, if the Administrator waives at least 20 percent of the applicable percentage requirement specified in the table for 2 consecutive years, or at least 50 percent of the national percentage requirement for a single year, the Administrator shall promulgate regulations (not later than 1 year after issuing the waiver) that modify the applicable volumes specified in the table concerned for all years following the final year to which the waiver applies, except that no such modification in applicable percentages shall be made for any year before calendar year 2016.

(2) ADMINISTRATION.—In promulgating the regulations, the Administrator shall consult with the appropriate adjustment of the requirements described in paragraph (2)(b), the Administrator shall conduct periodic reviews of—

(A) the impacts of the requirements of this subsection on each individual and entity described in paragraph (2).

(9) EFFECT ON OTHER PROVISIONS.—

(A) In GENERAL.—Subject to subparagraph (B), nothing in this subsection, or regulations promulgated under this subsection, affects the regulatory status of carbon dioxide or any other greenhouse gas, or expands or limits regulatory authority regarding carbon dioxide or any other greenhouse gas, for purposes of other provisions (including section 167) of this Act.

(B) ADMINISTRATION.—Subparagraph (A) shall not affect implementation and enforcement of this subsection.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2015.

SEC. 3. TRANSITION PROVISIONS.

(a) Definitions.—Section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) is amended by striking

(1) by striking subparagraph (A) and inserting the following:

'(A) ADDITIONAL RENEWABLE FUEL.—

(i) IN GENERAL.—The term 'additional renewable fuel' means fuel that—

(aa) produced from renewable biomass; or

(bb) low-carbon fuel.

(ii) is used to replace or reduce the quantity of fossil fuel present in—

(aa) transportation fuel; or

(bb) home heating oil; or

(cc) aviation jet fuel; and

(iii) has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 20 percent less than baseline lifecycle greenhouse gas emissions.''

(b) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—Section 211(o)(5) of the Clean Air Act (42 U.S.C. 7545(o)(5)) is amended by striking subparagraph (A) and inserting the following:

'(A) CREDITS FOR ADDITIONAL RENEWABLE FUEL.—

(i) IN GENERAL.—The term 'low-carbon fuel' means renewable fuel that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 20 percent less than baseline lifecycle greenhouse gas emissions.''

(c) MODIFICATION OF APPLICABLE PERCENTAGES.—

'(i) by striking subparagraph (I) through (L) as subparagraphs (J) through (M), respectively; and

(ii) by inserting after subparagraph (H) the following:

'(I) LOW-CARBON FUEL.—The term 'low-carbon fuel' means renewable fuel that has lifecycle greenhouse gas emissions, as determined by the Administrator, after notice and opportunity for comment, that are at least 20 percent less than baseline lifecycle greenhouse gas emissions.''

(d) MODIFICATION OF APPLICABLE PERCENTAGES.—

'(A) ADDITIONAL RENEWABLE FUEL.—

(i) IN GENERAL.—Not later than 360 days after the date of enactment of the America's Low-Carbon Fuel Standard Act of 2009, the Administrator shall issue regulations providing—

(1) for the generation of an appropriate quantity of credits by any person that produces, refines, blends, or imports additional renewable fuels or low-carbon fuels specified by the Administrator; and

(2) for the transfer of all or a portion of the credits to the Secretary for approval a plan that—

(A) addresses the energy needs for the region;;

(B) describes the manner in which the proposed activities of the consortium will address those needs.

(4) FAILURE TO COMPLY WITH REQUIREMENTS.—If the Secretary finds on the basis of a review of the annual report required under subsection (g) or on the basis of an audit of a consortium of institutions of higher education conducted by the Secretary that the consortium has not complied with the requirements of this section, the consortium shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.

(e) USE OF FUNDS.—

(1) COMPETITIVE GRANTS.—

(A) IN GENERAL.—A consortium of institutions of higher education in a region that is awarded a grant under this section, a consortium of institutions of higher education conducted by the Secretary that the consortium has not complied with the requirements of this section, the consortium shall be ineligible to receive further grants under this section for such period of time as may be prescribed by the Secretary.

(f) USE OF FUNDS.—

(1) COMPETITIVE GRANTS.—

(A) IN GENERAL.—A consortium of institutions of higher education in a region that is awarded a grant under this section shall use the grant to conduct, at least 6 related programs, and education programs relating to the energy needs of the region, including—

(i) the promotion of low-carbon clean and green energy and related jobs that are applicable to the region;

(ii) the development of low-carbon green fuels to reduce dependency on oil;

(iii) the development of storage and energy management innovations for intermittently renewable technologies; and

(iv) the development of renewable technologies; and

(v) the development of intermittently renewable technologies; and
(iv) the accelerated deployment of efficient-energy technologies in new and existing buildings and in manufacturing facilities.

(3) ADMINISTRATION.—

(a) IN GENERAL.—Subject to clauses (ii) through (vi), the Secretary shall make grants under this paragraph in accordance with the Energy Policy Act of 2005 (42 U.S.C. 16353).

(b) PRIORITY.—A consortium of institutions of higher education in a region shall give a higher priority to programs that are consistent with the plan approved by the Secretary for the region under subsection (d)(3).

(c) THRM.—A grant awarded to a consortium of institutions of higher education under this section shall have a term that does not exceed 5 years.

(d) COST-SHARING REQUIREMENT.—As a condition of receiving a grant under this paragraph, the Secretary shall require the recipient of the grant to share costs relating to the program that is the subject of the grant in accordance with section 968 of the Energy Policy Act of 2005 (42 U.S.C. 16352).

(e) BUILDINGS AND FACILITIES.—Funds made available under subsection (d) shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

(f) LIMITATION ON INDIRECT COSTS.—A consortium of institutions of higher education may not recover the indirect costs of using grants under subparagraph (A) in excess of the limits established under paragraph (2).

(g) FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER.—

(i) IN GENERAL.—A federally funded research and development center may be a member of a consortium of institutions of higher education that receives a grant under this section.

(ii) SCOPE.—The Secretary shall ensure that the scope of work performed by a single federally funded research and development center in the consortium is not more significant than the scope of work performed by any of the other academic institutions of higher education in the consortium.

(2) ADMINISTRATIVE EXPENSES.—A consortium of institutions of higher education may use up to 10 percent of funds described in subsection (d) to pay administrative and indirect expenses incurred in carrying out paragraph (1), unless otherwise approved by the Secretary.

(i) GRANT INFORMATION ANALYSIS CENTER.—

A consortium of institutions of higher education in a region shall maintain an Energy Information Analysis Center at 1 or more of the institutions of higher education to provide the institutions of higher education in the region with analysis and data management support.

(j) ANNUAL REPORTS.—Not later than 90 days after the end of each fiscal year, each consortium of institutions of higher education receiving a grant under this section shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the consortium of institutions of higher education under this section during the fiscal year.

(k) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish such criteria and procedures as are necessary to carry out this section.

(l) COORDINATION.—The Secretary shall coordinate with the Secretary of Agriculture and the Secretary of Commerce each activity carried out under the program under this section—

(1) to avoid duplication of efforts; and

(2) to ensure that the program supplements and does not supplant—

(A) the Sun Grant program established under section 7526 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8114); and

(B) the national Sea Grant college program carried out by the Administrator of the National Oceanic and Atmospheric Administration.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out—

(1) this section $300,000,000 for each of fiscal years 2010 through 2014; and

(2) the activities of the Department of Energy (including salaries and expenses and bioenergy feedstock assessment research) under the Sun Grant program established under section 7526 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8114) $15,000,000 for each of fiscal years 2010 through 2014.

S. 1097
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,:

SECTION 1. SHORT TITLE.
This Act may be cited as the “Community College Energy Training Act of 2009”.

SEC. 2. SUSTAINABLE ENERGY WORKFORCE TRAINING PROGRAM FOR COMMUNITY COLLEGES.

(a) DEFINITION OF COMMUNITY COLLEGE.—In this Act, the term “community college” means an institution of higher education as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), that—

(1) provides a 2-year program of instruction for which the institution awards an associate degree; and

(2) primarily awards associate degrees.

(b) WORKFORCE TRAINING IN SUSTAINABLE ENERGY.—From funds made available under subsection (d), the Secretary of Energy, in coordination with the Secretaries of Labor, shall award grants to community colleges to provide workforce training and education in industries and bilaterals such as—

(1) alternative energy, including wind and solar energy;

(2) energy efficient construction, retrofitting, and operation;

(3) sustainable energy technologies, including chemical technology, nanotechnology, and electrical technology;

(4) water and air conservation;

(5) recycling and waste reduction; and

(6) sustainable agriculture and farming.

(c) WORKFORCE TRAINING IN SUSTAINABLE TRANSPORTATION.—In coordination with the Secretary of Transportation, the Secretary shall award grants to community colleges to provide workforce training and education in industries and bilaterals such as—

(1) sustainable transportation, including electric, hybrid, and advanced-fuel vehicles;

(2) sustainable infrastructure, including mass transit, automobile manufacturing, and other related industries;

(3) sustainable transportation fuels and advanced biofuels; and

(4) sustainable transportation policies, including public policy and regional transportation planning.

(d) GRANTS.—In carrying out the Program, the Secretary may include—

(1) increasing the availability and standardization of alternative fuels;

(2) increasing the availability of alternative, low-carbon transportation fuels;

(3) coordinating and adjusting vehicle weight limits for both existing and future highways on the Interstate System;

(4) coordinating and expanding intermodal shipment capabilities;

(5) coordinating and adjusting the time of service restrictions; and

(6) planning and identifying future construction within the Interstate System.

S. 1097
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 “EnergySmart Transport Corridor Act of 2009”.

SEC. 2. ENERGYSMART TRANSPORT CORRIDORS PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ‘‘EnergySmart transport corridor’’ means the Administrator of the Environmental Protection Agency.

(b) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall establish an EnergySmart Transport Corridor program in accordance with this section.

(c) REQUIREMENTS.—In carrying out the Program, the Secretary shall coordinate the planning and deployment of measures that will increase the energy efficiency of the Interstate System and reduce the emission of greenhouse gases and other environmental pollutants, including by—

(1) increasing the availability and standardization of anti-idling equipment;

(2) increasing the availability of alternative, low-carbon transportation fuels;

(3) coordinating and adjusting vehicle weight limits for both existing and future highways on the Interstate System;

(4) coordinating and expanding intermodal shipment capabilities;

(5) coordinating and adjusting the time of service restrictions; and

(6) planning and identifying future construction within the Interstate System.

(d) DESIGNATION OF CORRIDORS.—

(i) IN GENERAL.—The Secretary, in consultation with the Administrator, shall designate EnergySmart transport corridors in accordance with the requirements described in subsection (c).

(ii) INTERMODAL FACILITIES AND OTHER SURFACE TRANSPORTATION MODES.—In designating EnergySmart transport corridors, the Secretary may include—

(A) intermodal passenger and freight transfer facilities, particularly those that use measures to significantly increase the energy efficiency of the Interstate System and reduce greenhouse gas emissions and other environmental pollutants; and

(B) other surface transportation modes.

(iii) ADVISORY COMMITTEES.—

(A) IN GENERAL.—In consultation with the Governors of the States in which EnergySmart transport corridors are to be located, and in consultation with the appropriate advisory committees established under paragraph (3), the Secretary shall designate EnergySmart transport corridors in accordance with the requirements described in subsection (c).

(B) MEMBERSHIP.—The advisory committees established under this paragraph shall include representatives of interests affected by the designation of EnergySmart transport corridors, including—

(i) freight and trucking companies;

(ii) vehicle and vehicle equipment manufacturers and retailers;

(iii) independent owners and operators; and

(iv) conventional and alternative fuel providers; and

(v) local transportation, planning, and energy agencies.

(C) FUNDING.—In allocating funds for Federal highway programs, the Secretary shall give special consideration and priority to projects and programs that enable deployment of the Program and operation of EnergySmart transport corridors.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2010 through 2015.

S. 1097
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 “EnergySmart Transport Corridor Act of 2009”.

SEC. 2. ESTABLISHMENT.—The term ‘‘Interstate System’’ has the meaning given the term in section 101(a) of title 23, United States Code.

SEC. 3. PROGRAM.—The term ‘‘Program’’ means the EnergySmart Transport Corridor program established under subsection (b).

SEC. 4. REAUTHORIZATION.—The term ‘‘Secretary’’ means the Secretary of Transportation.

SEC. 5. REPORTS.—Not later than 120 days after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall submit a report to Congress that describes the EnergySmart Transport Corridor program in accordance with this section.

SEC. 6. TRANSITION.—In carrying out the Program, the Secretary may provide grants to States for the development, implementation, and enforcement of policies and programs that enable deployment of the Program and operation of EnergySmart transport corridors.

SEC. 7. ENHANCEMENT OF PROGRAM.—The Secretary, in consultation with the Administrator, shall enhance the EnergySmart Transport Corridor program by—

(A) coordinating and adjusting vehicle weight limits for both existing and future highways on the Interstate System;

(B) coordinating and expanding intermodal shipment capabilities; and

(2) increasing the availability of alternative, low-carbon transportation fuels;
It must be sustainable so that it will be there for future generations. We believe the Patient’s Choice Act will meet all of these requirements. The bill focuses on 6 key areas: preventing disease and promoting health; increasing affordable and accessible health insurance options; equalizing the tax treatment of health care; establishing transparency in health care price and quality; and ensuring compensation for injured patients.

S. 1099 transforms health care in America by strengthening the relationship between the patient and the doctor and relying on choice and competition rather than rationing and restrictions. In doing so, we can ensure universal, affordable health care for all Americans.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 1102. A bill to provide benefits to domestic partners of Federal employees; to the Committee on Homeland Security and Governmental Affairs.

Mr. LIEBERMAN. Mr. President, I rise today to speak in favor of the Domestic Partner Benefits and Obligations Act, which I am introducing with my colleague and friend on the Homeland Security and Governmental Affairs Committee, Senator SUSAN COLLINS.

Last year, the Homeland Security and Governmental Affairs Committee held a hearing on this legislation, but time was not available to move the measure to the Senate floor. I also want to thank my former cosponsor, Senator Gordon Smith of Oregon, with whom I and more than 20 other Senators introduced identical legislation in the 110th Congress. We expect about 20 cosponsors again this year, and I want to express my appreciation to them for helping us get an early enough start in the 111th Congress so that we can pass the bill, hopefully, this year.

This legislation makes eminent sense for two reasons: It will help the Federal Government attract the best and brightest and it is the right thing to do from a human rights perspective.

Let me explain. The Domestic Partners Benefits and Obligations Act would provide the same employee benefit programs to same-sex domestic partners that are now provided to the opposite-sex spouses of Federal employees. In other words, same-sex domestic partners—living in a committed relationship and unrelated by blood who would be eligible to participate in health benefits, long-term care, Family and Medical Leave, federal retirement benefits, and all other benefits for which married employees and their spouses are eligible.

It must demand more value for our health care dollar instead of imposing a new tax or passing on a new obligation to future generations.

It must transform the health care system so that we focus on keeping people healthy and well instead of only treating them when they are sick.

It must make health coverage affordable for those with pre-existing conditions.

It must end the current discrimination in the tax code that benefits the wealthy and corporations but fails the poor and those who can’t get coverage through their employer.

It must ensure that health care is accessible when people want it, where people want it.

When the domestic partners of Federal employees are granted the same benefits and obligations as the spouses of federal employees, the Federal Government will be able to attract from a larger pool of applicants the best possible employees to carry out the jobs lifetimes of Americans. In the coming years, as a large percentage of federal employees become eligible for retirement, a new generation of employees will be hired, and the Federal Government will be competing with the private sector for the most qualified among them. This legislation will help put the Federal Government on equal footing to compete for those new recruits and then retain them.

From a human rights perspective, this legislation is one more step on the long road to bring the gay and lesbian community equality under the law.

We are not talking about an insignificant number of people. According to the Williams Institute, over 30,000 federal workers live in committed relationships with same-sex partners who are not Federal employees.

We often hear—and I have often said—that Government should be run more like a business. While the purpose of Government and business are different, I believe Government has a lot to learn from private sector business models including in the matter before us today. The fact is that a majority of U.S. corporations—including more than half of all Fortune 500 companies—already offer benefits to domestic partners.

General Electric, IBM, Eastman Kodak, Dow Chemical, the Chubb Corporation, Lockheed Martin, and Duke Energy are among the major employers that have recognized the economic reward of providing benefits to domestic partners. Overall, almost 10,000 private-sector companies of all sizes provide benefits to domestic partners. The governments of 13 States, including my home State of Connecticut, about 145 local jurisdictions across our country, and some 300 colleges and universities also provide these benefits.

Surveys show that many private sector employers offer these benefits because it is the right thing to do. You can bet each one knows that the policy makes good business sense; it is good management policy, it is good employee policy, and it is good recruitment and retention policy.

In fact, employers have told analysts that they extend benefits to domestic partners to boost recruitment and retain quality employees—as well as to be fair. If we want the Government to be able to compete for the most qualified employees, we are going to have to provide the same benefits that job seekers can find elsewhere.

The experts tell us that 19 percent of all employee compensation comes in the form of benefits, including benefits for family members. Employees who do not get benefits for their families are,
therefore, not being paid equally. Of course, the supporters of this legislation understand that covering domestic partners will add some increment to the total cost of providing federal employee benefits. And we understand that we have to be particularly careful about spending the right money and perform rigorous cost benefit analyses of all, not just new, federal expenditures.

Based on the experience of private companies and state and local governments, the Congressional Budget Office has estimated that benefits to same-sex domestic partners of federal employees would increase the cost of those programs by less than one-half of one percent. The Office of Personnel Management says the cost of health benefits for domestic partners over 10 years would be $670 million. In the name of fairness and raising the appeal of federal employment, this is affordable legislation.

Among the many stories I have heard about the impact of this inequality on real people, I particularly remember the wonderful Michael Guest, who was ambassador to Romania in the Bush Administration and Dean of the Foreign Service Institute before he left public service. In his resignation letter, Mr. Guest made a moving and eloquent case for extending benefits to same sex partners. I believe Ambassador Guest was the first publicly gay man to be confirmed for an U.S. ambassadorship from the U.S. When he resigned the Foreign Service in 2007, he said, and I quote here from his farewell address to his colleagues: "...I have felt compelled to leave the Foreign Service—particularly at a time when our nation so desperately needs talented diplomats to help meet the challenges we face abroad. He may have left public service for many reasons—but one of them must have been that his federal employee benefits did not allow him to care for the needs of his family in an adequate manner.

The Domestic Partners Benefits and Obligations Act makes good economic sense. It is sound policy. And it is the right thing to do. I urge my colleagues to support this bill.

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

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

SEC. 1. SHORT TITLE. This Act may be cited as the "Domestic Partnership Benefits and Obligations Act of 2009".

SEC. 2. BENEFITS TO DOMESTIC PARTNERS OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—An employee who has a domestic partner and the employee is entitled to benefits under this Act, or the employee is subject to obligations imposed upon, a married employee and the spouse of the employee.

(b) CERTIFICATION OF ELIGIBILITY.—In order to obtain benefits or impose obligations under this Act, an employee shall file an affidavit of eligibility for benefits and obligations with the Office of Personnel Management certifying the domestic partner of the employee and certifying that the employee and the domestic partner of the employee—

(1) are each other's sole domestic partner and intend to remain so indefinitely;

(2) have a common residence, and intend to continue the arrangement;

(3) are at least 18 years of age and mentally competent to contract;

(4) share responsibility for a significant measure of each other's common welfare and financial obligations;

(5) are not married to or domestic partners with anyone else;

(6) are same sex domestic partners, and not related in a way that, if the 2 were of opposite sex, would prohibit legal marriage in the State in which they reside; and

(7) understand that willful falsification of information within the affidavit may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification and may constitute a criminal violation.

(c) DISSOLUTION OF PARTNERSHIP.—

(1) IN GENERAL.—An employee or domestic partner of an employee who obtains benefits under this Act shall file a statement of dissolution of the domestic partnership with the Office of Personnel Management not later than 30 days after the death of the employee or the domestic partner or the date of dissolution of the domestic partnership.

(2) DEATH OF EMPLOYEE.—In a case in which an employee dies, the domestic partner of the employee, at the time of death shall receive under this Act such benefits as would be received by the widow or widower of an employee.

(3) OTHER DISSOLUTION OF PARTNERSHIP.—

(A) IN GENERAL.—In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, any benefits received by the domestic partner as a result of this Act shall terminate.

(B) EXCEPTION.—In a case in which a domestic partnership ends other than death of the employee or domestic partner of the employee, the former domestic partner of the employee shall be entitled to be reasonably availed to, and shall not be subject to obligations imposed upon, a former spouse.

(d) STEPPEDCHILDREN.—For purposes of affordability under this Act, any natural or adopted child of a domestic partner of an employee shall be deemed a stepchild of the employee.

(e) CONFIDENTIALITY.—Any information submitted to the Office of Personnel Management under subsection (b) shall be used solely for the purpose of certifying an individual's eligibility for benefits under subsection (a).

(f) REGULATIONS AND ORDERS.—
the Commissioner of Reclamation, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, today Senator Udall and I are introducing a bill that will help end a contentious dispute over water rights claims in the Rio Pojoaque watershed in New Mexico. This is accomplished by authorizing an Indian water rights settlement of the claims being pursued by the Nambe, Pojoaque, San Ildefonso, and Tesuque Pueblos in the Rio Pojoaque basin north of Santa Fe.

This general stream adjudication is known as the Aamodt case, and I believe it is the longest active case in the Federal court system nationwide. The case began in 1966, and since that time has been active before the New Mexico District Court and the Tenth Circuit Court of Appeals. Forty years of litigation has resolved very little in the basin. Fortunately, the parties to the case took matters into their own hands. By engaging directly with each other, they have resolved their differences, something the litigation could not accomplish. The Aamodt Litigation Settlement Act represents an agreement by the parties that will secure water to meet the present and future needs of all the Pueblos involved in the litigation; protect the interests and rights of longstanding water users, including century-old irrigation practices; and ensure that water is available for municipal and domestic use.

Sec. 2. Definitions.

(1) means an officer or employee of the United States, or of any department, agency, or other entity of the United States, including the Vice President of the United States, a Member of Congress, or a Federal judge; and

(2) shall not include a member of the uniformed services.

(3) means duties or responsibilities with respect to Federal employment that would be incurred by a married employee or by the spouse of an employee.

(4) means any duties or responsibilities with respect to Federal employment that would be incurred by a married employee or by the spouse of an employee.

(5) means services that are available to married federal employees and their spouses. Federal employees and their domestic partners will be subject to the same employment-related obligations that are imposed on married employees and their spouses.

The Act will apply with respect to those federal employees who have same-sex domestic partners will be the same employment-related benefits that are available to married federal employees and their spouses. Federal employees and their domestic partners will also be subject to the same employment-related obligations that are imposed on married employees and their spouses.

In order to obtain benefits and assume obligations under the Act, an employee must file an affidavit of eligibility with the Office of Personnel Management (OPM). The employee must certify that the employee and the employee's spouse have a common residence, share responsibility for each other's welfare and financial responsibilities, and are not related by blood, and are living together in a committed intimate relationship. They must also certify that, as each other's sole domestic partner, they intend to remain so indefinitely. If a domestic partnership dissolves, whether or not the domestic partner or otherwise, the employee must file a statement of dissolution with OPM within 30 days.

Employees and their domestic partners will have the same benefits as married employees and their spouses under:

- Employee health; review and plan participation.
- Family, medical, and emergency leave.
- Group life insurance.
- Long-term care insurance.
- Compensation for work injuries.
- Death, disability, and similar benefits.
- Relocation, travel, and related expenses.

For purposes of these benefits, any natural or adopted child of the domestic partner will be treated as a stepchild of the employee.

The employee's domestic partner will also become subject to the same duties and responsibilities with respect to federal employment that apply to a married employee's spouse. These will include, for example, anti-nepotism rules and financial disclosure requirements.

The Act will apply with respect to those federal employees who are employed on the date of enactment or who become employed on or after that date.

By Mr. BINGAMAN (for himself and Mr. Udall, of New Mexico):

S. 1105. A bill to authorize the Secretary of the Interior, acting through the Secretary of the Interior, to develop water infrastructure in the Rio Grande Basin, and to approve the settlement of the water rights claims of the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, today Senator Udall and I are introducing a bill that will help end a contentious dispute over water rights claims in the Rio Pojoaque general stream adjudication in New Mexico. This is accomplished by authorizing an Indian water rights settlement of the claims being pursued by the Nambe, Pojoaque, San Ildefonso, and Tesuque Pueblos in the Rio Pojoaque basin north of Santa Fe.

This general stream adjudication is known as the Aamodt case, and I believe it is the longest active case in the Federal court system nationwide. The case began in 1966, and since that time has been active before the New Mexico District Court and the Tenth Circuit Court of Appeals. Forty years of litigation has resolved very little in the basin. Fortunately, the parties to the case took matters into their own hands. By engaging directly with each other, they have resolved their differences, something the litigation could not accomplish. The Aamodt Litigation Settlement Act represents an agreement by the parties that will secure water to meet the present and future needs of all the Pueblos involved in the litigation; protect the interests and rights of longstanding water users, including century-old irrigation practices; and ensure that water is available for municipal and domestic uses for all residents in the Pojoaque basin. Negotiation of this agreement was a lengthy process. In the end, however, the parties' commitment to solving water supply issues in the basin prevailed.

Legislation to implement this settlement was introduced in the 110th Congress. Hearings were held in both the House and Senate and based on the submitted testimony a number of changes were made to address concerns with the legislation. These changes help standardize the Pueblos' waivers of claims as part of the settlement; limit the settlement's impact on the Federal budget; and allow for flexibility in developing the size and scope of the regional water system in response to local concerns.

This settlement is widely supported in the region and it is time to move swiftly to enact this legislation. The State of New Mexico deserves recognition for actively pursuing a settlement of this matter and committing significant resources so that the Federal government does not bear the entire cost of the settlement. The bill is critical to New Mexico's future since it provides certainty in allocating water in a perennially water-short basin.

It also helps address a long-neglected responsibility of the Federal Government to protect the rights and interests of these Pueblos. I look forward to working with my colleagues in the Senate as well as the House of Representatives to enact this legislation as soon as possible.

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. 1105

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 "Aamodt Litigation Settlement Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Title I—Pojoaque Basin Regional Water System

Title II—Pojoaque Basin Indian Water Rights Settlement

Title III—Cost-Sharing and System Interconnection Agreement

Title IV—City

Section 1. Short Title; Table of Contents.

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

Title I—Pojoaque Basin Regional Water System

Chapter 1. Authorization of Regional Water System


Sec. 102. Operating Agreement.

Sec. 103. Acquisition of Water Rights.

Sec. 104. Delivery and Allocation of Regional Water System Capacity and Water.

Sec. 105. Aamodt Settlement Pueblos' Fund.

Sec. 106. Environmental Compliance.

Sec. 107. Authorization of appropriations.

Title II—Pojoaque Basin Indian Water Rights Settlement

Chapter 1. Settlement Agreement and Contract Approval

Sec. 201. Settlement Agreement and Contract Approval.


Sec. 203. Conditions Precedent and Enforcement Date.

Sec. 204. Waivers and Releases.

Sec. 205. Effect.

Title III—Cost-Sharing and System Interconnection Agreement

Chapter 1. Cost-Sharing and System Interconnection Agreement

Sec. 301. Authorization of Cost-Sharing and System Interconnection Agreement.

Title IV—City

Chapter 1. City

Sec. 401. City.
(6) COUNTY.—The term “County” means Santa Fe County, New Mexico.

(7) COUNTY DISTRIBUTION SYSTEM.—The term “County Distribution System” means the portion of the Regional Water System that serves water customers on non-Pueblo land in the Pojoaque Basin.

(8) COUNTY WATER UTILITY.—The term “County Water Utility” means the water utility organized by the County to—

(A) receive water distributed by the Authorizing Treaty; and

(B) provide the water received under subparagraph (A) to customers on non-Pueblo land in the Pojoaque Basin.

(9) CONTRACT.—The term “Engineering Report” means the report entitled “Pojoaque Regional Water System Engineering Report” dated September 2008 and any amendments, modifications, or updates thereto, including any modifications which may be required by section 101(d)(2).

(10) FUND.—The term “Fund” means the Aamodt Settlement Pueblos’ Fund established by section 105(a).

(11) OPERATING AGREEMENT.—The term “Operating Agreement” means the agreement between the Pueblos and the County executed under section 102(a).

(12) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—The term “operations, maintenance, and replacement costs” means all costs for the operation of the Regional Water System that are necessary for the safe, efficient, and continued functioning of the Regional Water System to produce the benefits described in the Settlement Agreement.

(B) EXCLUSION.—The term “operations, maintenance, and replacement costs” does not include construction costs or costs related to the design and planning.

(13) POJOAQUE BASIN.—

(A) IN GENERAL.—The term “Pojoaque Basin” means the geographic area limited by a surface water divide (which can be drawn on a topographic map), within which area rainfall and runoff flow into arroyos, drainages, and named tributaries that eventually drain to—

(i) the Rio Pojoaque; or

(ii) the 2 unnamed arroyos immediately south; and

(iii) 3 arroyos (including the Arroyo Alamo) that are north of the confluence of the Rio Pojoaque and the Rio Grande.

(B) DEFINITION.—The term “Pojoaque Basin” includes the San Ildefonso Eastern Reservation recognized by section 8 of Public Law 87–231 (75 Stat. 565).

(C) DEFINITION.—The term “Pueblo” means each of the pueblos of Nambe, Pojoaque, San Ildefonso, or Tesuque.

(15) PUEBLO.—The term “Pueblos” means collectively the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque.

(16) PUEBLO LAND.—The term “Pueblo land” means any real property that is—

(A) held in trust by the United States in trust for a Pueblo within the Pojoaque Basin; or

(B) owned by a Pueblo within the Pojoaque Basin before the date on which a court approves the Settlement Agreement; or

(ii) acquired by a Pueblo on or after the date on which a court approves the Settlement Agreement, if the real property is located—

(I) within the exterior boundaries of the Pueblo, as recognized and confirmed by a patent issued under the Act of December 22, 1858 (11 Stat. 374, chapter V); or

(II) within the exterior boundaries of any territory set aside for the Pueblo by law, executive order, or court decree, if the land is within or contiguous to land held by the United States in trust for the Pueblo as of January 1, 2008.

(17) PUEBLO WATER FACILITY.—

(A) IN GENERAL.—The term “Pueblo Water Facility” means—

(i) a portion of the Regional Water System that serves only water customers on Pueblo land; and

(ii) portions of a Pueblo water system in existence on the date of enactment of this Act that serve water customers on non-Pueblo land, also in existence on the date of enactment of this Act, or their successors, that are—

(I) depicted in the final project design, as modified by the drawings reflecting the completed Regional Water System; and

(II) described in the Operating Agreement.

(B) INCLUSIONS.—The term “Pueblo Water Facility” includes—

(i) the barrier dam and infiltration project on the Rio Pojoaque described in the Engineering Report; and

(ii) the Tesuque Pueblo infiltration pond described in the Engineering Report.

(18) REGIONAL WATER SYSTEM.—

(A) IN GENERAL.—The term “Regional Water System” means the Regional Water System described in section 101(a).

(B) EXCLUSIONS.—The term “Regional Water System” does not include the County or Pueblo water supply delivered through the Regional Water System.

(19) SAN JUAN–CHAMA PROJECT.—The term “San Juan–Chama Project” means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 165).

(20) SAN JUAN–CHAMA PROJECT ACT.—The term “San Juan–Chama Project Act” means sections 8 through 18 of the Act of June 13, 1962 (76 Stat. 96, 97).

(21) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(22) SETTLEMENT AGREEMENT.—The term “Settlement Agreement” means the stipulated and binding agreement among the State, the Pueblos, the United States, the City, and the County dated January 19, 2006, and signed by all of the government parties to the Settlement Agreement so long as the provisions set forth in the Settlement Agreement so long as the provisions set forth in the Settlement Agreement.

(23) STATE.—The term “State” means the State of New Mexico.

TITLE I—POJOAQUE BASIN REGIONAL WATER SYSTEM

SEC. 101. AUTHORIZATION OF REGIONAL WATER SYSTEM.

(a) In General.—The Secretary, acting through the Commissioner of Reclamation, shall plan, design, and construct a regional water system in accordance with the Settlement Agreement so long as the provisions set forth in the Settlement Agreement.

(b) Final Project Design.—The Secretary shall issue a final project design within 90 days of completion of the environmental compliance described in section 106 for the Regional Water System that—

(1) is consistent with the Engineering Report; and

(2) includes a description of any Pueblo Water Facilities.

(c) ACQUISITION OF LAND: WATER RIGHTS.—

(1) ACQUISITION OF LAND.—Upon request, and in exchange for the funding which shall be provided in section 107(c), the Pueblos shall consent to the grant of easements and rights-of-way as may be necessary for the construction of the Regional Water System at no cost to the Secretary. To the extent that the State, County, and any other GPRs or entities within the Pojoaque Basin or another GPRs or entities that may be used for construction of the Regional Water System, the State or County shall provide that land or interest in land as necessary for construction at no cost to the Secretary. The Secretary shall acquire any other land or interests in land that is necessary for the construction of the Regional Water System.

(2) WATER RIGHTS.—The Secretary shall not condemn water rights for purposes of the Regional Water System.

(d) CONDITIONS FOR CONSTRUCTION.—

(1) IN GENERAL.—The Secretary shall not begin construction of the Regional Water System facilities until the date on which—

(A) the Settlement Agreement has been executed under section 102(a); and

(B) the Cost-Sharing and System Integration Agreement has been executed under section 102(a).
section 102. OPERATING AGREEMENT.

(a) In General.—The Pueblos and the County shall submit to the Secretary an executed Operating Agreement for the Regional Water System that is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement not later than 180 days after the later of—

(1) the date of completion of environmental compliance and permitting; or

(2) the delivery of a grant or project design for the Regional Water System under section 101(b).

(b) Approval.—Not later than 180 days after receipt of the operating agreement described in subsection (a), the Secretary shall approve the Operating Agreement upon determination that the Operating Agreement is consistent with this Act, the Settlement Agreement, and the Cost-Sharing and System Integration Agreement.

(c) Contents.—The Operating Agreement shall include—

(1) provisions consistent with the Settlement Agreement and the Cost-Sharing and System Integration Agreement and necessary to ensure that the water in the Regional Water System described in those documents;

(2) provisions for—

(A) the distribution of water conveyed through the Regional Water System, including a delineation of—

(i) distribution lines for the County Distribution System;

(ii) distribution lines for the Pueblo Water Facilities; and

(iii) distribution lines that serve both—

(I) the County Distribution System; and

(II) the Pueblo Water Facilities; and

(B) the allocation of the Regional Water System capacity;

(C) the terms of use of unused water capacity in the Regional Water System;

(D) the construction of additional infrastructure and the acquisition of associated rights-of-way or easements necessary to enable any of the Pueblos or the County to fully use water allocated to the Pueblos or the County;

(E) the terms of and payment of annual operation, maintenance, and replacement costs for the Regional Water System, including the portions of the Regional Water System that are to be distributed to the Pueblo Water Facilities and the County Water Utility; and

(F) the operation of wellfields located on Pueblo land;

(G) the transfer of any water rights necessary to provide the Pueblo water supply described in section 108(a); and

(H) the transfer of the Regional Water System with respect to the water supply, including the allocation of the water supply in accordance with section 3.1.8.4.2 of the Settlement Agreement, and the construction of additional infrastructure and the acquisition of associated rights-of-way or easements necessary to enable any of the Pueblos or the County to fully use water allocated to the Pueblos or the County;

(I) the rights of the Pueblos under subsection (a) shall in no event result in forfeiture, abandonment, relinquishment, or other loss thereof.

(b) Trust.—The Pueblo water supply set forth in section 108(a) shall be subject to the Secretary in trust for the Pueblos.

(c) Forfeiture.—The nonuse of the water supplied by the Secretary for the Pueblos under subsection (a) in no event result in forfeiture, abandonment, relinquishment, or other loss thereof.

(d) Trust.—The Pueblo water supply set forth in section 108(a) shall be subject to the Secretary in trust for the Pueblos.

(e) Contract for San Juan-Chama Project Water Supply.—With respect to the contract for the water supply required by section 2.3.7.1.1 of the Settlement Agreement, the contract for the water supply required by section 2.3.7.1.1 of the Settlement Agreement shall be entered into by the Pueblos and the Secretary, and no preference shall be provided to the Pueblos as a result of subsection (c) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(f) Contract for San Juan-Chama Project Water Supply.—With respect to the contract for the water supply required by section 2.3.7.1.1 of the Settlement Agreement, the contract for the water supply required by section 2.3.7.1.1 of the Settlement Agreement shall be entered into by the Pueblos and the Secretary, and no preference shall be provided to the Pueblos as a result of subsection (c) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(g) Contract for San Juan-Chama Project Water Supply.—With respect to the contract for the water supply required by section 2.3.7.1.1 of the Settlement Agreement, the contract for the water supply required by section 2.3.7.1.1 of the Settlement Agreement shall be entered into by the Pueblos and the Secretary, and no preference shall be provided to the Pueblos as a result of subsection (c) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(h) Contract for San Juan-Chama Project Water Supply.—With respect to the contract for the water supply required by section 2.3.7.1.1 of the Settlement Agreement, the contract for the water supply required by section 2.3.7.1.1 of the Settlement Agreement shall be entered into by the Pueblos and the Secretary, and no preference shall be provided to the Pueblos as a result of subsection (c) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(i) Waivers.—Notwithstanding the provisions of this Act, the Secretary to the extent required by subsection (a), shall be nonreimbursable;
(b) the Secretary’s waiver of each Pueblo’s share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San Juan-Chama water contracts, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior; and

(2) Water Authority may acquire any additional water made available from the San Juan-Chama Project which were determined nonreimbursable and nonreturnable pursuant to Public Law 98–293, 78 Stat. 171 (March 26, 1964) shall remain nonreimbursable and nonreturnable.

(3) The Secretary shall acquire additional water in accordance with the provisions of subsections (a) through (g), the Settlement Agreement, the Project Water Authority and the Water System Integration Agreement.

(4) Any water authorized by the Secretary shall be allocated to the Pueblos and the County Water Utility in accordance with the purposes described in the Settlement Agreement.

(5) The amount of water to be distributed to any Pueblo or the County Water Utility in accordance with the Settlement Agreement to ensure that any amounts withdrawn from the Fund do not affect the purposes described in the Act.

(b) DELIVERY OF REGIONAL WATER SYSTEM WATER.—The Authority shall deliver water from the Regional Water System to the Pueblos and the County Water Utility in accordance with the purposes described in the Settlement Agreement.

(1) Pueblo shall receive all amounts withdrawn from the Fund that the Pueblos do not withdraw and shall be distributed to any member of a Pueblo on a per capita basis.

(2) Amounts made available under section 107(c)(1)(B) or from other authorized sources shall be available for expenditure or withdrawal only after the amounts withdrawn from the Fund will be used.

(c) INVESTMENT OF THE FUND.—On the date the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement, amounts withdrawn from the Fund that the Pueblos do not withdraw shall be invested in accordance with the purposes described in the Act.

(d) CONTRACTS FOR USE OF THE UNAVAILABLE OR WATER.—The Authority shall enter into contracts for use of the unavailable or water. Such contracts shall provide for payment of the operation, maintenance, and replacement costs associated with the use of the unavailable or water.

(e) INVESTMENT OF THE FUND.—On the date the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement, amounts withdrawn from the Fund that the Pueblos do not withdraw shall be invested in accordance with the purposes described in the Act.

(f) EXPENDITURE PLAN.—There shall be spent only upon the purposes described in the Act.

(g) CONTRACTS.—The Secretary shall enter into contracts for use of the unavailable or water. Such contracts shall provide for payment of the operation, maintenance, and replacement costs associated with the use of such unavailable or water.

(h) INVESTMENT OF THE FUND.—On the date the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement, amounts withdrawn from the Fund that the Pueblos do not withdraw shall be invested in accordance with the purposes described in the Act.

(2) Amounts made available under section 107(c)(1)(B) or from other authorized sources shall be available for expenditure or withdrawal only after the amounts withdrawn from the Fund will be used.

(i) INVESTMENT OF THE FUND.—On the date the United States District Court for the District of New Mexico issues an order approving the Settlement Agreement, amounts withdrawn from the Fund that the Pueblos do not withdraw shall be invested in accordance with the purposes described in the Act.

(j) CONTRACTS.—The Secretary shall enter into contracts for use of the unavailable or water. Such contracts shall provide for payment of the operation, maintenance, and replacement costs associated with the use of such unavailable or water.

SEC. 105. AAMODT SETTLEMENT PUEBLOS’ FUND.

(a) ESTABLISHMENT OF THE AAMODT SETTLEMENT PUEBLOS’ FUND.—There is established in the Treasury of the United States a fund, to be known as the “Aamodt Settlement Pueblos’ Fund,” consisting of—

(1) such amounts as shall be made available to the Fund and invested under section 107(c) or other authorized sources; and

(2) any interest earned from investment of amounts in the Fund under subsection (b)."
(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).
(b) NATIONAL ENVIRONMENTAL POLICY ACT.—Nothing in this Act affects the outcome of any action conducted by the Secretary or any other Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) REGIONAL WATER SYSTEM.—

(1) IN GENERAL.—Subject to paragraph (4), there shall be appropriated to the Secretary for the planning, design, and construction of the Regional Water System and the conduct of environmental compliance activities not more than $106,400,000 between fiscal years 2010 and 2022.

(2) PRIORITY OF FUNDING.—Of the amounts authorized under paragraph (1), the Secretary may, at any time, adjust the amounts required to be deposited under this section to reflect funding that is necessary to use water supplied from the Nambe Falls Dam and Reservoir in accordance with the Settlement Agreement.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this Act, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

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

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

SEC. 203. CONDITIONS PRECEDENT AND ENFORCEMENT DATE.

(a) CONDITIONS PRECEDENT.—

(1) IN GENERAL.—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register by September 15, 2017 a statement of finding that the conditions have been fulfilled.

(b) REQUIREMENTS.—The conditions precedent referred to in paragraph (1) are the conditions that—

(1) to the extent that the Settlement Agreement conflicts with this title, the Settlement Agreement has been revised to conform with this title;

(2) the Settlement Agreement, so revised, including waivers and releases pursuant to section 204, has been executed by the appropriate parties and the Secretary;

(3) Congress has fully appropriated, or the Secretary has provided from other authorized sources, all funds authorized by section 107, with the exception of subsection (a)(1) of the section, by December 20, 2016;

(4) the State has enacted any necessary legislation and provided any funding that may be required under the Settlement Agreement;

(5) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico; and

(F) a final decree that sets forth the water rights for all parties to the Aamodt Case and that substantially conforms to the Settlement Agreement has been approved by the United States District Court for the District of New Mexico.

(b) EXPIRATION DATE.—If all the conditions precedent described in subsection (a) have not been fulfilled by September 15, 2017—

(1) the Settlement Agreement and this Act shall no longer be effective; and

(2) any funds that have been appropriated under this Act but not expended shall immediately revert to the general fund of the United States Treasury.

(c) ENFORCEMENT DATE.—The Settlement Agreement shall become enforceable as of the date that the United States District Court for the District of New Mexico enters a partial final decree pursuant to subsection (a)(2)(E) and an Interim Administrative Agreement.

TITLE II—POJOAQUE BASIN INDIAN WATER RIGHTS SETTLEMENT

SEC. 201. SETTLEMENT AGREEMENT AND CONTRACT APPROVAL.

(a) APPROVAL TO EXTEND.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments to the Settlement Agreement and the Cost-Sharing and System Integration Agreement that are necessary to make the Settlement Agreement and the Cost-Sharing and System Integration Agreement consistent with this Act) are authorized, ratified, and confirmed.

(b) EXECUTION.—To the extent the Settlement Agreement and the Cost-Sharing and System Integration Agreement do not conflict with this Act, the Secretary shall execute the Settlement Agreement and the Cost-Sharing and System Integration Agreement (including any amendments that are necessary to make the Settlement Agreement and the Cost-Sharing and System Integration Agreement consistent with this Act).

(c) AUTOMATION.—

(1) IN GENERAL.—Each of the Pueblos may enter into contracts to lease or exchange water rights or to forbear undertaking new or existing exchanges of water rights recognized in section 2.1.5 of the Settlement Agreement for use within the Pojoaque Basin in accordance with the other limitations of the Settlement Agreement provided that section 2.1.5 is amended accordingly.

(2) EXECUTION.—The Secretary shall not execute any such contract until such amendment is accomplished under paragraph (1).

(3) APPROVAL BY SECRETARY.—Consistent with the Settlement Agreement as amended under paragraph (1), the Secretary shall approve or disapprove a lease entered into under paragraph (1).

(4) PROHIBITION ON PERMANENT ALIENATION.—No lease or contract under paragraph (1) shall be for a term exceeding 99 years, nor shall any such lease or contract provide for permanent or long-term alienation of the water rights made available to the Pueblos under the Settlement Agreement.

(b) APPLICABLE LAW.—Section 216 of the Revised Statutes of 1903 (43 U.S.C. 228l) shall not apply to any lease or contract entered into under paragraph (1).

(6) LEASING OR MARKETING OF WATER SUPPLY.—The water supply provided on behalf of the Pueblos pursuant to section 108(a)(1) may only be leased or marketed by any of the Pueblos or the Aamodt Settlement Pueblos' Fund, as defined in the Engineering Report.
Order consistent with the Settlement Agreement.

(e) EFFECTIVENESS OF WAIVERS.—The waivers and releases executed pursuant to section 204 shall be effective, and any unexpended Federal funds, shall be returned to the Federal Government unless otherwise agreed to by the Pueblos and the United States in writing and approved by Congress.

(b) CLAIMS BY THE PUEBLOS AGAINST THE UNITED STATES.—The Pueblos, on behalf of themselves and their members, and the United States acting in its capacity as trustee for the Pueblos are authorized to execute a waiver and release of—

(1) all claims for damages, losses, or injuries to land or natural resources not due to loss of water or water rights, land, or natural resources due to loss of water or water rights; or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure within the Pojoaque Basin that first accrued at any time up to and including the waiver effectiveness date identified in section 203(d), except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to the Pueblo of Tesuque and the City of Santa Fe; and

(3) all claims for damages, losses, or injuries to water rights or claims of interference with, diversion or taking of water (including claims for injury to land resulting from such damages, losses, injuries, interference with, diversion, or taking of water) attributable to the County of Santa Fe pumping of groundwater that has effects on the ground and surface water supplies in or on the land within the Pojoaque Basin.

(c) RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.—Notwithstanding the waivers and releases authorized in this Act, the Pueblos on behalf of themselves and their members and the United States acting in its capacity as trustee for the Pueblos retain—

(1) all claims for enforcement of the Settlement Agreement, the Cost-Sharing and System Integration Agreement, the Final Decree, including the Partial Final Decree, the San Juan-Chama Project contract between the Pueblos and the United States or this Act;

(2) all rights to use and protect water rights acquired after the date of enactment of this Act;

(3) all rights to use and protect water rights acquired pursuant to state law to the extent not inconsistent with the Partial Final Decree, Final Decree, and the Settlement Agreement;

(4) all claims against persons other than the Pueblos and the United States for damages, losses or injuries to water rights or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure within the Pojoaque Basin arising out of activities occurring outside the Pojoaque Basin;

(5) all claims relating to activities affecting the quality of water including any claims the Pueblos may have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those laws;

(6) all claims against the United States relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights (including hunting, fishing, gathering or cultural rights); and

(7) all claims for water rights from water sources outside the Pojoaque Basin for land outside the Pojoaque Basin owned by a Pueblo or held by the United States for the benefit of any of the Pueblos; and

(8) all rights, remedies, privileges, immunities, powers and claims not specifically waived and released pursuant to this Act or the Settlement Agreement.

(d) EFFECT OF SECTION.—Nothing in the Settlement Agreement or this Act—

(1) affects the ability of the United States acting in its sovereign capacity to exercise actions authorized by law, including any laws relating to health, safety, or the environment, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those laws;
develops between communities and individuals, and in a State where the history is long and complex, disputes over water are uniquely complicated. But, any despite the potential for disagreement over water tenure, New Mexicans are united in a common respect for this precious resource. Tribes, like the Pueblos of New Mexico, to the historic aquacue and growing communities, water is fundamental to both survival and cultural traditions, and is respected as such. The Aamodt settlement is an example of the tribes coming together to foster compromise rather than conflict. The parties involved have worked tirelessly to ensure that everyone has access to this precious and respected resource.

It has been said that the wars of the future will be fought over access to water. In New Mexico, we are setting a different precedent—a precedent of respect and compromise, one that will help us move into the future with well-established partnerships and a commitment to conserve and manage this vital resource to the benefit of all. I am honored to join Senator Bingaman today in introducing this legislation that will bring the Pueblos of Nambe, Pojoaque, San Ildefonso, and Tesuque and the surrounding communities one step closer to establishing a secure water future.

By Mr. Durbin (for himself, Mr. Graham, and Mr. Hatch):

S. 1107. A bill to amend title 28, United States Code, to provide for a limited 6-month period for Federal judges to opt into the Judicial Survivor Annuities System and begin contributing toward an annuity for their spouse and dependent children upon their death, and for other purposes; to the Committee on the Judiciary.

Mr. Durbin. Mr. President, today I am introducing a bill, together with my Senate colleague Senator Orrin Hatch, that will help the financial security of Federal judges and their families. It will do so without costing the Federal Government a penny.

Our bill, the Judicial Survivors Protection Act of 2009, will create an open season for active and senior Federal judges to enroll in the Judicial Survivors’ Annuities System, JSAS, if they are not currently enrolled. JSAS provides annuity eligibility for the surviving spouses and dependent children of deceased federal judges. Depending on the judge’s length of service, the annuity for a surviving spouse can be as high as 50 percent of the judge’s average annual salary, and the annuity for surviving dependent children can be as high as 20 percent.

In addition, our bill would provide an important health insurance benefit for the surviving family members of deceased Federal judges. For a surviving spouse or dependent child to continue to receive health insurance coverage under the Federal Employees Health Benefits, FEHB, program after the judge’s death, the judge must have been enrolled in JSAS. Otherwise, they can no longer participate in FEHB.

Federal judges have only 6 months from the date of their appointment to sign up for JSAS and, for a variety of reasons, many do not do so. For example, judges may enroll toward an annuity in hopes of avoiding pay cuts when they leave a law firm to become a Federal judge, and they are unable to afford JSAS contributions, which amount to a 2.2 percent of a judge’s annual salary. Nearly 900 federal judges have been enrolled in JSAS. Otherwise, they would have paid in if I had joined during the open season, plus a penalty amount for waiting until now to join.

I also received a letter from U.S. District Court Judge Robert Gettleman in the Northern District of Illinois, who said: "Especially given the circumstances of our current economic crisis, providing for my family in the event of a death is of urgent importance to me. I think I speak for many of those in my circumstance that I am happy to make a monthly payment and contribute a greater share of my income to participate in this program."

The bill that Senator Hatch and I are introducing would allow Judge Mihm, Judge Gettleman, and the hundreds of other nonparticipating federal judges around the country to pay a penalty and buy into the JSAS program. Such judges would be required to pay an enhanced contribution rate of 2.75 percent of their salary each year rather than the 2.2 percent rate they would pay if they had enrolled within 6 months of taking office.

As a result, the cost of our bill would be borne by these new enrollees and not by the Federal Government or by previously enrolled judges. The Congressional Budget Office has conducted an analysis of this bill and determined that the cost of this bill is insignificant. Therefore, the bill would require no Federal funds and have no
PAYGO implications. The higher ongoing contribution rates for new enrollees will offset the value of any potential future liabilities that would be incurred by the JSAS fund, which currently has assets of over $500 million.

One of the highest priorities of the federal judiciary in recent years has been the pursuit of a pay raise. Federal judges have not received a pay raise from Congress since 1991, other than occasional cost-of-living adjustments, and there is a concern that some of this Nation’s best and brightest attorneys no longer seek Federal judgeships because of the financial sacrifice they and their families would have to make. The bill that Senator HATCH and I are introducing today would not raise the judicial pay of our federal judges, but it would at least provide a modest benefit that might make judicial service more tenable and more attractive. I hope Congress will take up and pass the Judicial Survivors Protection Act of 2009.

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. 1107

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

SEC. 1. SHORT TITLE. This Act may be cited as the “Judicial Survivors Protection Act of 2009”.

SEC. 2. DEFINITIONS. In this Act:

(a) The term “judicial official” refers to incumbent officials defined under section 376(a) of title 28, United States Code.

(b) The term “Judicial Survivors’ Annuities Fund” means the fund established under section 3 of the Judicial Survivors’ Annuities Reform Act (28 U.S.C. 376 note; Public Law 94–554; 90 Stat. 2611).

(c) The term “Judicial Survivors’ Annuities System” means the program established under section 376 of title 28, United States Code.

SEC. 3. PERSONS NOT CURRENTLY PARTICIPATING IN THE JUDICIAL SURVIVORS’ ANNUITIES SYSTEM.

(a) ELECTION OF JUDICIAL SURVIVORS’ ANNUITIES SYSTEM COVERAGE.—An eligible judicial official may elect to participate in the Judicial Survivors’ Annuities System during the open enrollment period.

(b) MANNER OF MAKING ELECTIONS.—An election under this section shall be made in writing signed by the person making the election, and received by the Director of the Administrative Office of the United States Courts before the open enrollment period.

(c) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Director.

(d) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period under this section is the 6-month period beginning 30 days after the date of enactment of this Act.

SEC. 4. JUDICIAL OFFICERS’ CONTRIBUTIONS FOR OPEN ENROLLMENT ELECTION.

(a) CONTRIBUTIONS.—Every active judicial official who files a written notification of his or her intention to participate in the Judicial Survivors’ Annuities System during the open enrollment period shall be deemed thereby to consent and agree to having deducted from his or her salary a sum equal to 2.75 percent of salary or a sum equal to 3.5 percent of his or her retirement salary, except that the deduction from any retirement salary—

(1) of a judge, trustee, or judicial officer of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

(2) of a judge of the United States Court of Claims retired under section 178 of title 28, United States Code; or

(3) of a judicial official on recall under section 155(h), 375, or 686(h) of title 28, United States Code,

shall be an amount equal to 2.75 percent of retirement salary.

(b) CONTRIBUTIONS TO BE CREDITED TO JUDICIAL SURVIVORS’ ANNUITIES FUND.—Contributions made under subsection (a) shall be credited to the Judicial Survivors’ Annuities Fund.

SEC. 5. DEPOSIT FOR PRIOR CREDITABLE SERVICE.

(a) LUMP SUM DEPOSIT.—Any judicial official who files a written notice of his or her intention to participate in the Judicial Survivors’ Annuities System during the open enrollment period may make a deposit equaling 2.75 percent of salary, plus 3 percent of salary annuity, compounded retroactively for the first 18 months of prior service, to receive the credit for prior judicial service required for immediate coverage and protection of the official’s survivors. Any such deposit shall be made on or before the close of the open enrollment period.

(b) DEPOSITS TO BE CREDITED TO JUDICIAL SURVIVORS’ ANNUITIES FUND.—Deposits made under subsection (a) shall be credited to the Judicial Survivors’ Annuities Fund.

SEC. 6. VOLUNTARY CONTRIBUTIONS TO ENLARGE SURVIVORS’ ANNUITY.

(a) CONTRIBUTIONS.—In this Act, the term “voluntary contributions” means contributions made under section 376(d) of title 28, United States Code.

(b) VOLUNTARY CONTRIBUTIONS TO ENLARGE SURVIVORS’ ANNUITY.—Any such contributions shall be an amount equal to 2.75 percent of salary or a sum equal to 3.5 percent of retirement salary, except that the deduction from any retirement salary—

(1) of a judge, trustee, or judicial officer of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

(2) of a judge of the United States Court of Claims retired under section 178 of title 28, United States Code; or

(3) of a judicial official on recall under section 155(h), 375, or 686(h) of title 28, United States Code,

shall be an amount equal to 2.75 percent of retirement salary.

(c) E FFECTIVE DATE FOR ELECTIONS.—Any judicial official who files a written notification of his or her intention to participate in the Judicial Survivors’ Annuities System during the open enrollment period shall be deemed thereby to consent and agree to having deducted from his or her salary a sum equal to 2.75 percent of salary, plus 3 percent of salary annuity, compounded retroactively for the first 18 months of prior service, to receive the credit for prior judicial service required for immediate coverage and protection of the official’s survivors. Any such deposit shall be made on or before the close of the open enrollment period.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.
and its costs are unsustainable. Nonetheless, a modern health care delivery system is within our reach and something that we can start to achieve this year. Payment reforms, particularly in Medicare, are the cornerstone for driving down costs and improving the efficiency of our health care system. However, Congress must adopt a mechanism to implement and maintain Medicare reimbursement policies that are based on the best evidence and driving incentives. This is simply not the case today.

Currently, Congress has the sole authority to change the cost curve for Medicare. Unfortunately, this process is riddled with political infighting and is slowed by an inadequate structure to research, analyze, test, and implement successful delivery system reforms. Given the role of Medicare in determining market norms among all health care payers both public and private, the federal government has an opportunity to realign our nation’s health care system to drive quality improvement and greater efficiency.

The current system already has a well-respected, independent entity—the Medicare Payment Advisory Commission, MedPAC—that currently advises Congress on Medicare payment policies. MedPAC, established by the Balanced Budget Act of 1997 (P.L. 105–33), employs a number of mechanisms to inform Congress on issues affecting the Medicare program. Specifically, MedPAC analyzes provider reimbursement, beneficiary access to care, and quality of care; delivers this information to Congress through regular reports and recommendations; engages in public meetings to discuss policy issues and formulate its recommendations to the Congress; and seeks input on Medicare issues in non-public forums through frequent meetings with a wide variety of parties.

Despite MedPAC’s reputation for providing thoughtful, evidence-based recommendations to improve Medicare’s payment policies, MedPAC has no power to implement its recommendations. That power rests solely with Congress. Unfortunately, Members of Congress face unyielding pressure from the health care industry to pick and choose which MedPAC recommendations they consider, despite the evidence. This routinely leads to the passage of laws that put the special interests of industry ahead of the needs of patients.

MedPAC has proven, through its objectivity and its open and deliberative process, that they have the appropriate expertise to change the cost curve for Medicare and strengthen it for the future. Payment reforms, particularly in Medicare, are the cornerstone for driving down costs and improving the efficiency of our health care system.

In addition to extending the terms and requirements of the Commissioners to be full-time employees of the Commission, this legislation also establishes three new advisory councils to assist them in their decision-making—a Council of Health and Economic Advisors, a Congressional Advisory Council, and a Federal Health Advisory Council with representatives from the health care industry.

Lastly, MedPAC’s authority to analyze and make health care services research is also enhanced in this legislation by providing them with additional resources and staff to bolster their current analytical role. Given the limitations of the current Medicare demonstration process, this legislation provides new authority and resources to MedPAC to design and evaluate new payment models through Medicare demonstrations.

I strongly feel that establishing MedPAC as an independent executive branch agency—which can only happen through an act of Congress—is the type of bold step forward that can truly transform our delivery system. Congress has proven itself to be inefficient and inconsistent in making decisions about provider reimbursement under Medicare. If we want serious improvements in our health care delivery system, then Congress should leave the reimbursement rules to the independent health care experts. I urge my colleagues to join me in support of a policy that truly improves Medicare today and in the years to come.

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. 1190

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 “Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009”.

SEC. 2. RENAMING AND REFORMING THE MEDI- CARE PAYMENT ADVISORY COMMISSION.

(a) AMENDMENT TO TITLE.—

(1) IN GENERAL.—Section 1805 of the Social Security Act (42 U.S.C. 1395b-6) is amended—

(A) in the heading, by striking “medicare payment advisory commission” and inserting “medicare payment and access commission”; and

(B) in subsection (a), by striking “Medicare Payment Advisory Commission” and inserting “Medicare Payment and Access Commission” (or “MedPAC”)

(2) REFERENCES.—Any reference to the Medicare Payment Advisory Commission shall be deemed a reference to the Medicare Payment and Access Commission.

(b) ESTABLISHMENT AS EXECUTIVE AGEN- CY.—Section 1805 of the Social Security Act (42 U.S.C. 1395b-6) is amended—

(1) in the heading, by striking “ADVISORY”; and

(2) in subsection (a)—

(A) by striking “Advisory”; and

(B) by striking “agency of Congress” and inserting “independent and non-partisan (as defined in section 104 of title 5, United States Code)”;

(3) in subsection (c)—

(A) in paragraph (1)—

(1) by striking “ACCOUNT.—The Commis- sion shall have a full-time staff of not less than 75 members.”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “Comp- troller General” and inserting “President, by and with the advice and consent of the Senate”;

(ii) by adding at the end the following new subparagraph:

“(B) LIMITATION ON NUMBER OF TERMS SERVED.—An individual may not be appointed as a member of the Commission for more than 2 consecutive terms;”;

(c) MEMBERS CURRENTLY APPOINTED.—

(1) IN GENERAL.—Any individual serving as a member of the Commission as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009 may continue to serve as a member until the earlier of—

(i) the remainder of the term for which the member was appointed; or

(ii) April 30, 2010.

(2) CLARIFICATION REGARDING VACANCIES.—Any vacancy in the Commission on or after the date of enactment shall be filled as provided in accordance with subparagraph (A).”; and

(d) in paragraph (2), by striking subparagraph (D) and inserting the following new subparagraph:

“(D) ADDITIONAL QUALIFICATIONS.—In addition to the qualifications described in the preceding provisions of this section, the President shall consider the political balance of the membership of the Commission and the needs of individuals entitled to (or enrolled for) benefits under part A or enrolled under part B who are entitled to medical assistance under a State plan under title XIX.”.

(e) in paragraph (3)—

(1) by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—The terms of members of the Commission shall be for five years except that, of the members first appointed—

(i) four shall be appointed for terms of five years;

(ii) four shall be appointed for terms of three years; and

(iii) three shall be appointed for terms of one year.”; and

(2) in subparagraph (B), in the third sentence, by striking “A vacancy” and inserting “Except as provided in paragraph (1)(C), a vacancy”;

(f) by amending paragraph (4) to read as follows:

“(4) COMPENSATION.—Membership in the Commission shall be a full-time position. A member of the Commission shall be entitled to compensation at the rate payable for level IV of the Executive Schedule under section 5316 of title 5, United States Code.”.

(g) by amending paragraph (5) to read as follows:

“(5) CHAIRMAN; VICE CHAIRMAN.—The Presi- dent shall designate a member of the Commission, at the time of appointment of the member by and with the advice and consent of the Senate, as Chairman and a member of the Commission, at the time of appointment of the member by and with the advice and consent of the Senate, as Vice Chairman, except that in the case where the Chairman or the Vice Chairman is not able to be present
the Commission shall submit to Congress a report on any payment rates determined under subparagraph (A) during the preceding year, including the performance of the Secretary with respect to such payment rates in calculating such payment rates, by promulgating regulations under subparagraph (B).

(10) ROUTINE EVALUATION OF PAYMENT RATES.—(A) Study.—The Comptroller General of the United States shall conduct a study on changes to payment policies under the Medicare program under title XVIII of the Social Security Act as a result of the amendments made by this subsection, including an analysis of—

(i) any determinations made by the Medicare Payment and Access Commission under subparagraph (A) of section 1805(b)(9) of such Act, as added by paragraph (1), during the preceding year;

(ii) any regulations promulgated by the Secretary of Health and Human Services under subparagraph (B) of such section during the preceding year;

(iii) the process for—

(I) making such determinations (including the evidence to support any such determination);

(II) promulgating such regulations (including the capacity of the Secretary of Health and Human Services to promulgate such regulations); and

(iv) the ability of the Centers for Medicare & Medicaid Services to fulfill its responsibilities in carrying out such regulations.

(B) Report.—Not later than December 31 of each year (beginning with 2012), the Comptroller General shall submit to Congress a report containing the results of the study conducted as provided in subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines to be necessary.

(11) CONGRESSIONAL ACTION.—Section 1805 of the Social Security Act (42 U.S.C. 1395b–6(e)), as amended by paragraph (1), during the preceding year;

(II) promulgating such regulations (including the capacity of the Secretary of Health and Human Services to promulgate such regulations);

and

(iv) the ability of the Centers for Medicare & Medicaid Services to fulfill its responsibilities in carrying out such regulations.

(B) Report.—Not later than December 31 of each year (beginning with 2012), the Comptroller General shall submit to Congress a report containing the results of the study conducted as provided in subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines to be necessary.

(12) CONGRESSIONAL ACTION.—(A) In general.—Notwithstanding any other provision of law, the Secretary shall promulgate regulations to implement any payment rates determined by the Commission under subparagraph (A).

(B) Payment rates and regulations currently in effect.—Any payment rate for items and services furnished under this title as of the date of enactment of the Medicare Payment Advisory Commission (MedPAC) Reform Act of 2009 or regulation promulgated under this subparagraph shall remain in effect until the Secretary promulgates regulations under clause (ii) to implement such payment rates, if the Commission shall make a determination under this subparagraph with respect to payment policies—

(I) for physicians (as defined in section 1861(r)(1)), not later than December 1 of each year (beginning with 2012); and

(II) for hospitals, not later than March 1 of each year (beginning with 2013).

(C) Authority of Secretary.—Notwithstanding any other provision of law, the Secretary shall promulgate regulations to implement any payment rates determined by the Commission with respect to the item or service.

(D) Annual report.—Not later than March 15 of each year (beginning with 2012), the Commission shall submit to Congress a report on any payment rates determined under subparagraph (A) during the preceding year, including the performance of the Secretary with respect to such payment rates in calculating such payment rates, by promulgating regulations under subparagraph (B).

(13) AUTHORITY TO INFORM RESEARCH PRIORITIES FOR DATA COLLECTION.—(A) Study.—The Comptroller General of the United States shall conduct a study on changes to payment policies under the Medicare program under title XVIII of the Social Security Act as a result of the amendments made by this subsection, including an analysis of—

(I) any determinations made by the Medicare Payment and Access Commission under subparagraph (A) of section 1805(b)(9) of such Act, as added by paragraph (1), during the preceding year;

(ii) any regulations promulgated by the Secretary of Health and Human Services under subparagraph (B) of such section during the preceding year;

(iii) the process for—

(I) making such determinations (including the evidence to support any such determination);

(II) promulgating such regulations (including the capacity of the Secretary of Health and Human Services to promulgate such regulations); and

(iv) the ability of the Centers for Medicare & Medicaid Services to fulfill its responsibilities in carrying out such regulations.

(B) Report.—Not later than December 31 of each year (beginning with 2012), the Comptroller General shall submit to Congress a report containing the results of the study conducted as provided in subparagraph (A), together with recommendations for such legislation and administrative action as the Secretary determines to be necessary.

(14) ADDITIONAL RESOURCES TO CARRY OUT DUTIES.—(A) In general.—Section 1805(d) of the Social Security Act (42 U.S.C. 1395b–6(d)) is amended—

(i) in paragraph (1), by inserting “(including discharge of a member of the Senate or the House of Representatives)” after “other person”;

and

(ii) in paragraph (5), by striking “and” at the end.

(15) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a measure relating to Medicare & Medicaid Services, and the Commission shall have priority access to all raw data and research conducted or funded by the Federal government, including data and research produced by the Centers for Medicare & Medicaid Services, the National Institutes of Health, and the Agency for Healthcare Research and Quality.

(16) ELECTRONIC ACCESS.—The National Director for Health Information Technology, in coordination with the Secretary, the Assistant Secretary of the Department of Health and Human Services, the Medicare Payment Advisory Commission, and the Federal agencies responsible for health services research, shall establish a direct electronic link for raw data, including claims data under this title, to be accessible by the Comptroller General for purposes of evaluating and determining recommendations under this title, in accordance with applicable privacy laws and data use agreements.

(17) ACCESS TO BIANNUAL REPORTS.—Not less frequently than on a biannual basis, the National Institutes of Health and the Agency for Healthcare Research and Quality shall submit to the Commission a report containing information on any research conducted by the National Institutes of Health and the Agency for Healthcare Research and Quality, respectively, which has relevance for the determinations and recommendations being considered by the Commission. Such information shall be provided to the Commission.
S. 1111

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 “Special Disability Workload Liability Resolution Act of 2009”.

By Mr. REID (for Mr. ROCKEFELLER):
SEC. 2. PAYMENT OF MEDICARE LIABILITY TO STATES AS A RESULT OF THE SPECIAL DISABILITY WORKLOAD PROJECT.

(a) IN GENERAL.—The Secretary, in consultation with the Commissioner, shall work with each State to reach an agreement not later than 6 months after the date of enactment of this Act, on the amount of a payment for the State related to the Medicare program liability as a result of the Special Disability Workload project, subject to the requirements of subsection (c).

(b) PAYMENTS.—

(1) WRITING FOR MAKING PAYMENTS.—Not later than 30 days after reaching an agreement with a State under subsection (a), the Secretary shall pay the State, from the amount agreed upon under paragraph (2), the payment agreed to for the State.

(2) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there is appropriated $4,000,000,000 for fiscal year 2010 for making payments to States under paragraph (1).

(c) REQUIREMENTS.—The requirements of this subsection are the following:

(1) FEDERAL DATA USED TO DETERMINE AMOUNT OF PAYMENTS.—The amount of the payment under subsection (a) for each State, is determined on the basis of the most recent Federal data available, including the use of proxies and reasonable estimates as necessary, for determining expeditiously the amount of the payment that shall be made to each State that enters into an agreement under this section.

(2) The amount of SDW cases found to have been eligible for benefits under the Medicare program and the month of the initial Medicare program eligibility for such cases.

(B) The applicable non-Federal share of expenditures made by a State under the Medicaid program during the time period for SDW cases.

(C) Such other factors as the Secretary and the Commissioner, in consultation with the State, determine appropriate.

(3) LIMITATIONS.—In no case may the aggregate amount of payments made by the Secretary to States under paragraph (1) exceed $4,000,000,000.

(d) REQUIREMENTS.—The requirements of this section are the following:

(1) FEDERAL DATA USED TO DETERMINE AMOUNT OF PAYMENTS.—The amount of the payment under subsection (a) for each State, is determined on the basis of the most recent Federal data available, including the use of proxies and reasonable estimates as necessary, for determining expeditiously the amount of the payment that shall be made to each State that enters into an agreement under this section. The payment methodology shall consider the following factors:

(A) The number of SDW cases found to have been eligible for benefits under the Medicare program and the month of the initial Medicare program eligibility for such cases.

(B) The applicable non-Federal share of expenditures made by a State under the Medicaid program during the time period for SDW cases.

(C) Such other factors as the Secretary and the Commissioner, in consultation with the State, determine appropriate.

(2) CONDITIONS FOR PAYMENTS.—A State shall not receive a payment under this section unless the State—

(A) has not filed a civil action to file a civil action (or to be a party to any action) in any Federal or State court in which the relief sought includes a payment from the United States to the State under the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project;

(B) has not released the United States from any further claims for reimbursement of State expenditures as a result of the Special Disability Workload project (other than reimbursement under agreements that effect the date of enactment of this Act as a result of such project, including payments made pursuant to agreements entered into under section 1915(b) of the Social Security Act or section 211(1)(A)(A) of Public Law 93-66); and

(C) is not subject to any Federal or State laws or regulations that would prevent the State from receiving a payment under this section.

(3) INELIGIBLE STATES.—No State that is a party in any Federal or State court in which the relief sought includes a payment from the United States to the State related to the Medicare liability under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as a result of the Special Disability Workload project shall be eligible to receive a payment under this section while such an action is pending or if such an action is resolved in favor of the State.

(4) DEFINITIONS.—In this section:

(C) Such other factors as the Secretary and the Commissioner, in consultation with the Commissioner, means the Commissioner of Social Security.

(2) MEDICAID PROGRAM.—The term "Medicaid program" means the program of medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.) and includes medical assistance provided under any waiver of that program approved under section 1115 or 1915 of such Act (42 U.S.C. 1315, 1396a) or otherwise.

(3) MEDICARE PROGRAM.—The term "Medicare program" means the program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

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

(5) SDW CASE.—The term "SDW case" means a case in the Special Disability Workload project involving an individual determined by the Commissioner to have been eligible for benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) for a period during which the individual was not provided to the individual and who was, during all or part of such period, enrolled in a State Medicaid program.

(6) SPECIAL DISABILITY WORKLOAD PROJECT.—The term "Special Disability Workload project" means the project described in the report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, H.R. Doc. No. 110-110, 110th Cong. (2008).

(7) STATE.—The term "State" means each of the 50 States and the District of Columbia.

By Mr. PRYOR (for himself, Ms. SNOWE, Mr. NELSON, of Nebraska, and Mr. WICKER):

S. 1113. A bill to amend title 49, United States Code, to direct the Secretary of Transportation to establish and maintain a national clearinghouse for records related to alcohol and controlled substances testing of commercial motor vehicle operators, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. PRYOR. Mr. President, I rise today to introduce legislation with Senators SNOWE, NELSON of Nebraska, and WICKER. The legislation that we are introducing today is aptly named the Safe Roads Act of 2009, as it will go a long way toward improving the safety of our Nation's roads by closing loopholes that have allowed commercial truck and bus drivers to use and abuse drugs and continue to drive without receiving required treatment necessary to return to duty. The bill is designed to save lives by preventing unnecessary deaths on our Nation's roads.

Nearly every day Americans can open their newspapers and hear about a death caused by drivers under the influence of drugs and alcohol. Sometimes, these drivers are behind the wheel of an 18-wheeler or a commercial bus, which due to their size and weight bring a destructive force on any road. On May 2, 2008, a woman. The truck driver was indicted for reckless homicide and driving under the influence of narcotics.

While drug abuse among the at least 3.4 million truck drivers in the industry is estimated by FMCSA to only represent 2 to 5 percent of the entire truck driving workforce, that still represents roughly 68,000 truck drivers that have a drug or alcohol abuse problem. That is a high and unacceptable risk that needs to be addressed in a serious fashion. Our goal is to prevent accidents of this nature, and I would like to briefly explain how we intend to do so.

Our bill will establish within the FMCSA a national drug and alcohol database and clearinghouse listing positive alcohol and drug test results or test refusal by commercial truck and bus drivers. The bill will expand current drug and alcohol testing regulations to require Medical Review Officers, MROs, and other FMCSA-approved agents conducting already-required testing to report positive test results and test refusal to the FMCSA. Trucking companies and employers seeking new employees would then be required to not only follow the laws already in place for testing prospective employees, but they would also be required to examine the prospective employees’ record in the FMCSA clearinghouse to determine if the prospective employee has Recently failed or refused to take a drug and alcohol test. If the prospective employee has a positive test result or test refusal in any state’s clearinghouse listing positive drug or alcohol test results or test refusal the FMCSA will not be allowed to hire the prospective employee unless it can be proven that he or she has not violated.
the requirements of the testing program, or that he or she has fully completed a return-to-duty program as required by the testing program. The requirements of the testing program, or that he or she has fully completed a return-to-duty program as required by the testing program.

There are major loopholes that exist today in the current drug and alcohol testing programs that make it easy for drivers to avoid the testing. The testing program is designed to prevent employees from driving a covered vehicle when they have tested positive for drugs or alcohol, but there are many loopholes that allow drivers to continue working and driving even if they test positive for drugs or alcohol. These loopholes include: (1) drivers can test positive for drugs or alcohol but can still drive if they have not been in an accident or a traffic violation in the previous six months; (2) drivers can test positive for drugs or alcohol but can still drive if they have not been in a traffic violation in the previous six months; (3) drivers can test positive for drugs or alcohol but can still drive if they have not been in a traffic violation in the previous six months.

The Government Accountability Office, the Department of Transportation, and the Federal Motor Carrier Safety Administration (FMCSA) have all acknowledged these loopholes. Both have published reports describing a national clearinghouse and a clearinghouse as a feasible, cost-effective way to ensure compliance with the drug and alcohol testing program. The clearinghouse would provide individuals with the means to enroll in the clearinghouse and access the clearinghouse records of actions against those who misuse information contained in the clearinghouse or access information collected at the clearinghouse or accessed from the clearinghouse.

The Government Accountability Office, the Department of Transportation, and the Federal Motor Carrier Safety Administration (FMCSA) have acknowledged that Congress has examined since implementing drug and alcohol testing in the trucking industry. Both have published reports describing a national clearinghouse and a clearinghouse as a feasible, cost-effective way to ensure compliance with the drug and alcohol testing program. The clearinghouse would provide individuals with the means to enroll in the clearinghouse and access the clearinghouse records of actions against those who misuse information contained in the clearinghouse or access information collected at the clearinghouse or accessed from the clearinghouse.

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SEC. 2. FINDINGS. Congress finds the following:

(1) Medical homes provide patient-centered care, leading to better health outcomes and greater patient satisfaction. A growing body of research supports the need to involve patients and their families in their own health care decisions, to better inform them of their treatment options, and to improve their access to information.

(2) Medical homes help patients better manage and maintain basic preventive care, resulting in better health outcomes than those who lack medical homes. An investigation of the Chronic Care Model showed that the medical home reduced the risk of cardiovascular disease in diabetes patients, helped congestive heart failure patients become more knowledgeable and skilled in therapy, and increased the likelihood that asthma and diabetes patients would receive appropriate therapy.

(3) Medical homes also reduce disparities in access to care. A survey conducted by the Commonwealth Fund found that 74 percent of adults with a medical home have reliable access to care, whereas only 52 percent of adults with a regular provider that is not a medical home and 38 percent of adults without any regular source of care or provider.

(4) Medical homes reduce racial and ethnic differences in access to medical care. Three-fourths of Caucasians, African Americans, and Hispanics with medical homes report getting care when they need it.

(5) Medical homes reduce duplicative health services and inappropriate emergency room use. In 1998, North Carolina launched the Community Care of North Carolina (CCNC) program, which employs the medical home model. Initially, CCNC developed 14 regional networks that include all of the Federally qualified health centers in the State and cover 749,000 recipients. An analysis conducted by Mercer Human Resources Consulting Group found that CCNC resulted in $244,000,000 in savings to the Medicaid program in 2004, with similar results in 2005 and 2006.

(6) Health information technology is a crucial foundation for medical homes. While many doctors’ offices use electronic health records for other administrative functions, few practices utilize health information technology systematically to measure and improve the quality of care they provide. Nevertheless, electronic health records can generate reports to ensure that all patients with chronic conditions receive recommended tests and are on target to meet their treatment goals. Computerized ordering systems, particularly with decision-support tools, can prevent medical and medication errors, while e-mail and interactive Internet websites can facilitate communication between patients and providers and improve patient education.

SEC. 3. MEDICAID AND CHIP DEMONSTRATION PROJECT TO SUPPORT PATIENT-CENTERED PRIMARY CARE.

(a) DEFINITIONS.—In this section:

(1) CARE MANAGEMENT MODEL.—The term ‘‘care management model’’ means a model that—

(A) uses health information technology and other innovations, such as telemedicine, to improve the management and coordination of care provided to patients;

(B) is centered on the relationship between a patient and their personal primary care provider;

(C) seeks guidance from—

(i) a steering committee; and

(ii) a medical management committee; and

(D) has established, where practicable, effective referral relationships between the primary care provider and the major medical specialties and ancillary services in the region.

(2) HEALTH CENTER.—The term ‘‘health center’’ means—

(A) a public health center; a community health center established under section 330(a) of the Public Health Service Act (42 U.S.C. 254b(a));

(B) that develops local improvement initiatives and clinical guidelines to the identified needs of individual beneficiaries over time and with the intensity needed by such beneficiaries;

(C) monitors its clinical process and performance;

(D) ARTICLES; PRIMARY CARE CASE MANAGER.—The term ‘‘personal primary care provider’’ means—

(A) a physician, nurse practitioner, or other qualified health care provider (as determined by the Secretary), who—

(i) practices in a patient-centered medical home; and

(ii) has been trained to provide first contact, continuous, and comprehensive care for the whole person, not limited to a specific disease condition or organ system, including care for all types of health conditions (such as chronic care, chronic care, and preventive services); or

(B) a health center that—

(i) provides health care services and continuous, and comprehensive care for the whole person, not limited to a specific disease condition or organ system, including care for all types of health conditions (such as chronic care, chronic care, and preventive services); or

(C) makes the determination described in subparagraph (A)(iii) of paragraph (5), taking into account the considerations under subparagraph (A)(iii) of paragraph (5), taking into account the considerations under subparagraph (B)(V), taking into account the considerations under subparagraph (B)(V), for instance, that is convenient to the patient.

(V) provides health care services and consultations in a culturally and linguistically appropriate manner, as well as at a time and location that is convenient to the patient.

(v) PROVIDING ONGOING ASSISTANCE AND ENCOURAGEMENT IN PATIENT SELF-MANAGEMENT.—Whether the practice or health center—

(I) collaborates with targeted beneficiaries who receive care through the practice or health center to pursue their goals for optimal achievable health;

(II) assesses patient-specific barriers; and

(III) conducts activities to support patient self-management.

(vi) MONITORING PERFORMANCE.—Whether the practice or health center—

(I) monitors its clinical process and performance (including process and outcome measures) in meeting the applicable standards under paragraph (4)(E); and

(II) provides information in a form and manner specified by the steering committee and medical management committee with respect to such process and performance.

(6) PRIMARY CARE CASE PROVIDER.—The term ‘‘primary care case provider’’ means—

(A) a physician, nurse practitioner, or other qualified health care provider (as determined by the Secretary), who—

(i) practices in a patient-centered medical home; and

(ii) has been trained to provide first contact, continuous, and comprehensive care for the whole person, not limited to a specific disease condition or organ system, including care for all types of health conditions (such as chronic care, chronic care, and preventive services); or

(B) a health center that—

(i) provides health care services and continuous, and comprehensive care for the whole person, not limited to a specific disease condition or organ system, including care for all types of health conditions (such as chronic care, chronic care, and preventive services); or

(7) PRIMARY CARE CASE MANAGEMENT SERVICES; PRIMARY CARE CASE MANAGER.—The terms ‘‘primary care case management services’’ and ‘‘primary care case manager’’ have the meaning given those terms in section 1905(t) of the Social Security Act (42 U.S.C. 1396d(t)).

(8) PROJECT.—The term ‘‘project’’ means the demonstration project established under this section.

(9) CHIP.—The term ‘‘CHIP’’ means the Children’s Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1396a et seq.).

(10) SECRETARY.—The term ‘‘Secretary’’ means the Inspector General of Health and Human Services.

(11) STEERING COMMITTEE.—The term ‘‘steering committee’’ means a local management group comprised of collaborating health care practitioners or a local not-for-profit network of health care practitioners.

(A) that implements State-level initiatives;

(B) that develops local improvement initiatives;
(C) whose mission is to—
(i) investigate questions related to community-based practice; and
(ii) improve the quality of primary care; and
(D) whose membership—
(i) represents the health care delivery system of the community it serves; and
(ii) includes physicians (with an emphasis on primary care physicians) and at least 1 representative from each of the part collaborative or network (such as a representative from a representative from the health department, a representative from social services, and a representative from a public and private hospital in the collaborative or the network);

(12) TARGETED BENEFICIARY.—
(A) IN GENERAL.—The term ‘‘targeted beneficiary’’ means an individual who is eligible for benefits under a State plan under Medicaid or a State child health plan under CHIP.

(B) PARTICIPATION IN PATIENT-CENTERED MEDICAL HOME.—Individuals who are eligible for benefits under Medicaid or CHIP in a State that has been selected to participate in the program through a partnership of a community-based medical home when available.

(C) ENSURING CHOICE.—In the case of such an individual who receives care through a patient-centered medical home, the individual shall receive guidance from their personal primary care provider on appropriate referrals to other health care professionals in the preferred decision-making arrangement.

(b) APPLICATION.—A State seeking to participate in the project shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(A) IN GENERAL.—The project shall be conducted in 8 States—
(i) four of which already provide medical assistance for primary care management services as of the date of enactment of this Act; and
(ii) four of which do not provide such medical assistance.

(2) SELECTION.—In selecting States to participate in the project, the Secretary shall ensure that urban, rural, and underserved areas are served by the project.

(3) GRANTS AND PAYMENTS.—
(A) DEVELOPMENT GRANTS.—The Secretary shall award development grants to States participating in the project during the first year of the project. The Secretary may make the payments described in paragraph (B).

(i) IN GENERAL.—In the case where a State operates a patient-centered medical home program in 2 or more areas in the State, the program in each of those areas shall include the elements described in clause (i).

(ii) ADDITIONAL PAYMENTS TO PERSONAL PRIMARY CARE PROVIDERS AND STEERING COMMITTEES.—
(I) PAYMENTS TO PERSONAL PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—Subject to subsection (d)(6)(B), a State participating in the project shall pay a personal primary care provider per month with respect to the amount of payment to a personal primary care provider assigned to the personal primary care provider, regardless of whether the provider saw the targeted beneficiary that month.

(B) AMOUNTS TO PERSONAL PRIMARY CARE PROVIDERS AND STEERING COMMITTEES.—
(I) PAYMENTS TO PERSONAL PRIMARY CARE PROVIDERS.—

(i) IN GENERAL.—To ensure that the private entity follows Medicaid and CHIP requirements, payment may be made to the State for the payment to a personal primary care provider under subsection (A) to the extent a State uses such grant funds for such purpose, no matching payments may be made with such funds under section 1903(a) or 2105(a) of the Social Security Act (42 U.S.C. 1396b(a); 1396d(a)).

(II) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a personal primary care provider under subsection (A) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1396d(a)).

(III) PATIENT POPULATION.—In determining the amount of payment to a personal primary care provider per month with respect to targeted beneficiaries under this clause, a State participating in the project shall take into account the care needs of such targeted beneficiaries.

(ii) PAYMENTS TO STEERING COMMITTEES.—

(I) IN GENERAL.—Subject to subsection (d)(6)(B), a State participating in the project shall pay a steering committee not less than $2.50 per targeted beneficiary per month.

(B) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a steering committee under subsection (I) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1396d(a)).

(C) IN GENERAL.—In the case where a State operates a patient-centered medical home program in 2 or more areas in the State, the program in each of those areas shall include the elements described in clause (I).

(D) IN GENERAL.—In the case where a State contracts with a private entity to manage parts of the State Medicaid program, the Secretary shall—
(i) ensure that the private entity follows the care management model; and
(ii) establish a medical management committee and a steering committee in the community.

(B) ADJUSTMENT OF PAYMENT AMOUNTS.—The State may adjust the amount of payment made under paragraph (c)(3)(B), taking into consideration the management role carried out by the private entity described in subparagraph (A) and the cost effectiveness provided by such entity in certain areas, such as health information technology.

(c) PROJECT DESIGN.—

(1) DURATION.—The project shall be conducted for a 3-year period, beginning not later than [October 1, 2011].

(2) SITES.—

(I) IN GENERAL.—The project shall be conducted in 8 States—

(A) MANDATORY ELEMENTS.—

(i) ensure that the private entity follows Medicaid and CHIP requirements;

(ii) improve the quality of primary care;

(iii) establish a medical management committee.

(B) OPTIONAL ELEMENTS.—Such program may include a non-profit organization that—

(i) includes a steering committee and a medical management committee; and

(ii) manages the payments to steering committees described in subsection (c)(3)(B).

(3) GOALS.—Such program shall be designed—

(A) to increase—

(i) patient-centered medical home;

(ii) health information technology to facilitate the provision and coordination of health care by network participants.

(B) TO PROVIDE—

(i) care coordination.

(C) TO PROVIDE—

(i) a Medicare and CHIP to an estimated 500,000 to 1,000,000 targeted beneficiaries.

(4) PAYMENT.—Under the program, payment shall be provided to personal primary care providers and steering committees (in accordance with subsection (c)(3)(B)).

(5) NOTIFICATION.—The State shall notify individuals enrolled in Medicaid or CHIP about—

(A) the patient-centered medical home program;

(B) the providers participating in such program; and

(C) the benefits of such program.

(6) TREATMENTS OF STATES WITH A MANAGED CARE CONTRACT.—

(A) IN GENERAL.—In the case where a State contracts with a private entity to manage parts of the State Medicaid program, the Secretary shall—

(i) assist with the development of steering committees, medical management committees, and local networks of health care providers; and

(ii) facilitate coordination with local communities to be better prepared and positioned to manage such entities and to meet the needs of the communities served by patient-centered medical homes.

(B) SECOND YEAR FUNDING.—The Secretary shall award development grants to States that received a development grant under clause (i) during the second year the project is conducted if the Secretary determines such funds are necessary to ensure continued participation in the project by the State. The Secretary shall award development grants to States that received a development grant under clause (i) during the second year the project is conducted if the Secretary determines such funds are necessary to ensure continued participation in the project by the State. The Secretary may make the payments described in paragraph (B). To the extent a State uses such grant funds for such purpose, no matching payments may be made with such funds under section 1903(a) or 2105(a) of the Social Security Act (42 U.S.C. 1396b(a); 1396d(a)).

(II) FEDERAL MATCHING PAYMENT.—Subject to subparagraph (A)(ii), amounts paid to a personal primary care provider under subsection (I) shall be considered medical assistance or child health assistance for purposes of section 1903(a) or 2105(a), respectively, of the Social Security Act (42 U.S.C. 1396b(a); 1396d(a)).

(III) PATIENT POPULATION.—In determining the amount of payment to a personal primary care provider per month with respect to targeted beneficiaries under this clause, a State participating in the project shall take into account the care needs of such targeted beneficiaries.

(6) TREATMENT OF STATES WITH A MANAGED CARE CONTRACT.—

(A) IN GENERAL.—In the case where a State contracts with a private entity to manage parts of the State Medicaid program, the Secretary shall—

(i) ensure that the private entity follows the care management model; and

(ii) establish a medical management committee and a steering committee in the community.

(B) ADJUSTMENT OF PAYMENT AMOUNTS.—The State may adjust the amount of payment made under paragraph (c)(3)(B), taking into consideration the management role carried out by the private entity described in subparagraph (A) and the cost effectiveness provided by the private entity in certain areas, such as health information technology.
AMENDMENTS SUBMITTED AND PROPOSED

SA 1145. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1146. Mr. KYL, submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1147. Mr. KYL (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1148. Mr. KYL (for himself, Mr. VITTER, and Mr. SSESSIONS) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1149. Mr. GRAHAM (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1150. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.

SA 1151. Mr. REID (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 2346, supra; which was ordered to lie on the table.