

Bush's disapproval rating in some polls is around 70 percent. Think about that. We have had a number of stories written in just the last 10 days that the lowest approval rating of any President in history is the President we are now dealing with, a person who is a divider, not a uniter. The American people see this. Eighty-two percent of the American people feel our country is headed in the wrong direction. I would hope that during the next few months we have left in this legislative session, we can stop the increase in this number here and work to try to accomplish good results for the American people. We have so much that needs to be done. We want to work to get this done. If we are able to accomplish things, there is credit to go around for everyone, Democrats and Republicans. But, of course, the obstructionism we face has made it so that there is no credit to go around, period. The American people have identified this, and rightfully so.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

ENERGY

Mr. McCONNELL. Mr. President, later this morning we will vote on an amendment to increase production of American energy, which will help lower prices at the pump and create more American jobs. Last year, this Congress acted in a bipartisan way to reduce our demand for oil by increasing fuel economy standards for cars and trucks and by increasing our use of renewable fuels. But no matter how hard we might try, we cannot repeal the law of supply and demand. We know we also need to increase supply in order to lower gas prices, and that is what our amendment does.

In the short term, it places a 6-month moratorium on deposits to the Strategic Petroleum Reserve, which will immediately have an impact on domestic supply. It also increases production of American energy right here at home by opening a small portion of the Arctic National Wildlife Refuge for production and allowing coastal States to decide if they want to allow increased production on the Outer Continental Shelf. It repeals the moratorium on oil shale development that was included in last year's Omnibus appropriations bill, and it would encourage the development of coal to liquid, a very promising substitute for petroleum products that we can produce right here in America and specifically in Kentucky, my home State, with American workers. Our amendment would provide grants and loans to accelerate the development of advanced batteries that can be used to power the next generation of plug-in hybrid vehicles here in America. These measures, coupled with the conservation and biofuels measure

we supported last year, will increase our energy independence and help to bring down gas prices in the long term.

Some say opening new areas for production won't do anything in the short term. But remember, if President Clinton had not vetoed legislation to open ANWR 13 years ago, more than a million barrels of oil would be flowing to American consumers every single day. I believe it makes more sense for us to produce these additional barrels here at home with American jobs rather than begging OPEC to produce more, as some on the other side have advocated.

I urge my colleagues to consider our long-term energy goals and our need for increased energy independence and vote in favor of this amendment.

We can't continue to ignore the No. 1 issue facing American families, and further delay is not an option that Americans can afford. Some of our friends on the other side of the aisle believe we need to ask OPEC to supply more oil, that we ought to be sending even more money and jobs to the nations of OPEC. But we take a different approach. Our amendment would increase the production right here at home in America. While some want to increase OPEC's control over oil supply by refusing an increase in American supply, our amendment increases American control through American energy and American jobs right here in the United States.

I yield the floor.

RESERVATION OF LEADER TIME

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

FLOOD INSURANCE REFORM AND MODERNIZATION ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2284, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

Dodd/Shelby amendment No. 4707, in the nature of a substitute.

McConnell amendment No. 4720 (to the text of the bill proposed to be stricken by amendment No. 4707), of a perfecting nature.

Allard amendment No. 4721 (to amendment No. 4720), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour of debate equally divided between the two leaders or their designees.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I would like to speak to the amendment which we will vote on shortly. It relates to the cost of gasoline. I can't think of another issue that has been in the forefront across America for a longer pe-

riod than the cost of gasoline. It goes beyond that, obviously, to diesel fuel and jet fuel costs. We see it every day. You drive down the road, and you watch prices going up at the gas station. People ask Senators and Congressmen: You are supposed to be the bigwigs here. You are supposed to be so influential. Why haven't you done something; the gas prices are killing us.

And they are. Whether it is a family member commuting back and forth to work in downstate Illinois, trying to get to the State capitol, whether it is an over-the-road trucker spending almost \$1,000 to fill up his rig with diesel fuel, whether it is the CEO of an airline who has seen the worst first-quarter losses in the history of that airline because of the rise in the cost of jet fuel, it is hitting everybody. I talked to a chiropractor over the weekend. She told me her practice was dying because people didn't want to drive 20 miles for her services. They said: We will see you every other week instead of every week. As you see, it is starting to reach into every single area.

So what response do we have from the Republican side? The response is predictable and ineffective. Here is what they say: You know what we ought to do. We ought to start drilling for oil in the Arctic National Wildlife Refuge and we ought to start drilling for oil off the coasts of America.

OK. How much oil is there?

Oh, there is a lot.

In the scheme of things, it is not a lot. All of the oil reserves within the control of the United States of America, all of them combined come to 3 percent of the world's total oil reserves. Each year, our Nation—a powerful, large economy—consumes 25 percent of all the oil produced in the world. We cannot drill our way out of this issue. We cannot drill our way to lower prices.

Here is something they fail to mention: If we gave approval today—which I think would be a bad idea—to the Republican approach, it would be years before the oil would start trickling in, meaning years of high prices.

So what can we do here and now? Two things: First, we can start dealing with the price gouging of consumers. Prices are going up dramatically at historically high rates. They are not justified by the barrel-of-oil prices. The spread between the cost of a barrel of oil and the cost of refined product keeps growing larger and larger, and the oil companies that are refining the crude oil keep making more and more money. Price gouging is going on. That is the first issue. Is there any mention of consumer price gouging in the Republican approach? Not one word. In the Democratic approach, we believe price gouging should be part of this.

Secondly, accountability of the oil companies. These oil companies, over the last 7 years when George Bush from oil country has been our President, have seen their profits quadruple—four

times the profits they were making just a few years ago. The cost of oil and diesel fuel has gone up 2½ times; the oil company profits, quadrupled. These companies are not only making more money than oil companies have ever made, they are making more money than any business in the history of America. That is a fact.

We have a windfall profits tax. We say there is a limit to how much these oil companies should be making as profits when it causes so much damage to American families and businesses and farmers and truckers and the economy. We have a windfall profits tax. The Republican approach: nothing—nothing to address the oil company profits. That is the reality.

Now, Senator REID, the Democratic majority leader, came to the floor a few minutes ago and told us what is going on with the Republican strategy. So far in this session of Congress—we have 2-year sessions of Congress—the Republicans have initiated 70 filibusters. Today, they will hit 71. You might say: So what. What does that mean? In the history of the Senate—over 200 years—the maximum number of filibusters in a 2-year period of time was 57. The Republicans have broken that record.

What is a filibuster? A filibuster is a way to delay, slow down, avoid, try to turn the page to another issue. Over and over and over again—70 times—the Republicans have now set a record for obstruction in stopping progress in the Senate, whether it is on issues of energy, whether it is on issues of health care, helping our schools, dealing with the war in Iraq—over and over and over again, Republican filibusters.

Today, we will have a vote. We are going to have a vote in a short period of time—at 12:15, maybe earlier; I am not sure. But in the course of that vote, we will have a choice on whether we at least will make one small step forward when it comes to dealing with gasoline prices. We cannot justify, in the current situation, continuing to take oil off the market where the Federal Government buys it and stores it. It is called the Strategic Petroleum Reserve. Currently, it is at about 97 percent of capacity. We are buying the most expensive crude oil in the history of the world, and storing it, taking it off the market, further putting an increase on gasoline prices.

We will offer an alternative to the Republican approach which will say that we will suspend filling the Strategic Petroleum Reserve. It might pass. Fifty-one Democratic Senators, incidentally, wrote a letter to the President on March 11 asking the President to suspend the filling of the Petroleum Reserve because gasoline prices were out of control. The President refused. Now we have to pass a law to force the President to do something about these gasoline prices.

I think suspending shipments to the Strategic Petroleum Reserve is the most sensible way for us to bring these

prices down. I hope we can get the cooperation of the Republicans, beyond that, to deal with the price gouging of consumers and accountability for oil companies and not face another Republican filibuster when it comes to that important issue.

Mr. President, I yield the floor.

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

Mr. DURBIN. Mr. President, can I propound one unanimous consent request, please. I am sorry. If the Senator from New Mexico will allow me, I ask unanimous consent that the following Senators be allocated 5 minutes each from the majority's time after the Senator from New Mexico speaks: Senators KENNEDY, DORGAN, and BINGAMAN.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DOMENICI. Mr. President, just a minute. Do you have time on each one of them?

Mr. DURBIN. We will alternate back and forth.

Mr. DOMENICI. I understand.

Mr. DURBIN. These Senators asked for 5 minutes each.

Mr. DOMENICI. I did not hear the "5 minutes each." I am sorry. I have no objection.

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

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, following mine, we would like Senators HUTCHISON, ENZI, VITTER, and CORNYN to be recognized for 5 minutes each, and 5 minutes for wrap-up for the Senator from New Mexico, with 10 minutes right now for the Senator from New Mexico, and alternating back and forth.

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, I just have so much to talk about. I wanted to follow my text I had prepared, but having heard the Democratic Senator discuss this issue, I have to tell the American people, one, their energy policy, if they are talking about today, is a policy that has to do with the filling of the Strategic Petroleum Reserve. The leader of that policy is the distinguished Senator DORGAN. He has led that cause, and he is going to win. But literally that cannot be an energy policy. It is 70,000 barrels a day that we are not going to buy and put in the reserve—70,000—and that is for the rest of this year.

Now, we use 21 million barrels of oil a day. So let's face up to it. If you do not think 1 million barrels a day from the Alaskan arctic wilderness—which would be American, and we could get that coming to America for maybe 50 years—if that is not better than 70,000 barrels for 7 or 8 months to not put in the Reserve but leave in the world market—I will leave that to anybody who is listening.

Price gouging is in their portfolio again. They talk about it. Last year, we gave authority to the Federal Trade Commission. They have not yet found any gouging. We hope they do.

Now, I would like to go on and talk about what we are trying to do.

Mr. President, I ask unanimous consent that I be added as a cosponsor to amendment No. 4737. It is now known as the Reid amendment, but it is actually Senator DORGAN's amendment.

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

Mr. DOMENICI. Mr. President, earlier this year, I gave a detailed speech on the Senate floor about the perils of our Nation's growing dependence on foreign oil. At that time, I noted the Nation was ignoring policies that would increase our energy supply while the stranglehold of foreign oil was tightening. I spoke bluntly and warned of dark days ahead for our Nation's economy and foreign policy if we continued to send our money abroad to buy oil from unstable and hostile regions around the globe.

I stated that at the current price of oil, we are at a pace to send nearly a half trillion dollars overseas annually to purchase oil—a half trillion. When the driving season ends, and the price at the pump subsides a bit, naturally the volume of constituent letters and phone calls will decrease a bit. When the cameras fade and the focus of the day begins to turn elsewhere, we should stop and reflect on the debate we are having today.

Make no mistake, a growing and gathering storm is swirling around this Nation. It is threatening our economic strength, our national security, and our place in the world. That storm comes in the form of dependence upon foreign oil.

Last year, Congress passed a strong energy bill, built on advancing cellulosic ethanol and strengthening our fuel efficiency standards. We made great steps in setting up policies that will reduce our gasoline consumption. However, I said at the time, and say again today, last year's legislation had a glaring weakness, which is highlighted today. Last year's bill failed to include measures for domestic energy production.

When we tried to open the Virginia Outer Continental Shelf to natural gas leasing, the other side blocked that. When we tried to improve our Nation's refining capacity, the other side blocked that. And when we tried to advance domestic coal-derived fuels—a very major way for America to diminish its dependence on foreign oil—the other side blocked that. On conservation and efficiency and the pursuit of clean energy, this Chamber is in wide bipartisan agreement. But on producing more American oil and gas to reduce the price of gasoline at the pump, it will become clear from today's debate and vote that the vast majority on the other side opposes action.

When today's vote is over, regardless of the outcome, I will continue to return to the Senate floor and speak on this important issue of our growing dependence on foreign oil. I will continue to speak out against policies that increase the cost of energy, when the American people so clearly want us to provide relief from high gas prices.

I have listened intently to the increased debate over the past few weeks about our energy challenges. I have heard some on the other side plead with OPEC nations to increase production by one-quarter of the amount we provide for in America with this amendment—one-quarter the amount. I have heard ANWR opponents from a decade ago repeat their claim from a decade ago that ANWR oil will take a decade to produce. I never heard this argument when we were supporting increasing vehicle fuel economy standards that we know will take a decade to come to fruition. We passed a bill that everybody takes credit for. It will take 10 years for it to have an impact. Yet we praise ourselves for producing it.

Of course, all of this would be assuming the price of oil did not increase over \$100 per barrel during the time that ANWR was being blocked. If President Clinton had not vetoed ANWR over 12 years ago, we would have this oil from Alaska on the market today. I have also heard my colleagues argue that 70,000 barrels of oil per day would make a significant difference in the price of oil—that is the SPR bill—while denying access to over 1 million barrels of oil per day from ANWR alone.

It is time to act, and what the other side has offered at this critical moment is talk of energy independence supported by more Government investigations and empty threats to OPEC combined with pleas for more OPEC production. If that were not enough, we are faced with the prospects of a windfall profits tax like the one that passed in April by the Chavez administration in Venezuela. We tried to implement such a tax in the 1980s. It did not work then, and it will not work now. We cannot produce more energy by taxing oil companies or taxing anyone.

According to the Congressional Research Service, the imposition of a windfall profits tax could have "several adverse economic effects." And such a tax could be expected to "reduce domestic oil production and increase the level of oil imports." The architect of this tax during the Carter administration recently called the windfall profits tax "a terrible idea today."

Today, we consider real solutions to our national problem. On May 1, I introduced the American Energy Production Act of 2008. Obviously, if we had Democratic support and help we could make it even better, but we had to do this with Republicans, to lay before the American people a fact: that there are ways to produce more American oil and natural gas without doing any real harm to the American environment. I

am pleased to have 21 cosponsors on that bill, and I am pleased Senator McConnell has offered this legislation as an amendment to the bill currently before us. Unfortunately, the other side has not allowed us to consider this proposal to address record-high gas prices.

Speaking of filibusters, on our bill they have insisted there be 60 votes. That is the equivalent of a filibuster. So you can chalk one up for us. They are filibustering the only Energy bill we have seen in a while that would produce energy for America.

I support the bipartisan amendment on the Strategic Petroleum Reserve, and I have already indicated to you that I do, and it needs no further explanation. I am confident, if enacted, the American Energy Production Act—the one we are talking about—will strengthen our Nation's security for decades to come. In this legislation, we open 2,000 of the 19 million acres of the Arctic National Wildlife Refuge. And I defy anyone with common sense to seriously contend that 2,000 acres out of 2 million will harm that wilderness. It can be done with a small footprint, and everyone knows it. We have just chosen sides, regardless of the real facts. Therefore, I assume the Democrats will defeat it again.

Taken together, these policies enable the production of 24 billion barrels of American oil, which would increase our domestic production by nearly 40 percent over the next three decades. Opening ANWR alone would create thousands of American jobs, provide \$3 billion in revenues in the next 10 years to the Federal Treasury, and bring on line over 1 million barrels of oil per day. This amendment also spurs the commercialization of coal-derived fuels and oil shale resources. Advancement of these policies will be spoken of in more detail by other Senators but, clearly, they are things to look at. The American people ought to know about them. They are sources—huge sources—of energy that can be made in America by Americans for America. With emerging economies around the world increasing their thirst for oil, we face a new energy challenge in America.

The world demand for oil continues to grow. America's production of oil has fallen to its lowest levels in 60 years. That is because we haven't done anything new or significant to add to what we have produced for years. If we do not start producing more of our own energy resources, we will continue to rely on unstable foreign oil and continue to pay a high price. That is what is at stake with today's vote. We probably will not win, but we feel very comfortable giving the other side an opportunity to vote no again for the production of oil and gas that is American, by Americans, for America.

With that, I yield the floor.

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

EMPLOYER-EMPLOYEE COOPERATION ACT

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

We are going to be voting on some extremely important energy issues, and I have expressed my views on those before. I wished to take an opportunity to talk about another matter which we will be voting on later this morning, early this afternoon, and then will be the subject matter that will be before the Senate for the next few days. It is an extremely important matter. It deals with our national security; primarily homeland security. It deals with the challenges that our first responders are faced with. I am talking about our police officers, our firefighters, and our first responders. They are the ones who are on the cutting edge of our domestic national security.

We are seeing massive reorganizations of our various institutions that have dealt with homeland security. We have seen additional resources focused on homeland security. The legislation Senator GREGG and I offer will strengthen our national security by including those individuals who are on the frontline into the decisionmaking about what is helpful and useful in terms of the security of our communities, small cities, and large cities all across this Nation. It will give them a voice in making judgments and decisions so those decisions and judgments are not only going to be made by policymakers and bureaucrats but by men and women who are on the ground. The legislation is called our Public Safety Employer-Employee Cooperation Act. It is bipartisan in nature, and it can make an extraordinary difference.

We had the opportunity last evening to go over the essential elements of the legislation, sort of the dos and the don'ts. There are those who have misconstrued this legislation and have misrepresented the legislation. We have seen that sort of technique around here in the Senate when Members differ with the legislation. They distort it or misrepresent it and then differ with it. It is an old technique that is used around here.

We will have the chance this afternoon and tomorrow—and this is a notice we will welcome—Senator GREGG and I—will welcome amendments. This legislation has in one form or another been before the Senate previously. It had extraordinary bipartisan support in the House of Representatives. I believe 98 Republicans supported the legislation, which is an indication of the breadth of support it has.

So we will look forward—and we are going to urge our colleagues to help us move this legislation, which is of such great importance and consequence to the security of our people—we will ask them to help us move it forward. This week is Police Week. Police Week goes back actually to 1962, when it was named by President Kennedy. Since that time, police officers have gathered to pay tribute to those members of the force who have lost their lives over the period of the last year. It is a very impressive ceremony for those who have not gone to it. I have on a number of

different occasions. But we take time this week to pay tribute to those first responders, and we have welcomed their very strong support for this legislation.

This legislation will affect police officers and firefighters. Some 300,000 police officers in 24 States will benefit from this bill and are in strong support of the legislation. We also see support with regards to the firefighters: 134,000 firefighters in 24 different States will benefit. We have worked very closely with them. These are the various groups that support this legislation: The International Association of Firefighters; Fraternal Order of Police; the National Association of Police Organizations; the International Union of Police Associations; the American Federation of State, County, and Municipal Employees; and the International Brotherhood of Teamsters.

So as I say, we will be ready to deal with this right after the caucuses that we will have during the noon hour. This legislation will hopefully be before the Senate. We are hopeful now. This is a vote on the motion to proceed. We ought to at least have that opportunity to debate this issue, and we are hopeful we will receive the support from both sides of the aisle so we can move forward and debate the issue.

My time has expired and I yield the floor.

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

Mrs. HUTCHISON. Mr. President, I rise today to talk about the bill we are going to vote on starting at 11 o'clock. We have an amendment filed by the distinguished Republican leader. The Senator from New Mexico is the prime sponsor of this amendment. I commend Senator DOMENICI for his continuing leadership in the energy arena.

In January of 2007, when control of Congress changed hands, the price of gasoline was \$2.33 a gallon. Today, it is \$3.73 a gallon. That is a 60-percent increase, and it is going in that direction even further.

The reason for the record-high price is simple economics. The global demand for energy has soared, especially in fast-rising countries such as China and India. Meanwhile, the supply of energy has remained largely stagnant. This is a simple, classic economic principle: The law of supply and demand. When the demand goes up and the supply stays the same, the price goes up. Knowing that, the best way for Congress to reduce the price of energy is to increase the supply of energy. We need more American oil, more American natural gas, more American clean coal, and we need more American nuclear power. That is why I joined the ranking member of the Energy Committee to introduce the bill today that would do exactly that.

First, the Strategic Petroleum Reserve. Two weeks ago, I wrote a letter to the President, signed by 13 Republican Senators. I noticed it was an-

nounced by the majority leader that 51 Senators on his side had signed the same type of letter in March. I ask unanimous consent that the letter be printed in the RECORD with the signatures of the 13 Senators.

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

U.S. SENATE,
Washington, DC, April 29, 2008.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We write today to request that the U.S. Department of Energy (DoE) immediately halt deposits of domestic crude oil into the U.S. Strategic Petroleum Reserve (SPR). As we enter the busiest driving season of the year, the price of a barrel of West Texas Intermediate crude oil hovers around a record \$120.

The SPR was established in 1975 to provide a supply of crude oil during times of severe supply disruptions. Today, the SPR contains more than 701 million barrels of oil, exceeding our International Energy Program commitments to maintain at least 90 days of oil stocks in reserve.

High energy prices are having a ripple effect throughout the U.S. economy and exacerbating recessionary pressures. The Energy Information Agency reports that supplies and inventories of crude oil and refined products are above 2007 inventories while our demand for gasoline is down. Yet, the price of crude oil has skyrocketed 100% from last year's levels which were just above \$63 a barrel in April 2007. Despite these economic realities, the DoE recently solicited contracts to exchange up to 13 million barrels of royalty oil from Federal leases in the Gulf of Mexico for deposits in the SPR.

Some analysts blame geopolitical instability and disruption in production for the rapid price increases; however, these factors alone do not explain the extraordinary increase in oil prices compared to previous years, when these same challenges were present. Temporarily halting deposits to the reserve can provide some relief because the increased supply of oil available for refinement will send the right signal to all markets that the U.S. Government will take measures necessary to address exorbitant crude oil prices that negatively affect the global economy. We believe, in light of the dramatic increase in oil prices, a temporary halt to deposits into the SPR should be considered until the economy stabilizes.

I appreciate your attention to this matter and look forward to hearing back from you.

Sincerely,

Kay Bailey Hutchison, John Barrasso, Kit Bond, John E. Sununu, Johnny Isakson, Orrin G. Hatch, Jeff Sessions, Saxby Chambliss, Judd Gregg, John Cornyn, Lisa Murkowski, Elizabeth Dole, Sam Brownback, Susan Collins.

Mrs. HUTCHISON. Mr. President, what we are asking the President to do is temporarily halt deposits of oil into the SPR. Today, the SPR holds 118 days—almost 4 months—of reserve for an emergency in this country.

I wish to stop now to ask unanimous consent to be added as a cosponsor of the Dorgan amendment No. 4737.

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

Mrs. HUTCHISON. Because what the Dorgan amendment does—and what is also included in our bill—is to ask for

a temporary halt on any more oil going into the SPR. Halting the daily deposits of 76,000 barrels a day into the SPR would allow 3 million additional gallons of gasoline to be available on the market. If we halted the 13 million barrels of oil the Department of Energy has sought contracts for to go into SPR, it would be more than the total February 2008 imports from Libya, Syria, Kuwait, United Arab Emirates, Egypt, Azerbaijan, and China combined.

The amendment offered today would halt additional contributions to the SPR for 180 days and ensure that these resources could be utilized immediately in the marketplace. In addition, we would open the grassy plains of ANWR, which is unavailable for drilling today. The U.S. Geological Survey estimates there could be as much as 10 billion barrels of oil in ANWR. This would be almost enough oil to replace what we import from Saudi Arabia every day. What would be drilled in ANWR isn't near a forest or a stream. It is a grassy plain. It is 2,000 acres, about the size of National Airport, in an area of ANWR which is the size of the State of South Carolina. So drilling in this grassy plain would be environmentally safe, and it would make America much more independent, much more reliant on ourselves and our resources for our energy needs—a place we need to go.

Another area, the Outer Continental Shelf, could contain as much as 115 billion barrels of oil.

Mr. President, I ask unanimous consent that I have 3 more minutes.

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

Mrs. HUTCHISON. There could be 115 billion barrels of oil in the Outer Continental Shelf. That is more than Venezuela's proven reserves of 80 billion barrels.

We need more refinement capacity. This amendment encourages refinement expansion to alleviate supply concerns with refined petroleum, which is gasoline.

This amendment we are voting on today would not do much to bring down the demand because, in fact, we can't control what China and India are demanding in oil and natural gas resources, but it can affect supply. That is what Congress has turned a blind eye to doing.

All they talk about is a windfall profits tax on oil companies. We tried that once before and what happened? Jobs went overseas. We had to import more from overseas, so we became more dependent on foreign sources and we lost jobs for our country. The price would not go down. It would just come from foreign sources instead of ourselves. So let's don't talk about things that will not help; let's talk about supply, which we can help by working together to increase our utilization of our own natural resources.

This year we will spend about \$500 billion to import oil. All those dollars

could stay in America, creating good jobs in America and making us self-reliant. If there is anything America stands for, it is the spirit of self-reliance, of knowing that if we are running into a crisis, if our economy is down, that we would be dependent on ourselves because we have the resources to meet this demand. We have the resources. Now we need the willpower. We need the good old American spirit to say we can prevail. We can reduce prices. We can help the American family get over the hump. We can do something by relying on ourselves. That is what the amendment we are voting on will do.

I hope the American people will look at these votes. Do they want political rhetoric, windfall profits taxes that send jobs overseas or do they want real solutions short term, by not putting any oil in SPR right now and putting it on the market to start bringing that price down and to let those who are hedging on commodities know America is going to act. The best we can do for America to show those hedgers we are going to act is to say we are going to take the long-term steps. We are going to drill in our own areas that we control. We are going to put jobs in America. We are going to help the States get their royalties if they want to drill offshore. We are going to stand up and say: This is America, and we will take care of ourselves with our own natural resources. That is the vote today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I am not going to speak so much about what divides us. Today I wish to talk about what would unify us with respect to the two energy plans. We are going to vote on an amendment that is a bill I offered back in February of this year that would stop putting oil underground. Some say that doesn't mean very much in terms of energy prices or that it would not accomplish a lot.

We had testimony before the Senate Energy Committee by economists and an energy expert. Dr. Verleger testified that what's coming from the Gulf of Mexico is sweet light crude, the most valuable subset of oil. Despite the fact that it is a small percentage of the oil usage, it could have as much as a 10-percent impact on the price of sweet light crude. I don't think we should underestimate the significance of this proposal. At a time when oil prices are bouncing up in record highs, with oil prices at \$120, \$124, and \$126 a barrel, we have speculators playing their fiddle. The oil prices dance up into the stratosphere; the economy is damaged; consumers get injured; and industries are going belly up.

The question at this time is, what unites us here? I will tell you one thing we can agree on. There are at least 80 Senators who have expressed themselves, including all three Presidential candidates. They have said let's stop

putting oil underground. Is it a reasonable thing to do to set oil aside underground? We have something called the Strategic Petroleum Reserve. Let me show you what it is. This is what it looks like. Instead of oil going into the pipeline so you can convert gasoline to your automobile, it is going underground. This is what the SPR looks like. Here is where the SPR is being stored—at Bryan Mound, Big Hill, West Hackberry, and Bayou Choctaw.

The SPR is 97 percent full. The question is this: With oil at \$126 a barrel and gasoline around \$4 a gallon or more, and with the American consumer being burned at the stake, why should its Government be carrying the wood? Why should we be putting oil underground at a time of record-high prices? Who thinks it is smart to go out into the marketplace and take oil that is that valuable and stick it underground when it is having an impact of upward pressure on oil prices? That makes no sense at all.

As I said, all three Presidential candidates have said we ought to stop at this time. Eighty Senators have agreed with this decision. Somehow, the President and Vice President are insistent that we continue to fill the SPR.

Look, there are a lot of other things happening. Number 1, we need more production. I was one of four Senators who introduced the legislation, with Senator DOMENICI, that led to opening Lease Sale 181 in the Gulf of Mexico. That is additional production, and I am proud that became law. It should have been broader, but it got narrowed through the legislative process. I have a bill in to expand production in the Gulf of Mexico.

Yes, we need additional production, conservation, efficiency, and renewables. We need all those things. We have made progress in some of them. Last year, we finally passed reformed CAFE. We increased CAFE standards 10 miles per gallon in 10 years. That is a historic achievement after 32 long years in this Congress. We set us on a course toward renewables.

There are short-term, intermediate, and long-term solutions. John Maynard Keynes says that in the long run we are all dead. How about the short term? How about today? I know where there is 70,000 barrels of oil, including sweet light crude, that could go into the gas pumps and into cars and put downward pressure on gas prices. I know how we can take action and so do my colleagues. At least we can agree on that piece of legislation today.

Here is another point. There is unbelievable speculation in the commodities market. It is interesting. Let me give you a couple of charts that show this. The senior vice president of ExxonMobil said last month:

The price of oil should be about \$50 or \$55 per barrel.

Mr. Cazalot, the CEO of Marathon, said:

\$100 oil isn't justified by the physical demand in the marketplace.

A man who testified before the Energy Committee, Mr. Gheit, a senior energy analyst with Oppenheimer, said:

There is absolutely no shortage of oil, and I am absolutely convinced that oil prices should not be a dime above \$55 a barrel. I call it the world's largest gambling hall. It is open 24/7.

The fact is, we have speculators, hedge funds, and investment banks that have never been in the futures market before and are in neck deep. They are driving up prices that have very little to do with the fundamentals of supply and demand. Should we ignore that and say that is OK?

Mr. President, I think I have consumed 5 minutes. I ask unanimous consent for 2 additional minutes.

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

Mr. DORGAN. Should we say that is OK, let's talk about other subjects? I don't think so. If you want to purchase stock on margin, you have to put up 50 percent of the money. If you want to control \$100,000 worth of oil, the subject of such speculation, all you need now is a margin requirement between \$5,000 and \$7,000. It seems to me that the margin requirement ought to be increased to the point of wringing speculators out of the system. We need a futures market for legitimate hedging and for liquidity.

There are times when speculative bubbles develop. In this case, the bubble driving up the price of oil and gasoline at the pumps is damaging our economy. A lot of industries are suffering, including truckers and the airlines. It is hurting a lot of American families, and we can do something about it.

We have a couple different plans. Let's take the one common part of both plans, which is the amendment I offered as a bill in February, and pass that today because that will make a difference. Is it a giant step? Not at all. Is it a step that is finally at long last in the right direction? It is. So instead of getting the worst, let's try to get the best of both sides and say this we agree on, this we can do.

My hope is that at the end of today, at least this Congress will have said to the President and Vice President: Stop doing what you are doing. The last thing in the world we ought to do is put upward pressure on gas and oil prices. We ought to put downward pressure on that, and we can do that today with one single vote.

I yield the floor.

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

Mr. DOMENICI. Mr. President, I say to my friend, Senator DORGAN, I have changed my mind about the SPR bill. I think he knows that. People wonder about changing your mind. A lot of people change their mind. I changed mine because of the real price of oil and because I do believe we are not going to harm our strategic reserve by

this one event. I wish to make the record clear. America needs the Strategic Petroleum Reserve. We must have it, and we should not grow accustomed to thinking the Strategic Petroleum Reserve is going to solve our energy supply problem. Senator DORGAN has never said that. But it would not. I will answer some of the remaining questions when I wrap up.

I yield the floor.

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

Mr. ENZI. Mr. President, last weekend, when I traveled around Wyoming, it was clear that high energy prices were on everyone's mind. It is a trend I have noticed each and every summer for the past several years. Each year, our constituents ask us to do something to address energy prices. While we talk and talk about what we are doing, rarely do we take any meaningful action.

It is a little different this year because Americans are seeing record prices at the pump. Those voices saying "get to work on this problem" are more numerous. They are louder. Will the anguished calls for help make it through the thick and, thus far, shut doors of Congress? Americans are caught in a tight spot. Some are asking: How can I put food on the table when I cannot afford the gas it takes me to get to work? On top of that, the food is more expensive because of the fuel it takes to produce and ship it.

No one in this Chamber has all the answers. No, but we can do something. We can act. We can help. The question for me and my colleagues in the Senate is, will we? We have the opportunity to do so today. We have the opportunity to vote for an amendment that provides short-term relief and, at the same time, helps address the long-term issues that got us into this situation. I am a cosponsor of the McConnell-Domenici amendment, known as the American Energy Production Act of 2008, because it is a responsible way to address the need to produce more domestic energy and to reduce energy prices.

The energy situation we are in has been a long time in the making, and we are not going to fix it overnight. We don't have enough domestic energy to meet our Nation's energy demands, but the American Energy Production Act would help change that. It opens an important sliver of the Arctic National Wildlife Refuge, ANWR, to environmentally conscious leasing and allows for more production from the Outer Continental Shelf, with consent of the State. Doing so will help the United States produce more of its own energy. Instead of sitting at the trough of foreign oil barons with our hands out begging, Americans will produce more American energy.

Later today, I expect to see support for the Dorgan amendment to suspend filling of the Strategic Petroleum Reserve. If you are worried about roughly

70,000 barrels a day staying off the market for this reserve fill, then you should be outraged that 1 million barrels a day from ANWR is kept off the market because it was vetoed by President Clinton more than 10 years ago. That is a million barrels we would not need to purchase from South American dictators, or a million barrels from countries who are friendly to those who wish to destroy the United States.

What will Americans say about this vote 10 years from now? Will they say: Better late than never, because we passed the American Energy Production Act, or will they say: You just didn't get it and now look at us suffer for it. The American Energy Production Act recognizes also that coal is our Nation's most abundant energy source. It recognizes American ingenuity. It recognizes that coal has been turned into diesel fuel for half a century, and it encourages the building of coal-to-diesel facilities in the United States. The United States is the "Saudi Arabia of coal." Wyoming is the leading coal producer in the United States. It makes sense that we use America's most abundant energy source at a time when we all agree we are too dependent upon foreign energy sources.

The amendment also includes a number of important provisions that will help Wyoming and the Nation. The amendment repeals the mineral royalty theft that was included in the fiscal year 2008 Omnibus appropriations bill. It allows development of oil shale to move forward.

I support the idea of developing more alternative energy, the use of wind energy, and the development of better solar energy technologies. As my constituents can tell you, Wyoming is an especially good State for wind, and we have high solar potential as well. While we need to develop these technologies for the long term, we need all the energy we can get.

We need more domestically produced oil, more wind energy, more domestic natural gas, more solar energy, more nuclear energy, and we definitely will need more clean coal energy.

Our Nation's energy policy is haphazard, broken, and it threatens to break our country. We need to make meaningful changes to that policy, and voting in favor of the American Energy Production Act is the first step in the right direction. I hope my colleagues will recognize the need to take this step and support the McConnell-Domenici amendment.

I yield the floor.

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

Mr. BINGAMAN. Mr. President, let me take up to 5 minutes at this point. If the Chair will advise me when that 5 minutes has been used, I would appreciate it.

We have two votes coming up related to energy. The first is on the McConnell amendment, which is a compila-

tion of various provisions that relate to energy but, I argue, do not hold out much promise for affecting the price of oil or gas. Following that, we have the vote on the proposal that is put forward by the majority leader, Senator REID, with regard to suspending the filling of the Strategic Petroleum Reserve for the balance of this year.

I will be voting against the first amendment and voting for the second amendment. I hope my colleagues will do so as well. Let me give the reasons why I think we should vote against the Republican leader's amendment.

First, the Republican leader's amendment doesn't do anything to deal with the issue of speculation in oil markets. We have had testimony repeatedly before our Senate Energy Committee that speculation in these markets is a significant factor contributing to the \$126-per-barrel price of oil we are seeing today. So if someone is concerned—as all of us are—about energy, consumers, and the burden that is being placed upon them, then dampening speculation in these markets should be high on our list of work to be done. It is not in the Republican leader's amendment.

Of course, the amendment he proposes also doesn't do anything with regard to the weakening of the U.S. dollar, anything with our fiscal policies. Yesterday, I went into a discussion about how that is contributing to the increase in the price of oil. I think most economists would agree with that.

The second reason I would oppose the Republican leader's amendment is that it misses the boat on how to promote more supply. The argument being used is the assumption within the amendment that the way to promote more supply is we need to open more areas for drilling. And particularly we need to open the east coast of the United States for drilling offshore on the Outer Continental Shelf, we need to open the west coast offshore on the Outer Continental Shelf, and we need to open a portion of ANWR, the Arctic National Wildlife Refuge.

As I say, I think it misses the key issue in that we are opening additional areas for drilling at a pretty rapid rate in the onshore areas of the United States where oil and gas production occurs and in the offshore areas. But additional leases by themselves are not going to make a difference to consumers either in the near term or the medium term. What we need to be focused on is how we can promote more diligent development. Nearly three-quarters of what we have leased domestically onshore is not now being produced. A little over three-quarters of what we have leased offshore is not being produced, and that is what we should be concentrating on—how do we build in incentives for actual production in areas we have, in fact, leased.

Finally, with respect to future lease sales, the Republican leader's amendment leaves out the most promising

area, and that is the area in the gulf coast, particularly the area we have still not opened in the original lease sale 181 area of the gulf coast. This is something we clearly should be addressing as well.

As I say, the second vote is going to be on the proposal to suspend the filling of the Strategic Petroleum Reserve. A version of that is in the Republican leader's amendment, as well as being proposed by Senator REID. I hope we will get a very strong bipartisan vote for that provision.

I do think it is prudent to turn down this compilation of various energy-related provisions that has been put forward by the Republican leader with the claim that it is going to bring down the price of gas. It simply will not.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore, The Senator from Louisiana.

Mr. VITTER. Mr. President, I rise today in strong support of the McConnell-Domenici amendment because it does what we need to do to address this real crisis in our country—crippling energy prices, rising energy prices that hit the pocketbook of every Louisiana family I represent and every American family, that is causing grave concern about our economic future.

I am afraid what we heard from the distinguished Senator from New Mexico just now is more of the same excuses we have heard for a couple of years now: why we can't do this, can't do that, and can't act in general. What has that inaction, that paralysis, those excuses all led to? I will tell you what it has led to. It has led to soaring energy prices. In January 2007, when this Democratic Congress took office, the average price of a gallon of gas was \$2.33 at the pump. Today, it is \$3.72—a 60-percent increase. That is what those excuses, that is what that inaction has led to.

We need to do a number of things across the board on the demand side and on the supply side. This Domenici-McConnell amendment includes all of those. Does it include every one of them? No. No single proposal is ever going to include every good idea out there that we probably need to act on, but it includes a lot on which we need to act.

I want to focus on one part of the amendment in particular of which I am very supportive, and that is opening more of our Outer Continental Shelf to exploration and production.

I believe one of the most important things in energy policy that we have done since the short time I have been in the Senate is to open new parts of the Gulf of Mexico with revenue sharing. This provision in the Domenici-McConnell amendment will expand on that precedent. It would say we can open areas of the Atlantic and the Pacific, but with two very important caveats, both of which are great policy. First of all, the host State, the State off which the activity would occur, has to want the activity, has to agree to it.

The Governor has to say: Yes, we want this activity off our waters. And secondly, that host State in return would get significant revenue sharing, exactly the same revenue sharing we passed a few years ago, 37.5 percent to go to the host State to meet its environmental or educational or highway or other needs. That is sound policy. We passed that policy for new areas of the gulf that were opening. We need to expand on that policy to dramatically increase our domestic energy production, and we can do that safely and in an environmentally friendly way.

There is much the McConnell-Domenici amendment does that is needed as well, but I wanted to highlight that point because it is so absolutely crucial and important. It builds on good policy we set a few years ago. It expands on that precedent, and I believe expanding on that precedent can significantly increase our domestic energy resources in this country.

Do we need to do other things? Absolutely. Do we need to act on the demand side further? Absolutely. This isn't brain surgery. Economics 101 tells us that price has to do with two lines on a graph: the demand line and the supply line. We need to mitigate, bring down demand, and we need to increase supply. I am for any reasonable policy that does those two things. On the demand side, conservation, greater efficiency, new sources and forms of energy—absolutely.

I am going to agree with Senator DORGAN and vote for his amendment regarding the Strategic Petroleum Reserve. Like Senator DOMENICI, I have changed my mind on that issue because the increases in price at the pump have gotten so dramatic and so outrageous. So that can mitigate demand increases as well.

But as we make all of those efforts on the demand side—and we need to do more—we cannot constantly ignore the supply side, particularly the domestic supply side. That is exactly what this Congress has done for the last 2 years. Mr. President, \$2.33 price at the pump then; \$3.72 price at the pump today. Let's act, and let's act now.

I yield the floor.

Ms. COLLINS. Mr. President, I wish today to support the amendment offered by the Senator from Nevada, Mr. REID. It embodies a policy change that I have advocated for many months. In January, I wrote to the Secretary of Energy and urged the administration to stop filling the SPR while oil prices are so high. The Reid amendment would suspend acquisition for the Strategic Petroleum Reserve, SPR, until the end of the year or until the price of a barrel of oil goes below \$75.

The SPR is an emergency stockpile and an essential safeguard against major disruptions in global oil markets. However, the SPR already contains nearly 700 million barrels of oil, 97 percent of its current storage capacity. This is more than sufficient to meet a crisis.

Mr. President, our Nation faces record-high energy prices affecting almost every aspect of daily life. The prices of gasoline, home heating oil, and diesel are creating tremendous hardships for American families, truckers, and small businesses. High energy prices are a major cause of the economic downturn. Last week, crude oil was trading at over \$120 per barrel.

The administration's decision to fill the SPR when oil prices are so high defies common sense. In 2005, the Senator from Michigan, Mr. LEVIN, and I joined forces on a bipartisan amendment directing the Department of Energy to better manage the Reserve by requiring the Department to avoid purchases when prices are high so as not to drive up prices further by taking oil off the market. I don't believe the Department of Energy is abiding by this law. If it were, the Department would not be making purchases while prices are so high.

It simply does not make sense for the Department of Energy to be purchasing oil for the Reserve at a time when oil prices exceed \$120 per barrel. The Federal Government is taking oil off the market and thus driving up prices at a time when consumers are struggling to pay their fuel bills.

If the administration stopped purchasing oil for the SPR, the Energy Information Administration has estimated that the impact on gas prices would be between 4 and 5 cents a gallon. Other experts believe it is considerably higher. At a hearing before the Permanent Subcommittee on Investigations in December, one energy expert, Philip Verleger, said, "DOE's actions added between 5 and 20 percent to the price of oil." It is a bad deal for taxpayers for the Department of Energy to be purchasing oil when prices are so high.

There are other short-term steps we must take to address the energy crisis—for example, regulating energy futures markets and repealing tax breaks for major oil companies—but suspending filling the SPR is a key step that I hope we approve tomorrow.

In the long term, our challenge to address energy prices is, of course, to reduce our reliance on imported oil. We need to pursue the goal of energy independence just as fervently as the Nation embraced President Kennedy's goal in 1961 of putting a man on the Moon. Energy independence, stable energy costs, and environmental stewardship are goals that are within our reach. I urge my colleagues to get us started on the effort by supporting this proposal to suspend filling the Strategic Petroleum Reserve.

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

The ACTING PRESIDENT pro tempore. The majority has 6 minutes 18 seconds. The Senator has 7 minutes remaining.

Mr. DOMENICI. Mr. President, as I understand it, the other side is going to have only one speaker to use their

time. I am trying to find the Senator from Texas. He wanted to speak. Let me take a couple of minutes. If he gets here, I will yield the floor as soon as he arrives.

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

Mr. DOMENICI. Mr. President, first, I wish to say that my good friend, my fellow Senator from New Mexico spoke about speculation in this oil market. There may be some. We heard testimony there may be. So everybody knows, there is nothing before the Senate that the Democrats propose regarding speculation. They just have a one-shot bill, and it is pretty good, but it is not an energy policy. Probably most of us are going to vote for it. That is what Senator DORGAN proposed.

As I indicated, I changed my mind. If people are wondering about that, I was reading about economic history, and I read where John Maynard Keynes, the great economist, was asked: Why did you change your mind? He said: When the facts change, I change my mind. That is what happened here with reference to SPR. The facts changed, and I changed my mind.

The good Senator from New Mexico, my colleague, also said we have a big problem with the weakening of the dollar. I hope he doesn't intend to imply by that, when we find we can strengthen the dollar, then we will solve the energy problem. I don't know that we know how to do that one any quicker than we do the energy crisis. I don't think that would accomplish anything.

We have a lot going on in the gulf, so we said let's let those continue. That is what the Domenici bill says. But we say the rest of the offshore around America—and incidentally, there is probably more than any of us know in offshore America. We probably would send such a big signal to the world if we decided to move on that. That alone would have a positive impact.

In addition, the bill before the Senate does a lot in a number of areas that have not been talked about very much. It would cause the world to take another look and to say: America is serious, they are really going to do something about their energy problems.

Mr. President, I now yield the remainder of the time to the Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak for up to 5 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DORGAN. Mr. President, I am required by our leadership to object because they want to get the vote off on the time predetermined. I apologize for that, but that is what I am required to do.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. CORNYN. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Four minutes.

Mr. CORNYN. Mr. President, one thing has been accomplished by the debate leading up to this morning's vote; that is, Congress finally—finally—has acknowledged the existence of the law of supply and demand. If we look at these two votes we are going to have this morning, first is the McConnell-Domenici amendment, of which I am proud to be a cosponsor, which would produce, if implemented, potentially up to 3 million additional barrels of oil a day from the United States of America—3 million—making us less dependent on imported oil from some of our Nation's enemies, countries such as Iran and Venezuela that are part of OPEC, the Organization of Petroleum Exporting Countries.

Alternatively, our friends on the other side of the aisle have proposed—and I will vote for it—a temporary suspension of putting oil into the Strategic Petroleum Reserve. But how much does that represent? It represents 70,000 barrels of oil that would not be put in the Strategic Petroleum Reserve and would be available on the open market as an additional supply of oil, which is then available to be refined into gasoline. I suspect it will have some modest impact on the price of gasoline at the pump, maybe 3 to 5 cents a gallon. But if we think 70,000 barrels of additional oil into the open market will be beneficial in terms of bringing down the price of gasoline, how much more beneficial would it be to have 3 million additional barrels of oil produced from our country out on the open market available for refining into gasoline to help bring down the price of gas at the pump?

I am pleased that our colleagues have recognized the importance of the law of supply and demand, something Congress has turned a blind eye to for these many years as we put so much of America's natural resources out of bounds when it comes to developing those resources, and, of course, we know what the consequences of that have been, with \$3.71 average price for gasoline in America today and the price of oil on the spot market bouncing up around \$125 a barrel.

I don't know whether this amendment, of which I am proud to be a cosponsor, could produce ultimately 3 million new barrels of American oil each day. I don't know whether it will get the requisite 60 votes. But if it does not, when gasoline is \$3.71 a gallon and oil is \$125 a barrel, I wonder if the same vote, if we have it again when gasoline is \$4 a gallon and oil is \$150 a barrel or when gasoline is \$4.50 a gallon and the price of oil is even higher, at what point the Congress, the Senate is going to listen to the American people and say: We need some help; we need some relief.

Now that Congress has acknowledged the importance of additional supply in terms of bringing down the price at the pump, ultimately it is my hope our colleagues will vote, at least 60 of us, for the Domenici-McConnell amendment. I

think the American consumers would be the beneficiary of that. I urge my colleagues to vote for the amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. Time has expired.

The Senator from North Dakota has 6 minutes remaining.

Mr. DORGAN. Mr. President, let me conclude with a couple of thoughts. First of all, my colleague from New Mexico described the issues of speculation a bit. We do, in fact, in our larger proposal that we announced last week, have a provision dealing with speculation. And it is important that we do that because speculation is part of what is driving these prices. I showed comments from executives of some of the largest oil companies in this country that said there is no justification for the current price given supply and demand.

They said the price of oil should not be much above \$50, \$60, \$70 a barrel. So what is happening? Well, let me come to that in a moment. Let me say, first of all, my hope is that today, here on the floor of the Senate, we will decide to do some good things.

Now, how do you do good things? You try to find areas of common interest and legislate moving ahead where you can. That is what Senator REID has suggested in the underlying amendment that we will vote on dealing with stopping and halting the putting of oil underground in the Strategic Petroleum Reserve. This is something I introduced in the Senate back in February.

Now, as I said before, when the American consumer is being burned at the stake by high gas prices, its Government ought not be carrying the wood. I mean, it is that simple. We can do something about this.

We are talking about 70,000 barrels a day, 70,000 barrels every single day of sweet light crude that we are taking off the market. Dr. Philip Verleger, an economist and energy analyst, testified before the Energy Committee on the effects of such a move. He said although it is only three-tenths of a percent of usage, because it is sweet light crude, the most valuable subset of oil, it could have up to as much as a 10-percent effect on the price of oil.

So it seems to me what we do is, do what the Republicans and Democrats have now generally come together to say we should do, and say to the President: Look, you cannot put 70,000 barrels of oil underground every day. You cannot do that. The Strategic Petroleum Reserve is 97 percent filled, 97 percent.

Now, oil is \$120, \$126 a barrel; gas is going to \$4 a gallon. Let me describe the situation we all understand that we face on this planet of ours. We stick straws in the planet and suck oil out. We suck out 85 million barrels every day. We are required to use one-fourth of that in this little spot of geography on the planet called the United States of America.

Let me say that again. We take 85 million barrels a day, and we need one-fourth of it to be used in the United States. Now, 60 percent of that which we use comes from outside of our country. That holds us hostage to others. And 70 percent of the oil we use in this country is used to fuel vehicles. So vehicles are an important part of this issue. I am proud to say this Congress, with this majority and some minority help, has passed for the first time in 32 years an increase of 10 miles per gallon in the next 10 years of CAFE standards. This will lead to better automobile efficiency and better gas mileage.

We made some progress in other areas. We opened production in Lease 181 in the Gulf of Mexico where there are substantial reserves. We made progress in the biofuels ethanol standards and renewable fuels standards. We have made some progress on all of those issues, but we have people coming to the floor today to say: Well, gas is \$4 a gallon. Let's open ANWR. That means we get oil in 10 years.

As John Maynard Keynes said, in the long run we are all dead. What can we do in the short term? At least today, on Tuesday, we can at least do what we both believe—that is, what the minority and majority believe is appropriate—and that is stop putting oil underground and put some downward pressure on gas prices and oil prices. Give the consumer an opportunity to see some decent prices.

This speculation in the futures market is speculation that is driving up prices. We want to do something about that as well. But at least today we have one common theme; we can increase supply by 70,000 barrels a day of sweet light crude. Instead of it going into the supply that comes through the pump into the cars, which puts downward pressure on gasoline, it is now going underground, underground in the Strategic Petroleum Reserve. It makes no sense at all.

So I am saying: Let's stop doing bad things and let's start doing good things. We can start by taking the first step in doing that today.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. There remains 1 minute 20 seconds.

Mr. DORGAN. Let me make one additional point, if I can. It does not relate specifically to this amendment, but this issue of the free market. You have an OPEC cartel behind closed doors. You have oil companies that are bigger through mergers. You have a futures market that is now rife with speculation. There is no free market. So the American people deserve, it seems to me, a Congress that will stand up and take some steps to put some downward pressure on gasoline prices.

That is a step we can take today. It is a step that is not a giant step, but it is a step in the right direction that will put downward pressure on gas prices. It will help this country. My hope is, fol-

lowing this vote, we will see that both parties can contribute to something when we agree on it. I think this will be a good day to put downward pressure on gas prices.

AMENDMENT NO. 4737

Mr. President, I call up amendment No. 4737.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

Mr. DOMENICI. Do we not have 1 minute left on each side? The amendment is not in order while time remains.

The ACTING PRESIDENT pro tempore. The amendment is simply being reported. We will have 2 minutes equally divided.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for Mr. REID, for himself and Mr. DORGAN, Mr. BINGAMAN, Mrs. BOXER, Mr. LEVIN, Ms. STABENOW, Mr. LEAHY, Mr. SCHUMER, Mr. BROWN, Mr. SANDERS, Mr. DURBIN, Mr. KERRY, Mr. MENENDEZ, Mr. SALAZAR, Ms. LANDRIEU, Mr. CARPER, Mr. INOUE, Mr. LAUTENBERG, Mr. REED, Mr. HARKIN, Mr. DOMENICI, and Mrs. HUTCHISON, proposes an amendment numbered 4737 to amendment No. 4707.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the supply and lower the cost of petroleum by temporarily suspending the acquisition of petroleum for the Strategic Petroleum Reserve)

At the appropriate place, insert the following:

SEC. ____ . SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.

(a) IN GENERAL.—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) RESUMPTION.—Not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is \$75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(c) EXISTING CONTRACTS.—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil for a period of not less than 1 year, in accordance

with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.

AMENDMENT NO. 4720

The ACTING PRESIDENT pro tempore. There now will be 2 minutes of debate equally divided prior to a vote on amendment No. 4720.

Mr. DOMENICI. That means 1 minute each?

The ACTING PRESIDENT pro tempore. Correct.

Mr. DOMENICI. On behalf of the amendment, I wish to say whoever is interested in what is going on today should know that Democrats speak of doing other things to bring the price down, but the only thing we are really doing is the amendment of the Senator from North Dakota on SPR. We all agree with that.

That is a temporary 7-month deferral of purchases. Clearly, if it does anything, it will be extremely temporary. All of the other things that are spoken about, none of them are in this bill, whether it has to do with fraud, speculation, or whatever.

On our side we have at least said: Let's start coal to liquid, a great American resource. Let's start offshore around America. Let's start on ANWR. Let's start moving on oil shale. Let's accelerate battery research, which will move us toward automobiles that can plug in, which will be a big American boon.

So there are lots of pluses. There is a lot of rhetoric. And there is one amendment that the Democrats offer that we agree upon. I believe those people interested in production should vote for the Domenici amendment and tell the American people the truth: We can produce in America and put pressure on the world markets and reduce the price of oil.

I yield the floor.

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

Mr. BINGAMAN. Mr. President, I urge Senators to vote against the McConnell amendment. It is a compilation of various proposals. The main thrust of it is to try to lease more Federal land. People should understand that we have been leasing a great deal of Federal land onshore. That pie chart on the left is offshore, and the Outer Continental Shelf, that is the pie chart on the right.

We currently have 31 million acres of land that is leased and is not producing. What we need to do is to get diligent in the development of these areas that are already leased.

Offshore, the same thing; the Outer Continental Shelf has 33 million acres that are not producing. So this amendment is a compilation of energy-related provisions that are put into the McConnell amendment. It is not going to bring down the price of gas at the pump.

I urge Senators to oppose it and then to support the second vote on the proposal to suspend the filling of the Strategic Petroleum Reserve.

I yield the floor.

The ACTING PRESIDENT pro tempore. The question is on agreeing to amendment No. 4720.

Mr. BINGAMAN. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 56, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—42

Alexander	Crapo	Lugar
Allard	DeMint	McConnell
Barrasso	Domenici	Murkowski
Bennett	Ensign	Roberts
Bond	Enzi	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Specter
Burr	Gregg	Stevens
Chambliss	Hagel	Sununu
Coburn	Hatch	Thune
Cochran	Hutchison	Vitter
Corker	Isakson	Voynovich
Cornyn	Kyl	Warner
Craig	Landrieu	Wicker

NAYS—56

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Johnson	Reed
Brown	Kennedy	Reid
Byrd	Kerry	Rockefeller
Cantwell	Klobuchar	Salazar
Cardin	Kohl	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Smith
Clinton	Levin	Snowe
Coleman	Lieberman	Stabenow
Collins	Lincoln	Tester
Conrad	Martinez	Webb
Dodd	McCaskill	Whitehouse
Dole	Menendez	Wyden
Dorgan	Mikulski	

NOT VOTING—2

Inhofe McCain

The ACTING PRESIDENT pro tempore. Under the previous order, requiring 60 votes for adoption of this amendment, the amendment is withdrawn.

AMENDMENT NO. 4737

There are now 2 minutes, equally divided, prior to a vote on the Reid amendment.

Who yields time?

The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me take the 1 minute.

This is a piece of legislation I introduced in February of this year. The Strategic Petroleum Reserve is 97 percent filled. We have oil and gas prices going through the roof in this country. We are putting 70,000 barrels of oil underground every day. It is a subset of the most valuable kind of oil: Sweet light crude, coming from the Gulf of Mexico.

We heard testimony before the Senate Energy Committee that even

though it is a small part of our oil usage, this subset of oil—the 70,000 barrels a day put underground—could have an impact of up to 10 percent of the price of oil. I am not suggesting this does everything, but it is a step in the right direction.

As I said earlier, when the American consumer is being burned at the stake by energy prices, the Government ought not be carrying the wood. Sticking oil underground is wrong at this point in time, and this amendment simply says: Stop it. Halt it.

Mr. LEVIN. Mr. President, I support the amendment to stop deliveries of oil into the Strategic Petroleum Reserve, SPR.

Crude oil prices reached a record high recently of \$126 per barrel, leading to record highs in the price of other fuels produced from crude oil, including gasoline, heating oil, diesel fuel, and jet fuel. With prices going through the roof, it is the wrong time for the Department of Energy, DOE, to take millions of barrels of high-priced oil off the market and put it into the SPR. Instead of reducing supplies by taking oil off the market and increasing the price of oil, the DOE should be looking for ways to decrease the price of oil. One step is a moratorium on filling the SPR until oil prices are lower.

Unfortunately, the DOE is contributing to the current price spike by filling the SPR regardless of the cost of crude oil or the petroleum products that are refined from crude oil.

There are three major problems with the DOE's insistence on putting high-priced oil into the SPR. First, by placing oil into the SPR the DOE is reducing the supply of crude oil and putting upward pressure on the price of oil. Second, by placing very expensive crude oil into the SPR, the DOE is significantly increasing the cost of the SPR program to the taxpayers. Third, the DOE's approach runs counter to the direction provided by the Congress in the Energy Policy Act of 2005, which requires the DOE to fill in the SPR in a manner that minimizes the impact upon prices and the costs to the taxpayers.

The DOE is currently taking about 70,000 barrels per day of crude oil off the market and putting it into the SPR. For the first half of 2008, this will total to about 10 million barrels of crude oil. This is reducing our inventories of crude oil and refined products, such as gasoline, just at a time when our refineries need to be running at maximum to make gasoline for the spring and summer driving seasons. The DOE also has asked for bids for another 6-month program to fill the SPR, beginning later this year. If the DOE is permitted to continue with this program, it will take millions more barrels of oil off the market beginning sometime later this year.

Under the basic economic principle of supply and demand, reducing the supply of crude oil available to U.S. refineries will increase the price of oil and

gasoline. Even the DOE agrees with this basic economic principle. Mr. Guy Caruso, the head of the DOE's Energy Information Administration, testified to the Congress earlier this year that an SPR fill of 100,000 barrels per day would add about \$2 per barrel to the price of oil. Last December, Dr. Philip Verleger testified that the SPR fill was adding about \$10 per barrel to the price of crude oil. Economists may disagree on the amount of the increase, but now there should be no doubt that the DOE is increasing the price of oil by filling the SPR at this time. The DOE acknowledges this. The DOE should be working to lower oil prices, not helping to boost them to record highs.

DOE says the amount of oil it is putting into the SPR is insignificant compared to total global supply. This is the wrong comparison. The amount of oil DOE is putting into the SPR represents a significant marginal increase in the demand for oil. When supply and demand are closely balanced, a marginal increase in demand can have a very large impact on price. This is precisely the situation we are in today. Supply and demand are very closely balanced. Adding a demand of millions of barrels of oil over a period of several months can have a very significant impact on the amount of oil on the market or in inventories. In a tight market, taking millions of barrels off the market can indeed have a major impact upon oil prices.

When the DOE fills the SPR it does not have to actually purchase any crude oil. Instead, the DOE takes oil that is paid to the Federal Government as royalties for oil produced by private oil companies on offshore oil leases in the Gulf of Mexico and trades it back to private oil companies for oil that is then placed into the SPR. Thus, the DOE's program to acquire oil for the SPR does not require any Federal appropriations. But that doesn't mean the program doesn't cost the taxpayers any money. In fact, the opposite is true—the SPR program costs the taxpayers a lot of money. The higher the price of oil, the more it costs the taxpayers. This is because instead of selling the royalty oil on the open market at whatever the market price of oil is, recently as much as \$126 a barrel, the DOE is taking that oil off the market, trading it for oil that meets the specifications of oil for the SPR, and leaving taxpayers without the revenue that would be created by selling tens of millions of barrels of oil. In essence, the taxpayers are paying the market price of oil for each barrel of oil placed into the SPR.

A moratorium on filling the SPR until prices are lower would save the taxpayers money. If the DOE were to acquire SPR oil at \$75 per barrel instead of \$125 per barrel, it would save \$50 per barrel. For 10 million barrels, that would add up to \$500 million. Delaying the filling of the SPR would not affect or harm our national security or our energy security. The SPR is currently about 97 percent full, with

slightly more than 700 million barrels of oil. This amount of oil is large enough to ensure that we are prepared for any contingencies that the SPR is designed to cover.

To date, over the entire life of the SPR the largest withdrawal of oil from the SPR has been for about 30 million barrels. The amount of oil in the SPR today already is far more than has ever been needed to cover market disruptions.

The DOE's policy to fill the SPR at the same rate regardless of the effect on oil prices or taxpayer costs runs counter to the intent of Congress in section 301 of the Energy Policy Act of 2005, which directs DOE to consider and minimize the effects on oil prices and costs to the taxpayers when acquiring oil for the SPR. I sponsored the amendment, along with Senator COLLINS, that became this provision in the law. We did not intend this to simply be a formality, whereby in every case DOE would simply conclude that the effect on price was insignificant. Yet that seems to be how DOE is applying this provision.

In 2003, the Permanent Subcommittee on Investigations, which I chair, completed a detailed investigation of the SPR fill program. The subcommittee's 2003 report is titled "U.S. Strategic Petroleum Reserve: Recent Policy Has Increased Costs to Consumers But Not Overall U.S. Energy Security." It can be found on the Subcommittee's Web site. The investigation found that in 2002 the Bush administration changed the DOE's policy on how it would fill the SPR, and that this change in policy increased the price of oil but not our overall energy security.

Before the Bush administration changed the DOE's policy on filling the SPR, the DOE sought to put more crude oil into the SPR when supplies were plentiful and prices low and less crude oil into the SPR when supplies were scarce and prices high. The DOE also would allow oil companies to defer deliveries for up to a year when supplies were tight, provided that the oil companies would deposit more oil into the SPR at the end of the deferral period. Through this deferral policy, the DOE was able to obtain additional SPR oil for no additional cost to the taxpayer. This policy made good sense.

As my subcommittee's report documented, in 2002 the White House directed DOE to change its policy. Instead of allowing the DOE to continue with its sensible policy, the White House directed the DOE to fill the SPR at the same rate, regardless of market conditions. The new policy also prohibited the DOE from accepting any deferrals, regardless of market conditions. The career DOE staff vigorously protested the changes ordered by the White House. The career staff pointed out that filling the SPR in times of tight supplies and high prices would push prices up and that not allowing any deferrals would cost the taxpayers more money. The career staff also ar-

gued that the old policy followed good business judgment and the new policy would be difficult to defend under sound business principles. These memos are included as exhibits to the subcommittee's 2003 report. The DOE career staff's recommendations were rejected, however, and the current policy was adopted.

Following the issuance of this report, in early 2003, I asked the Department of Energy to suspend its filling of the SPR until prices had abated and supplies were more plentiful. The DOE refused to change course and continued the SPR fill without regard to market supplies or prices. In response, I offered a bipartisan amendment, with Senator COLLINS, to the Interior appropriations bill—which provides funding for the Strategic Petroleum Reserve program—to require the DOE to minimize the costs to the taxpayers and market impacts when placing oil into the SPR. The Senate unanimously adopted our amendment, but it was dropped from the conference report due to the Bush administration's continued opposition.

The next spring, I offered another bipartisan amendment, also with Senator COLLINS, to the budget resolution expressing the sense of the Senate that the administration should postpone deliveries into the SPR and use the savings from the postponement to increase funding for national security programs. The amendment passed the Senate by a vote of 52 to 43. That fall, we attempted to attach a similar amendment to the Homeland Security appropriations bill that would have postponed the SPR fill and used the savings for homeland security programs, but the amendment was defeated by a procedural vote, even though the majority of Senators voted in favor of the amendment, 48 to 47.

The next year, the Senate passed the Levin-Collins amendment to the Energy Policy Act of 2005 to require the DOE to consider price impacts and minimize the costs to the taxpayers and market impacts when placing oil into the SPR. The Levin-Collins amendment was agreed to by the conferees and signed into law as section 301 of the Energy Policy Act of 2005.

But, unfortunately, passage of this provision has had no effect upon the DOE's actions. The DOE continues to fill the SPR regardless of the market effects of buying oil, thereby taking oil off the market and reducing supply by placing it into the SPR. In the past year, no matter what the price of oil or market conditions, the DOE has consistently said that the market effects are negligible and claimed that there is no reason to delay filling the SPR, effectively ignoring the section 301 requirements of the Energy Policy Act. The result is that we have the current contradiction of DOE depositing oil into the SPR at the same time the President is urging OPEC to put more oil on to the market.

Now is not the time to be filling the SPR. When oil prices are at record highs, we should be looking for ways to

increase oil supplies and reduce prices. The Department of Energy is doing just the opposite. It is taking oil off the market and increasing prices, doing so at great costs to taxpayers and despite enacted law requiring that they do otherwise. There is now a strong bipartisan consensus to put a halt to the administration's misguided SPR policy. I urge my colleagues to vote for this amendment to postpone the filling of the SPR until oil prices have fallen to lower levels.

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

Mr. DOMENICI. Mr. President, I want the Republicans to know I have changed my mind over the past 3 or 4 weeks, and it is simply because the price of oil is now up to \$125 a barrel—perhaps in real dollars \$110. I think for 7 months to stop filling SPR could have a chance of reducing the price by a small amount.

Make no bones about it now, this is no big energy policy. This is one little thing we can do, and I think we ought to go ahead and do it. I know there are some who take the fact that we need a big reserve very seriously, and they think we ought to continue to fill it even more than we are, and I respect those views. But with reference to this amendment, by Senator DORGAN, I think we ought to support it and at least do one positive thing. It was in our bill, incidentally, as one of a number of positive things we would do, including Alaska, which is complained so much about. It would produce a million barrels permanently, more or less. This is 70,000 barrels one time—so we understand.

I yield the floor.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. All time has expired.

Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—97

Akaka	Cantwell	DeMint
Alexander	Cardin	Dodd
Barrasso	Carper	Dole
Baucus	Casey	Domenici
Bayh	Chambliss	Dorgan
Bennett	Clinton	Durbin
Biden	Coburn	Ensign
Bingaman	Cochran	Enzi
Bond	Coleman	Feingold
Boxer	Collins	Feinstein
Brown	Conrad	Graham
Brownback	Corker	Grassley
Bunning	Cornyn	Gregg
Burr	Craig	Hagel
Byrd	Crapo	Harkin

Hatch	McCaskill	Shelby
Hutchinson	McConnell	Smith
Inouye	Menendez	Snowe
Isakson	Mikulski	Specter
Johnson	Murkowski	Stabenow
Kennedy	Murray	Stevens
Kerry	Nelson (FL)	Sununu
Klobuchar	Nelson (NE)	Tester
Kohl	Obama	Thune
Kyl	Pryor	Vitter
Landrieu	Reed	Voinovich
Lautenberg	Reid	Warner
Leahy	Roberts	Webb
Levin	Rockefeller	Whitehouse
Lieberman	Salazar	Wicker
Lincoln	Sanders	Wyden
Lugar	Schumer	
Martinez	Sessions	

NAYS—1

Allard

NOT VOTING—2

Inhofe

McCain

The ACTING PRESIDENT pro tempore. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

The amendment (No. 4737) was agreed to.

Mr. REID. Mr. President, first I move to reconsider that vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I am going to ask unanimous consent, if everyone would be kind enough to listen to me—we just passed an amendment by 97 votes, I think I heard the Chair announce. I would therefore ask, as a result of that vote, that the Senate—the one we just concluded—I now ask unanimous consent that the Senate proceed to a bill, which is at the desk, which encompasses the text of this SPR amendment which the Senate just adopted; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, and that there be no intervening action or debate.

Mr. DOMENICI. I object.

Mr. REID. Mr. President, we could have this out of here today. The House could take care of it either tonight or tomorrow and be on the President's desk on Wednesday. I have been told by my distinguished friend, Senator DOMENICI, that there is going to be an objection on the other side. I think it is really unfortunate. That is one reason people are a little concerned about our conduct here. We just passed something by almost 100 votes, and someone now is objecting to taking this up as a bill. I think that doesn't make a lot of sense. I am terribly disappointed that we have more of this stalling and obstructionism that has gone on this entire Congress.

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

Mr. DOMENICI. Mr. President, I did object, and I object now.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Mr. President, I now ask unanimous consent that the previous order with respect to S. 2284 be further modified to provide that following

third reading of S. 2284, the Banking Committee be discharged from further consideration of H.R. 3121, the House companion, and the Senate then proceed to its consideration; that all after the enacting clause be stricken, and the text of S. 2284, as amended, be inserted in lieu thereof; that the bill be read a third time, and the Senate then vote on passage of H.R. 3121; that upon passage of H.R. 3121, S. 2284 be returned to the calendar, with the remaining provisions of the previous order remaining in effect, and without further intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, I do not object, of course, but might I observe that I understood the objection to the previous unanimous consent request. My hope would be that in the coming hours today we might have some discussions between the leadership of the minority and majority so that we can proceed on the SPR amendment. I understand the objection was raised, but there has been an overwhelming amount of support by the Senate. I hope we could have those discussions this afternoon and perhaps proceed on the basis that Senator REID has suggested.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Under the previous order, the substitute amendment, as amended, is agreed to.

The amendment (No. 4707), as amended, was agreed to.

Mr. DODD. Mr. President, last week, the Senate had a fruitful debate on, and today the Senate will vote on passage of the Flood Insurance Reform and Modernization Act. This bill extends the flood insurance program for 5 years, while making commonsense reforms so that flood insurance remains available to millions of Americans who live in flood-prone areas.

Though many people think of floods as confined to coastal areas, I want to let my colleagues know that in the last year, there have been flood claims in all 50 States. Every State has at-risk areas, and in the absence of private insurance, the National Flood Insurance Program is the only way for home and business owners to ensure they can rebuild after the waters recede.

The bill we are considering makes some tough choices, as I talked about last week.

In order to assure the continuation and availability of flood insurance, this bill essentially restarts the flood program. It forgives the \$17 billion of program debt so that all policyholders will not face steep premium increases. All 5.5 million policyholders would have to double their premium payments just to pay the interest on this debt. To make a dent in the principal, premiums would have to increase many times over. Increases of this magnitude would drive untold numbers of people to drop flood insurance—at a time

when we ought to be encouraging more people to purchase this critical coverage.

In an effort to avoid these steep premium increases, the bill forgives the debt. In addition, it reforms the premium structure so rates are actuarially based. Yes, this reform will result in some policyholders paying more for flood coverage, but the premium increases are much less than they would be if this bill were not to pass. If we do nothing, FEMA's \$17 billion debt hangs over the entire program.

Last week, we accepted 11 amendments. We were able to accommodate Senators on both sides of the aisle—specifically Senators MENENDEZ, COBURN, MCCASKILL, DEMINT, DOLE, THUNE, DURBIN, and LANDRIEU. Their amendments help to strengthen this bill and the flood insurance program. These amendments include provisions to ensure that FEMA does outreach when mapping changes occur, to make policy exclusions clear to home and business owners, and to strengthen the flood insurance advocate created in the committee-passed bill.

I want to thank Senator SHELBY and his staff for working so closely with us on this bipartisan bill. I also want to thank the majority and minority leaders for agreeing to move to this bill, and for supporting our efforts last week to accommodate debate and amendments.

I especially thank the staff who have worked on this legislation. In particular I want to thank Lula Davis, Tim Mitchell, Tricia Engle, and Mark Wetjen on Leader REID's staff, and I want to thank Rohit Kumar and Dave Schiappa on minority leader MCCONNELL's staff.

Senator SHELBY's staff have been invaluable, and I want to recognize the work of Bill Duhnke, Mark Oesterle, Mark Calabria and Jim Johnson. I also want to acknowledge the hard work of my own staff, including Shawn Maher, Jennifer Fogel-Bublick, and Sarah Kline.

As I have said, this is a strong bill that ensures flood insurance will be available for many years to come. I urge my colleagues to support this bill so that families can rebuild their homes and their lives after a flood.

Mr. DURBIN. Mr. President, I rise in support of the Flood Insurance Reform and Modernization Act of 2007.

After Hurricane Katrina, I had a chance to meet some of the survivors who were displaced by the storm and ended up in Illinois. Many had lost their homes, their jobs, their communities, everything. Nearly 3 years later, some are still picking up the pieces of a former life.

We can't stop every disaster from happening. But we can be prepared, so what happened after Katrina never happens again.

Katrina taught us the importance of being prepared. We need to understand the risks of disaster, prepare homes

and communities to withstand disaster, and make sure that once disaster strikes, communities can get back on their feet as quickly as possible.

The national flood insurance program is one of the best ways we do this. It allows people who live near rivers or other flood-prone areas to insure themselves at an affordable rate against the risk of a flood. If the worst happens, it covers some of the costs of recovery.

This program is critically important to Illinois.

Illinois has the largest inland system of rivers, lakes, and streams in the Nation. Floods are 98 percent of Illinois' declared disasters. That is why only three other States have more communities participating in the flood insurance program than Illinois.

The bill before us today renews the flood insurance program, which expires this September, and strengthens the program in several important ways.

It puts the program on sound financial footing. It forgives the \$17 billion debt from Katrina and other storm-related losses, a debt the program could never repay. But the bill also requires FEMA to establish a reserve fund so we are in better shape to cover future losses.

It encourages more people to buy flood insurance.

It provides more funding to update old flood maps, so communities know where the hazards are and can plan accordingly.

And I am pleased that this legislation also contains an amendment I offered to make sure that the costs of flood insurance are shared fairly between Illinois and Missouri down near St. Louis.

Floods are among the most common and costly natural disasters. Passing this bill will strengthen our ability to prepare for what we know is coming and to return to our lives as soon as possible once the flood waters recede. This bill helps ensure that when the next Katrina-like disaster hits, we won't see a Katrina-like aftermath.

I thank Senators DODD and SHELBY for their hard work on this bill and urge my colleagues to support it.

Mr. SPECTER. Mr. President, I seek recognition to express my views about the pending energy amendment aimed at increasing domestic oil and gas production. In recognizing that this is a symbolic vote aimed at stimulating debate on the Nation's energy situation, I am voting for this amendment today because I want to affirm the principle of taking decisive action on the Nation's energy issues. I do, however, have reservations about some of the provisions contained within this measure.

While I fully support measures contained in the package which would further the development of alternative fuels for the transportation sector and for electric-powered vehicles; set goals for the use of coal-derived fuels; suspend filling the Strategic Petroleum Reserve; and streamline the permitting process for new oil refineries, I believe further debate is necessary on some other provisions.

Specifically, when these energy issues are revisited, there should be further discussion of opening additional areas of the Outer Continental Shelf to drilling as well as further discussion on the moratorium on commercial leasing of oil shale in the Western United States. I understand the need to develop our domestic resources due to growing global demand for oil, but we must ensure these steps are taken with the utmost environmental sensitivity.

Mr. LEVIN. Mr. President, I will vote for the Flood Insurance Reform and Modernization Act because it would help place the National Flood Insurance Program, NFIP, back on solid financial footing. It is not a perfect bill, but I hope that some of my concerns can be addressed in the House Senate conference process.

When Congress established the NFIP in 1968, flood insurance was not available at an affordable price, resulting in frequent and costly Federal disaster aid payments. The new program created a method to share the risk of flood losses through a national insurance program and required preventive and protective measures to mitigate the risk. Currently, Michigan has over 27,000 flood insurance policies, and since the program's inception, over \$42.6 million in flood claims have been paid to Michigan policyholders. This bipartisan reform bill extends this important program through 2013, and enhances the long-term viability of the program, helping to provide self-sustaining, critical insurance coverage for millions of home and business owners throughout the country.

Historically, the flood insurance program has covered most claims through the premiums it has collected. However, recent losses from the 2004 floods and 2005 catastrophic hurricanes have left the program over \$17 billion in debt to the U.S. Treasury. This reform bill takes the painful but necessary step of forgiving that debt. At the same time, this legislation makes changes to the program to help ensure its continued long-term financial solvency. The aim is to ensure that each time a hurricane, deluge or other natural disaster hits, flood claims can be paid without relying on taxpayer funds from across the country.

There are a number of measures in this bill aimed at restoring the program's financial stability. These include requiring certain at-risk properties to pay phased-in actuarial rates, extending the Severe Repetitive Loss Mitigation program to mitigate losses on the most at-risk properties, and requiring the program to build up reserves. These and other new requirements reflect difficult choices because they are not without cost to property owners, many of whom are already stretched by staggering gas and grocery prices, falling home values and a dismal economy. This bill attempts to recognize that reality by maintaining some subsidized rates for Federal flood insurance where buildings were built before the existence of a federal flood map, and phasing-in new actuarial rates.

The bill also expands and encourages the purchase of flood insurance for properties in areas with flood risks. Property owners in a 500-year floodplain would be notified about the risks they face, but would not be required to purchase flood insurance. To better define areas of flood risk, the bill would require FEMA to establish an ongoing map modernization program using the most accurate data and consistent standards for mapping. These changes will help generate the necessary premium income for the program while striving to maintain affordability for homeowners.

The bill also expands and encourages the purchase of flood insurance for properties in areas located behind levees, dams, and other man-made structures, recognizing that these structures could be breached. While recent history has shown us that levees can and do fail and that no properties are entirely risk-free, I am concerned that imposing this mandatory requirement in a uniform fashion may not accurately reflect the risks these communities face. Michigan has 2,500 dams and numerous levees scattered across the State; properties behind these structures would be required to purchase federal flood insurance regardless of the risks they face. We need to better understand the implications of requiring mandatory insurance for all of these areas before we impose a blanket requirement on all of them. For this reason, I voted in support of an amendment offered by Senator LANDRIEU that would have lifted this new mandatory requirement and would have instead required a study to be conducted to assess the impact, effectiveness, and feasibility of extending mandatory flood coverage to these areas. I believe Senator LANDRIEU's more thoughtful approach is warranted. Unfortunately, the amendment failed 30-62.

While I recognize that making the NFIP more financially sound requires making some tough decisions, I believe some of the choices reflected in this bill lead to unfair results. For example, I am concerned about what will happen to property owners currently not mapped into a floodplain should a new map require them to purchase flood insurance. Currently, these property owners would receive subsidized policies, because the buildings were built before the flood risk was known. However, this bill removes the subsidized rate for properties that get remapped into a floodplain. While the bill provides a 2-year phase-in for these unsubsidized rates, it is not fair to demand higher rates from those who, through no fault of their own, had no idea they had exposure to flood damage, especially at a time when so many families are struggling to meet their monthly expenses. This inequity is one that I hope can be addressed when this bill is conferenced with the House version passed last year.

There are also inequities in existing approaches of FEMA's mapping of flood risk which need to be corrected in conference. For instance, revised flood

maps are being developed by FEMA for the city of Grand Rapids in such a way that does not incorporate the existing flood protection provided by the city's recently completed \$12.4 million floodwall improvement project. The revised flood maps would put over 6,000 additional properties into the 100-year floodplain, at a cost of over \$6 million per year. This is an area that has not flooded at that level since 1905, and that occurred when the city did not have structural flood protection. FEMA's action appears arbitrary, ignores the participation of its State partner, and would likely decrease property values and the tax base of the community, hampers economic development, and imposes unfair costs on thousands of people in the city of Grand Rapids. FEMA should more thoroughly and accurately reassess flood risks using a risk-based analysis to account for local conditions and incorporate protection by the city's improved floodwalls, rather than ignoring their presence. I am hopeful that the managers will work with us in conference to address this unconscionable and unnecessary burden the city of Grand Rapids and its citizens are facing.

I wish that no American had to worry about suffering damage from a natural disaster, but it is a fact of nature that such damage can happen. That is why it is important to do what we can to help property owners have adequate insurance. The goals of the National Flood Insurance Program are important, and reauthorizing and revamping this program is necessary. This bill represents a necessary step to ensure that more at-risk property owners are protected while the cost of disaster relief and adequate insurance is less of a burden to the average taxpayer. Flooding is a risk that many communities face, and the availability of flood insurance is important for ensuring that our citizens can recover from any losses suffered. However, this must be done in a way that does not unduly and unfairly burden our communities. I will continue to work to strengthen the National Flood Insurance Program in a fair and responsible manner as it proceeds to conference.

The ACTING PRESIDENT pro tempore. The clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 3121, which the clerk will report by title.

The legislative clerk read as follows:

A bill (H.R. 3121) to restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from windstorms and floods, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, all

after the enacting clause is stricken and the text of S. 2284, as amended, is inserted in lieu thereof.

The clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass?

Mr. DODD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—92

Akaka	Dodd	McConnell
Alexander	Dole	Menendez
Allard	Domenici	Mikulski
Barrasso	Dorgan	Murkowski
Baucus	Durbin	Murray
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Obama
Biden	Feingold	Reed
Bingaman	Feinstein	Reid
Bond	Graham	Roberts
Boxer	Grassley	Rockefeller
Brown	Gregg	Salazar
Brownback	Hagel	Sanders
Bunning	Harkin	Schumer
Burr	Hatch	Sessions
Byrd	Hutchison	Shelby
Cantwell	Inouye	Smith
Cardin	Isakson	Snowe
Carper	Johnson	Specter
Casey	Kennedy	Stabenow
Chambliss	Kerry	Stevens
Clinton	Klobuchar	Sununu
Cochran	Kohl	Tester
Coleman	Kyl	Thune
Collins	Lautenberg	Voinovich
Conrad	Leahy	Warner
Corker	Levin	Webb
Cornyn	Lieberman	Whitehouse
Craig	Lugar	Wicker
Crapo	Martinez	Wyden
DeMint	McCaskill	

NAYS—6

Coburn	Lincoln	Pryor
Landrieu	Nelson (FL)	Vitter

NOT VOTING—2

Inhofe McCain

The bill (H.R. 3121), as amended, was passed, as follows:

H.R. 3121

Resolved, That the bill from the House of Representatives (H.R. 3121) entitled "An Act to restore the financial solvency of the national flood insurance program and to provide for such program to make available multiperil coverage for damage resulting from windstorms and floods, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—FLOOD INSURANCE REFORM AND MODERNIZATION

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Definitions.

Sec. 104. Extension of National Flood Insurance Program.

Sec. 105. Availability of insurance for multifamily properties.

Sec. 106. Reform of premium rate structure.

Sec. 107. Mandatory coverage areas.

Sec. 108. Premium adjustment.

Sec. 109. State chartered financial institutions.

Sec. 110. Enforcement.

Sec. 111. Escrow of flood insurance payments.

Sec. 112. Borrowing authority debt forgiveness.

Sec. 113. Minimum deductibles for claims under the National Flood Insurance Program.

Sec. 114. Considerations in determining chargeable premium rates.

Sec. 115. Reserve fund.

Sec. 116. Repayment plan for borrowing authority.

Sec. 117. Payment of condominium claims.

Sec. 118. Technical Mapping Advisory Council.

Sec. 119. National Flood Mapping Program.

Sec. 120. Removal of limitation on State contributions for updating flood maps.

Sec. 121. Coordination.

Sec. 122. Interagency coordination study.

Sec. 123. Nonmandatory participation.

Sec. 124. Notice of flood insurance availability under RESPA.

Sec. 125. Testing of new flood proofing technologies.

Sec. 126. Participation in State disaster claims mediation programs.

Sec. 127. Reiteration of FEMA responsibilities under the 2004 Reform Act.

Sec. 128. Additional authority of FEMA to collect information on claims payments.

Sec. 129. Expense reimbursements of insurance companies.

Sec. 130. Extension of pilot program for mitigation of severe repetitive loss properties.

Sec. 131. Flood insurance advocate.

Sec. 132. Studies and Reports.

Sec. 133. Feasibility study on private reinsurance.

Sec. 134. Policy disclosures.

Sec. 135. Report on inclusion of building codes in floodplain management criteria.

TITLE II—COMMISSION ON NATURAL CATASTROPHE RISK MANAGEMENT AND INSURANCE

Sec. 201. Short title.

Sec. 202. Findings.

Sec. 203. Establishment.

Sec. 204. Membership.

Sec. 205. Duties of the Commission.

Sec. 206. Report.

Sec. 207. Powers of the Commission.

Sec. 208. Commission personnel matters.

Sec. 209. Termination.

Sec. 210. Authorization of appropriations.

TITLE III—MISCELLANEOUS

Sec. 301. Big Sioux River and Skunk Creek, Sioux Falls, South Dakota.

Sec. 302. Suspension of petroleum acquisition for Strategic Petroleum Reserve.

TITLE I—FLOOD INSURANCE REFORM AND MODERNIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Flood Insurance Reform and Modernization Act of 2008".

SEC. 102. FINDINGS.

Congress finds that—

(1) the flood insurance claims resulting from the hurricane season of 2005 will likely exceed all previous claims paid by the National Flood Insurance Program;

(2) in order to pay the legitimate claims of policyholders from the hurricane season of 2005, the Federal Emergency Management Agency has borrowed over \$20,000,000,000 from the Treasury;

(3) the interest alone on this debt, is almost \$1,000,000,000 annually, and that the Federal Emergency Management Agency has indicated that it will be unable to pay back this debt;

(4) the flood insurance program must be strengthened to ensure it can pay future claims;

(5) while flood insurance is mandatory in the 100-year floodplain, substantial flooding occurs outside of existing special flood hazard areas;

(6) recent events throughout the country involving areas behind man-made structures, known as "residual risk" areas, have produced catastrophic losses;

(7) although such man-made structures produce an added element of safety and therefore lessen the probability that a disaster will occur, they are nevertheless susceptible to catastrophic loss, even though such areas at one time were not included within the 100-year floodplain; and

(8) voluntary participation in the National Flood Insurance Program has been minimal and many families residing outside the 100-year floodplain remain unaware of the potential risk to their lives and property.

SEC. 103. DEFINITIONS.

(a) IN GENERAL.—In this title, the following definitions shall apply:

(1) DIRECTOR.—The term "Director" means the Administrator of the Federal Emergency Management Agency.

(2) NATIONAL FLOOD INSURANCE PROGRAM.—The term "National Flood Insurance Program" means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.).

(3) 100-YEAR FLOODPLAIN.—The term "100-year floodplain" means that area which is subject to inundation from a flood having a 1 percent chance of being equaled or exceeded in any given year.

(4) 500-YEAR FLOODPLAIN.—The term "500-year floodplain" means that area which is subject to inundation from a flood having a 0.2 percent chance of being equaled or exceeded in any given year.

(5) WRITE YOUR OWN.—The term "Write Your Own" means the cooperative undertaking between the insurance industry and the Flood Insurance Administration which allows participating property and casualty insurance companies to write and service standard flood insurance policies.

(b) COMMON TERMINOLOGY.—Except as otherwise provided in this title, any terms used in this title shall have the meaning given to such terms under section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121).

SEC. 104. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026), is amended by striking "2008" and inserting "2013."

SEC. 105. AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.

Section 1305 of the National Flood Insurance Act of 1968 (42 U.S.C. 4012) is amended by adding at the end the following:

"(d) AVAILABILITY OF INSURANCE FOR MULTIFAMILY PROPERTIES.—

"(1) IN GENERAL.—The Director shall make flood insurance available to cover residential properties of more than 4 units. Notwithstanding any other provision of law, the maximum coverage amount that the Director may make available under this subsection to such residential properties shall be equal to the coverage amount made available to commercial properties.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the ability of individuals residing in residential properties

of more than 4 units to obtain insurance for the contents and personal articles located in such residences."

SEC. 106. REFORM OF PREMIUM RATE STRUCTURE.

(a) TO EXCLUDE CERTAIN PROPERTIES FROM RECEIVING SUBSIDIZED PREMIUM RATES.—

(1) IN GENERAL.—Section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4014) is amended—

(A) in subsection (a)—

(i) in paragraph (2), by striking "and" and inserting a semicolon;

(ii) in paragraph (3), by striking the period at the end and inserting "and"; and

(iii) by adding at the end the following:

"(4) the exclusion of prospective insureds from purchasing flood insurance at rates less than those estimated under paragraph (1), as required by paragraph (2), for certain properties, including for—

"(A) any property which is not the primary residence of an individual;

"(B) any severe repetitive loss property, as defined in section 1361A(b);

"(C) any property that has incurred flood-related damage in which the cumulative amounts of payments under this title equaled or exceeded the fair market value of such property;

"(D) any business property; and

"(E) any property which on or after the date of enactment of the Flood Insurance Reform and Modernization Act of 2008 has experienced or sustained—

"(i) substantial damage exceeding 50 percent of the fair market value of such property; or

"(ii) substantial improvement exceeding 30 percent of the fair market value of such property.";

(B) by adding at the end the following:

"(g) NO EXTENSION OF SUBSIDY TO NEW POLICIES OR LAPSED POLICIES.—The Director shall not provide flood insurance to prospective insureds at rates less than those estimated under subsection (a)(1), as required by paragraph (2) of that subsection, for—

"(1) any property not insured by the flood insurance program as of the date of enactment of the Flood Insurance Reform and Modernization Act of 2008;

"(2) any policy under the flood insurance program that has lapsed in coverage, as a result of the deliberate choice of the holder of such policy; and

"(3) any prospective insured who refuses to accept any offer for mitigation assistance by the Administrator (including an offer to relocate), including an offer of mitigation assistance—

"(A) following a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); or

"(B) in connection with—

"(i) a repetitive loss property; or

"(ii) a severe repetitive loss property, as that term is defined under section 1361A."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective 90 days after the date of the enactment of this title.

(b) INCREASE IN ANNUAL LIMITATION ON PREMIUM INCREASES.—Section 1308(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(e)) is amended—

(1) by striking "under this title for any properties within any single" and inserting the following: "under this title for any properties—

"(1) within any single"; and

(2) by striking "10 percent" and inserting "15 percent"; and

(3) by striking the period at the end and inserting the following: "and

"(2) described in section 1307(a)(4) shall be increased by 25 percent each year, until the average risk premium rate for such properties is equal to the average of the risk premium rates for properties described under paragraph (1)."

SEC. 107. MANDATORY COVERAGE AREAS.

(a) SPECIAL FLOOD HAZARD AREAS.—Not later than 90 days after the date of enactment of this

title, the Director shall issue final regulations establishing a revised definition of areas of special flood hazards for purposes of the National Flood Insurance Program.

(b) RESIDUAL RISK AREAS.—The regulations required by subsection (a) shall—

(1) include any area previously identified by the Director as an area having special flood hazards under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a); and

(2) require the expansion of areas of special flood hazards to include areas of residual risk, including areas that are located behind levees, dams, and other man-made structures.

(c) MANDATORY PARTICIPATION IN NATIONAL FLOOD INSURANCE PROGRAM.—

(1) IN GENERAL.—Any area described in subsection (b) shall be subject to the mandatory purchase requirements of sections 102 and 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a, 4106).

(2) LIMITATION.—The mandatory purchase requirement under paragraph (1) shall have no force or effect until the mapping of all residual risk areas in the United States that the Director determines essential in order to administer the National Flood Insurance Program, as required under section 119, are in the maintenance phase.

(3) ACCURATE PRICING.—In carrying out the mandatory purchase requirement under paragraph (1), the Director shall ensure that the price of flood insurance policies in areas of residual risk accurately reflects the level of flood protection provided by any levee, dam, or other the man-made structure in such area.

(d) DECERTIFICATION.—Upon decertification of any levee, dam, or man-made structure under the jurisdiction of the Army Corp of Engineers, the Corp shall immediately provide notice to the Director of the National Flood Insurance Program.

SEC. 108. PREMIUM ADJUSTMENT.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended by adding at the end the following:

"(g) PREMIUM ADJUSTMENT TO REFLECT CURRENT RISK OF FLOOD.—Notwithstanding subsection (f), and upon completion of the updating of any flood insurance rate map under this Act, the Flood Disaster Protection Act of 1973, or the Flood Insurance Reform and Modernization Act of 2008, any property located in an area that is participating in the national flood insurance program shall have the risk premium rate charged for flood insurance on such property adjusted to accurately reflect the current risk of flood to such property, subject to any other provision of this Act. Any increase in the risk premium rate charged for flood insurance on any property that is covered by a flood insurance policy on the date of completion of such updating or remapping that is a result of such updating or remapping shall be phased in over a 2-year period at the rate of 50 percent per year.

"(h) USE OF MAPS TO ESTABLISH RATES FOR CERTAIN COUNTIES.—

"(1) IN GENERAL.—Until such time as the updating of flood insurance rate maps under section 19 of the Flood Modernization Act of 2007 is completed (as determined by the district engineer) for all areas located in the St. Louis District of the Mississippi Valley Division of the Corps of Engineers, the Director shall not—

"(A) adjust the chargeable premium rate for flood insurance under this title for any type or class of property located in an area in that District; and

"(B) require the purchase of flood insurance for any type or class of property located in an area in that District not subject to such purchase requirement prior to the updating of such national flood insurance program rate map.

"(2) RULE OF CONSTRUCTION.—For purposes of this subsection, the term 'area' does not include any area (or subdivision thereof) that has chosen not to participate in the flood insurance

program under this title as of the date of enactment of this subsection.”.

SEC. 109. STATE CHARTERED FINANCIAL INSTITUTIONS.

Section 1305(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4012(c)) is amended—

(1) in paragraph (1), by striking “; and” and inserting a semicolon;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(3) given satisfactory assurance that by December 31, 2008, lending institutions chartered by a State, and not insured by the Federal Deposit Insurance Corporation, shall be subject to regulations by that State that are consistent with the requirements of section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a).”.

SEC. 110. ENFORCEMENT.

Section 102(f)(5) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(5)) is amended—

(1) in the first sentence, by striking “\$350” and inserting “\$2,000”; and

(2) by striking the second sentence.

SEC. 111. ESCROW OF FLOOD INSURANCE PAYMENTS.

(a) *IN GENERAL.*—Section 102(d) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(d)) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) *REGULATED LENDING INSTITUTIONS.*—

“(A) *FEDERAL ENTITIES RESPONSIBLE FOR LENDING REGULATIONS.*—Each Federal entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, direct that any premiums and fees for flood insurance under the National Flood Insurance Act of 1968, on any property for which a loan has been made for acquisition or construction purposes, shall be paid to the mortgage lender, with the same frequency as payments on the loan are made, for the duration of the loan. Upon receipt of any premiums or fees, the lender shall deposit such premiums and fees in an escrow account on behalf of the borrower. Upon receipt of a notice from the Director or the provider of the flood insurance that insurance premiums are due, the remaining balance of an escrow account shall be paid to the provider of the flood insurance.

“(B) *STATE ENTITIES RESPONSIBLE FOR LENDING REGULATIONS.*—In order to continue to participate in the flood insurance program, each State shall direct that its entity or agency with primary responsibility for the supervision of lending institutions in that State require that premiums and fees for flood insurance under the National Flood Insurance Act of 1968, on any property for which a loan has been made for acquisition or construction purposes shall be paid to the mortgage lender, with the same frequency as payments on the loan are made, for the duration of the loan. Upon receipt of any premiums or fees, the lender shall deposit such premiums and fees in an escrow account on behalf of the borrower. Upon receipt of a notice from such State entity or agency, the Director, or the provider of the flood insurance that insurance premiums are due, the remaining balance of an escrow account shall be paid to the provider of the flood insurance.”; and

(2) by adding at the end the following:

“(6) *NOTICE UPON LOAN TERMINATION.*—Upon final payment of the mortgage, a regulated lending institution shall provide notice to the policyholder that insurance coverage may cease with such final payment. The regulated lending institution shall also provide direction as to how the homeowner may continue flood insurance coverage after the life of the loan.”.

(b) *APPLICABILITY.*—The amendment made by subsection (a)(1) shall apply to any mortgage outstanding or entered into on or after the expi-

ration of the 2-year period beginning on the date of enactment of this title.

SEC. 112. BORROWING AUTHORITY DEBT FORGIVENESS.

(a) *IN GENERAL.*—The Secretary of the Treasury relinquishes the right to any repayment of amounts due from the Director in connection with the exercise of the authority vested to the Director to borrow such sums under section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016), to the extent such borrowed sums were used to fund the payment of flood insurance claims under the National Flood Insurance Program for any damage to or loss of property resulting from the hurricanes of 2005.

(b) *CERTIFICATION.*—The debt forgiveness described under subsection (a) shall only take effect if the Director certifies to the Secretary of Treasury that all authorized resources or funds available to the Director to operate the National Flood Insurance Program—

(1) have been otherwise obligated to pay claims under the National Flood Insurance Program; and

(2) are not otherwise available to make payments to the Secretary on any outstanding notes or obligations issued by the Director and held by the Secretary.

(c) *DECREASE IN BORROWING AUTHORITY.*—The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)) is amended by striking “; except that, through September 30, 2008, clause (2) of this sentence shall be applied by substituting ‘\$20,775,000,000’ for ‘\$1,500,000,000’”.

SEC. 113. MINIMUM DEDUCTIBLES FOR CLAIMS UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.

Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019) is amended—

(1) by striking “The Director is” and inserting the following:

“(a) *IN GENERAL.*—The Director is”; and

(2) by adding at the end the following:

“(b) *MINIMUM ANNUAL DEDUCTIBLE.*—

“(1) *PRE-FIRM PROPERTIES.*—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial flood insurance rate map published by the Director under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

“(A) \$1,500, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

“(B) \$2,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.

“(2) *POST-FIRM PROPERTIES.*—For any structure which is covered by flood insurance under this title, and on which construction or substantial improvement occurred after December 31, 1974, or after the effective date of an initial flood insurance rate map published by the Director under section 1360 for the area in which such structure is located, the minimum annual deductible for damage to such structure shall be—

“(A) \$750, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount equal to or less than \$100,000; and

“(B) \$1,000, if the flood insurance coverage for such structure covers loss of, or physical damage to, such structure in an amount greater than \$100,000.”.

SEC. 114. CONSIDERATIONS IN DETERMINING CHARGEABLE PREMIUM RATES.

Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(b)) is amended—

(1) in subsection (a), by striking “, after consultation with” and all that follows through

“by regulation” and inserting “prescribe, after providing notice”;

(2) in subsection (b)—

(A) in paragraph (1), by striking the period at the end and inserting a semicolon;

(B) in paragraph (2), by striking the comma at the end and inserting a semicolon;

(C) in paragraph (3), by striking “, and” and inserting a semicolon;

(D) in paragraph (4), by striking the period and inserting “; and”; and

(E) by adding at the end the following:

“(5) adequate, on the basis of accepted actuarial principles, to cover the average historical loss year obligations incurred by the National Flood Insurance Fund.”; and

(3) by adding at the end the following:

“(h) *RULE OF CONSTRUCTION.*—For purposes of this section, the calculation of an ‘average historical loss year’—

“(1) includes catastrophic loss years; and

“(2) shall be computed in accordance with generally accepted actuarial principles.”.

SEC. 115. RESERVE FUND.

Chapter 1 of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by inserting after section 1310 the following:

“SEC. 1310A. RESERVE FUND.

“(a) *ESTABLISHMENT OF RESERVE FUND.*—In carrying out the flood insurance program authorized by this chapter, the Director shall establish in the Treasury of the United States a National Flood Insurance Reserve Fund (in this section referred to as the ‘Reserve Fund’) which shall—

“(1) be an account separate from any other accounts or funds available to the Director; and

“(2) be available for meeting the expected future obligations of the flood insurance program.

“(b) *RESERVE RATIO.*—Subject to the phase-in requirements under subsection (d), the Reserve Fund shall maintain a balance equal to—

“(1) 1 percent of the sum of the total potential loss exposure of all outstanding flood insurance policies in force in the prior fiscal year; or

“(2) such higher percentage as the Director determines to be appropriate, taking into consideration any circumstance that may raise a significant risk of substantial future losses to the Reserve Fund.

“(c) *MAINTENANCE OF RESERVE RATIO.*—

“(1) *IN GENERAL.*—The Director shall have the authority to establish, increase, or decrease the amount of aggregate annual insurance premiums to be collected for any fiscal year necessary—

“(A) to maintain the reserve ratio required under subsection (b); and

“(B) to achieve such reserve ratio, if the actual balance of such reserve is below the amount required under subsection (b).

“(2) *CONSIDERATIONS.*—In exercising the authority granted under paragraph (1), the Director shall consider—

“(A) the expected operating expenses of the Reserve Fund;

“(B) the insurance loss expenditures under the flood insurance program;

“(C) any investment income generated under the flood insurance program; and

“(D) any other factor that the Director determines appropriate.

“(3) *LIMITATIONS.*—In exercising the authority granted under paragraph (1), the Director shall be subject to all other provisions of this Act, including any provisions relating to chargeable premium rates or annual increases of such rates.

“(d) *PHASE-IN REQUIREMENTS.*—The phase-in requirements under this subsection are as follows:

“(1) *IN GENERAL.*—Beginning in fiscal year 2008 and not ending until the fiscal year in which the ratio required under subsection (b) is achieved, in each such fiscal year the Director shall place in the Reserve Fund an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

“(2) AMOUNT SATISFIED.—As soon as the ratio required under subsection (b) is achieved, and except as provided in paragraph (3), the Director shall not be required to set aside any amounts for the Reserve Fund.

“(3) EXCEPTION.—If at any time after the ratio required under subsection (b) is achieved, the Reserve Fund falls below the required ratio under subsection (b), the Director shall place in the Reserve Fund for that fiscal year an amount equal to not less than 7.5 percent of the reserve ratio required under subsection (b).

“(e) LIMITATION ON RESERVE RATIO.—In any given fiscal year, if the Director determines that the reserve ratio required under subsection (b) cannot be achieved, the Director shall submit a report to Congress that—

“(1) describes and details the specific concerns of the Director regarding such consequences;

“(2) demonstrates how such consequences would harm the long-term financial soundness of the flood insurance program; and

“(3) indicates the maximum attainable reserve ratio for that particular fiscal year.”.

SEC. 116. REPAYMENT PLAN FOR BORROWING AUTHORITY.

Section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016) is amended by adding at the end the following:

“(c) Any funds borrowed by the Director under the authority established in subsection (a) shall include a schedule for repayment of such amounts which shall be transmitted to the—

“(1) Secretary of the Treasury;

“(2) Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(3) Committee on Financial Services of the House of Representatives.

“(d) In addition to the requirement under subsection (c), in connection with any funds borrowed by the Director under the authority established in subsection (a), the Director, beginning 6 months after the date on which such borrowed funds are issued, and continuing every 6 months thereafter until such borrowed funds are fully repaid, shall submit a report on the progress of such repayment to the—

“(1) Secretary of the Treasury;

“(2) Committee on Banking, Housing, and Urban Affairs of the Senate; and

“(3) Committee on Financial Services of the House of Representatives.”.

SEC. 117. PAYMENT OF CONDOMINIUM CLAIMS.

Section 1312 of the National Flood Insurance Act of 1968 (42 U.S.C. 4019), as amended by section 113, is further amended by adding at the end the following:

“(c) PAYMENT OF CLAIMS TO CONDOMINIUM OWNERS.—The Director may not deny payment for any damage to or loss of property which is covered by flood insurance to condominium owners who purchased such flood insurance separate and apart from the flood insurance purchased by the condominium association in which such owner is a member, based, solely or in any part, on the flood insurance coverage of the condominium association or others on the overall property owned by the condominium association. Notwithstanding any regulations, rules, or restrictions established by the Director relating to appeals and filing deadlines, the Director shall ensure that the requirements of this subsection are met with respect to any claims for damages resulting from flooding in 2005 and 2006.”.

SEC. 118. TECHNICAL MAPPING ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a council to be known as the Technical Mapping Advisory Council (in this section referred to as the “Council”).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of the Director, or the designee thereof, and 12 additional members to be appointed by the Director or the designee of the Director, who shall be—

(A) the Under Secretary of Commerce for Oceans and Atmosphere (or the designee thereof);

(B) a member of a recognized professional surveying association or organization

(C) a member of a recognized professional mapping association or organization;

(D) a member of a recognized professional engineering association or organization;

(E) a member of a recognized professional association or organization representing flood hazard determination firms;

(F) a representative of the United States Geological Survey;

(G) a representative of a recognized professional association or organization representing State geographic information;

(H) a representative of State national flood insurance coordination offices;

(I) a representative of the Corps of Engineers;

(J) the Secretary of the Interior (or the designee thereof);

(K) the Secretary of Agriculture (or the designee thereof);

(L) a member of a recognized regional flood and storm water management organization;

(M) a representative of a State agency that has entered into a cooperating technical partnership with the Director and has demonstrated the capability to produce flood insurance rate maps; and

(N) a representative of a local government agency that has entered into a cooperating technical partnership with the Director and has demonstrated the capability to produce flood insurance rate maps.

(2) QUALIFICATIONS.—Members of the Council shall be appointed based on their demonstrated knowledge and competence regarding surveying, cartography, remote sensing, geographic information systems, or the technical aspects of preparing and using flood insurance rate maps.

(c) DUTIES.—The Council shall—

(1) recommend to the Director how to improve in a cost-effective manner the—

(A) accuracy, general quality, ease of use, and distribution and dissemination of flood insurance rate maps and risk data; and

(B) performance metrics and milestones required to effectively and efficiently map flood risk areas in the United States;

(2) recommend to the Director mapping standards and guidelines for—

(A) flood insurance rate maps; and

(B) data accuracy, data quality, data currency, and data eligibility;

(3) recommend to the Director how to maintain on an ongoing basis flood insurance rate maps and flood risk identification;

(4) recommend procedures for delegating mapping activities to State and local mapping partners;

(5) recommend to the Director and other Federal agencies participating in the Council—

(A) methods for improving interagency and intergovernmental coordination on flood mapping and flood risk determination; and

(B) a funding strategy to leverage and coordinate budgets and expenditures across Federal agencies; and

(6) submit an annual report to the Director that contains—

(A) a description of the activities of the Council;

(B) an evaluation of the status and performance of flood insurance rate maps and mapping activities to revise and update flood insurance rate maps, as required under section 119; and

(C) a summary of recommendations made by the Council to the Director.

(d) FUTURE CONDITIONS RISK ASSESSMENT AND MODELING REPORT.—

(1) IN GENERAL.—The Council shall consult with scientists and technical experts, other Federal agencies, States, and local communities to—

(A) develop recommendations on how to—

(i) ensure that flood insurance rate maps incorporate the best available climate science to assess flood risks; and

(ii) ensure that the Federal Emergency Management Agency uses the best available methodology to consider the impact of—

(I) the rise in the sea level; and

(II) future development on flood risk; and

(B) not later than 1 year after the date of enactment of this title, prepare written recommendations in a future conditions risk assessment and modeling report and to submit such recommendations to the Director.

(2) RESPONSIBILITY OF THE DIRECTOR.—The Director, as part of the ongoing program to review and update National Flood Insurance Program rate maps under section 119, shall incorporate any future risk assessment submitted under paragraph (1)(B) in any such revision or update.

(e) CHAIRPERSON.—The members of the Council shall elect 1 member to serve as the chairperson of the Council (in this section referred to as the “Chairperson”).

(f) COORDINATION.—To ensure that the Council's recommendations are consistent, to the maximum extent practicable, with national digital spatial data collection and management standards, the Chairperson shall consult with the Chairperson of the Federal Geographic Data Committee (established pursuant to OMB Circular A-16).

(g) COMPENSATION.—Members of the Council shall receive no additional compensation by reason of their service on the Council.

(h) MEETINGS AND ACTIONS.—

(1) IN GENERAL.—The Council shall meet not less frequently than twice each year at the request of the Chairperson or a majority of its members, and may take action by a vote of the majority of the members.

(2) INITIAL MEETING.—The Director, or a person designated by the Director, shall request and coordinate the initial meeting of the Council.

(i) OFFICERS.—The Chairperson may appoint officers to assist in carrying out the duties of the Council under subsection (c).

(j) STAFF.—

(1) STAFF OF FEMA.—Upon the request of the Chairperson, the Director may detail, on a non-reimbursable basis, personnel of the Federal Emergency Management Agency to assist the Council in carrying out its duties.

(2) STAFF OF OTHER FEDERAL AGENCIES.—Upon request of the Chairperson, any other Federal agency that is a member of the Council may detail, on a non-reimbursable basis, personnel to assist the Council in carrying out its duties.

(k) POWERS.—In carrying out this section, the Council may hold hearings, receive evidence and assistance, provide information, and conduct research, as it considers appropriate.

(l) REPORT TO CONGRESS.—The Director, on an annual basis, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Financial Services of the House of Representatives, and the Office of Management and Budget on the—

(1) recommendations made by the Council; and

(2) actions taken by the Federal Emergency Management Agency to address such recommendations to improve flood insurance rate maps and flood risk data.

SEC. 119. NATIONAL FLOOD MAPPING PROGRAM.

(a) REVIEWING, UPDATING, AND MAINTAINING MAPS.—The Director, in coordination with the Technical Mapping Advisory Council established under section 118, shall establish an ongoing program under which the Director shall review, update, and maintain National Flood Insurance Program rate maps in accordance with this section.

(b) MAPPING.—

(1) IN GENERAL.—In carrying out the program established under subsection (a), the Director shall—

(A) identify, review, update, maintain, and publish National Flood Insurance Program rate maps with respect to—

(i) all areas located within the 100-year floodplain;
 (ii) all areas located within the 500-year floodplain;
 (iii) areas of residual risk that have not previously been identified, including areas that are protected levees, dams, and other man-made structures; and

(iv) areas that could be inundated as a result of the failure of a levee, dam, or other man-made structure;

(v) the level of protection provided by man-made structures.

(B) establish or update flood-risk zone data in all such areas, and make estimates with respect to the rates of probable flood caused loss for the various flood risk zones for each such area; and

(C) use, in identifying, reviewing, updating, maintaining, or publishing any National Flood Insurance Program rate map required under this section or under the National Flood Insurance Act of 1968, the most accurate topography and elevation data available.

(2) **MAPPING ELEMENTS.**—Each map updated under this section shall:

(A) **GROUND ELEVATION DATA.**—Assess the accuracy of current ground elevation data used for hydrologic and hydraulic modeling of flooding sources and mapping of the flood hazard and wherever necessary acquire new ground elevation data utilizing the most up-to-date geospatial technologies in accordance with the existing guidelines and specifications of the Federal Emergency Management Agency.

(B) **DATA ON A WATERSHED BASIS.**—Develop National Flood Insurance Program flood data on a watershed basis—

(i) to provide the most technically effective and efficient studies and hydrologic and hydraulic modeling; and

(ii) to eliminate, to the maximum extent possible, discrepancies in base flood elevations between adjacent political subdivisions.

(3) **OTHER INCLUSIONS.**—In updating maps under this section, the Director shall include—

(A) any relevant information on coastal inundation from—

(i) an applicable inundation map of the Corps of Engineers; and

(ii) data of the National Oceanic and Atmospheric Administration relating to storm surge modeling;

(B) any relevant information of the United States Geological Survey on stream flows, watershed characteristics, and topography that is useful in the identification of flood hazard areas, as determined by the Director;

(C) any relevant information on land subsidence, coastal erosion areas, and other floor-related hazards;

(D) any relevant information or data of the National Oceanic and Atmospheric Administration and the United States Geological Survey relating to the best available climate science and the potential for future inundation from sea level rise, increased precipitation, and increased intensity of hurricanes due to global warming; and

(E) any other relevant information as may be recommended by the Technical Mapping Advisory Committee.

(c) **STANDARDS.**—In updating and maintaining maps under this section, the Director shall—

(1) establish standards to—

(A) ensure that maps are adequate for—

(i) flood risk determinations; and

(ii) use by State and local governments in managing development to reduce the risk of flooding; and

(B) facilitate identification and use of consistent methods of data collection and analysis by the Director, in conjunction with State and local governments, in developing maps for communities with similar flood risks, as determined by the Director; and

(2) publish maps in a format that is—

(A) digital geospatial data compliant;

(B) compliant with the open publishing and data exchange standards established by the Open Geospatial Consortium; and

(C) compliant with the North American Vertical Datum of 1988 for New Hydrologic and Hydraulic Engineering.

(d) **COMMUNICATION AND OUTREACH.**—

(1) **IN GENERAL.**—The Director shall—

(A) work to enhance communication and outreach to States, local communities, and property owners about the effects of—

(i) any potential changes to National Flood Insurance Program rate maps that may result from the mapping program required under this section; and

(ii) that any such changes may have on flood insurance purchase requirements; and

(B) engage with local communities to enhance communication and outreach to the residents of such communities on the matters described under subparagraph (A).

(2) **REQUIRED ACTIVITIES.**—The communication and outreach activities required under paragraph (1) shall include—

(A) notifying property owners when their properties become included in, or when they are excluded from, an area having special flood hazards and the effect of such inclusion or exclusion on the applicability of the mandatory flood insurance purchase requirement under section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) to such properties;

(B) educating property owners regarding the flood risk and reduction of this risk in their community, including the continued flood risks to areas that are no longer subject to the flood insurance mandatory purchase requirement;

(C) educating property owners regarding the benefits and costs of maintaining or acquiring flood insurance, including, where applicable, lower-cost preferred risk policies under the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) for such properties and the contents of such properties;

(D) educating property owners about flood map revisions and the process available such owners to appeal proposed changes in flood elevations through their community; and

(E) encouraging property owners to maintain or acquire flood insurance coverage.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Director to carry out this section \$400,000,000 for each of fiscal years 2008 through 2013.

SEC. 120. REMOVAL OF LIMITATION ON STATE CONTRIBUTIONS FOR UPDATING FLOOD MAPS.

Section 1360(f)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4101(f)(2)) is amended by striking “, but which may not exceed 50 percent of the cost of carrying out the requested revision or update”.

SEC. 121. COORDINATION.

(a) **INTERAGENCY BUDGET CROSSCUT REPORT.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security, the Director, the Director of the Office of Management and Budget, and the heads of each Federal department or agency carrying out activities under sections 118 and 119 shall work together to ensure that flood risk determination data and geospatial data are shared among Federal agencies in order to coordinate the efforts of the Nation to reduce its vulnerability to flooding hazards.

(2) **REPORT.**—Not later than 30 days after the submission of the budget of the United States Government by the President to Congress, the Director of the Office of Management and Budget, in coordination with the Federal Emergency Management Agency, the United States Geological Survey, the National Oceanic and Atmospheric Administration, the Corps of Engineers, and other Federal agencies, as appropriate, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report, certified by the Secretary or head of each such agency, an interagency budget crosscut report that displays the budget proposed for

each of the Federal agencies working on flood risk determination data and digital elevation models, including any planned interagency or intraagency transfers.

(b) **DUTIES OF THE DIRECTOR.**—In carrying out sections 118 and 119, the Director shall—

(1) participate, pursuant to section 216 of Public Law 107-347 (116 Stat. 2945), in the establishment of such standards and common protocols as are necessary to assure the interoperability of geospatial data for all users of such information;

(2) coordinate with, seek assistance and cooperation of, and provide liaison to the Federal Geographic Data Committee pursuant to Office of Management and Budget Circular A-16 and Executive Order 12906 for the implementation of and compliance with such standards;

(3) integrate with, leverage, and coordinate funding of, to the maximum extent practicable, the current flood mapping activities of each unit of State and local government;

(4) integrate with, leverage, and coordinate, to the maximum extent practicable, the current geospatial activities of other Federal agencies and units of State and local government; and

(5) develop a funding strategy to leverage and coordinate budgets and expenditures, and to establish joint funding mechanisms with other Federal agencies and units of State and local government to share the collection and utilization of geospatial data among all governmental users.

SEC. 122. INTERAGENCY COORDINATION STUDY.

(a) **IN GENERAL.**—The Director shall enter into a contract with the National Academy of Public Administration to conduct a study on how the Federal Emergency Management Agency—

(1) should improve interagency and intergovernmental coordination on flood mapping, including a funding strategy to leverage and coordinate budgets and expenditures; and

(2) can establish joint funding mechanisms with other Federal agencies and units of State and local government to share the collection and utilization of data among all governmental users.

(b) **TIMING.**—Not later than 180 days after the date of enactment of this title, the National Academy of Public Administration shall report the findings of the study required under subsection (a) to the—

(1) Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) Committee on Financial Services of the House of Representatives;

(3) Committee on Appropriations of the Senate; and

(4) Committee on Appropriations of the House of Representatives.

SEC. 123. NONMANDATORY PARTICIPATION.

(a) **NONMANDATORY PARTICIPATION IN NATIONAL FLOOD INSURANCE PROGRAM FOR 500-YEAR FLOODPLAIN.**—Any area located within the 500-year floodplain shall not be subject to the mandatory purchase requirements of sections 102 or 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a, 4106).

(b) **NOTICE.**—

(1) **BY DIRECTOR.**—In carrying out the National Flood Insurance Program, the Director shall provide notice to any community located in an area within the 500-year floodplain.

(2) **TIMING OF NOTICE.**—The notice required under paragraph (1) shall be made not later than 6 months after the date of completion of the initial mapping of the 500-year floodplain, as required under section 118.

(3) **LENDER REQUIRED NOTICE.**—

(A) **REGULATED LENDING INSTITUTIONS.**—Each Federal or State entity for lending regulation (after consultation and coordination with the Federal Financial Institutions Examination Council) shall, by regulation, require regulated lending institutions, as a condition of making, increasing, extending, or renewing any loan secured by property located in an area within the

500-year floodplain, to notify the purchaser or lessee (or obtain satisfactory assurances that the seller or lessor has notified the purchaser or lessee) and the servicer of the loan that such property is located in an area within the 500-year floodplain, in a manner that is consistent with and substantially identical to the notice required under section 1364(a)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104a(a)(1)).

(B) **FEDERAL OR STATE AGENCY LENDERS.**—Each Federal or State agency lender shall, by regulation, require notification in the same manner as provided under subparagraph (A) with respect to any loan that is made by a Federal or State agency lender and secured by property located in an area within the 500-year floodplain.

(C) **PENALTY FOR NONCOMPLIANCE.**—Any regulated lending institution or Federal or State agency lender that fails to comply with the notice requirements established by this paragraph shall be subject to the penalties prescribed under section 102(f)(5) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(f)(5)).

SEC. 124. NOTICE OF FLOOD INSURANCE AVAILABILITY UNDER RESPA.

Section 5(b) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(b)) is amended—

(1) in paragraph (4), by striking “; and” and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(6) an explanation of flood insurance and the availability of flood insurance under the National Flood Insurance Program, whether or not the real estate is located in an area having special flood hazards.”.

SEC. 125. TESTING OF NEW FLOODPROOFING TECHNOLOGIES.

(a) **PERMISSIBLE TESTING.**—A temporary residential structure built for the purpose of testing a new flood proofing technology, as described in subsection (b), in any State or community that receives mitigation assistance under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c) may not be construed to be in violation of any flood risk mitigation plan developed by that State or community and approved by the Director of the Federal Emergency Management Agency.

(b) **CONDITIONS ON TESTING.**—Testing permitted under subsection (a) shall—

(1) be performed on an uninhabited residential structure;

(2) require dismantling of the structure at the conclusion of such testing; and

(3) require that all costs associated with such testing and dismantling be covered by the individual or entity conducting the testing, or on whose behalf the testing is conducted.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to alter, limit, or extend the availability of flood insurance to any structure that may employ, utilize, or apply any technology tested under subsection (b).

SEC. 126. PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.

Chapter I of the National Flood Insurance Act of 1968 (42 U.S.C. 4011 et seq.) is amended by inserting after section 1313 the following:

“SEC. 1314. PARTICIPATION IN STATE DISASTER CLAIMS MEDIATION PROGRAMS.

“(a) **REQUIREMENT TO PARTICIPATE.**—In the case of the occurrence of a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) that may have resulted in flood damage under the flood insurance program established under this chapter and other personal lines residential property insurance coverage offered by a State regulated insurer, upon request made by the insurance commissioner of a State (or such other official responsible for regulating the business of insurance in the State) for the

participation of representatives of the Director in a program sponsored by such State for non-binding mediation of insurance claims resulting from a major disaster, the Director shall cause representatives of the flood insurance program to participate in such a State program where claims under the flood insurance program are involved to expedite settlement of flood damage claims resulting from such disaster.

“(b) **EXTENT OF PARTICIPATION.**—In satisfying the requirements of subsection (a), the Director shall require that each representative of the Director—

“(1) be certified for purposes of the flood insurance program to settle claims against such program resulting from such disaster in amounts up to the limits of policies under such program;

“(2) attend State-sponsored mediation meetings regarding flood insurance claims resulting from such disaster at such times and places as may be arranged by the State;

“(3) participate in good faith negotiations toward the settlement of such claims with policyholders of coverage made available under the flood insurance program; and

“(4) finalize the settlement of such claims on behalf of the flood insurance program with such policyholders.

“(c) **COORDINATION.**—Representatives of the Director shall at all times coordinate their activities with insurance officials of the State and representatives of insurers for the purposes of consolidating and expediting settlement of claims under the national flood insurance program resulting from such disaster.

“(d) **QUALIFICATIONS OF MEDIATORS.**—Each State mediator participating in State-sponsored mediation under this section shall be—

“(1)(A) a member in good standing of the State bar in the State in which the mediation is to occur with at least 2 years of practical experience; and

“(B) an active member of such bar for at least 1 year prior to the year in which such mediator’s participation is sought; or

“(2) a retired trial judge from any United States jurisdiction who was a member in good standing of the bar in the State in which the judge presided for at least 5 years prior to the year in which such mediator’s participation is sought.

“(e) **MEDIATION PROCEEDINGS AND DOCUMENTS PRIVILEGED.**—As a condition of participation, all statements made and documents produced pursuant to State-sponsored mediation involving representatives of the Director shall be deemed privileged and confidential settlement negotiations made in anticipation of litigation.

“(f) **LIABILITY, RIGHTS, OR OBLIGATIONS NOT AFFECTED.**—Participation in State-sponsored mediation, as described in this section does not—

“(1) affect or expand the liability of any party in contract or in tort; or

“(2) affect the rights or obligations of the parties, as established—

“(A) in any regulation issued by the Director, including any regulation relating to a standard flood insurance policy;

“(B) under this Act; and

“(C) under any other provision of Federal law.

“(g) **EXCLUSIVE FEDERAL JURISDICTION.**—Participation in State-sponsored mediation shall not alter, change, or modify the original exclusive jurisdiction of United States courts, as set forth in this Act.

“(h) **COST LIMITATION.**—Nothing in this section shall be construed to require the Director or a representative of the Director to pay additional mediation fees relating to flood insurance claims associated with a State-sponsored mediation program in which such representative of the Director participates.

“(i) **EXCEPTION.**—In the case of the occurrence of a major disaster that results in flood damage claims under the national flood insurance program and that does not result in any

loss covered by a personal lines residential property insurance policy—

“(1) this section shall not apply; and

“(2) the provisions of the standard flood insurance policy under the national flood insurance program and the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note) and the regulations issued pursuant to such section shall apply exclusively.

“(j) **REPRESENTATIVES OF THE DIRECTOR.**—For purposes of this section, the term ‘representatives of the Director’ means representatives of the national flood insurance program who participate in the appeals process established under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).”.

SEC. 127. REITERATION OF FEMA RESPONSIBILITIES UNDER THE 2004 REFORM ACT.

(a) **MINIMUM TRAINING AND EDUCATION REQUIREMENTS.**—The Director shall continue to work with the insurance industry, State insurance regulators, and other interested parties to implement the minimum training and education standards for all insurance agents who sell flood insurance policies, as such standards were determined by the Director in the notice published in the Federal Register on September 1, 2005 (70 Fed. Reg. 52117) pursuant to section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (42 U.S.C. 4011 note).

(b) **REPORT ON THE OVERALL IMPLEMENTATION OF THE REFORM ACT OF 2004.**—Not later than 3 months after the date of the enactment of this title, the Director shall submit a report to Congress—

(1) describing the implementation of each provision of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004 (Public Law 108-264; 118 Stat. 712);

(2) identifying each regulation, order, notice, and other material issued by the Director in implementing each provision of that Act;

(3) explaining any statutory or implied deadlines that have not been met; and

(4) providing an estimate of when the requirements of such missed deadlines will be fulfilled.

SEC. 128. ADDITIONAL AUTHORITY OF FEMA TO COLLECT INFORMATION ON CLAIMS PAYMENTS.

(a) **IN GENERAL.**—The Director shall collect, from property and casualty insurance companies that are authorized by the Director to participate in the Write Your Own program any information and data needed to determine the accuracy of the resolution of flood claims filed on any property insured with a standard flood insurance policy obtained under the program that was subject to a flood.

(b) **TYPE OF INFORMATION TO BE COLLECTED.**—The information and data to be collected under subsection (a) may include—

(1) any adjuster estimates made as a result of flood damage, and if the insurance company also insures the property for wind damage—

(A) any adjuster estimates for both wind and flood damage;

(B) the amount paid to the property owner for wind and flood claims;

(C) the total amount paid to the policyholder for damages as a result of the event that caused the flooding and other losses;

(2) any amounts paid to the policyholder by the insurance company for damages to the insured property other than flood damages; and

(3) the total amount paid to the policyholder by the insurance company for all damages incurred to the insured property as a result of the flood.

SEC. 129. EXPENSE REIMBURSEMENTS OF INSURANCE COMPANIES.

(a) **SUBMISSION OF BIENNIAL REPORTS.**—

(1) **TO THE DIRECTOR.**—Not later than 20 days after the date of enactment of this title, each

property and casualty insurance company that is authorized by the Director to participate in the Write Your Own program shall submit to the Director any biennial report prepared in the prior 5 years by such company.

(2) To GAO.—Not later than 10 days after the submission of the biennial reports under paragraph (1), the Director shall submit all such reports to the Comptroller General of the United States.

(3) NOTICE TO CONGRESS OF FAILURE TO COMPLY.—The Director shall notify and report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on any property and casualty insurance company participating in the Write Your Own program that failed to submit its biennial reports as required under paragraph (1).

(4) FAILURE TO COMPLY.—A property and casualty insurance company that is authorized by the Director to participate in the Write Your Own program which fails to comply with the reporting requirement under this subsection or the requirement under section 62.23(j)(1) of title 44, Code of Federal Regulations (relating to biennial audit of the flood insurance financial statements) shall be subject to a civil penalty in an amount equal to \$1,000 per day for each day that the company remains in noncompliance with either such requirement.

(b) FEMA RULEMAKING ON EXPENSES OF WYO PROGRAM.—Not later than 180 days after the date of enactment of this title, the Director shall conduct a rulemaking proceeding to devise a data collection methodology to allow the Federal Emergency Management Agency to collect consistent information on the expenses (including the operating and administrative expenses for adjustment of claims) of property and casualty insurance companies participating in the Write Your Own program for selling, writing, and servicing, standard flood insurance policies.

(c) SUBMISSION OF EXPENSE REPORTS.—Not later than 60 days after the effective date of the final rule established pursuant to subsection (b), each property and casualty insurance company participating in the Write Your Own program shall submit a report to the Director that details for the prior 5 years the expense levels of each such company for selling, writing, and servicing standard flood insurance policies based on the methodologies established under subsection (b).

(d) FEMA RULEMAKING ON REIMBURSEMENT OF EXPENSES UNDER THE WYO PROGRAM.—Not later than 15 months after the date of enactment of this title, the Director shall conduct a rulemaking proceeding to formulate revised expense reimbursements to property and casualty insurance companies participating in the Write Your Own program for their expenses (including their operating and administrative expenses for adjustment of claims) in selling, writing, and servicing standard flood insurance policies, including how such companies shall be reimbursed in both catastrophic and non-catastrophic years. Such reimbursements shall be structured to ensure reimbursements track the actual expenses, including standard business costs and operating expenses, of such companies as close as practicably possible.

(e) REPORT OF THE DIRECTOR.—Not later than 60 days after the effective date of any final rule established pursuant to subsection (b) or subsection (d), the Director shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report containing—

(1) the specific rationale and purposes of such rule;

(2) the reasons for the adoption of the policies contained in such rule; and

(3) the degree to which such rule accurately represents the true operating costs and expenses of property and casualty insurance companies participating in the Write Your Own program.

(f) GAO STUDY AND REPORT ON EXPENSES OF WYO PROGRAM.—

(1) STUDY.—Not later than 180 days after the effective date of the final rule established pursuant to subsection (d), the Comptroller General of the United States shall—

(A) conduct a study on the efficacy, adequacy, and sufficiency of the final rules established pursuant to subsections (b) and (d); and

(B) report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the findings of the study conducted under subparagraph (A).

(2) GAO AUTHORITY.—In conducting the study and report required under paragraph (1), the Comptroller General—

(A) may use any previous findings, studies, or reports that the Comptroller General previously completed on the Write Your Own program;

(B) shall determine if—

(i) the final rules established pursuant to subsections (b) and (d) allow the Federal Emergency Management Agency to access adequate information regarding the actual expenses of property and casualty insurance companies participating in the Write Your Own program; and

(ii) the actual reimbursements paid out under the final rule established in subsection (d) accurately reflect the expenses reported by property and casualty insurance companies participating in the Write Your Own program, including the standard business costs and operating expenses of such companies; and

(C) shall analyze the effect of such rules on the level of participation of property and casualty insurers in the Write Your Own program.

SEC. 130. EXTENSION OF PILOT PROGRAM FOR MITIGATION OF SEVERE REPETITIVE LOSS PROPERTIES.

(a) IN GENERAL.—Section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a) is amended—

(1) in subsection (k)(1)—

(A) in the first sentence, by striking “in each of fiscal years 2005, 2006, 2007, 2008, and 2009” and inserting “in each fiscal year through fiscal year 2013”; and

(B) by adding at the end the following new sentence: “For fiscal years 2008 through the 2013, the total amount that the Director may use to provide assistance under this section shall not exceed \$240,000,000.”; and

(2) by striking subsection (l).

(b) REPORT TO CONGRESS ON IMPLEMENTATION STATUS.—Not later than 6 months after the date of enactment of this title, the Director shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the implementation of the pilot program for severe repetitive loss properties authorized under section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a).

(c) RULEMAKING.—No later than 90 days after the date of enactment of this title, the Director shall issue final rules to carry out the severe repetitive loss pilot program authorized under section 1361A of the National Flood Insurance Act of 1968 (42 U.S.C. 4102a).

SEC. 131. FLOOD INSURANCE ADVOCATE.

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

“SEC. 1330A. OFFICE OF THE FLOOD INSURANCE ADVOCATE.

“(a) ESTABLISHMENT OF POSITION.—

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

“(A) to the extent amounts are provided pursuant to subsection (n), be compensated at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, or, if

the Director so determines, at a rate fixed under section 9503 of such title;

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

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

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

“(2) QUALIFICATIONS.—An individual appointed under paragraph (1)(B) shall have a background in customer service, or experience representing insureds, as well as experience in investigations or audits.

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

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

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

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

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

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

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

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

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

“(5) conduct, supervise, and coordinate—

“(A) systematic and random audits and investigations of insurance companies and associated entities that sell or offer policies under the National Flood Insurance Program to determine whether such insurance companies or associated entities are allocating only flood losses under such insurance policies to the National Flood Insurance Program; and

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

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

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

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

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

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

“(C) **AUTHORITY OF THE NATIONAL FLOOD INSURANCE ADVOCATE.**—The National Flood Insurance Advocate may—

“(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the Director which relate to administration or operation of the national flood insurance program with respect to which the National Flood Insurance Advocate has responsibilities under this section, including information submitted pursuant to Section 128 of this Act;

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

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

“(4) request the production of information, documents, reports, answers, records (including phone records), accounts, papers, emails, hard drives, backup tapes, software, audio or visual aides, and any other data and documentary evidence necessary in the performance of the functions assigned to the National Flood Insurance Advocate by this section;

“(5) request the testimony of any person in the employ of any insurance company or associated entity participating in the National Flood Insurance Program, described under subsection (b)(5)(A), or any successor to such company or entity, including any member of the board of such company or entity, any trustee of such company or entity, any partner in such company or entity, or any agent or representative of such company or entity;

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

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

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

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

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

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

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

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

“(e) **OTHER RESPONSIBILITIES.**—

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

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

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

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

“(2) **ANNUAL REPORTS.**—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(B) **DIRECT SUBMISSION OF REPORT.**—Each report required under this paragraph shall be provided directly to the committees identified in subparagraph (A) without any prior review or

comment from the Director, the Secretary of Homeland Security, or any other officer or employee of the Federal Emergency Management Agency or the Department of Homeland Security, or the Office of Management and Budget.

“(3) **INFORMATION AND ASSISTANCE FROM OTHER AGENCIES.**—

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

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

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

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

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

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

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

“(g) **PERSONNEL ACTIONS.**—

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

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

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

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

“(h) **OPERATION OF REGIONAL OFFICES.**—

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

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

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

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

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

“(2) **MAINTENANCE OF INDEPENDENT COMMUNICATIONS.**—Each regional office of the flood insurance advocate shall maintain a separate

phone, facsimile, and other electronic communication access.

“(i) FLOOD INSURANCE ASSISTANCE RECOMMENDATIONS.—

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

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

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

“(A) whether such recommendation was followed;

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

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

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

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

“(k) COORDINATION.—

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

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

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

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

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

“(l) AUTHORITY OF THE DIRECTOR TO LEVY PENALTIES.—The Director and the Advocate shall establish procedures to take appropriate action against an insurance company, including monetary penalties and removal or suspension from the program, when a company refuses to cooperate with an investigation or audit under this section or where a finding has been made of improper conduct.

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

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

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

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

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

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

SEC. 132. STUDIES AND REPORTS.

(a) REPORT ON EXPANDING THE NATIONAL FLOOD INSURANCE PROGRAM.—Not later than 1 year after the date of the enactment of this title, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on—

(1) the number of flood insurance policy holders currently insuring—

(A) a residential structure up to the maximum available coverage amount, as established in section 61.6 of title 44, Code of Federal Regulations, of—

(i) \$250,000 for the structure; and

(ii) \$100,000 for the contents of such structure; or

(B) a commercial structure up to the maximum available coverage amount, as established in section 61.6 of title 44, Code of Federal Regulations, of \$500,000;

(2) the increased losses the National Flood Insurance Program would have sustained during the 2004 and 2005 hurricane season if the National Flood Insurance Program had insured all policyholders up to the maximum conforming loan limit for fiscal year 2006 of \$417,000, as established under section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2));

(3) the availability in the private marketplace of flood insurance coverage in amounts that exceed the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations; and

(4) what effect, if any—

(A) raising the current limits of coverage amounts established in section 61.6 of title 44,

Code of Federal Regulations, would have on the ability of private insurers to continue providing flood insurance coverage; and

(B) reducing the current limits of coverage amounts established in section 61.6 of title 44, Code of Federal Regulations, would have on the ability of private insurers to provide sufficient flood insurance coverage to effectively replace the current level of flood insurance coverage being provided under the National Flood Insurance Program.

(b) REPORT OF THE DIRECTOR ON ACTIVITIES UNDER THE NATIONAL FLOOD INSURANCE PROGRAM.—

(1) IN GENERAL.—The Director shall, on an annual basis, submit a full report on the operations, activities, budget, receipts, and expenditures of the National Flood Insurance Program for the preceding 12-month period to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(2) TIMING.—Each report required under paragraph (1) shall be submitted to the committees described in paragraph (1) not later than 3 months following the end of each fiscal year.

(3) CONTENTS.—Each report required under paragraph (1) shall include—

(A) the current financial condition and income statement of the National Flood Insurance Fund established under section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017), including—

(i) premiums paid into such Fund;

(ii) policy claims against such Fund; and

(iii) expenses in administering such Fund;

(B) the number and face value of all policies issued under the National Flood Insurance Program that are in force;

(C) a description and summary of the losses attributable to repetitive loss structures;

(D) a description and summary of all losses incurred by the National Flood Insurance Program due to—

(i) hurricane related damage; and

(ii) nonhurricane related damage;

(E) the amounts made available by the Director for mitigation assistance under section 1366(e)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(e)(5)) for the purchase of properties substantially damaged by flood for that fiscal year, and the actual number of flood damaged properties purchased and the total cost expended to purchase such properties;

(F) the estimate of the Director as to the average historical loss year, and the basis for that estimate;

(G) the estimate of the Director as to the maximum amount of claims that the National Flood Insurance Program would have to expend in the event of a catastrophic year;

(H) the average—

(i) amount of insurance carried per flood insurance policy;

(ii) premium per flood insurance policy; and

(iii) loss per flood insurance policy; and

(I) the number of claims involving damages in excess of the maximum amount of flood insurance available under the National Flood Insurance Program and the sum of the amount of all damages in excess of such amount.

(c) GAO STUDY ON PRE-FIRM STRUCTURES.—Not later than 1 year after the date of the enactment of this title, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, on the—

(1) composition of the remaining pre-FIRM structures that are explicitly receiving discounted premium rates under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104), including the historical basis for the receipt of such subsidy and whether such subsidy has outlasted its purpose;

(2) number and fair market value of such structures;

(3) respective income level of each owner of such structure;

(4) number of times each such structure has been sold since 1968, including specific dates, sales price, and any other information the Secretary determines appropriate;

(5) total losses incurred by such structures since the establishment of the National Flood Insurance Program compared to the total losses incurred by all structures that are charged a nondiscounted premium rate;

(6) total cost of foregone premiums since the establishment of the National Flood Insurance Program, as a result of the subsidies provided to such structures;

(7) annual cost to the taxpayer, as a result of the subsidies provided to such structures;

(8) the premium income collected and the losses incurred by the National Flood Insurance Program as a result of such explicitly subsidized structures compared to the premium income collected and the losses incurred by such Program as result of structures that are charged a nondiscounted premium rate, on a State-by-State basis; and

(9) the most efficient way to eliminate the subsidy to such structures.

(d) **GAO REVIEW OF FEMA CONTRACTORS.**—The Comptroller General of the United States, in conjunction with the Department of Homeland Security's Inspectors general Office, shall—

(1) conduct a review of the 3 largest contractors the Director uses in administering the National Flood Insurance Program; and

(2) not later than 18 months after the date of enactment of this title, submit a report on the findings of such review to the Director, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

SEC. 133. FEASIBILITY STUDY ON PRIVATE REINSURANCE.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall conduct and submit a report to Congress on—

(1) the feasibility of requiring the Director, as part of carrying out the responsibilities of the Director under the National Flood Insurance Program, to purchase private reinsurance or retrocessional coverage, in addition to any such reinsurance coverage required under section 1335 of the National Flood Insurance Act of 1968 (42 U.S.C. 4055), to underlying primary private insurers for losses arising due to flood insurance coverage provided by such insurers;

(2) the feasibility of repealing the reinsurance requirement under such section 1335, and requiring the Director, as part of carrying out the responsibilities of the Director under the National Flood Insurance Program, to purchase private reinsurance or retrocessional coverage to underlying primary private insurers for losses arising due to flood insurance coverage provided by such insurer; and

(3) the estimated total savings to the taxpayer of taking each such action described in paragraph (1) or (2).

SEC. 134. POLICY DISCLOSURES.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, in addition to any other disclosures that may be required, each policy under the National Flood Insurance Program shall state all conditions, exclusions, and other limitations pertaining to coverage under the subject policy, regardless of the underlying insurance product, in plain English, in boldface type, and in a font size that is twice the size of the text of the body of the policy.

(b) **VIOLATIONS.**—Any person that violates the requirements of this section shall be subject to a fine of not more than \$50,000 at the discretion of the Director.

SEC. 135. REPORT ON INCLUSION OF BUILDING CODES IN FLOODPLAIN MANAGEMENT CRITERIA.

Not later than 6 months after the date of the enactment of this Act, the Director of the Fed-

eral Emergency Management Agency shall conduct a study and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the impact, effectiveness, and feasibility of amending section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) to include widely used and nationally recognized building codes as part of the floodplain management criteria developed under such section, and shall determine—

(1) the regulatory, financial, and economic impacts of such a building code requirement on homeowners, States and local communities, local land use policies, and the Federal Emergency Management Agency;

(2) the resources required of State and local communities to administer and enforce such a building code requirement;

(3) the effectiveness of such a building code requirement in reducing flood-related damage to buildings and contents;

(4) the impact of such a building code requirement on the actuarial soundness of the National Flood Insurance Program;

(5) the effectiveness of nationally recognized codes in allowing innovative materials and systems for flood-resistant construction; and

(6) the feasibility and effectiveness of providing an incentive in lower premium rates for flood insurance coverage under such Act for structures meeting whichever of such widely used and nationally recognized building code or any applicable local building code provides greater protection from flood damage.

TITLE II—COMMISSION ON NATURAL CATASTROPHE RISK MANAGEMENT AND INSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the “Commission on Natural Catastrophe Risk Management and Insurance Act of 2008”.

SEC. 202. FINDINGS.

Congress finds that—

(1) Hurricanes Katrina, Rita, and Wilma, which struck the United States in 2005, caused, by some estimates, in excess of \$200,000,000,000 in total economic losses;

(2) many meteorologists predict that the United States is in a period of increased hurricane activity;

(3) the Federal Government and State governments have provided billions of dollars to pay for losses from natural catastrophes, including hurricanes, earthquakes, volcanic eruptions, tsunamis, tornados, flooding, wildfires, droughts, and other natural catastrophes;

(4) many Americans are finding it increasingly difficult to obtain and afford property and casualty insurance coverage;

(5) some insurers are not renewing insurance policies, are excluding certain risks, such as wind damage, and are increasing rates and deductibles in some markets;

(6) the inability of property and business owners in vulnerable areas to obtain and afford property and casualty insurance coverage endangers the national economy and public health and safety;

(7) almost every State in the United States is at risk of a natural catastrophe, including hurricanes, earthquakes, volcanic eruptions, tsunamis, tornados, flooding, wildfires, droughts, and other natural catastrophes;

(8) building codes and land use regulations play an indispensable role in managing catastrophe risks, by preventing building in high risk areas and ensuring that appropriate mitigation efforts are completed where building has taken place;

(9) several proposals have been introduced in Congress to address the affordability and availability of natural catastrophe insurance across the United States, but there is no consensus on what, if any, role the Federal Government should play; and

(10) an efficient and effective approach to assessing natural catastrophe risk management and insurance is to establish a nonpartisan commission to study the management of natural catastrophe risk, and to require such commission to timely report to Congress on its findings.

SEC. 203. ESTABLISHMENT.

There is established a nonpartisan Commission on Natural Catastrophe Risk Management and Insurance (in this title referred to as the “Commission”).

SEC. 204. MEMBERSHIP.

(a) **APPOINTMENT.**—The Commission shall be composed of 16 members, of whom—

(1) 2 members shall be appointed by the majority leader of the Senate;

(2) 2 members shall be appointed by the minority leader of the Senate;

(3) 2 members shall be appointed by the Speaker of the House of Representatives;

(4) 2 members shall be appointed by the minority leader of the House of Representatives;

(5) 2 members shall be appointed by the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(6) 2 members shall be appointed by the Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate;

(7) 2 members shall be appointed by the Chairman of the Committee on Financial Services of the House of Representatives; and

(8) 2 members shall be appointed by the Ranking Member of the Committee on Financial Services of the House of Representatives.

(b) **QUALIFICATION OF MEMBERS.**—

(1) **IN GENERAL.**—Members of the Commission shall be appointed under subsection (a) from among persons who—

(A) have expertise in insurance, reinsurance, insurance regulation, policyholder concerns, emergency management, risk management, public finance, financial markets, actuarial analysis, flood mapping and planning, structural engineering, building standards, land use planning, natural catastrophes, meteorology, seismology, environmental issues, or other pertinent qualifications or experience; and

(B) are not officers or employees of the United States Government or of any State government.

(2) **DIVERSITY.**—In making appointments to the Commission—

(A) every effort shall be made to ensure that the members are representative of a broad cross section of perspectives within the United States; and

(B) each member of Congress described in subsection (a) shall appoint not more than 1 person from any single primary area of expertise described in paragraph (1)(A) of this subsection.

(c) **PERIOD OF APPOINTMENT.**—

(1) **IN GENERAL.**—Each member of the Commission shall be appointed for the duration of the Commission.

(2) **VACANCIES.**—A vacancy on the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) **QUORUM.**—

(1) **MAJORITY.**—A majority of the members of the Commission shall constitute a quorum, but a lesser number, as determined by the Commission, may hold hearings.

(2) **APPROVAL ACTIONS.**—All recommendations and reports of the Commission required by this title shall be approved only by a majority vote of all of the members of the Commission.

(e) **CHAIRPERSON.**—The Commission shall, by majority vote of all of the members, select 1 member to serve as the Chairperson of the Commission (in this title referred to as the “Chairperson”).

(f) **MEETINGS.**—The Commission shall meet at the call of its Chairperson or a majority of the members.

SEC. 205. DUTIES OF THE COMMISSION.

The Commission shall examine the risks posed to the United States by natural catastrophes, and means for mitigating those risks and for

paying for losses caused by natural catastrophes, including assessing—

(1) the condition of the property and casualty insurance and reinsurance markets prior to and in the aftermath of Hurricanes Katrina, Rita, and Wilma in 2005, and the 4 major hurricanes that struck the United States in 2004;

(2) the current condition of, as well as the outlook for, the availability and affordability of insurance in all regions of the country;

(3) the current ability of States, communities, and individuals to mitigate their natural catastrophe risks, including the affordability and feasibility of such activities;

(4) the ongoing exposure of the United States to natural catastrophes, including hurricanes, earthquakes, volcanic eruptions, tsunamis, tornados, flooding, wildfires, droughts, and other natural catastrophes;

(5) the catastrophic insurance and reinsurance markets and the relevant practices in providing insurance protection to different sectors of the American population;

(6) implementation of a catastrophic insurance system that can resolve key obstacles currently impeding broader implementation of catastrophic risk management and financing with insurance;

(7) the financial feasibility and sustainability of a national, regional, or other pooling mechanism designed to provide adequate insurance coverage and increased underwriting capacity to insurers and reinsurers, including private-public partnerships to increase insurance capacity in constrained markets;

(8) methods to promote public insurance policies to reduce losses caused by natural catastrophes in the uninsured sectors of the American population;

(9) approaches for implementing a public or private insurance scheme for low-income communities, in order to promote risk reduction and insurance coverage in such communities;

(10) the impact of Federal and State laws, regulations, and policies (including rate regulation, market access requirements, reinsurance regulations, accounting and tax policies, State residual markets, and State catastrophe funds) on—

(A) the affordability and availability of catastrophe insurance;

(B) the capacity of the private insurance market to cover losses inflicted by natural catastrophes;

(C) the commercial and residential development of high-risk areas; and

(D) the costs of natural catastrophes to Federal and State taxpayers;

(11) the present and long-term financial condition of State residual markets and catastrophe funds in high-risk regions, including the likelihood of insolvency following a natural catastrophe, the concentration of risks within such funds, the reliance on post-event assessments and State funding, and the adequacy of rates;

(12) the role that innovation in financial services could play in improving the affordability and availability of natural catastrophe insurance, specifically addressing measures that would foster the development of financial products designed to cover natural catastrophe risk, such as risk-linked securities;

(13) the need for strengthened land use regulations and building codes in States at high risk for natural catastrophes, and methods to strengthen the risk assessment and enforcement of structural mitigation and vulnerability reduction measures, such as zoning and building code compliance;

(14) the benefits and costs of proposed Federal natural catastrophe insurance programs (including the Federal Government providing reinsurance to State catastrophe funds, private insurers, or other entities), specifically addressing the costs to taxpayers, tax equity considerations, and the record of other government insurance programs (particularly with regard to charging actuarially sound prices);

(15) the ability of the United States private insurance market—

(A) to cover insured losses caused by natural catastrophes, including an estimate of the maximum amount of insured losses that could be sustained during a single year and the probability of natural catastrophes occurring in a single year that would inflict more insured losses than the United States insurance and reinsurance markets could sustain; and

(B) to recover after covering substantial insured losses caused by natural catastrophes;

(16) the impact that demographic trends could have on the amount of insured losses inflicted by future natural catastrophes;

(17) the appropriate role, if any, for the Federal Government in stabilizing the property and casualty insurance and reinsurance markets; and

(18) the role of the Federal, State, and local governments in providing incentives for feasible risk mitigation efforts.

SEC. 206. REPORT.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this title, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a final report containing—

(1) a detailed statement of the findings and assessments conducted by the Commission pursuant to section 205; and

(2) any recommendations for legislative, regulatory, administrative, or other actions at the Federal, State, or local levels that the Commission considers appropriate, in accordance with the requirements of section 205.

(b) EXTENSION OF TIME.—The Commission may request Congress to extend the period of time for the submission of the report required under subsection (a) for an additional 3 months.

SEC. 207. POWERS OF THE COMMISSION.

(a) MEETINGS; HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out the purposes of this title. Members may attend meetings of the Commission and vote in person, via telephone conference, or via video conference.

(b) AUTHORITY OF MEMBERS OR AGENTS OF THE COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this title.

(c) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States any information necessary to enable the Commission to carry out this title.

(2) PROCEDURE.—Upon request of the Chairperson, the head of such department or agency shall furnish to the Commission the information requested.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, any administrative support services necessary for the Commission to carry out its responsibilities under this title.

(f) ACCEPTANCE OF GIFTS.—The Commission may accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, for the purposes of aiding or facilitating the work of the Commission. The Commission shall issue internal guidelines governing the receipt of donations of services or property.

(g) VOLUNTEER SERVICES.—Notwithstanding the provisions of section 1342 of title 31, United States Code, the Commission may accept and utilize the services of volunteers serving without

compensation. The Commission may reimburse such volunteers for local travel and office supplies, and for other travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(h) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.

(i) LIMITATION ON CONTRACTS.—A contract or other legal agreement entered into by the Commission may not extend beyond the date of the termination of the Commission.

SEC. 208. COMMISSION PERSONNEL MATTERS.

(a) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(b) SUBCOMMITTEES.—The Commission may establish subcommittees and appoint members of the Commission to such subcommittees as the Commission considers appropriate.

(c) STAFF.—Subject to such policies as the Commission may prescribe, the Chairperson may appoint and fix the pay of such additional personnel as the Chairperson considers appropriate to carry out the duties of the Commission. The Commission shall confirm the appointment of the executive director by majority vote of all of the members of the Commission.

(d) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Staff of the Commission may be—

(1) appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay prescribed for GS-15 of the General Schedule under section 5332 of that title.

(e) EXPERTS AND CONSULTANTS.—In carrying out its objectives, the Commission may procure temporary and intermittent services of consultants and experts under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-15 of the General Schedule under section 5332 of that title.

(f) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairperson, any Federal Government employee may be detailed to the Commission to assist in carrying out the duties of the Commission—

(1) on a reimbursable basis; and

(2) such detail shall be without interruption or loss of civil service status or privilege.

SEC. 209. TERMINATION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 206.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission, such sums as may be necessary to carry out this title, to remain available until expended.

TITLE III—MISCELLANEOUS

SEC. 301. BIG SIOUX RIVER AND SKUNK CREEK, SIOUX FALLS, SOUTH DAKOTA.

The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota, authorized by section 101(a)(28) of the Water Resources Development Act of 1996 (110 Stat. 3666), is modified to authorize the Secretary to

reimburse the non-Federal interest for funds advanced by the non-Federal interest for the Federal share of the project, only if additional Federal funds are appropriated for that purpose.

SEC. 302. SUSPENSION OF PETROLEUM ACQUISITION FOR STRATEGIC PETROLEUM RESERVE.

(a) *IN GENERAL.*—Except as provided in subsection (b) and notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on December 31, 2008—

(1) the Secretary of the Interior shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy shall suspend acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(b) *RESUMPTION.*—Not earlier than 30 days after the date on which the President notifies Congress that the President has determined that the weighted average price of petroleum in the United States for the most recent 90-day period is \$75 or less per barrel—

(1) the Secretary of the Interior may resume acquisition of petroleum for the Strategic Petroleum Reserve through the royalty-in-kind program; and

(2) the Secretary of Energy may resume acquisition of petroleum for the Strategic Petroleum Reserve through any other acquisition method.

(c) *EXISTING CONTRACTS.*—In the case of any oil scheduled to be delivered to the Strategic Petroleum Reserve pursuant to a contract entered into by the Secretary of Energy prior to, and in effect on, the date of enactment of this Act, the Secretary shall, to the maximum extent practicable, negotiate a deferral of the delivery of the oil for a period of not less than 1 year, in accordance with procedures of the Department of Energy in effect on the date of enactment of this Act for deferrals of oil.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2007—MOTION TO PROCEED—Resumed

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. The clerk will report the motion to invoke cloture.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 275, H.R. 980, the Public Safety Employer-Employee Cooperation Act.

Edward M. Kennedy, Robert Menendez, Russell D. Feingold, Patty Murray, Daniel K. Inouye, Amy Klobuchar, Debbie Stabenow, Ron Wyden, Barbara Boxer, Christopher J. Dodd, John D. Rockefeller, IV, Jon Tester, Sheldon Whitehouse, Frank R. Lautenberg, Sherrod Brown, Jeff Bingaman, John F. Kerry.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 980, the Public Safety Employer-Employee Cooperation Act, shall be brought to a close?

There is 2 minutes of debate, equally divided.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, this is the legislation to provide a voice for our public safety offices. We have spent a great deal of time in the Senate on homeland security, but the key to effective homeland security is having effective firefighters, police officials, and first responders. They are the individuals who are really protecting our homeland. They are the ones who should have a voice in decisions affecting the security of our country. This legislation provides them with that, to ensure greater safety and security for all Americans. I hope the Senate will support the cloture motion.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, once again, we have one of those bills that has never been to committee. I guess we are afraid to take labor issues to the Labor Committee. We ought to be able to review these things and work on them as we do on other kinds of bills, but that is not happening on the labor issues. We are just going to play "gotcha" politics.

This bill will take longer than a minute or an hour or a day just to cover some of the flaws that are in this bill. Some of the things that have shown up in the substitute bill never got introduced on this one. So we can see how this doesn't work. This will affect all 50 States. This is an opportunity for you to impose the will of the Federal Government on your State. I don't think you really want to do that. We need to have a little bit more than a minute to discuss that.

I think the leadership is asking for people to vote for this amendment. We have agreed that we would go to it right after lunch. This isn't a matter of stalling out in the Senate; it is a matter of trying to get the right decision made. I ask you to look at these things. It ought to go to the Labor Committee so that reasonable suggestions can be made.

The ACTING PRESIDENT pro tempore. The yeas and nays are mandatory under the rule. The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 69, nays 29, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—69

Akaka	Biden	Brown
Baucus	Bingaman	Byrd
Bayh	Boxer	Cantwell

Cardin	Johnson	Obama
Carper	Kennedy	Pryor
Casey	Kerry	Reed
Chambliss	Klobuchar	Reid
Clinton	Kohl	Rockefeller
Coleman	Landrieu	Salazar
Collins	Lautenberg	Sanders
Conrad	Leahy	Schumer
Dodd	Levin	Smith
Domenici	Lieberman	Snowe
Dorgan	Lincoln	Specter
Durbin	Martinez	Stabenow
Feingold	McCaskill	Stevens
Feinstein	McConnell	Sununu
Grassley	Menendez	Tester
Gregg	Mikulski	Thune
Hagel	Murkowski	Voinovich
Harkin	Murray	Webb
Hatch	Nelson (FL)	Whitehouse
Inouye	Nelson (NE)	Wyden

NAYS—29

Alexander	Corker	Isakson
Allard	Cornyn	Kyl
Barrasso	Craig	Lugar
Bennett	Crapo	Roberts
Bond	DeMint	Sessions
Brownback	Dole	Shelby
Bunning	Ensign	Vitter
Burr	Enzi	Warner
Coburn	Graham	Wicker
Cochran	Hutchison	

NOT VOTING—2

Inhofe	McCain
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The ACTING PRESIDENT pro tempore. On this vote, the yeas are 69, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT OF 2007

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Is the Chair going to report the bill now?

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to proceed is agreed to. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 980) to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

The ACTING PRESIDENT pro tempore. The majority leader.

AMENDMENT NO. 4751

(Purpose: In the nature of a substitute)

Mr. REID. Mr. President, on behalf of Senator KENNEDY and Senator GREGG, I send a substitute to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. GREGG, for himself, and Mr. KENNEDY, proposes an amendment numbered 4751.

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