that the health care needs of women and of all individuals in the United States are met.

S. RES. 20

At the request of Mr. VOINOVICH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 20, a resolution celebrating the 60th anniversary of the North Atlantic Treaty Organization.

S. RES. 60

At the request of Mrs. SHAHEEN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. Res. 60, a resolution commemorating the 10-year anniversary of the accession of the Czech Republic, the Republic of Hungary, and the Republic of Poland as members of the North Atlantic Treaty Organization.

AMENDMENT NO. 615

At the request of Mr. ENSIGN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of amendment No. 615 proposed to H.R. 1105, a bill making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WHITEHOUSE (for himself, Mr. LEAHY, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. NELSON, of Florida, Mr. KERRY, Mr. SCHUMER, Mr. HARKIN, Mr. DODD, Mr. BROWN, and Ms. KLOBUCHAR):

S. 528. A bill to prevent voter caging; to the Committee on Rules and Administration.

Mr. LEAHY. Mr. President, this week, the Nation commemorates the 49th anniversary of ''Bloody Sunday,'' a day which marked a crucial turning point in securing the right to vote for all Americans. On March 7, 1965, in Selma, Alabama, JOHN LEWIS and his fellow civil rights activists marched for their right to vote but were brutally attacked by state troopers on the Edmund Pettus Bridge. We remember the acts of courageous Americans who fought through the years for equality. We honor their legacy by reaffirming our commitment to protect the right to vote for all Americans.

On the week of this important anniversary, I am pleased to join Sen. WHITEHOUSE in introducing the Caging Prohibition Act of 2009. This legislation contains commonsense reforms to strengthen the Nation's ability to combat organized efforts to suppress the right to vote and better protect the voting rights of countless Americans.

Senator WHITEHOUSE and I introduced a similar bill two years ago in an effort to bring urgent election reform to protect voters during the 2008 presidential election. Although the Rules Committee held a hearing on the measure, the bill was not reported out of Committee before the Senate adjourned last year. I hope the Senate will do its part to prevent shenanigans from disenfranchising voters during the next Federal election, by promptly passing this bill.

During my three decades in the Senate, I have devoted a considerable portion of my work to improving democratic participation and make our government more accessible to all Americans. For the past two years, I have been delighted to have Senator WHITEHOUSE as a partner on this important issue. I thank him for his leadership on preserving and strengthening our voting rights.

In recent years, we have seen a surge in a particularly alarming form of voter suppression known as voter caging. In voter caging, a political organization sends mail to addresses on voter rolls, compiles a list of returned mail, and uses that list as grounds for partisan and unjustified purges or challenges of voters' eligibility. During the last two presidential election cycles, we have seen evidence of voter caging efforts emerge in numerous States, including Ohio, Florida, Michigan, and Pennsylvania.

Chief among the problems with voter caging is that it threatens to disenfranchise voters in an unreliable manner. Rather than preventing votes cast by ineligible voters, far too often the practice prevents legitimate voters from casting their ballots. According to a recent report from the nonpartisan Brennan Center for Justice, ''[V]oter caging lists are highly likely to include the names of many voters who are in fact eligible to vote.'' Of course, since government databases are often riddled with typos and clerical errors, these findings are hardly surprising.

Even more troubling, voter caging often aims to disenfranchise minority voters. I recall during a Senate race in Louisiana, in 1986, a memorandum from the Republican National Committee concluded that hiring a consultant to distribute 350,000 mailings marked ''do not forward'' to mostly African-American districts would ''eliminate at least 60–80,000 folks from the rolls . . . [and] could keep the black vote down considerably.'' That is unacceptable. That is wrong. No one's right to vote should be abridged, suppressed, or denied in the United States of America.

The practice of voter caging chips away at core protections in our democracy. The right to vote, and have your vote count, is a foundational right because it secures the effectiveness of all other protections. Indeed, the very legitimacy of our government is dependent on the access all Americans have to the political process. That is why voting is the cornerstone of our democracy. Any infringement on this right harms the fabric of America.

All too often, voter caging efforts have partisan goals. For example, the Judiciary Committee's investigation last Congress into the mass firings of U.S. Attorneys for political reasons shed light on how Tim Griffin, a former Bush White House aide, participated in a voter caging scheme aimed at disenfranchising African-American voters in Florida. He was later appointed interim U.S. Attorney for the Eastern District of Arkansas.

Rooting out partisan voter caging tactics requires us to give Federal officials the tools and resources they need to investigate and prosecute organized efforts to suppress the right to vote. This bill will do exactly that.

This legislation would prohibit challenging a person's eligibility to vote—or register to vote—based on a voter caging list, an unverified match list, or foreclosure status. A challenged voter may feel intimidated or discouraged, and may leave a polling site and not vote. In America, a person should not lose their fundamental right to vote, nor have that vote challenged, on the sole basis of a mistake, error, or because their mail failed to reach them. Similarly, as the current economic crisis reminds us, Americans should not have their fundamental right to vote jeopardized simply because they lose their jobs to layoffs or their homes to foreclosure.

The bill would also require any private party who challenges the right of another citizen to vote—or register to vote—to set forth in writing, under penalty of perjury, the specific grounds for the alleged ineligibility. This provision deters illegitimate challenges to voters by requiring, at a minimum, a showing of good cause. It properly balances legitimate efforts to clean voting rolls with forbidding unreliable voter purges.

I am pleased that this bill has the support of civil rights and voting rights organizations such as the Leadership Conference on Civil Rights, the Lawyers Community for Civil Rights under Law, the Brennan Center for Justice, and the People for the American Way. They understand that voter caging is a modern-day barrier to the ballot box that has created unique problems for legitimate voters for many years, and that a Federal ban on these undemocratic practices is necessary.

I hope that this year all Senators will support this important legislation and take firm action to stamp out this intolerable voter suppression tactic.

By Mr. LIEBERMAN (for himself, Mr. BROWNBACK, Mr. UDALL, of New Mexico, Mr. WHITEHOUSE, Mr. CARDIN, Mr. SANDERS, Mr. KERRY, and Ms. SNOWE):

S. 529. A bill to assist in the Conservation of rare fields and rare canids by supporting and providing financial resources for the conservation programs of countries within the range of rare felid and rare canid populations and projects of persons with demonstrated expertise in the conservation of rare felid and rare canid populations; to the Committee on Environment and Public Works.

Mr. LIEBERMAN. Mr President, I rise to speak about the Great Cats and Rare Canids Act, which I am introducing today along with my friends

Senators SAM BROWNBACK and TOM UDALL. This bipartisan legislation continues our tradition of protecting threatened and endangered species around the world and comes at a critical time in the survival of these animals.

Of the 37 wild felid species worldwide, all are currently recognized as species in need of protection under the World Conservation Union, IUCN, Red List, the lists of species in CITES appendices I, II, and III, or the Endangered Species Act of 1973. Of the 35 wild canid species worldwide, nearly 50 percent are recognized as in need of such protection in one of these categories.

This legislation would create the Great Cats and Rare Canids Conservation Fund and builds on the success of the Multinational Species Conservation Fund, NSCF, which presently provides funding to protect tigers, rhinoceroses, elephants, great apes, and marine turtles. The Great Cats and Rare Canids Conservation Fund would support the conservation of wild felid and canid populations outside the United States by providing financial resources to conserve 15 such species that are vital for their ecological value and are listed as endangered or threatened on the IUCN Red List of Endangered Species. The great cats and rare canids included in this bill are umbrella species that, if conserved appropriately, protect their corresponding landscapes and other species dependent on those ecosystems.

Among the species protected under this act are the majestic jaguar of South and Central America, the elusive snow leopard, the cheetah, the African wild dog, and other rare carnivore species. These species are threatened by habitat loss, poaching, disease, and pollution.

The struggle of the African wild dog is one example of the plight these large carnivores face. The less than 2,500 adults that remain not only have to combat the widespread misconception that they are livestock killers, but are extremely susceptible to diseases common in domesticated animals. They have lost 89 percent their habitat and are now found in only 14 of the 39 countries that comprise their historic range.

The snow leopard is another example. Like all great cats, the snow leopard needs a large tract of uninterrupted land in which to live, but the snow leopard's habitat in China has been fragmented due to human encroachment. The cats are also under extreme poaching pressures as their fur is sold on the black market.

In addition to protecting the species already listed in the Act, the U.S. Fish and Wildlife Service has been mandated to complete a study within two years of the bill's enactment to determine what other critically endangered species could become eligible for conservation assistance. The findings of this study will enable the United States to provide conservation assistance to protect additional great cat and rare canid species that are determined to need conservation assistance in the future.

Our bill would authorize $5 million in annual spending for the conservation of more than a dozen species of great cats and rare canines. The Great Cats and Rare Canids Conservation Fund would leverage private conservation dollars from corporate and non-government sources in order to address the critical need to conserve these threatened large carnivores. Historically, for every $1 invested by the Federal Government in the programs that are part of the Multinational Species Conservation Fund, there is at least a $3 match by private donations.

These funds enable the U.S. Fish and Wildlife Service to partner with nonprofit groups and foreign entities to undertake a range of conservation programs where threatened and endangered species live. Typical activities to protect the different species in the Multinational Species Conservation Fund include new educational programs for local populations to increase awareness of these species and prevent interactions that could be harmful to people and animals, as well as increased monitoring and law enforcement activities to prevent poaching and illegal animal trafficking. Great cats are particularly at risk from hunting for trade purposes while rare canids are susceptible to disease, and this bill will allow the establishment of programs to address these species-specific threats.

The genesis of the Great Cats and Rare Canids program is nearly a decade old, and the bill under consideration today was also introduced in the past two Congresses. In that time, these species have continued to decline in numbers. I do not think our children and grandchildren will forgive us if we stand by and let these magnificent animals drift into extinction. With a relatively small investment, we can invigorate ongoing conservation efforts around the world.

By Mr. BINGAMAN (for himself and Ms. MURKOWSKI):

S. 531. A bill to provide for the conduct of an in-depth analysis of the impact of energy development and production on the water resources of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today I am introducing a bill, with Senator MURKOWSKI's support, that will improve our understanding of the interdependence of energy and water and begin integrating decision-making for both resources. The relationship between energy and water is an often overlooked but serious issue that is growing in importance.

Energy and water are crucial components of modern life. Production of energy and freshwater are inextricably linked. Each is required for the production of the other, and neither resource is routinely considered in developing management policies for the other. As population density continues to increase in already water-stressed regions, it is crucial that the United States develop new policies that integrate energy and water solutions so that one resource does not undermine the use of the other.

Thermal power generation, coal, natural gas, oil, and nuclear, accounts for 39 percent of freshwater withdrawals in the U.S., second only to agriculture-related withdrawals. Water use can range from 7,500 gallons of water per megawatt-hour produced, gal/MWhr, for natural gas plants, to 60,000 gal/MWhr for some nuclear facilities. Petroleum refineries also use a significant amount of water, and the water demands of the transportation sector will only increase as the U.S. seeks to reduce its reliance on foreign oil. The two primary options for reducing gasoline use—plug-in hybrids and biofuels—are both more water intensive than gasoline. By some estimates, plug-in hybrids consume three times more water per mile traveled than conventional gasoline vehicles. If the entire production cycle is considered, some biofuels can consume as much as 20 times more water per mile traveled. Three provisions of the bill attempt to highlight and further analyze these issues: a National Academies study of water use in transportation fuel production and electricity generation; the development of power plant water use guidelines by the Department of Energy; and a directive to the Secretary of Energy to finalize an energy-water research and development roadmap to guide policy efforts in the future. Better data will lead to integration of water considerations in the development of energy policy.

Just as our energy consumption uses large amounts of water, the acquisition, treatment, and delivery of water supplies consumes massive amounts of energy. For example, 19 percent of California's electricity consumption is for water-related energy uses. Overall, treatment and delivery of municipal water supplies consume 3 percent of the nation's electricity. The bill addresses the issue of water-related energy consumption by directing the Bureau of Reclamation to evaluate energy use in Reclamation projects and identify ways to reduce such use. The bill also directs the Energy Information Administration to gather data and report on the energy consumed by water treatment and delivery activities. Once again, better data will lead to improved decision-making by State, local, and Federal water managers. Furthermore, the bill establishes research priorities for the Bureau of Reclamation's Brackish Groundwater Desalination Facility, including renewable energy integration with desalination technologies. To the extent that renewable energy can be integrated

with water treatment and delivery facilities, public acceptance of new water supply proposals is likely to increase.

The bill being introduced today is a good first step towards integrating energy and water policy. Such efforts will become increasingly necessary as growing populations, environmental needs, and a changing climate continue to affect both energy and water resources. I look forward to this legislation increasing the dialogue on these issues and hope that we can incorporate additional ideas as the legislative process proceeds.

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

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

S. 531

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy and Water Integration Act of 2009''.

SEC. 2. ENERGY WATER NEXUS STUDY.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Energy (referred to in this Act as the ''Secretary''), in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct an in-depth analysis of the impact of energy development and production on the water resources of the United States.

(b) SCOPE OF STUDY.—

(1) IN GENERAL.—The study described in subsection (a) shall be comprised of each assessment described in paragraphs (2) through (4).

(2) TRANSPORTATION SECTOR ASSESSMENT.—

(A) IN GENERAL.—The study shall include a lifecycle assessment of the quantity of water withdrawn and consumed in the production of transportation fuels, or electricity, to evaluate the ratio that—

(i) the quantity of water withdrawn and consumed in the production of transportation fuels (measured in gallons), or electricity (measured in kilowatts); bears to

(ii) the total distance (measured in miles) that may be traveled as a result of the consumption of transportation fuels, or electricity.

(B) SCOPE OF ASSESSMENT.—

(i) IN GENERAL.—The assessment shall include, as applicable—

(I) the exploration for, and extraction or growing of, energy feedstock;

(II) the processing of energy feedstock into transportation fuel;

(III) the generation, transportation, and storage of electricity for transportation; and

(IV) the conduct of an analysis of the efficiency with which the transportation fuel is consumed.

(ii) FUELS.—The assessment shall contain an analysis of transportation fuel sources, including—

(I) domestically produced crude oil (including products derived from domestically produced crude oil);

(II) imported crude oil (including products derived from imported crude oil);

(III) domestically produced natural gas (including liquid fuels derived from natural gas);

(IV) imported natural gas (including liquid fuels derived from natural gas);

(V) oil shale;

(VI) tar sands;

(VII) domestically produced corn-based ethanol;

(VIII) imported corn-based ethanol;

(IX) advanced biofuels (including cellulosic- and algae-based biofuels);

(X) coal to liquids (including aviation fuel, diesel, and gasoline products);

(XI) electricity consumed in—

(aa) fully electric drive vehicles; and

(bb) plug-in hybrid vehicles;

(XII) hydrogen; and

(XIII) any reasonably foreseeable combination of any transportation fuel source described in subclauses (I) through (XII).

(3) ELECTRICITY SECTOR ASSESSMENT.—

(A) IN GENERAL.—The study shall include a lifecycle assessment of the quantity of water withdrawn and consumed in the production of electricity to evaluate the ratio that—

(i) the quantity of water used and consumed in the production of electricity (measured in gallons); bears to

(ii) the quantity of electricity that is produced (measured in kilowatt-hours).

(B) SCOPE OF ASSESSMENT.—The assessment shall include, as applicable—

(i) the exploration for, or extraction or growing of, energy feedstock;

(ii) the processing of energy feedstock for electricity production; and

(iii) the production of electricity.

(C) GENERATION TYPES.—The assessment shall contain an evaluation and analysis of electricity generation facilities that are constructed in accordance with different plant designs (including different cooling technologies such as water, air, and hybrid systems, and technologies designed to minimize carbon dioxide releases) based on the fuel used by the facility, including—

(i) coal;

(ii) natural gas;

(iii) oil;

(iv) nuclear energy;

(v) solar energy;

(vi) wind energy;

(vii) geothermal energy;

(viii) biomass;

(ix) the beneficial use of waste heat; and

(x) any reasonably foreseeable combination of any fuel described in clauses (i) through (ix).

(4) ASSESSMENT OF ADDITIONAL IMPACTS.—In addition to the impacts associated with the direct use and consumption of water resources in the transportation and electricity sectors described in paragraphs (2) and (3), the study shall contain an identification and analysis of any unique water impact associated with a specific fuel source, including an impact resulting from—

(A) any extraction or mining practice;

(B) the transportation of feedstocks from the point of extraction to the point of processing;

(C) the transportation of fuel and power from the point of processing to the point of consumption; and

(D) the location of a specific fuel source that is limited to 1 or more specific geographical regions.

(c) REPORT TO SECRETARY.—Not later than 18 months after the date of enactment of this Act, the National Academy of Sciences shall submit to the Secretary a report that contains a summary of the results of the study conducted under this section.

(d) AVAILABILITY OF RESULTS OF STUDY.—On the date on which the National Academy of Sciences completes the study under this section, the National Academy of Sciences shall make available to the public the results of the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

SEC. 3. POWER PLANT WATER AND ENERGY EFFICIENCY.

(a) IN GENERAL.—To protect water supplies and promote the efficient use of water in the electricity production sector, the Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall conduct a study to identify the best available technologies and related strategies to maximize water and energy efficiency in the production of electricity by each type of generation.

(b) GENERATION TYPES.—The study shall include an evaluation of different types of generation facilities, including—

(1) coal facilities, under which the evaluation shall account for—

(A) different types of coal and associated generating technologies; and

(B) the use of technologies designed to minimize and sequester carbon dioxide releases;

(2) oil and natural gas facilities, under which the evaluation shall account for the use of technologies designed to minimize and sequester carbon dioxide releases;

(3) hydropower, including turbine upgrades, incremental hydropower, in-stream hydropower, and pump-storage projects;

(4) thermal solar facilities; and

(5) nuclear facilities.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until expended.

SEC. 4. WATER CONSERVATION AND ENERGY SAVINGS STUDY.

(a) DEFINITIONS.—In this section:

(1) MAJOR RECLAMATION PROJECT.—The term ''major Reclamation project'' means a multipurpose project authorized by the Federal Government and carried out by the Bureau of Reclamation.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(b) STUDY.—

(1) IN GENERAL.—In accordance with paragraph (2), to promote the efficient use of energy in water distribution systems, the Secretary shall conduct a study to evaluate the quantities of energy used in water storage and delivery operations in major Reclamation projects.

(2) ELEMENTS.—In conducting the study, the Secretary shall—

(A) with respect to each major Reclamation project—

(i) assess and estimate the annual energy consumption associated with the major Reclamation project; and

(ii) identify—

(I) each major Reclamation project that consumes the greatest quantity of energy; and

(II) the aspect of the operation of each major Reclamation project described in subclause (I) that is the most energy intensive (including water storage and releases, water delivery, and administrative operations); and

(B) identify opportunities to significantly reduce current energy consumption and costs with respect to each major Reclamation project described in subparagraph (A), including, as applicable, through—

(i) reduced groundwater pumping;

(ii) improved reservoir operations;

(iii) infrastructure rehabilitation;
(iv) water reuse; and
(v) the integration of renewable energy generation with project operations.

(c) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section, to remain available until expended.

SEC. 5. BRACKISH GROUNDWATER NATIONAL DESALINATION RESEARCH FACILITY.

(a) DEFINITIONS.—In this section:
(1) FACILITY.—The term ''facility'' means the Brackish Groundwater National Desalination Research Facility, located in Otero County, New Mexico.
(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) DUTY OF SECRETARY.—The Secretary shall operate, manage, and maintain the facility to carry out research, development, and demonstration activities to develop technologies and methods that promote brackish groundwater desalination as a viable method to increase water supply in a cost-effective manner.

(c) OBJECTIVES; ACTIVITIES.—
(1) OBJECTIVES.—The Secretary shall operate and manage the facility as a state-of-the-art desalination research center—
(A) to develop new water and energy technologies with widespread applicability; and
(B) to create new supplies of usable water for municipal, agricultural, industrial, or environmental purposes.
(2) ACTIVITIES.—In operating, managing, and maintaining the facility under subsection (b), the Secretary shall carry out—
(A) as a priority, the development of renewable energy technologies for integration with desalination technologies—
(i) to reduce the capital and operational costs of desalination;
(ii) to minimize the environmental impacts of desalination; and
(iii) to increase public acceptance of desalination as a viable water supply process;
(B) research regarding various desalination processes, including improvements in reverse and forward osmosis technologies;
(C) the development of innovative methods and technologies to reduce the volume and cost of desalination concentrated wastes in an environmentally sound manner;
(D) an outreach program to create partnerships with States, academic institutions, private entities, and other appropriate organizations to conduct research, development, and demonstration activities, including the establishment of rental and other charges to provide revenue to help offset the costs of operating and maintaining the facility; and
(E) an outreach program to educate the public on—
(i) desalination and renewable energy technologies; and
(ii) the benefits of using water in an efficient manner.

(d) AUTHORITY OF SECRETARY.—The Secretary may enter into contracts or other agreements with, or make grants to, appropriate entities to carry out this section, including an agreement with an academic institution to manage research activities at the facility.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

SEC. 6. ENHANCED INFORMATION ON WATER-RELATED ENERGY CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(n) WATER-RELATED ENERGY CONSUMPTION.—

''(1) IN GENERAL.—Not less than once during each 3-year period, to aid in the understanding and reduction of the quantity of energy consumed in association with the use of water, the Administrator shall conduct an assessment under which the Administrator shall collect information on energy consumption in various sectors of the economy that are associated with the acquisition, treatment, or delivery of water.

''(2) REQUIRED SECTORS.—An assessment described in paragraph (1) shall contain an analysis of water-related energy consumption for all relevant sectors of the economy, including water used for—

''(A) agricultural purposes;
''(B) municipal purposes;
''(C) industrial purposes; and
''(D) domestic purposes.

''(3) EFFECT.—Nothing in this subsection affects the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).''.

SEC. 7. ENERGY-WATER RESEARCH AND DEVELOPMENT ROADMAP.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall develop a document to be known as the ''Energy-Water Research and Development Roadmap'' to define the future research, development, demonstration, and commercialization efforts that are required to address emerging water-related challenges to future, cost-effective, reliable, and sustainable energy generation and production.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report describing the document described in subsection (a), including recommendations for any future action with respect to the document.

By Ms. COLLINS (for herself, Mr. KENNEDY, and Ms. SNOWE):

S. 533. A bill to amend the Coastal Zone Management Act of 1972 to establish a grant program to ensure waterfront access for commercial fisherman, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce two bills that will improve the lives of our Nation's fishermen who are struggling to make a living at sea.

The fishing industry in New England is an important part of our heritage. From our nation's earliest days, fishing has served as an economic driver that has allowed our nation to prosper. Maine's proud fishing heritage is woven deeply into the cultural fabric of our state. Sadly, the global economic downturn and heavy-handed federal regulations threaten the economic stability of this venerable industry. To attempt to assist our fishing families, I am pleased to be joined by my colleague from Massachusetts, Senator KENNEDY, in introducing the Working Waterfront Preservation Act and the Commercial Fishermen Safety Act.

All along our Nation's coasts there are harbors that were once full of the hustle and bustle associated with the fishing industry. Unfortunately, there is an erosion of the vital infrastructure known as our working waterfronts that is so critical to our commercial fishing industries. I have drafted legislation that will help combat the loss of commercial access to our waterfronts and support the fishing industry's role in our maritime heritage.

When constituents first called asking me to help them in their efforts to stop the loss of their fishing businesses and the communities built around this industry, I learned that no Federal program exists that supports preserving or increasing waterfront access for the commercial fishing industry. This is especially disheartening because every week we are losing more of our working waterfronts in this country. Quite simply, once lost, these vital economic and community hubs of commercial fishing activity cannot be replaced.

That is why I am introducing the Working Waterfront Preservation Act. This legislation would create a program to support our Nation's commercial fisherman and the coastal communities that are at risk of losing their fishing businesses.

The need for such a program is demonstrated by the loss of commercial waterfront access occurring in Maine. Only 25 of Maine's 3,500 miles of coastline are devoted to commercial access. We are continually seeing portions of Maine's working waterfront being sold off to the highest bidder—with large vacation homes and condominiums rising in places that our fishing industry used to call home.

The reasons for the loss of Maine's working waterfront are complex. In some cases, burdensome fishing regulations have led to a decrease in landings, hindering the profitability of shore-side infrastructure, like the Portland Fish Exchange. In other cases, soaring land values and rising taxes have made the current use of commercial land unprofitable. Property is being sold and quickly converted into private spaces and second homes that are no longer the center of economic activity. With each conversion of commercial waterfront access to private development, a piece of Maine's proud maritime tradition is irretrievably lost.

Maine's lack of commercial waterfront prompted the formation of a ''Working Waterfront Coalition.'' This coalition was comprised of an impressive number of industry associations, nonprofit groups, and State agencies, who came together to preserve Maine's working waterfront.

I am pleased to note that the Working Waterfront Coalition was successful in contributing to the creation of two programs in Maine. The first is a tax incentive for property owners to keep their land in its current working waterfront state. The second is a pilot program for grant funding to secure and preserve working waterfront areas. Since 2006, the Working Waterfront Access Pilot Program has secured 11 properties totaling more than 25 acres of

land that supports more than 300 boats, 400 fishing industry jobs, and more than $26 million in income directly associated with our working waterfronts. The State of Maine has taken positive action to save its waterfronts and is a model for other States in the country facing this problem.

This work is not, however, finished. The loss of commercial waterfront access affects the fishing industry throughout all coastal states. And a modest Federal investment could do so much to save these areas. Preservation of the working waterfront is essential to protect a way of life that is unique to our coastal States and is vital to economic development along the coast. Fishermen are being pushed out of the waterfront as their profitability shrinks and land values soar. Our legislation targeting this exact problem, as no Federal program exists to assist States like Maine, Florida, Washington, and Louisiana.

The Working Waterfront Preservation Act would assist by providing Federal grant funding to municipal and State governments, non-profit organizations, and fishermen's cooperatives for the purchase of property or easements or for the maintenance of working waterfront facilities. The bill contains a $50 million authorization for grants that would require a 25 percent local match. Applications for grants would be considered by both the Department of Commerce and State fisheries agencies, which have the local expertise to understand the needs of each coastal State. Grant recipients would agree not to convert coastal properties to noncommercial uses, as a condition of receiving Federal assistance.

This legislation also includes a tax component. When properties or easements are purchased, sellers would only be taxed on half of the gain they receive from this sale. This is a vital aspect of my bill because it would diminish the pressure to quickly sell waterfront property that would then, most likely, be converted to noncommercial uses, and would increase the incentives for sellers to take part in this grant program. This is especially important given that the application process for Federal grants does not keep pace with the coastal real estate market.

This legislation is crucial for our Nation's commercial fisheries, which are coming under increasing pressures from many fronts. This new grant program would preserve important commercial infrastructure and promote economic development along our coast.

Second, I am introducing the Commercial Fishermen Safety Act of 2009, a bill to help fishermen purchase the lifesaving safety equipment they need to survive when disaster strikes.

Every day, members of our fishing communities struggle to cope with the pressures of running a small business, complying with burdensome regulations, and maintaining their vessels and equipment. These challenges have been made worse by the growing economic crisis, which only adds to the dangers associated with fishing.

Year-in and year-out, commercial fishing ranks among the nation's most dangerous occupations. Fatality rate data compiled by the Census of Fatal Occupational Injuries program for 2007 has, once again, listed fishing as having the highest fatality rate among selected occupations. While I am encouraged that 2007 saw a drop in the number of occupational-related fatalities in the fishing industry, we must be doing more to save lives at sea.

The New England fishing community is no stranger to tragedy. Just this year, the *Patriot*, a 54-foot fishing boat out of Gloucester, MA, sunk off the coast of Massachusetts without warning. The ship's captain Matteo Russo and crew member John Orlando, who were lost in the incident, were unable to send a mayday call in the early morning of January 3, 2009. The unexplained circumstance of their deaths offers little solace to the families and communities that loved them. What is clear is that preventing further loss of life requires that we do all we can to promote safety at sea.

Coast Guard regulations require all fishing vessels to carry safety equipment. The requirements vary depending on factors such as the size of the vessel, the temperature of the water, and the distance the vessel travels from shore to fish. Required equipment can include a liferaft that automatically inflates and floats free, should the vessel sink. Other life-saving equipment includes: personal flotation devices or immersion suits which help protect fishermen from exposure and increase buoyancy; EPIRBs, which relay a downed vessel's position to Coast Guard Search and Rescue Personnel; visual distress signals; and fire extinguishers.

When an emergency arises, safety equipment is priceless. At all other times, the cost of purchasing or maintaining this equipment must compete with other expenses such as loan payments, fuel, wages, maintenance, and insurance.

The Commercial Fishermen Safety Act of 2007 provides a tax credit equal to 75 percent of the amount paid by fishermen to purchase or maintain required safety equipment. The tax credit is capped at $1500. Items such as EPIRBs and immersion suits cost hundreds of dollars, while liferafts can reach into the thousands. The tax credit will make life-saving equipment more affordable for more fishermen, who currently face limited options under the federal tax code.

We have seen far too many tragedies in this occupation. Please, let us support fishermen who are trying to prepare in case disaster strikes. Safety equipment saves lives. By providing a tax credit for the purchase of safety equipment, Congress can help ensure that fishermen have a better chance of returning home each and every time they head out to sea.

By Mr. WYDEN:

S. 536. A bill to amend the Clean Air Act to modify the definition of the term ''renewable biomass''; to the Committee on Environment and Public Works.

Mr. WYDEN. Mr. President, there is an old saying about ''not seeing the forest for the trees'' that applies to the current myopic policies on biomass from Federal lands. Right now, instead of helping to provide part of the solution to our Nation's dependence on foreign oil, biomass from Federal lands allowed to build up in the woods or worse become fuel for catastrophic fires. Instead of being part of the solution for energy independence, it is creating a problem for forest management and communities that border on Federal forests.

I rise today to introduce a bill that would allow woody debris and plant material—or ''biomass''—from Federal lands to become part of the solution to America's energy problems and to create new economic opportunities to help sustain our rural communities. This legislation would amend the Clean Air Act to modify the definition of the term ''renewable biomass'' contained in the Federal Renewable Fuel Standard so that biomass from Federal lands is eligible as a fuel source under this standard.

Today, biomass from Federal lands cannot be counted as a renewable transportation fuel. The change I am proposing would help tackle a number of critical problems—expanding the universe of biomass that can be used for fuel, helping pay for programs to reduce dangerous levels of dead and dying trees that fuel wildfires, thinning unhealthy, second growth forests, providing low-carbon fuels to address climate change, and create jobs in increasingly difficult economic times.

The reason we need this legislation goes back to the 2007 energy bill—the Energy Independence and Security Act of 2007. In that legislation, the Congress dramatically expanded the Federal mandate for the use of renewable biofuels, such as ethanol from corn and cellulose, and biodiesel. Unfortunately, this legislation included a definition of renewable biomass that is now part of the Clean Air Act which excluded slash and thinning byproducts from Federal lands—all Federal lands. This occurred despite the bipartisan work we had undertaken here in the Senate and in the Energy and Natural Resources Committee to come up with a more commonsense definition. The result is that biomass from millions of acres of Federal lands are arbitrarily excluded from serving as feedstock for the very renewable biofuels that the mandate requires.

Changing the definition of ''renewable biomass'' for the renewable fuels standard is very important to states like Oregon, where the Federal Government owns much of the land and where our forests are choked and overstocked. Critical work needs to take

place in these forests and utilizing the excess biomass—small diameter trees, limbs and debris—for energy will help us get that work accomplished while getting us the added benefit of green energy. These byproducts are often a critical energy source for rural Americans, who use them in environmentally-friendly wood pellet stoves. But more importantly, they are part of the future of clean, renewable fuels—as further development of cellulosic ethanol will allow us to use these waste materials reclaimed literally from the forest and mill floors. Conversely, by excluding biomass from Federal lands, the existing mandate places ever more weight on the use of biomass from other sources, including the use of food-based corn and grains and private forests.

My bill seeks to utilize biomass from Federal lands in an environmentally responsible way. It will protect those natural resources that need to be protected, while allowing renewable biomass from Federal lands to contribute to our Nation's energy mix. First, my bill would allow biomass from National Forests and Bureau of Land Management forests to qualify as renewable biomass under the Federal Renewable Fuels Standard, but it would continue to exclude old growth and biomass from National Parks, Wilderness Areas and other environmentally protected areas. Second, the bill would require Federal land managers to ensure that the quantities of biomass harvested even from these eligible National Forest and BLM lands are sustainable. While biomass holds great potential as a clean source of energy, I want to ensure that it gets harvested at levels that are truly sustainable and that biofuels and bioenergy projects dependent on renewable biomass are sized appropriately so that we protect our forests and natural resources and ensure that biofuels production facilities will not wither and die because of inadequate feedstock supplies.

I want to be clear that my legislation only addresses the question of how the Renewable Fuel Standard treats biomass from Federal lands. It does not and it is not intended to reopen or overhaul the Renewable Fuels Standard as a whole. It is simply a targeted fix for our Federal public lands.

As we move forward with new energy legislation and work on developing additional green energy solutions, I want to ensure that renewable biomass is genuinely one of those solutions, including biomass from Federal lands. It is my hope that beyond fixing the definition in the Clean Air Act for the Renewable Fuels Standard, Congress will include a comparable definition in legislation addressing climate change and renewable electricity production requirements.

I look forward to working with my colleagues here in the Senate and in the House of Representatives to advance a biomass definition that balances sound energy policy with practical and sensible use of our forests.

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

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

S. 536

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

SECTION 1. RENEWABLE BIOMASS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that Congress should seek to establish a consistent definition for the term ''renewable biomass''.

(b) RENEWABLE BIOMASS.—Section 211(o)(1)(I) of the Clean Air Act (42 U.S.C. 7545(o)(1)(I)) is amended—

(1) by redesignating clauses (v) through (vii) as clauses (vi) through (viii), respectively;

(2) by inserting after clause (iv) the following:

''(v) Slash and precommercial sized thinnings harvested—

''(I) in environmentally sustainable quantities, as determined by the appropriate Federal land manager; and

''(II) from National Forest System land or public land (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702), other than—

''(aa) components of the National Wilderness Preservation System;

''(bb) wilderness study areas;

''(cc) inventoried roadless areas and all unroaded areas of at least 5,000 acres;

''(dd) old growth stands;

''(ee) components of the National Landscape Conservation System; and

''(ff) national monuments.''; and

(3) by striking clause (vi) (as redesignated by paragraph (1)) and inserting the following:

''(vi) Biomass obtained on land in any ownership from the immediate vicinity of any building, camp, or public infrastructure facility (including roads), at risk from wildfire.''.

By Mr. KOHL (for himself and Mr. GRAHAM):

S. 537. A bill to amend chapter 111 of tire 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Sunshine in Litigation Act of 2009, a bill that will curb the ongoing abuse of secrecy orders in Federal courts. The result of this abuse, which often comes in the form of sealed settlement agreements, is to keep important health and safety information hidden from the public.

This problem has been recurring for decades, and most often arises in product liability cases. Typically, an individual brings a cause of action against a manufacturer for an injury or death that has resulted from a defect in one of its products. The injured party often faces a large corporation that can spend a virtually unlimited amount of money defending the lawsuit, prolonging the time it takes to reach resolution. Facing a formidable opponent and mounting medical bills, a plaintiff often has no choice but to settle the litigation. In exchange for the award he or she was seeking, the victim is forced to agree to a provision that prohibits him or her from revealing information disclosed during the litigation.

Plaintiffs get a respectable award, and the defendant is able to keep damaging information from getting out. Because they remain unaware of critical public health and safety information that could potentially save lives, the American public incurs the greatest cost.

This concern about excessive secrecy is warranted by the fact that tobacco companies, automobile manufacturers, and pharmaceutical companies have settled with victims and used the legal system to hide information which, if it became public, could protect the American people from future harms. Surely, there are appropriate uses for such orders, like protecting trade secrets and other truly confidential company information. This legislation makes sure such information is protected. But, protective orders are certainly not supposed to be used for the sole purpose of hiding damaging information from the public, to protect a company's reputation or profit margin.

One of the most famous cases of abuse of secrecy orders involved Bridgestone/Firestone tires. From 1992–2000, tread separations of various Bridgestone and Firestone tires caused accidents across the country, many resulting in serious injuries and even fatalities. Instead of owning up to their mistakes and acting responsibly, Bridgestone/Firestone quietly settled dozens of lawsuits, most of which included secrecy agreements. It was not until 1999, when a Houston public television station broke the story, that the company acknowledged its wrongdoing and recalled 6.5 million tires. By then, it was too late. More than 250 people had died and more than 800 were injured as a result of the defective tires.

If the story ended there, and the Bridgestone/Firestone cases were just an aberration, one might argue that there is no urgent need for legislation. But, unfortunately, the list of abuses goes on. There is the case of General Motors. Although an internal memo demonstrated that GM was aware of the risk of fire deaths from crashes of pickup trucks with ''side saddle'' fuel tanks, an estimated 750 people were killed in fires involving trucks with these fuel tanks. When victims sued, GM disclosed documents only under protective orders, and settled these cases on the condition that the information in these documents remained secret. This type of fuel tank was installed for 15 years before being discontinued.

Evidence suggests that the dangers posed by protective orders and secret settlements continue. On December 11, 2007, at a hearing before the Senate Judiciary Committee Subcommittee on Antitrust, Competition Policy and Consumer Rights, Johnny Bradley Jr. described his tragic personal story that demonstrates the implications of court endorsed secrecy. In 2002, Mr. Bradley's

wife was killed in a rollover accident allegedly caused by tread separation in his Cooper tires. While litigating the case, his attorney uncovered documented evidence of Cooper tire design defects. Through aggressive litigation of protective orders and confidential settlements in cases prior to the Bradleys' accident, Cooper had managed to keep the design defect documents confidential. Prior to the end of Mr. Bradley's trial, Cooper Tires settled with him on the condition that almost all litigation documents would be kept confidential under a broad protective order. With no access to documented evidence of design defects, consumers will continue to remain in the dark about this life-threatening defect.

In 2005, the drug company Eli Lilly settled 8,000 cases related to harmful side effects of its drug Zyprexa. All of those settlements required plaintiffs to agree ''not to communicate, publish or cause to be published . . . any statement . . . concerning the specific events, facts or circumstances giving rise to [their] claims.'' In those cases, the plaintiffs uncovered documents which showed that, through its own research, Lilly knew about the harmful side effects as early as 1999. While the plaintiffs kept quiet, Lilly continued to sell Zyprexa and generated $4.2 billion in sales in 2005. More than a year later, information about the case was leaked to the New York Times and another 18,000 cases settled. Had the first settlement not included a secrecy agreement, consumers would have been able to make informed choices and avoid the harmful side effects, including enormous weight gain, dangerously elevated blood sugar levels, and diabetes.

This very issue is currently before a Federal judge in Orlando, FL. There, the court is faced with deciding whether AstraZeneca can keep under seal clinical studies about the harmful side effects of an antipsychotic drug, Seroquel. Plaintiffs' lawyers and Bloomberg News sued to force AstraZeneca to make public documents discovered in dismissed lawsuits. Late last month, the court unsealed some of the documents at question, and is still deciding whether to unseal the remainder of the documents. This is exactly the sort of case where we need judges to consider public health and safety when deciding whether to allow a secrecy order.

There are no records kept of the number of confidentiality orders accepted by State or Federal courts. However, anecdotal evidence suggests that court secrecy and confidential settlements are prevalent. Beyond General Motors, Bridgestone/Firestone, Cooper Tire, Zyprexa and Seroquel, secrecy agreements have also had real life consequences by allowing Dalkon Shield, Bjork-Shiley heart valves, and numerous other dangerous products and drugs to remain in the market. And those are only the ones we know about.

While some states have already begun to move in the right direction, we still have a long way to go. It is time to initiate a Federal solution for this problem. The Sunshine in Litigation Act is a modest proposal that would require federal judges to perform a simple balancing test to ensure that in any proposed secrecy order, the defendant's interest in secrecy truly outweighs the public interest in information related to public health and safety.

Specifically, prior to making any portion of a case confidential or sealed, a judge would have to determine—by making a particularized finding of fact—that doing so would not restrict the disclosure of information relevant to public health and safety. Moreover, all courts, both Federal and State, would be prohibited from issuing protective orders that prevent disclosure to relevant regulatory agencies.

This legislation does not prohibit secrecy agreements across the board. It does not place an undue burden on judges or our courts. It simply states that where the public interest in disclosure outweighs legitimate interests in secrecy, courts should not shield important health and safety information from the public. The time to focus some sunshine on public hazards to prevent future harm is now.

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

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

S. 537

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sunshine in Litigation Act of 2009''.

SEC. 2. RESTRICTIONS ON PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

''§ 1660. Restrictions on protective orders and sealing of cases and settlements

''(a)(1) A court shall not enter an order under rule 26(c) of the Federal Rules of Civil Procedure restricting the disclosure of information obtained through discovery, an order approving a settlement agreement that would restrict the disclosure of such information, or an order restricting access to court records in a civil case unless the court has made findings of fact that—

''(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

''(B)(i) the public interest in the disclosure of potential health or safety hazards is outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

''(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

''(2) No order entered in accordance with paragraph (1), other than an order approving a settlement agreement, shall continue in effect after the entry of final judgment, unless at the time of, or after, such entry the court makes a separate finding of fact that the requirements of paragraph (1) have been met.

''(3) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

''(4) This section shall apply even if an order under paragraph (1) is requested—

''(A) by motion pursuant to rule 26(c) of the Federal Rules of Civil Procedure; or

''(B) by application pursuant to the stipulation of the parties.

''(5)(A) The provisions of this section shall not constitute grounds for the withholding of information in discovery that is otherwise discoverable under rule 26 of the Federal Rules of Civil Procedure.

''(B) No party shall request, as a condition for the production of discovery, that another party stipulate to an order that would violate this section.

''(b)(1) A court shall not approve or enforce any provision of an agreement between or among parties to a civil action, or approve or enforce an order subject to subsection (a)(1), that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

''(2) Any such information disclosed to a Federal or State agency shall be confidential to the extent provided by law.

''(c)(1) Subject to paragraph (2), a court shall not enforce any provision of a settlement agreement described under subsection (a)(1) between or among parties that prohibits 1 or more parties from—

''(A) disclosing that a settlement was reached or the terms of such settlement, other than the amount of money paid; or

''(B) discussing a case, or evidence produced in the case, that involves matters related to public health or safety.

''(2) Paragraph (1) does not apply if the court has made findings of fact that the public interest in the disclosure of potential health or safety hazards is outweighed by a specific and substantial interest in maintaining the confidentiality of the information.

''(d) When weighing the interest in maintaining confidentiality under this section, there shall be a rebuttable presumption that the interest in protecting personally identifiable information relating to financial, health or other similar information of an individual outweighs the public interest in disclosure.

''(e) Nothing in this section shall be construed to permit, require, or authorize the disclosure of classified information (as defined under section 1 of the Classified Information Procedures Act (18 U.S.C. App.)).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1659 the following:

''1660. Restrictions on protective orders and sealing of cases and settlements.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall—

(1) take effect 30 days after the date of enactment of this Act; and

(2) apply only to orders entered in civil actions or agreements entered into on or after such date.

By Mrs. LINCOLN (for herself, Mr. COCHRAN, Mr. LEAHY, Mr. MENENDEZ, and Mr. PRYOR):

S. 538. A bill to increase the recruitment and retention of school counselors, school social workers, and

school psychologists by low-income local educational agencies; to the Committee on Health, Education, Labor, and Pensions.

Mrs. LINCOLN. Mr. President, on behalf of children in lower-income schools across our nation, I rise today to introduce the Increased Student Achievement through Increased Student Support Act.

Each day, teachers in our schools are tasked not only with addressing the academic needs of students, but also with the behavioral, social, and emotional needs of the children in their classrooms. When they are left to address these emotional and behavioral issues, they have less time to deliver high quality academic instruction to the rest of the students in their class. Additionally, teachers often do not have the training or expertise to deal with many of the emotional issues their students face. Children overcoming mental illness or family issues such as the deployment of a parent to a war zone, homelessness, or domestic abuse, need the assistance of a trained professional, such as a school psychologist, school counselor, or school social worker.

While student support services provided by these support personnel are readily available in many school districts, other low-income schools often lack access to these support personnel. Too many schools in low-income rural and urban areas have to share school counselors, social workers, and psychologists with many schools in the area, limiting their students' access to these services and placing an unnecessary burden on our teachers and our students.

That is why I rise today along with my colleagues Senators COCHRAN, LEAHY, MENENDEZ, and PRYOR to enthusiastically offer the Increased Student Achievement through Increased Student Support Act. This bill will authorize grant funding to form partnerships between higher education institutions that train school guidance counselors, social workers, and psychologists and qualified rural and urban low-income Local Education Agencies to train and place these important school support professionals in under-served schools across the country.

This bipartisan bill also authorizes grant funding to universities to recruit and hire faculty to train graduate students to become school counselors, school social workers, and school psychologists. Additionally, it provides tuition credits to such graduate students, and offers student loan forgiveness to program graduates employed as school counselors, social workers, or psychologists by rural or urban low-income Local Education Agencies for a minimum of five years.

By increasing the number of student support personnel in our country's under-served schools, we will provide students with the social and emotional support they need to succeed in the classroom. We will also provide teachers the assistance they need so they can concentrate on providing the academic instruction our children need.

By taking these steps to improve student access to school counselors, school social workers, and school psychologists, I am confident we can make strides in raising academic achievement in schools across the country.

As we move forward, I want to encourage my colleagues to support America's children by supporting this important piece of legislation.

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

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

S. 538

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increased Student Achievement Through Increased Student Support Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Research shows that socioeconomic status and family background characteristics are highly correlated with educational outcomes, with a concentration of low-performing schools in low-income and underserved communities.

(2) Teachers cite poor working conditions, student behavior, lack of student motivation, and lack of administrative support as key reasons why they choose to leave the teaching profession.

(3) Teachers and principals working for low-income local educational agencies are increasingly tasked with addressing not only the academic needs of a child, but also the social, emotional, and behavioral needs of a child that require the services of a school counselor, school social worker, and school psychologist, and these needs often interfere with delivering quality instruction and raising student achievement.

(4) Rates of abuse and neglect of young children in military families have doubled with the increased military involvement of the United States abroad since October 2002; likewise, adolescents with deployed parents report increased perceptions of uncertainty and loss, role ambiguity, negative changes in mental and behavioral health, and increased relationship conflict, raising concerns about the impact of deployment on military personnel and their families and whether schools that serve a large number of children with deployed parents have sufficient staff and expertise to meet these challenges.

(5) Children of military families in rural communities are often geographically isolated, and schools that were already experiencing understaffing of school counselors, school social workers, and school psychologists face even greater challenges meeting the increased needs of students enduring the stress that comes along with having a deployed parent or parents.

(6) Schools served by low-income local educational agencies suffer disproportionately from a lack of services, with many schools sharing a single school counselor, school social worker, or school psychologist with neighboring schools.

(7) Too few school counselors, school social workers, and school psychologists per student means that such personnel are often unable to effectively address the needs of students.

(8) The American School Counselor Association and American Counseling Association recommend having at least 1 school counselor for every 250 students.

(9) The School Social Work Association of America recommends having at least 1 school social worker for every 400 students.

(10) The National Association of School Psychologists recommends having at least 1 school psychologist for every 1,000 students.

(11) Recent research of victimization of children ages 2 to 17 suggests that more than one-half of the children experienced a physical assault in the study year. More than 1 in 4 experienced a property offense, more than 1 in 8 experienced a form of child maltreatment, 1 in 12 experienced a sexual victimization, and more than 1 in 3 had been a witness to violence or experienced another form of indirect victimization. Only 29 percent of the children had no direct or indirect victimization.

(12) Principals and teachers see signs of trauma-related stress in many students including hostile outbursts, sliding grades, poor test performance, and the inability to pay attention.

(13) It is estimated, based on recent data on the number of children in foster care, that more than 500,000 children are in the foster care system each year, with 289,000 exiting the system each year due to aging out or adoption.

SEC. 3. PURPOSE.

The purpose of this Act is to increase the recruitment and retention of school counselors, school social workers, and school psychologists by low-income local educational agencies in order to—

(1) support all students who are at risk of negative educational outcomes;

(2) improve student achievement, which may be measured by growth in academic achievement on tests required by the applicable State educational agency, persistence rates, graduation rates, and other appropriate measures;

(3) improve retention of teachers who are highly qualified;

(4) increase and improve outreach and collaboration between school counselors, school social workers, and school psychologists and parents and families served by low-income local educational agencies;

(5) increase and improve collaboration among teachers, principals, school counselors, school social workers, and school psychologists and improve professional development opportunities for teachers and principals in the area of strategies related to improving classroom climate and classroom management; and

(6) improve working conditions for all school personnel.

SEC. 4. GRANT PROGRAM TO INCREASE THE NUMBER OF SCHOOL COUNSELORS, SCHOOL SOCIAL WORKERS, AND SCHOOL PSYCHOLOGISTS EMPLOYED BY LOW-INCOME LOCAL EDUCATIONAL AGENCIES.

(a) GRANT PROGRAM AUTHORIZED.—The Secretary of Education shall award grants on a competitive basis to eligible partnerships that receive recommendations from the peer review panel established under subsection (d), to enable such partnerships to carry out pipeline programs to increase the number of school counselors, school social workers, and school psychologists employed by low-income local educational agencies by carrying out any of the activities described by subsection (g).

(b) GRANT PERIOD.—A grant awarded under this section shall be for a 5-year period and may be renewed for additional 5-year periods upon a showing of adequate progress, as the Secretary determines appropriate.

(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible graduate institution, on behalf of an eligible partnership, shall submit to the Secretary a grant application, including—

(1) an assessment of the existing ratios of school counselors, school social workers, and school psychologists to students enrolled in schools in each low-income local educational agency that is part of the eligible partnership; and

(2) a detailed description of—

(A) a plan to carry out a pipeline program to train, place, and retain school counselors, school social workers, or school psychologists, or any combination thereof, as applicable, in low-income local educational agencies; and

(B) the proposed allocation and use of grant funds to carry out activities described by subsection (g).

(d) PEER REVIEW PANEL.—

(1) ESTABLISHMENT OF PANEL.—The Secretary shall establish a peer review panel to evaluate applications for grants under subsection (c) and make recommendations to the Secretary regarding such applications.

(2) EVALUATION OF APPLICATIONS.—In making its recommendations, the peer review panel shall take into account the purpose of this Act and the application requirements under subsection (c), including the quality of the proposed pipeline program.

(3) RECOMMENDATION OF PANEL.—The Secretary may award grants under this section only to eligible partnerships whose applications receive a recommendation from the peer review panel.

(4) MEMBERSHIP OF PANEL.—

(A) The peer review panel shall include at a minimum the following members:

(i) One clinical, tenured, or tenure track faculty member at an institution of higher education with a current appointment to teach courses in the subject area of school counselor education.

(ii) One clinical, tenured, or tenure track faculty member at an institution of higher education with a current appointment to teach courses in the subject area of school social worker education.

(iii) One clinical, tenured, or tenure track faculty member at an institution of higher education with a current appointment to teach courses in the subject area of school psychology education.

(iv) One clinical, tenured, or tenure track faculty member at an institution of higher education with a current appointment to teach courses in the subject area of teacher education.

(v) One individual with expertise in school counseling who works or has worked in public schools.

(vi) One individual with expertise in school social work who works or has worked in public schools.

(vii) One individual with expertise in school psychology who works or has worked in public schools.

(viii) One administrator who works or has worked for a low-income local educational agency.

(ix) One highly qualified teacher who has substantial experience working for a low-income local educational agency.

(B) At least one of the members described in subparagraph (A) shall be a clinical faculty member.

(e) DISTRIBUTION OF GRANTS.—From among the applications receiving a recommendation by the peer review panel, the Secretary shall—

(1) award the first 5 grants to eligible partnerships from 5 different States;

(2) to the extent practicable, distribute grants equitably among eligible partnerships that propose to train graduate students in each of the three professions of school counseling, school social work, and school psychology; and

(3) to the extent practicable, equitably distribute the grants among eligible partnerships that include an urban low-income local educational agency and partnerships that include a rural low-income local educational agency, with a minimum of 16.3 percent of the funds (representing the percent of low-income children served by rural local educational agencies according to the United States Bureau of Census Small Area Income Poverty Estimates, 2006) awarded to eligible partnerships that include a rural low-income local educational agency.

(f) PRIORITY.—The Secretary shall give priority to eligible partnerships that—

(1) propose to use the grant funds to carry out the activities described under paragraphs (1) through (3) of subsection (g) in schools that have higher numbers or percentages of low-income students and students not meeting the proficient level of achievement (as described by section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311)) in comparison to other schools that are served by the low-income local educational agency that is part of the eligible partnership;

(2) include a low-income local educational agency that has fewer school counselors, school social workers, and school psychologists per student than other eligible partnerships;

(3) include one or more eligible graduate institutions that offer graduate programs in the greatest number of the following areas:

(A) school counseling;

(B) school social work; and

(C) school psychology; and

(4) propose to collaborate with other institutions of higher education with similar programs, including sharing facilities, faculty members, and administrative costs.

(g) USE OF GRANT FUNDS.—Grant funds awarded under this section may be used—

(1) to pay the administrative costs (including supplies, office and classroom space, supervision, mentoring, and transportation stipends as necessary and appropriate) related to—

(A) having graduate students of school counseling, school social work, and school psychology placed in schools served by participating low-income local educational agencies to complete required field work, credit hours, internships, or related training as applicable for the degree, license, or credential program of each such student; and

(B) offering required graduate course work for graduate students of school counseling, school social work, and school psychology on the site of a participating low-income local educational agency;

(2) for not more than the first 3 years after participating graduates receive a masters or other graduate degree or obtain a State license or credential in school counseling, school social work, or school psychology, to hire and pay all or part of the salaries of such participating graduates to work as school counselors, school social workers, and school psychologists in schools served by participating low-income local educational agencies;

(3) to increase the number of school counselors, school social workers, and school psychologists per student in schools served by participating low-income local educational agencies to work towards the student support personnel target ratios;

(4) to recruit, hire, and retain culturally or linguistically under-represented graduate students in school counseling, school social work, and school psychology for placement in schools served by participating low-income educational agencies;

(5) to recruit, hire, and pay faculty as necessary to increase the capacity of a participating eligible graduate institution to train graduate students in the fields of school counseling, school social work, and school psychology;

(6) to develop coursework that will—

(A) encourage a commitment by graduate students in school counseling, school social work, or school psychology to work for low-income local educational agencies;

(B) give participating graduates the knowledge and skill sets necessary to meet the needs of—

(i) students and families served by low-income local educational agencies; and

(ii) teachers, administrators, and other staff who work for low-income local educational agencies;

(C) enable participating graduates to meet the unique needs of students at-risk of negative educational outcomes, including students who—

(i) are English language learners;

(ii) have a parent or caregiver who is a migrant worker;

(iii) have a parent or caregiver who is a member of the Armed Forces or National Guard who has been deployed or returned from deployment;

(iv) are homeless, including unaccompanied youth;

(v) have come into contact with the juvenile justice system or adult criminal justice system, including students currently or previously held in juvenile detention facilities or adult jails and students currently or previously held in juvenile correctional facilities or adult prisons;

(vi) have been identified as eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) or the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(vii) have been a victim to or witnessed domestic violence or violence in their community; and

(viii) are foster care youth, youth aging out of foster care, or former foster youth; and

(D) utilize best practices determined by the American School Counselor Association, National Association of Social Workers, School Social Work Association of America, and National Association of School Psychologists;

(7) to provide tuition credits to graduate students participating in the program;

(8) for student loan forgiveness for participating graduates who are employed as school counselors, school social workers, or school psychologists by participating low-income local educational agencies for a minimum of 5 consecutive years; and

(9) for similar activities to fulfill the purpose of this Act, as the Secretary determines appropriate.

(h) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, not supplant, other Federal, State, or local funds for the activities described in subsection (g).

(i) REPORTING REQUIREMENTS.—Each eligible partnership that receives a grant under this section shall submit an annual report to the Secretary on the progress of such partnership in carrying out the purpose of this Act. Such report shall include a description of—

(1) actual service delivery provided through grant funds, including—

(A) characteristics of the participating eligible graduate institution, including descriptive information on the model used and actual program performance;

(B) characteristics of graduate students participating in the program, including performance on any tests required by the State

educational agency for credentialing or licensing, demographic characteristics, and graduate student retention rates;

(C) characteristics of students of the participating low-income local educational agency, including performance on any tests required by the State educational agency, demographic characteristics, and promotion, persistence, and graduation rates, as appropriate;

(D) an estimate of the annual implementation costs of the program; and

(E) the numbers of students, schools, and graduate students participating in the program;

(2) outcomes that are consistent with the purpose of the grant program, including—

(A) internship and post-graduation placement;

(B) graduation and professional career readiness indicators; and

(C) characteristics of the participating low-income local educational agency, including changes in hiring and retention of highly qualified teachers and school counselors, school psychologists, and school social workers;

(3) the instruction, materials, and activities being funded under the grant program; and

(4) the effectiveness of any training and ongoing professional development provided—

(A) to students and faculty in the appropriate departments or schools of the participating eligible graduate institution;

(B) to the faculty, administration, and staff of the participating low-income local educational agency; and

(C) to the broader community of providers of social, emotional, behavioral, and related support to students and to those who train such providers.

(j) EVALUATIONS.—

(1) INTERIM EVALUATIONS.—The Secretary may conduct interim evaluations to determine whether each eligible partnership receiving a grant is making adequate progress as the Secretary considers appropriate. The contents of the annual report submitted to the Secretary under subsection (i) may be used by the Secretary to determine whether an eligible partnership receiving a grant is demonstrating adequate progress.

(2) FINAL EVALUATION.—The Secretary shall conduct a final evaluation to—

(A) determine the effectiveness of the grant program in carrying out the purpose of this Act; and

(B) compare the relative effectiveness of each of the various activities described by subsection (g) for which grant funds may be used.

(k) REPORT.—Not sooner than 5 years nor later than 6 years after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the findings of the evaluation conducted under subsection (j)(2), and such recommendations as the Secretary considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to carry out this section $30,000,000 for each of the fiscal years 2010 to 2020.

(2) From the total amount appropriated to carry out this section each fiscal year, the Secretary shall reserve not more than 3 percent of that appropriation for evaluations under subsection (j).

SEC. 5. STUDENT LOAN FORGIVENESS FOR INDIVIDUALS WHO ARE EMPLOYED FOR 5 OR MORE CONSECUTIVE SCHOOL YEARS AS SCHOOL COUNSELORS, SCHOOL SOCIAL WORKERS, SCHOOL PSYCHOLOGISTS, OR OTHER QUALIFIED PSYCHOLOGISTS OR PSYCHIATRISTS BY LOW-INCOME LOCAL EDUCATIONAL AGENCIES.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide student loan forgiveness to individuals who are not and have never been participants in the grant program established under section 4 and who have been employed for 5 or more consecutive school years as school counselors, school social workers, school psychologists, other qualified psychologists, or child and adolescent psychiatrists by low-income local educational agencies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the program under this section.

SEC. 6. FUTURE DESIGNATION STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study to identify a formula for future designation of regions with a shortage of school counselors, school social workers, and school psychologists to use in implementing grant programs and other programs such as the programs established under this Act or for other purposes related to any such designation, based on the latest available data on—

(1) the number of residents under the age of 18 in an area served by a low-income local educational agency;

(2) the percentage of the population of an area served by a low-income local educational agency with incomes below the poverty line;

(3) the percentage of residents age 18 or older in an area served by a low-income local educational agency with secondary school diplomas;

(4) the percentage of students identified as eligible for special education services in an area served by a low-income local educational agency;

(5) the youth crime rate in an area served by a low-income local educational agency;

(6) the current number of full-time-equivalent and active school counselors, school social workers, and school psychologists employed by a low-income local educational agency;

(7) the number of students in an area served by a low-income local education agency in military families (active duty and reserve duty) with parents who have been alerted for deployment, are currently deployed, or have returned from a deployment in the previous school year; and

(8) such other criteria as the Secretary considers appropriate.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the findings of the study conducted under subsection (a).

SEC. 7. DEFINITIONS.

In this Act:

(1) SCHOOL COUNSELING PROGRAM DEFINITIONS.—The terms ''child and adolescent psychiatrist'', ''school counselor'', ''school psychologist'', ''school social worker'', and ''other qualified psychologist'' have the meaning given the terms in section 5421 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7245).

(2) ESEA GENERAL DEFINITIONS.—The terms ''State educational agency'', ''local educational agency'', and ''highly qualified'' have the meaning given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) BEST PRACTICES.—The term ''best practices'' means a technique or methodology that, through experience and research related to the practice of school counseling, school psychology, or school social work, has proven to reliably lead to a desired result.

(4) ELIGIBLE GRADUATE INSTITUTION.—The term ''eligible graduate institution'' means an institution of higher education that offers a program of study that leads to a masters or other graduate degree—

(A) in school psychology that is accredited or nationally recognized by the National Association of School Psychologists Program Approval Board and that prepares students in such program for the State licensing or certification exam in school psychology;

(B) in school counseling that prepares students in such program for the State licensing or certification exam in school counseling;

(C) in school social work that is accredited by the Council on Social Work Education and that prepares students in such program for the State licensing or certification exam in school social work; or

(D) any combination of (A), (B), and (C).

(5) ELIGIBLE PARTNERSHIP.—The term ''eligible partnership'' means—

(A) a partnership between 1 or more low-income local educational agencies and 1 or more eligible graduate institutions; or

(B) in regions in which local educational agencies may not have a sufficient elementary and secondary school student population to support the placement of all participating graduate students, a partnership between a State educational agency, on behalf of 1 or more low-income local educational agencies, and 1 or more eligible graduate institutions.

By Mr. REID:

S. 539. A bill to amend the Federal Power Act to require the President to designate certain geographical areas as national renewable energy zones, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, as John F. Kennedy said about 50 years ago, ''The Chinese use two brush strokes to write the word 'crisis.' One brush stroke stands for danger; the other for opportunity. In a crisis, be aware of the danger—but recognize the opportunity.''

America has not one crisis, but at least three crises that loom large before us. The economy is in obvious turmoil, pollution is causing the climate to change, and we are far too dependent on oil, particularly oil from unfriendly places around the world. These challenges hamper our security in profound ways.

Fortunately, with a new President and a bipartisan mandate in Congress, the opportunities to change direction and turn crisis into opportunity have never been more abundant. Now is the time to focus our resources on investments that will create jobs today and sustainable economic growth into the future.

I know that we have the technology to use less oil tomorrow then we used today, and even less the day after. We can move quickly toward greater energy independence, but only if we make major investments now in clean energy, like natural gas and electric vehicles and much more efficient fleets, and all produced right here in America and with American jobs.

President Obama's economic recovery plan is a giant step in the right direction. It provides $11 billion for smart grid technology and expanding transmission to renewable rich areas, as well as hundreds of millions of dollars to promote greater use of alternative fuel vehicles, including plug-in hybrids and fueling insfrastructure.

That plan is a massive infusion to help Americans become more energy efficient, including $300 million for energy efficient appliance rebates.

But even if we stopped wasting nearly one-third of the country's annual current energy consumption unnecessarily spending trillions of dollars and sending billions of tons of pollution up into the air we would still need new supplies of clean energy for sustainable economic growth.

Fortunately, Nevada and other parts of the desert southwest have enough solar energy potential to power our country seven times over. If that potential is combined with the wind energy from the Great Plains and the hundreds of thousands of megawatts of geothermal energy deep beneath the earth, the whole country could have cost-free fuel for many generations to come.

Innovators and entrepreneurs in every state have already begun to harness this power. But the field is in its infancy and it will only mature with significant and sustained support and attention at the Federal level.

But we must also focus our attention and investments on planning and siting new electricity transmission and breaking down barriers to a truly national approach. Otherwise, the vast clean renewable power in the sun, wind and geothermal resources of Nevada, off the country's coasts in the oceans, in the biomass on our lands, forests and in our cities, and in the remote and rural areas of the country, will never get to consumers.

Our transmission system and its regulations have been built up over many decades with the main target of assuring reliability and availability. Yet the grid is still fragile and not well equipped to meet the demands of this century's smart technologies or our environmental or national security challenges.

These issues were the topic of focused discussion last week at a genuinely important event a National Clean Energy Summit hosted by the Center for American Progress, CAP. This followed up on a similar gathering that I hosted in Las Vegas last August with John Podesta and the CAP Action Fund and the University of Nevada Las Vegas.

Last week's event was no ordinary meeting. It was admirably moderated by former Senator Tim Wirth and included President William Jefferson Clinton, Vice President Al Gore, Energy Secretary Steven Chu, Interior Secretary Ken Salazar, House Speaker NANCY PELOSI, Senator JEFF BINGAMAN, Representative ED MARKEY, energy executive T. BOONE PICKENS, and leaders from government, business, labor, and the non-profit communities.

In particular, I would like to note the very constructive participation of the country's State regulatory commissions and authorities, ably represented by Fred Butler of New Jersey, President of the National Association of Regulatory Utility Commissioners. They have extremely difficult jobs maintaining reliability, keeping costs down, and being held responsible for the utilities' every move.

The outcome of our discussion was clear—reforming our energy policies to build a cleaner, greener national transmission system—an electric superhighway—must be a top national priority. However, equally clear was the sense that it will not be easy and will require everyone to work together with common purpose and through a strong public-private partnership to be effective in addressing our grave national challenges.

The need for reform is very clear. That is why I am introducing a bill today that charts a course to a cleaner, greener, and smarter national energy transmission system without sacrificing reliability or affordability. This will ensure a more secure and sustainable energy future for America.

Though this bill is loosely based on my legislation from the last Congress, this new and broader version is the product of input and a shared vision from many important stakeholders. In particular, the Center for American Progress and the Energy Future Coalition must be congratulated for their hard work and leadership in this complicated policy area. They have helped make it understandable to many in Washington, D.C.

But no one can beat T. Boone Pickens in explaining to the American people how critically important it is to transform the nation's electricity grid to accelerate the use of renewable energy. He is a source of immense renewable energy and really helping to drive this issue home.

My legislation will require the President to designate renewable energy zones with significant clean energy generating potential. Then, a massive planning effort will begin in all the interconnection areas of the country to maximize the use of that renewable potential by building new transmission capacity. The states would propose cost allocation means to fund the new lines in the green transmission grid plans. If either process falters, then the federal government would be given clear authority to keep things moving and get the new transmission built on schedule and funded equitably.

This bill is not perfect and has ample room for improvement. But as the bill works its way through the legislative process, I am hopeful that people will come together in good faith and propose revisions that will help solve the problems that we tried to identify at the Summit. There has already been a great deal of non-partisan, thoughtful work that Congress can draw upon in legislating and I look forward to the hearing that Chairman BINGAMAN has scheduled on this topic for next week.

Here are just a few of the organizations that provided valuable input in the drafting process for this bill: The Energy Future Coalition; the Center for American Progress; the Pickens Plan; Energy Foundation; Sierra Club; Natural Resources Defense Council; National Wildlife Federation; Audubon Society; The Wilderness Society; Bonneville Power Administration; Western Area Power Administration; Tennessee Valley Authority; Bureau of Land Management; Federal Energy Regulatory Commission; Department of Energy; North American Electric Reliability Corporation; National Association of Regulatory Utility Commissioners; California PUC; Working Group for Investment in Reliable and Economic Electric Systems; Florida Power & Light; Midwest Independent System Operator; PJM Interconnection; ITC Transmission; Trans-Elect Transmission; Pacific Gas & Electric; American Electric Power; American Public Power Association; Large Public Power Council; Salt River Project; National Rural Electric Cooperative Association; Solar Energy Industries Association; Bright Source Energy; RES-Americas; American Wind Energy Association; Iberdrola Renewables; Colorado River Energy Distributors Association; Electric Power Supply Association; National Electrical Manufacturers Association; and many more.

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

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

S. 539

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Renewable Energy and Economic Development Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) electricity produced from renewable resources—

(A) helps to reduce emissions of greenhouse gases and other air pollutants;

(B) enhances national energy security;

(C) conserves water and finite resources; and

(D) provides substantial economic benefits, including job creation and technology development;

(2) the potential exists for a far greater percentage of electricity generation in the United States to be achieved through the use of renewable resources, as compared to the percentage of electricity generation using renewable resources in existence as of the date of enactment of this Act;

(3) the President has set out a goal that at least 25 percent of the electricity used in the United States by 2025 come from renewable sources;

(4) many of the best potential renewable energy resources are located in rural areas far from population centers;

(5) the lack of adequate electric transmission capacity is a primary obstacle to the development of electric generation facilities fueled by renewable energy resources;

(6) the economies of many rural areas would substantially benefit from the increased development of water-efficient electric generation facilities fueled by renewable energy resources;

(7) more efficient use of existing transmission capacity, better integration of resources, and greater investments in distributed renewable generation and off-grid solutions may increase the availability of transmission and distribution capacity for adding renewable resources and help keep ratepayer costs low;

(8) the Federal Government has not adequately supported or implemented an integrated approach to accelerating the development, commercialization, and deployment of renewable energy technologies, renewable electricity generation, and transmission to bring renewable energy to market, including through enhancing distributed renewable generation or through vehicle and transportation sector use;

(9) it is in the national interest for the Federal Government to implement policies that would enhance the quantity of electric transmission capacity available to take full advantage of the renewable energy resources available to generate electricity, and to more fully integrate renewable energy into the energy policies of the United States, and to address the tremendous national security and global warming challenges of the United States; and

(10) existing transmission planning processes are fragmented across many jurisdictions, which results in difficult coordination between jurisdictions, delays in implementation of plans, and complex negotiations on sharing of costs.

SEC. 3. NATIONAL RENEWABLE ENERGY ZONES AND GREEN TRANSMISSION.

(a) IN GENERAL.—The Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding at the end the following:

"PART IV—NATIONAL RENEWABLE ENERGY ZONES AND GREEN TRANSMISSION

"SEC. 401. DEFINITIONS.

''In this part:

''(1) BIOMASS.—

''(A) IN GENERAL.—The term 'biomass' means—

''(i) any lignin waste material that is segregated from other waste materials and is determined to be nonhazardous by the Administrator of the Environmental Protection Agency; and

''(ii) any solid, nonhazardous, cellulosic material that is derived from—

''(I) mill residue, precommercial thinnings, slash, brush, or nonmerchantable material;

''(II) solid wood waste materials, including a waste pallet, a crate, dunnage, manufacturing and construction wood wastes, and landscape or right-of-way tree trimmings;

''(III) agriculture waste, including an orchard tree crop, a vineyard, a grain, a legume, sugar, other crop byproducts or residues, and livestock waste nutrients; or

''(IV) a plant that is grown exclusively as a fuel for the production of electric energy.

''(B) INCLUSIONS.—The term 'biomass' includes animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon.

''(C) EXCLUSIONS.—The term 'biomass' does not include—

''(i) municipal solid waste from which hazardous and recyclable materials have not been separated;

''(ii) paper that is commonly recycled; or

''(iii) pressure-treated, chemically-treated, or painted wood waste.

''(2) DISTRIBUTED RENEWABLE GENERATION.—The term 'distributed renewable generation' means—

''(A) reduced electric energy consumption from the electric grid because of use by a customer of renewable energy generated at or near a customer site; and

''(B) electric energy or thermal energy production from a renewable energy resource for a customer that is not connected to an electric grid or thermal energy source pipeline.

''(3) ELECTRICITY-CONSUMING AREA.—The term 'electricity-consuming area' means an area of significant electrical load.

''(4) ELECTRICITY FROM RENEWABLE ENERGY.—The term 'electricity from renewable energy' means electric energy generated from—

''(A) solar energy, wind, biomass, landfill gas, renewable biogas, or geothermal energy;

''(B) new hydroelectric generation capacity achieved from increased efficiency, or an addition of new capacity, at an existing hydroelectric project; or

''(C) hydrokinetic energy, including—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas;

''(ii) free flowing water in rivers, lakes, and streams;

''(iii) free flowing water in man-made channels, including projects that use nonmechanical structures to accelerate the flow of water for electric power production purposes; or

''(iv) differentials in ocean temperature through ocean thermal energy conversion.

''(5) ERCOT.—The term 'ERCOT' means the Electric Reliability Council of Texas.

''(6) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means—

''(A) the Department of the Interior and the bureaus of the Department that manage Federal land and water, including—

''(i) the Bureau of Land Management;

''(ii) the Bureau of Reclamation;

''(iii) the United States Fish and Wildlife Service; and

''(iv) the National Park Service;

''(B) the Forest Service of the Department of Agriculture; and

''(C) if applicable and appropriate, the Department of Defense.

''(7) FEDERAL TRANSMITTING UTILITY.—The term 'Federal transmitting utility' means—

''(A) a Federal power marketing agency that owns or operates an electric transmission facility; and

''(B) the Tennessee Valley Authority.

''(8) GREEN TRANSMISSION GRID PROJECT.—

''(A) IN GENERAL.—The term 'green transmission grid project' means a project for—

''(i) a new transmission facility rated at or above 345 kilovolts that is part of an Interconnection-wide plan developed pursuant to section 403 for an extra high voltage transmission grid to enable transmission of electricity from renewable energy (including existing or projected renewable generation) to electricity-consuming areas; or

''(ii) a new renewable feeder line that an Interconnection-wide plan or the Commission determines is needed to connect renewable generation to the extra high voltage transmission grid.

''(B) INCLUSIONS.—The term 'green transmission grid project' includes any network upgrades associated with a facility described in clause (i) or (ii) of subparagraph (A) that are required to ensure the reliability or efficiency of the underlying transmission network, including inverters, substations, transformers, switching units, storage units, and related facilities necessary for the development, siting, transmission, storage, and integration of electricity generated from renewable energy sources.

''(9) GRID-ENABLED VEHICLE.—The term 'grid-enabled vehicle' means an electric drive vehicle or fuel cell vehicle that has the ability to communicate electronically with an electric power provider or with a localized energy storage system with respect to charging or discharging an onboard energy storage device, such as a battery.

''(10) INDIAN LAND.—The term 'Indian land' means—

''(A) any land within the limits of any Indian reservation, pueblo, or rancheria;

''(B) any land not within the limits of any Indian reservation, pueblo, or rancheria title to which was, on the date of enactment of this part—

''(i) held in trust by the United States for the benefit of any Indian tribe or individual; or

''(ii) held by any Indian tribe or individual subject to restriction by the United States against alienation;

''(C) any dependent Indian community; and

''(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act (42 U.S.C. 1601 et seq.).

''(11) INTERCONNECTION.—The term 'Interconnection' has the meaning given the term in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

''(12) LOAD-SERVING ENTITY.—The term 'load-serving entity' means any person, Federal, State, or local agency or instrumentality, or electric cooperative that delivers electric energy to end-use customers.

''(13) REGIONAL PLANNING ENTITY.—The term 'regional planning entity' means an entity certified by the Commission to coordinate regional planning for an Interconnection.

''(14) RENEWABLE FEEDER LINE.—

''(A) IN GENERAL.—The term 'renewable feeder line' means all transmission facilities and equipment within a national renewable energy zone owned, controlled, or operated by a transmission provider that are capable of being used to deliver electricity from multiple renewable energy resources to the point at which the transmission provider connects to a high-voltage transmission facility.

''(B) INCLUSIONS.—The term 'renewable feeder line' includes any associated modifications, additions, or upgrades to or associated with the facilities and equipment described in subparagraph (A).

''(C) EXCLUSIONS.—The term 'renewable feeder line' does not include—

''(i) a generator lead line capable of connecting only 1 generator; or

''(ii) equipment owned by a generator.

''(15) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(16) TRANSMISSION PROVIDER.—The term 'transmission provider' means an entity that owns, controls, or operates a transmission facility.

"SEC. 402. DESIGNATION OF NATIONAL RENEWABLE ENERGY ZONES.

''(a) DESIGNATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not later than 90 days after the date of enactment of this part for the Western Interconnection and not later than 270 days after the date of enactment of this part for the Eastern Interconnection, the President shall designate as a national renewable energy zone each geographical area that, as determined by the President—

''(A) has the potential to generate in excess of 1 gigawatt of electricity (or a lower quantity of electricity determined by the President) from renewable energy, a significant portion of which could be generated in a rural area or on Federal land within the geographical area;

''(B) has an insufficient level of electric transmission capacity to achieve the potential described in subparagraph (A); and

''(C) has the capability to contain additional renewable energy electric generating facilities that would generate electric energy consumed in 1 or more electricity-consuming areas if there were a sufficient level of transmission capacity.

''(2) INCLUSION.—The President may include in any national renewable energy zone designated under paragraph (1) a military installation.

''(3) EXCLUSIONS.—The President shall not include in any national renewable energy zone designated under paragraph (1) any of the following areas:

''(A) National parks, national marine sanctuaries, reserves, recreation areas, and other similar units of the National Park System.

''(B) Designated wilderness, designated wilderness study areas, and other areas managed for wilderness characteristics.

''(C) National historic sites and historic parks.

''(D) Inventoried roadless areas and significant noninventoried roadless areas within the National Forest System.

''(E) National monuments.

''(F) National conservation areas.

''(G) National wildlife refuges and areas of critical environmental concern.

''(H) National historic and national scenic trails.

''(I) Areas designated as critical habitat.

''(J) National wild, scenic, and recreational rivers.

''(K) Any area in which Federal law prohibits energy development, or that the Federal agency or official exercising authority over the area exempts from inclusion in a national renewable energy zone through land use, planning, or other public process.

''(L) Any area in which applicable State law enacted prior to the date of enactment of this section prohibits energy development.

''(b) RENEWABLE ENERGY REQUIREMENTS.—In making the designations required by subsection (a), the President shall take into account Federal and State requirements for utilities to incorporate renewable energy as part of meeting the load of load-serving entities.

''(c) CONSULTATION.—Before making any designation under subsection (a) or (e), the President shall consult with—

''(1) the Governors of affected States;

''(2) the public;

''(3) Federal transmitting utilities, public utilities and transmission providers, and cooperatives;

''(4) State regulatory authorities and regional electricity planning organizations;

''(5) Federal land management agencies, Federal energy and environmental agencies, and State land management, energy, and environmental agencies;

''(6) renewable energy companies;

''(7) local government officials;

''(8) renewable energy and energy efficiency interest groups;

''(9) Indian tribes; and

''(10) environmental protection and land, water, and wildlife conservation groups.

''(d) RECOMMENDATIONS.—Not earlier than 3 years after the date of enactment of this part, and triennially thereafter, the Secretary and the Secretary of the Interior shall, after consultation with the Federal transmitting utilities, the Commission, the Chief of the Forest Service, the Secretary of Commerce, the Secretary of Defense, the Council on Environmental Quality, and the Governors of the States, shall recommend to the President and Congress—

''(1) specific areas with the greatest potential for environmentally acceptable renewable energy resource development that the President could designate as renewable energy zones, considering such factors as the impact on sensitive wildlife species, the impact on sensitive resource areas, and the presence of already disturbed or developed land; and

''(2) any modifications of laws (including regulations) and resource management plans necessary to fully achieve that potential, including identifying improvements to permit application processes involving military and civilian agencies.

''(e) EXISTING PROCESSES.—In carrying out this section, the President may use existing processes that designate renewable energy zones.

''(f) REVISION OF DESIGNATIONS.—The President may modify the designation of renewable energy zones, including modification based on the recommendations received under subsection (d).

''(g) ELECTION.—The ERCOT Interconnection may elect to participate in the process described in this section.

''(h) ADMINISTRATION.—The designation of a renewable energy zone shall not be considered a major Federal action under Federal law.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section (including renewable energy resource assessments) $25,000,000 for each of fiscal years 2009 through 2019.

''SEC. 403. INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLANNING.

''(a) IN GENERAL.—To achieve Interconnection-wide coordination of planning to integrate renewable energy resources from renewable energy zones into the interstate electric transmission grid and make the renewable energy resources fully deliverable to electricity consuming areas, not later than 60 days after the date of enactment of this part, the Commission shall, by regulation or order, issue a request for 1 or more organizations to be certified as the regional planning entity for each Interconnection.

''(b) CONTENTS OF APPLICATION.—The application shall include proposals for provisions for an open, inclusive, transparent, and nondiscriminatory planning process that—

''(1) includes consultation with affected Federal land management agencies and States within the Interconnection;

''(2) builds on planning undertaken by States, Federal transmitting utilities, regional transmission organizations, independent system operators, utilities, and other interested parties;

''(3) takes account of corridor designation work and other planning carried out by Federal land management agencies, the Department of Energy, and other interested parties;

''(4) solicits input from transmission owners, regional transmission organizations, independent system operators, States, generator owners, prospective developers of new transmission and generation resources, regional entities, Federal land management agencies, environmental protection and land, water, and wildlife conservation groups, and other interested parties; and

''(5) includes an interim process to expeditiously evaluate whether new renewable feeder lines should be added to the green transmission grid project plan.

''(c) DESIGNATION.—Not later than 120 days after the date of enactment of this part, the Commission shall designate 1 or more appropriate organizations to serve as the regional planning entity to represent the Interconnection under this part.

''(d) INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLAN.—Not later than 1 year after the date of the deadline for designations under section 402(a), the regional planning entity in each Interconnection shall produce and submit to the Commission an Interconnection-wide green transmission grid project plan.

''(e) TERM; REQUIREMENTS.—An Interconnection-wide green transmission grid project plan shall—

''(1) enhance transmission access for electricity from renewable energy in renewable energy zones;

''(2) include identification of green transmission grid projects (both high-voltage and renewable feeder lines) needed to interconnect renewable energy zones with electricity-consuming areas;

''(3) fully consider national reliability, economic, environmental, and security needs;

''(4) take into account transmission infrastructure required for efficient and reliable delivery of the output of new renewable generation resources needed to meet established and projected Federal and State renewable energy policies and targets;

''(5) provide a plan for a period of at least 10 years into the future;

''(6) consider alternatives to new transmission, including energy efficiency, demand response, energy storage, and distributed renewable generation;

''(7) include a timeline for construction of projects; and

''(8) be filed with the Commission annually for approval consistent with this section.

''(f) PARTICIPATION OF SECRETARY.—The Secretary shall provide technical expertise to States and regional planning entities in development of Interconnection-wide plans through—

''(1) analysis for the green transmission grid project planning process; and

''(2) demonstration and commercial application activities of new technologies in the green transmission grid project plan.

''(g) PARTICIPATION OF FEDERAL TRANSMITTING UTILITIES.—

''(1) IN GENERAL.—A Federal transmitting utility shall participate in the planning process in the applicable Interconnection.

''(2) GREEN TRANSMISSION GRID PROJECT FACILITIES.—Not later than 1 year after the date a regional planning entity files a plan, a Federal transmitting utility that owns or operates 1 or more electric transmission facilities in a State with a national renewable energy zone shall identify specific green transmission grid project facilities that are required to substantially increase the generation of electricity from renewable energy in the national renewable energy zone.

''(h) FAILURE TO SUBMIT PLAN.—

''(1) IN GENERAL.—If a State in an Interconnection does not participate in a timely manner in an Interconnection-wide green transmission grid project planning process in accordance with this section, or if such a planning process is established but fails to result in the submission by the regional planning entity of the requisite components of the Interconnection-wide green transmission grid project plan by the date specified in subsection (d), the Commission shall develop through a rulemaking, after consultation with the Secretary, Federal transmitting utilities, the Secretary of the Interior, regional transmission organizations, the electric reliability organization, regional entities, and municipal and cooperative entities, an Interconnection-wide green transmission grid project plan on behalf of the 1 or more nonsubmitting States or regional planning entity in the Interconnection.

''(2) DEADLINE.—Any final rule required under paragraph (1) shall be completed not later than 1 year after the date on which the Commission determines that—

''(A) the regional planning entity has failed to submit an Interconnection-wide green transmission project plan on a timely basis; or

''(B) a State has failed to participate in a timely manner in the planning process.

''(i) EVALUATION AND RECOMMENDATIONS.—The Commission shall—

''(1) periodically evaluate whether green transmission grid projects to enable the delivery of renewable energy are being constructed in accordance with the Interconnection-wide green transmission grid project

plan for both the Western and Eastern Interconnections;

''(2) take any necessary actions to address any identified obstacles to investment, siting, and construction of projects identified as needed under an Interconnection-wide plan; and

''(3) not later than 2 years after the date of enactment of this part, submit to Congress recommendations for any further actions or authority needed to ensure the effective and timely development of transmission infrastructure necessary to ensure the integration and deliverability of renewable energy from renewable energy zones to electricity-consuming areas in the United States.

''(j) RECOVERY OF COSTS ASSOCIATED WITH INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLANNING.—

''(1) IN GENERAL.—A regional planning entity and a State shall be permitted to recover prudently incurred costs to carry out Interconnection-wide planning activities required under this section pursuant to a Federal transmission surcharge that will be established by the Commission for the purposes of carrying out this section.

''(2) SURCHARGE.—A regional planning entity, in consultation with States in an Interconnection, shall—

''(A) recommend the Federal transmission surcharge based on a formula rate that is submitted to the Commission for approval; and

''(B) adjust the formula and surcharge on an annual basis.

''(3) COST RESPONSIBILITY.—Cost responsibility under the surcharge shall be assigned based on energy usage to all load-serving entities within the United States portion of the Eastern and Western Interconnections.

''(4) LIMITATION.—The total amount of surcharges that may be imposed or collected nationally under this subsection shall not exceed $80,000,000 in any calendar year.

''(5) DISTRIBUTION.—The Secretary shall, in accordance with the regulations promulgated under paragraph (1), distribute on an equitable basis funds received under that paragraph among States and planning entities, if the Governor of the receiving State—

''(A) in the case of the first year of distribution, certifies to the Secretary that the State will participate in an Interconnection-wide green transmission grid project planning process; and

''(B) in the case of the second and subsequent years of distribution—

''(i) is part of an Interconnection-wide planning process that submits to the Commission timely Interconnection-wide green transmission grid project plans under this section; and

''(ii) certifies annually to the Secretary that all load-serving entities in the State—

''(I) offer a fairly-priced renewable power purchase option to all the customers of the entities; or

''(II) have demonstrated an increase in the number of customers above the previous year participating in a demand-side management program that reduces peak demand, increases reliability, and reduces consumer costs.

''(6) APPLICABILITY.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), this subsection applies to all users, owners, and operators of the bulk-power system within the United States portion of the Eastern and Western Interconnections.

''(B) EXCLUSIONS.—This subsection does not apply to the State of Alaska or Hawaii or to the ERCOT, unless the State or ERCOT voluntarily elects to participate in the planning process, and to be responsible for a pro rata portion of the Federal transmission surcharge imposed under this subsection.

''(C) PROJECT DEVELOPERS.—Nothing in this section or part prevents a project developer from carrying out a transmission project to enable renewable development if the project developer assumes all of the risk and cost of the proposed project.

''SEC. 404. FEDERAL SITING OF GREEN TRANSMISSION GRID PROJECT FACILITIES.

''(a) IN GENERAL.—The Commission, after consultation with affected States, may issue 1 or more permits for the construction or modification of an electric transmission facility if the Commission finds that—

''(1) the transmission facility—

''(A) is included in an Interconnection-wide green transmission grid project plan submitted under section 403; or

''(B) is proposed by a project developer to integrate renewable energy resources from renewable energy zones or to integrate renewable resources from other geographic areas, if the project developer assumes all of the risk and cost of the proposed facilities;

''(2) the transmission facility optimizes transmission capability based on the assessment by the Commission of technical constraints, project economics, land use limitations, and the potential generation capacity of renewable energy zones interconnected to the project; and

''(3) the owner or operator of the transmission facility has failed to make reasonable progress in siting the facility based on timelines in the plan.

''(b) EVIDENCE OF NEED.—Inclusion of a project in an Interconnection-wide green transmission grid project plan submitted under section 403 shall be considered to be sufficient evidence of need for the project to warrant the granting of a construction permit under subsection (a).

''(c) PERMIT APPLICATION.—

''(1) IN GENERAL.—A permit application under subsection (a) shall be made in writing to the Commission.

''(2) ADMINISTRATION.—The Commission shall promulgate regulations specifying—

''(A) the form of the application;

''(B) the information to be contained in the application; and

''(C) the manner of service of notice of the permit application on interested persons.

''(d) GRANTING OF CONSTRUCTION PERMIT.—

''(1) IN GENERAL.—A construction permit may be issued to any applicant described in subsection (a)(1)(B) if the Commission finds that—

''(A) the applicant is able and willing to take actions and perform the services proposed in accordance with this part (including the requirements, rules, and regulations of the Commission under this part); and

''(B) the proposed operation, construction, or expansion is or will be required by the present or future public convenience and necessity.

''(2) ADMINISTRATION.—The Commission shall have the power to attach to the issuance of the construction permit, and to the exercise of rights granted under the permit, such reasonable terms and conditions as the public convenience and necessity may require.

''(e) CONSTRUCTION PERMIT FOR AN AREA ALREADY BEING SERVED.—Nothing in this section limits the power of the Commission to grant construction permits for service of an area already being served by another transmission provider.

''(f) RIGHTS-OF-WAY.—

''(1) IN GENERAL.—In the case of a permit under subsection (a) for an electric transmission facility to be located on property other than property owned by the United States, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facility, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the United States district court for the district in which the property concerned is located, or in the appropriate court for the State in which the property is located.

''(2) USE.—Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction, modification, operation, or maintenance of an electric transmission facility, and any appropriate mitigation measures or other uses approved by the Commission, within a reasonable period of time after acquisition of the right-of-way.

''(3) PRACTICE AND PROCEDURE.—The practice and procedure in any action or proceeding under this subsection in the United States district court shall conform, to the maximum extent practicable, to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

''(4) LIMITATIONS.—

''(A) IN GENERAL.—Nothing in this subsection authorizes the use of eminent domain to acquire a right-of-way for any purpose other than the construction, modification, operation, or maintenance of an electric transmission facility included in a green transmission grid project plan or related facility.

''(B) ADMINISTRATION.—The right-of-way—

''(i) shall not be used for any purpose not described in subparagraph (A) or paragraph (2); and

''(ii) shall terminate on the termination of the use for which the right-of-way is acquired.

''(g) STATE AUTHORITY.—

''(1) IN GENERAL.—Except as provided in paragraph (3), in granting a construction permit under subsection (a), the Commission shall—

''(A) permit State regulatory agencies to identify siting constraints and mitigation measures, based on habitat protection, environmental considerations, or cultural site protection; and

''(B)(i) incorporate those identified constraints or measures in the construction permit; or

''(ii) if the Commission determines that such a constraint or measure is inconsistent with the purposes of this part, infeasible, or not cost-effective—

''(I) consult with State regulatory agencies to seek to resolve the issue; and

''(II) incorporate into the construction permit such siting constraints and mitigation measures as are determined to be appropriate by the Commission, based on consultation by the Commission with State regulatory agencies, the purposes of this part, and the record before the Commission.

''(2) NONADOPTION OF RECOMMENDATIONS.—If, after taking the actions required under paragraph (1), the Commission does not adopt in whole or in part a recommendation of an agency, the Commission shall publish a statement of a finding that the adoption of the recommendation is infeasible, not cost-effective, or inconsistent with this part or other applicable provisions of law.

''(3) INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLANNING PROCESS.—The Commission shall not be required to include constraints or measures described in paragraph (1) that are identified by a State that does not participate in an Interconnection-wide green transmission grid project planning process under section 403.

''(h) ENVIRONMENTAL REVIEWS.—

''(1) IN GENERAL.—With respect to any project or group of projects for which a construction permit is granted under subsection (a), the Commission shall—

''(A) serve as the lead agency for purposes of coordinating any Federal authorizations and environmental reviews or analyses required for the project, including those required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(B) in consultation with other affected agencies, prepare a single environmental review document that would be used as the basis for all decisions under Federal law relating to the proposed project, in accordance with section 216(h) of this Act, including siting constraints and mitigation measures;

''(C) not later than 90 days after the date of filing of an application for a permit under this section, enter into a memorandum of understanding with affected Federal agencies to carry out this subsection, including—

''(i) a schedule for environmental review and a budget necessary to comply with the schedule for each project or group of projects; and

''(ii) the budget resources necessary to carry out the memorandum; and

''(D) ensure that, once an application has been submitted with such data as the Commission considers to be necessary, all permit decisions and related environmental reviews under applicable Federal laws shall be completed not later than 1 year after the date of submission of a complete application.

''(2) APPEAL.—If any Federal agency has denied a Federal authorization required for a certified project under this part or has failed to determine whether to issue the authorization not later than 1 year after the date of submission of a complete application, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

''(i) RESTRICTED AREAS.—In granting a construction permit under subsection (a), the Commission shall consider and, to the maximum extent practicable, select alternative routes to avoid areas described in section 402(a)(3).

''(j) ACCESS TO TRANSMISSION.—

''(1) IN GENERAL.—Subject to paragraph (2), the owner or operator of any project described in subsection (a) that traverses multiple States that participate in an Interconnection-wide green transmission grid project planning process under section 403 shall ensure that each State in which the green transmission grid project traverses shall have access to transmission under the project, unless the access would make the project technically or economically impractical.

''(2) ADDITIONAL FUNDS.—If a project owner or operator described in paragraph (1) cannot make the assurances described in that paragraph for a State, the State shall be eligible for additional funds under section 405.

''(k) MINIMUM RENEWABLE REQUIREMENT.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the transmission provider for a green transmission grid project sited through the granting of a construction permit under subsection (a) shall certify annually to the Commission, in accordance with regulations promulgated by the Commission, that at least 75 percent of the transmission capacity of the project is available to renewable resources.

''(2) APPLICATION.—The requirements shall be applicable only to generators directly interconnecting to the project.

''(3) ADJUSTMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Commission may reduce the minimum percentage specified in paragraph (1) in any case in which the Commission determines that it is necessary for a specific renewable feeder line to have less than 75 percent of generation resources interconnecting to the renewable feeder line be renewable resources in order to maintain compliance with Commission-approved reliability standards.

''(B) COST-EFFECTIVE ENERGY STORAGE OPTIONS.—In making a determination on a reduction for a proposed project under subparagraph (A), the Commission shall consider cost-effective energy storage options in the area covered by the project, including detailed reports developed by the project developer or interconnecting generators at the direction of the Commission.

''(l) FIRM TRANSMISSION RIGHTS.—The Commission shall adopt, by rule, regulations requiring transmission providers to offer, on a priority basis, firm or equivalent financial transmission rights for any green transmission grid project sited under this section for transmission of energy from renewable resources to a load-serving entity that contracts to purchase renewable resources, or to renewable energy generation owners.

''(m) ADMINISTRATION.—Nothing in this section waives the application of any applicable Federal environmental law.

''(n) STATE SITING AUTHORITY.—Nothing in this section precludes a transmission project developer from seeking siting authority from a State.

''SEC. 405. GRANTS FOR INTERCONNECTION-WIDE GREEN TRANSMISSION GRID PROJECT PLANS.

''(a) IN GENERAL.—The Secretary, in consultation with the Commission, shall make grants to States and planning entities that submit or implement Interconnection-wide green transmission grid project plans required to be developed pursuant to this part in a timely manner for (as appropriate)—

''(1) implementation of sections 403 and 404;

''(2) transmission improvements (including smart grid investments) for States and planning entities that meet deadlines in implementing those plans;

''(3) training for State regulatory authority staff and local workforces relating to renewable generation resources, smart grid, or new transmission technologies;

''(4) mitigation of landowner concerns and impacts;

''(5) habitat and wildlife conservation;

''(6) security upgrades to the transmission system and authorized uses under title XIII of the Energy Independence and Security Act of 2007 (15 U.S.C. 17381 et seq.);

''(7) energy storage, reliability, or distributed renewable generation projects; and

''(8) other programs and projects that are consistent with the purposes of this part.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000,000, including amounts made available—

''(1) under the American Recovery and Reinvestment Act of 2009; or

''(2) through the sale of carbon allowances in a law enacted after the date of enactment of this Act that imposes a limitation on greenhouse gas emissions.

''SEC. 406. COST ALLOCATION.

''(a) IN GENERAL.—As part of an Interconnection-wide green transmission grid project plan submitted under section 403, the regional planning entity, after consultation with affected State regulatory authorities, shall file with the Commission under this section a cost allocation plan for sharing the costs of developing and operating green transmission grid projects that are identified and built pursuant to an Interconnection-wide green transmission project plan to enable delivery of electric energy from renewable energy resources in renewable energy zones.

''(b) APPROVAL.—Not later than 90 days after the date of filing, the Commission shall approve a cost allocation plan proposed under subsection (a) unless the Commission determines that—

''(1) taking into account the users of the transmission facilities, the plan will result in rates that are unduly discriminatory or preferential or are not just and reasonable;

''(2) the plan would unduly inhibit the development of renewable energy electric generation projects; or

''(3) the plan would not allow the transmission provider providing service over the facilities or the entity constructing or financing the project, as appropriate, the opportunity to recover prudently incurred costs, including a reasonable return on investment, associated with the transmission facilities the transmission provider has committed to build pursuant to the Interconnection-wide green transmission plan.

''(c) FAILURE TO SUBMIT A COST ALLOCATION PLAN.—

''(1) IN GENERAL.—If a regional planning entity is unable, for whatever reason, to develop and propose an acceptable cost allocation plan at the time the regional planning entity files an Interconnection-wide green transmission grid project plan, the Commission shall institute, on the motion of the Commission, a proceeding to initially allocate the costs of new transmission facilities built pursuant to an Interconnection-wide green transmission project plan.

''(2) COST ALLOCATION.—The Commission shall allocate the costs of green transmission grid projects—

''(A) broadly to all load-serving entities in the Interconnection; or

''(B) to load-serving entities within a part of the Interconnection.

''(3) RENEWABLE FEEDER LINES.—

''(A) IN GENERAL.—A renewable feeder line may be included in a broad cost allocation if the Commission finds that the renewable feeder line—

''(i) would be used by renewable energy resources remote from existing transmission and load centers;

''(ii) will likely result in multiple individual renewable energy electric generation projects being developed by multiple competing developers; and

''(iii) has at least 1 project subscribed through an executed generator Interconnection agreement with the transmission provider and has tangible demonstration of additional interest.

''(B) NEW RENEWABLE GENERATION PROJECTS.—

''(i) IN GENERAL.—As new renewable generation projects are constructed and interconnected to a renewable feeder line under subparagraph (A), the 1 or more new transmission services contract holders shall be liable for a pro rata share of the facility costs of the transmission grid project.

''(ii) TRANSMISSION REVENUES.—The transmission revenues shall be applied as a credit to the initial allocation of project costs.

''(d) COST ALLOCATION RATE FILINGS.—If a cost allocation plan is approved by the Commission in accordance with this section—

''(1) any public utility that has rates that are affected by the approved cost allocation plan shall file the allocation plan with the Commission pursuant to section 205; and

''(2) the cost allocation plan shall be presumed lawful under section 205 on filing, without notice or further opportunity for comment or hearing.

''(e) APPLICABILITY.—

''(1) IN GENERAL.—Except as provided in paragraph (3), the authority of the Commission under this section and section 403 to approve transmission plans and to allocate costs incurred pursuant to the plans applies to all transmission providers, generators, and users, owners, and operators of the

power system within the Eastern and Western Interconnections of the United States, including entities described in section 201(f).

''(2) REGIONAL PLANNING ENTITIES.—The Commission shall have authority over regional planning entities to the extent necessary to carry out this section and section 403.

''(3) EXCLUSIONS.—

''(A) IN GENERAL.—This section does not apply in the State of Alaska or Hawaii or to the ERCOT, unless the State or ERCOT voluntarily elects to participate in a cost allocation plan under this section.

''(B) EXISTING COST ALLOCATION AGREEMENTS.—A project for which a cost allocation or cost recovery agreement was accepted by the Commission before the date of enactment of this part shall not be included in cost allocation under this section.

''SEC. 407. FEDERAL TRANSMITTING UTILITIES ENCOURAGING CLEAN ENERGY DEVELOPMENT IN NATIONAL RENEWABLE ENERGY ZONES.

''(a) LACK OF PRIVATE FUNDS.—If, by the date that is 3 years after the date of enactment of this part, no privately-funded entity has committed to financing (through self-financing or through a third-party financing arrangement with a Federal transmitting utility) to ensure the construction and operation of a green transmission grid project (which the Commission has identified as an essential part of an Interconnection-wide green transmission project plan) by a specified date, the Federal transmitting utility responsible for the identification under section 403(d) shall finance such a transmission facility if the Federal transmitting utility has sufficient bonding authority under subsection (b).

''(b) BONDING AUTHORITY.—

''(1) IN GENERAL.—In addition to any other authority to issue and sell bonds, notes, and other evidence of indebtedness, a Federal transmitting utility may issue and sell bonds, notes, and other evidence of indebtedness in an amount not to exceed, at any 1 time, an aggregate outstanding balance of $10,000,000,000, to finance the construction of transmission facilities described in subsection (a) for the principal purposes of—

''(A) increasing the generation of electricity from renewable energy; and

''(B) conveying that electric energy to an electricity-consuming area.

''(2) RECOVERY OF COSTS.—A Federal transmitting utility shall recover the costs of green transmission grid project facilities financed pursuant to subsection (a) from entities using the transmission facilities over a period of 50 years.

''(3) NONLIABILITY OF CERTAIN CUSTOMERS.—Individuals and entities that, as of the date of enactment of this part, are customers of a Federal transmitting utility shall not be liable for the costs, in the form of increased rates charged for electric energy or transmission, of green transmission grid project facilities constructed pursuant to this section, except to the extent the customers are treated in a manner similar to all other users of the green transmission grid project facilities.

''SEC. 408. FEDERAL POWER MARKETING AGENCIES.

''(a) PROMOTION OF RENEWABLE ENERGY AND ENERGY EFFICIENCY.—Each Federal transmitting utility shall—

''(1) identify and take steps to promote energy conservation and renewable energy electric resource development in the regions served by the Federal transmitting utility; and

''(2) identify opportunities to promote the development of facilities generating electricity from renewable energy on Indian land within the service territory of the Federal transmitting utility.

''(b) WIND INTEGRATION PROGRAMS.—The Bonneville Power Administration and the Western Area Power Administration shall each establish a program focusing on the improvement of the integration of wind energy into the transmission grids of those Administrations through the development of transmission products, including through the use of Federal hydropower resources, that—

''(1) take into account the intermittent nature of wind electric generation; and

''(2) do not impair electric reliability.

''(c) SOLAR INTEGRATION PROGRAM.—Each of the Federal Power Marketing Administrations and the Tennessee Valley Authority shall establish a program to carry out projects focusing on the integration of solar energy, through photovoltaic, concentrating solar power systems and other forms and systems, into the respective transmission grids and into remote and distributed applications in the respective service territories of the Federal Power Marketing Administrations and Tennessee Valley Authority, that—

''(1) take into account the solar energy cycle;

''(2) consider the appropriate use of Federal land for generation or energy storage, where appropriate; and

''(3) do not impair electric reliability.

''(d) GEOTHERMAL INTEGRATION PROGRAM.—The Bonneville Power Administration and the Western Area Power Administration shall establish a joint program to carry out projects focusing on the development and integration of geothermal energy and enhanced geothermal system resources into the respective transmission grids of the Bonneville Power Administration and the Western Area Power Administration, as well as nongrid, distributed applications in those service territories, including projects combining geothermal energy resources with biofuels production or other industrial or commercial uses requiring process heat inputs, that—

''(1) consider the appropriate use of Federal land for the projects and activities;

''(2) displace fossil fuel baseload generation or petroleum imports; and

''(3) do not impair electric reliability.

''(e) RENEWABLE ELECTRICITY AND ENERGY SECURITY PROJECTS.—

''(1) IN GENERAL.—The Federal transmitting utilities, shall, in consultation with the Commission, the Secretary, the States, and such other individuals and entities as are necessary, undertake geographically diverse projects within the respective service territories of the Federal transmitting utilities to acquire and demonstrate grid-enabled and nongrid-enabled plug-in electric and plug-in hybrid electric vehicles and related technologies as part of their fleets of vehicles.

''(2) INCREASE IN RENEWABLE ENERGY USE.—To the maximum extent practicable, each project conducted pursuant to any of subsections (b) through (d) shall include a component to develop vehicle technology, utility systems, batteries, power electronics, or such other related devices as are able to substitute, as the main fuel source for vehicles, transportation-sector petroleum consumption with electricity from renewable energy sources.

''(f) REREGULATING DAMS AND PUMPED STORAGE STUDY.—The Secretary of the Interior and the Secretary of the Army (acting through Chief of Engineers), in consultation with the Secretary of Energy, shall—

''(1) study the potential for reregulating facilities and pumped storage units at Federal dams to identify the facilities and units that are most worthy of further evaluation; and

''(2) submit to Congress a report on the results of the study, including recommendations on the next steps that should be taken.

''(g) WIND OR SOLAR–HYDRO INTEGRATION DEMONSTRATION PROJECT.—

''(1) IN GENERAL.—The Western Area Power Administration may fund the construction of wind or solar generation to supply firming energy to Western Area Power Administration to test the economic feasibility of wind-hydro or solar-hydro integration.

''(2) TRIBAL LAND.—In carrying out this subsection, the Western Area Power Administration shall consider locating the wind or solar generation facilities on tribal land.

''(3) NONREIMBURSABLE COSTS.—All costs associated with a demonstration under this subsection shall be considered nonreimbursable to electric energy customers of the Western Area Power Administration.

''SEC. 409. SOLAR ENERGY RESERVE PILOT PROJECT.

''(a) PURPOSE.—The purpose of this section is to establish a solar energy reserve pilot program on Federal land for the advancement, development, assessment, and installation of commercial utility-scale solar electric energy systems that will function as a potential model for the future development of renewable energy zones identified under this Act.

''(b) SITE SELECTION.—The Secretary of Energy and the Secretary of the Interior, in consultation with the Secretary of Defense, the Commission, States, and tribal and local units of government (as appropriate), shall—

''(1) identify 1 or more areas of Federal land under the jurisdiction of the Bureau of Land Management or land withdrawn by the Secretary of Energy for other purposes that is feasible and suitable for the installation of solar electric energy systems that are sufficient to generate not less than 4 gigawatts and not more than 25 gigawatts;

''(2) not later than 180 days after the date of enactment of this part, initiate the process for withdrawal of 1 or more tracts of land to the Secretary of Energy pursuant to section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) for the purpose of creating solar energy reserves or the designation of land withdrawn to the Secretary of Energy for other purposes as a solar energy reserve; and

''(3) identify the needed transmission upgrades to connect the solar energy reserves to the transmission grid.

''(c) INELIGIBLE FEDERAL LAND.—A solar energy reserve shall not be established under this section on any land excluded for designation under section 402(a)(2).

''(d) DEVELOPMENT WITHIN RESERVES.—The Secretary of Energy shall—

''(1) have the sole authority to issue land use authorizations for land withdrawn under subsection (b);

''(2) establish criteria for approving applications and developing infrastructure for solar reserves;

''(3) not later than 2 years after the date of enactment of this part, work with Federal agencies, States, and other interested persons to ensure, to the maximum extent practicable, that adequate infrastructure is available for operation of the first solar energy reserve;

''(4) provide, to the maximum extent practicable, for a variety of utility-scale solar electric energy technologies; and

''(5) ensure, to the maximum extent practicable, that all solar energy reserves pursuant to this section are permitted using an expedited permitting process.

''(e) DEVELOPING SOLAR ENERGY RESERVES.—

''(1) IN GENERAL.—Subject to paragraph (2), in carrying out this section, the Secretary may—

''(A) install appropriate infrastructure, including—

''(i) roads;

''(ii) renewable feeder lines that connect to transmission lines; and

''(iii) equipment to access public or private utility systems;

''(B) recover reasonable costs to pay for the management of the solar energy reserves and maintenance of the infrastructure relating to the use of the land, except that the Secretary shall not recover costs to pay for infrastructure if the costs have or will be paid for by Federal funds, to remain available until expended; and

''(C) negotiate agreements on behalf of all solar electricity systems within the solar energy reserve for—

''(i) the purchase of materials and equipment;

''(ii) the provision of public utility services and other services; and

''(iii) access to electric transmission facilities.

''(2) OPTING OUT.—A developer of a solar electricity system shall have the option, prior to the effective date of the agreement, to opt out of any agreement negotiated by the Secretary under paragraph (1)(C).

''(f) ROYALTIES AND FEES.—

''(1) IN GENERAL.—In lieu of rental fees, each solar electricity system developer shall pay to the Secretary a royalty on the sale of electricity produced from a solar electricity system placed into service on a solar energy reserve established under this section.

''(2) AMOUNT OF ROYALTY.—The amount of the royalty payable for a solar electricity system placed into service on a solar energy reserve under this subsection shall be equal to 1.0 mil per kilowatt-hour of electricity generated by the facility.

''(3) DEPOSIT IN TREASURY.—All royalties received by the United States from royalties under this subsection shall be deposited in the Treasury.

''(4) USE OF ROYALTIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), of the amount of royalties deposited in the Treasury from a solar energy reserve for a fiscal year under paragraph (3)—

''(i) 20 percent shall be paid to the 1 or more States within the boundaries of which the solar energy reserve is located;

''(ii) 30 percent shall be paid to the 1 or more counties within the boundaries of which the solar energy reserve is located;

''(iii) 20 percent shall be deposited in a separate account in the Treasury, to be known as the 'BLM Solar Energy Permit Processing Improvement Fund', except that if the Fund equals $10,000,000 or more, no additional royalties under this subsection shall be deposited in the Fund; and

''(iv) 5 percent shall be deposited into a separate account in the Treasury, to be known as the 'Solar Energy Land Reclamation, Remediation, and Restoration Fund'.

''(B) BLM SOLAR ENERGY PERMIT PROCESSING IMPROVEMENT FUND.—Amounts deposited under subparagraph (A)(iii) shall be available to the Secretary of the Interior for expenditure, without further appropriation and without fiscal year limitation, for the purpose of paying for the coordination and processing of solar energy right-of-way permit and land use applications and planning for solar energy development on land under the jurisdiction of the Bureau of Land Management.

''(C) SOLAR ENERGY LAND RECLAMATION, REMEDIATION, AND RESTORATION FUND.—Amounts deposited under subparagraph (A)(iv) shall be available to the Secretary of Energy for expenditure, without further appropriation and without fiscal year limitation, for the purpose of reclaiming, remediating, and restoring land within a solar energy reserve on which a solar electricity facility has permanently ceased operation before disposal or for withdrawn land that is returned to the Department of the Interior.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy and the Secretary of the Interior such sums as are necessary to carry out this section.

''SEC. 410. RELATIONSHIP TO OTHER LAWS.

''Nothing in this part supersedes or affects any Federal environmental, public health or public land protection, or historic preservation law, including—

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

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

''(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

''SEC. 411. REGULATIONS.

''Except as otherwise provided in this part, not later than 1 year after the date of enactment of this part, the Commission shall promulgate such regulations as are necessary to carry out this part.''.

(b) GREEN TRANSMISSION INFRASTRUCTURE INCENTIVE RATES.—Section 219(a) of the Federal Power Act (16 U.S.C. 824s(a)) is amended by striking ''purpose of'' and all that follows through the end of the subsection and inserting ''purpose of—

''(1) benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion; or

''(2) integrating renewable energy resources into the transmission system.''.

(c) MAXIMUM FUNDING AMOUNT FOR THIRD-PARTY FINANCE.—Section 1222 of the Energy Policy Act of 2005 (42 U.S.C. 16421) is amended by striking subsection (g) and inserting the following:

''(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than $2,500,000,000 under subsection (c)(1) for the period of fiscal years 2009 through 2018.''.

(d) ENFORCEMENT.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking ''part II'' each place it appears and inserting ''part II or IV''.

SEC. 4. RENEWABLE ENERGY PILOT PROJECT OFFICES.

(a) IN GENERAL.—Section 365 of the Energy Policy Act of 2005 (42 U.S.C. 15924) is amended by adding at the end the following:

''(k) PILOT PROJECT OFFICE TO IMPROVE FEDERAL PERMIT COORDINATION FOR RENEWABLE ENERGY.—

''(1) DEFINITION OF RENEWABLE ENERGY.—In this subsection, the term 'renewable energy' means energy derived from a wind, solar, geothermal, or biomass source.

''(2) FIELD PROJECT OFFICES.—As part of the Pilot Project, the Secretary shall designate 1 or more field offices of the Bureau of Land Management in each of the following States to serve as Renewable Energy Pilot Project Offices for coordination of Federal permits for renewable energy projects and renewable energy transmission involving Federal land (other than permits issued by the Federal Energy Regulatory Commission):

''(A) Arizona.

''(B) California.

''(C) Colorado.

''(D) Oregon or Washington.

''(E) New Mexico.

''(F) Nevada.

''(G) Montana.

''(H) Wyoming.

''(3) MEMORANDUM OF UNDERSTANDING.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this subsection, the Secretary shall enter into an amended memorandum of understanding under subsection (b) to provide for the inclusion of the additional Renewable Energy Pilot Project Offices in the Pilot Project.

''(B) SIGNATURES BY GOVERNORS.—The Secretary may request that the Governors of each of the States described in paragraph (2) be signatories to the amended memorandum of understanding.

''(C) DESIGNATION OF QUALIFIED STAFF.—Not later than 30 days after the date of the signing of the amended memorandum of understanding, all Federal signatory parties shall, if appropriate, assign to each Renewable Energy Pilot Project Offices designated under paragraph (2) an employee described in subsection (c) to carry out duties described in that subsection.

''(D) ADDITIONAL PERSONNEL.—The Secretary shall assign to each Renewable Energy Pilot Project Office additional personnel under subsection (f).''.

(b) PERMIT PROCESSING IMPROVEMENT FUND.—Section 35(c)(3) of the Mineral Leasing Act (30 U.S.C. 191(c)(3)) is amended—

(1) by striking ''use authorizations'' and inserting ''and renewable energy use authorizations''; and

(2) by striking ''section 365(d)'' and inserting ''subsections (d) and (k)(2) of section 365''.

THE CLEAN RENEWABLE ENERGY AND ECONOMIC DEVELOPMENT ACT OF 2009—SUMMARY

Sec. 402. Renewable Energy Zones: This bill directs the President to designate renewable energy zones, which are areas that can generate in excess of 1 gigawatt of electricity from renewable energy, include rural areas or Federal land, and have insufficient transmission capacity to achieve their renewable energy generation potential. This bill excludes environmentally sensitive and culturally significant areas from renewable energy zones.

Electricity from renewable energy is defined to include solar, wind, geothermal, biomass, biogas, incremental hydroelectric capacity and hydrokinetic resources.

Some areas, especially the Western U.S., already have processes in place to identify renewable energy zones. Recognizing the ongoing efforts in the Western U.S., this bill allows the President to use zones designated through existing processes, and sets deadlines on designating renewable energy zones for the Western Interconnection of 90 days after enactment of the bill and 270 days after enactment of the bill for the Eastern Interconnection.

Sec. 403. Interconnection-Wide Green Transmission Grid Planning: Transmission planning today is a geographically fragmented, lengthy process that does not address the types of projects needed to integrate renewable energy into the transmission grid. The U.S. electric transmission network is divided into three interconnections, the West, the East, and Texas. This bill requires participatory and transparent transmission planning on an interconnection-wide basis for green transmission projects to integrate renewable electricity resources from renewable energy zones into the transmission grid. The objective of the planning process is to enhance transmission access for electricity from renewable energy in renewable energy zones, while recognizing national economic, reliability, and security goals. The planning process established in this bill must be based on established and projected Federal and State renewable energy policies and targets. This bill requires the planning process to solicit input from all stakeholders, including transmission owners, regional transmission organizations, independent system operators, State commissions, electricity generators, prospective developers of new transmission and generation resources, regional reliability organizations, and environmental protection and land, water, and wildlife conservation groups.

This bill requires the plan to consider alternatives to new transmission, including

energy efficiency, demand response, distributed generation, and cost-effective energy storage.

To expedite building transmission to meet the President's renewable energy goal, this bill requires the interconnection-wide green transmission plans to be submitted to the Commission within 1 year of the deadline for designation of renewable energy zones.

If a regional planning entity does not organize a planning process, or does not complete a plan by the deadlines established by FERC, this bill gives FERC backstop planning authority to establish a planning process and conduct planning, in consultation with DOE, federal power marketing authorities, the electric reliability organization and regional reliability organizations. This bill also gives FERC backstop planning authority for any state that does not participate in an interconnection-wide planning process.

To cover costs of regional planning entities and states participating in interconnection-wide planning, this bill establishes a surcharge on all transmission customers. The funds from the surcharge will be distributed to regional planning entities and to states whose governors certify that they are participating in green transmission planning for the first year, and subject to timely submission of a green transmission grid plan in subsequent years. State Governors are also required to demonstrate that planning entities are able to effectively represent a wide spectrum of stakeholders, including the protection and conservation of land, consumer protection, and fish and wildlife protection.

Sec. 404. Federal Siting of Green Transmission Grid Project Facilities: Transmission line siting is currently conducted through a separate process in each state, which can cause lengthy delays for multi-state transmission lines. This bill allows transmission project developers to apply to FERC for federal backstop siting for green transmission projects that are part of the green transmission grid plan and integrate renewable energy resources from renewable energy zones, or for transmission projects that FERC determines are needed to integrate renewable generation resources. For states that participate in interconnection-wide planning, this bill requires FERC to consider state recommendations in siting the line, and to work with states to resolve differences. This bill gives FERC the authority to issue a construction permit, including the right of eminent domain, for green transmission projects that meet specific conditions, including a minimum renewable requirement, optimizing transmission capacity, and providing transmission access to states the project passes through. To coordinate the process of siting transmission on Federal lands, this bill sets FERC as the lead agency for environmental reviews, with a single environmental review document, and directs affected agencies to develop a memorandum of understanding, including a schedule for environmental review and a budget necessary to carry out the schedule.

This bill ensures that green transmission projects are truly green by requiring transmission line siting to consider and use alternative routes where possible to avoid environmentally sensitive or culturally significant areas. In addition, this bill requires transmission projects that use federal siting authority to ensure that at least 75% of the capacity of transmission project is available to renewable generation, or the maximum possible amount of renewable generation that can be reliably interconnected. In addition, to ensure that renewable generation resources have access to transmission, transmission providers for green transmission projects that use federal siting must give priority to load-serving entities contracting with renewable generators, or to renewable generation developers, when offering firm transmission rights.

As a condition for federal siting, each transmission project developer must demonstrate that it has sufficient capacity to connect multiple renewable generation resources in the renewable energy zone(s) to which it connects, based on reliability criteria, land use limitations, economic considerations and the potential generation capacity of the renewable energy zones interconnected to the project. This will allow future renewable generators to connect to the transmission system without building multiple transmission lines through an area.

Large transmission lines may pass through states without providing any benefit to the state. This bill requires green transmission projects that use federal siting authority to provide transmission access to load or generation in each state they pass through. If a project cannot provide interconnection to a state, that state will be eligible for additional funds through DOE grants.

Sec. 405. Grants for green transmission grid project plans: This bill authorizes the DOE, in consultation with FERC, to make grants to states and planning entities to implement the planning and siting described in this bill, for transmission improvements including smart grid investments, for training for state public utility commission staff, for mitigation of landowner concerns, for habitat and wildlife conservation, for security upgrades to the transmission system, for energy storage, for reliability projects, transmission business development, and for distributed generation projects. These grants are funded through the American Recovery and Reinvestment Act of 2009, and in the future through sale of carbon allowances if a carbon allowance system is implemented. These grants are available only to states that participate in green transmission grid planning and implement green transmission grid projects in a timely fashion.

Sec. 406. Cost Allocation: This bill encourages the States and participants in a green transmission plan to agree on and propose a cost allocation to FERC. If no cost allocation is filed, this bill allows FERC to determine a just and reasonable cost allocation that takes account of the widely distributed impacts of the transmission project. This bill allows FERC to allocate costs to all users, owners, and operators of the bulk power system in a region of an interconnection or throughout an interconnection.

This bill provides that costs of a green transmission project initially built with extra transmission capacity to multiple renewable generators can initially be allocated with the cost allocation. As new generation projects interconnect, they will pay their share of the transmission grid project, reducing the effect on rates of the transmission provider's customers.

Sec. 407. Encouraging Clean Energy Development in Renewable Energy Zones: To ensure that transmission projects needed to integrate renewable energy resources get built in a timely manner, this bill allows federal transmitting utilities to construct projects if no privately-funded entity commits to financing them within 3 years. This bill extends bonding authority of federal transmitting utilities to finance construction of transmission.

Sec. 408. Federal power marketing agencies: This bill directs federal power marketing agencies to promote renewable energy and energy efficiency, by developing wind, solar and geothermal integration programs, and directs the federal transmitting utilities to undertake renewable electricity and energy security projects. It also directs WAPA to study reregulating hydroelectric dams and allows WAPA to fund a wind-hydro or solar-hydro integration demonstration project.

Sec. 409. Solar Energy Reserve Pilot Project: This bill establishes a pilot program on Federal land for commercial utility-scale solar electric energy systems on lands identified by the Secretary of Interior and the Secretary of Energy.

Sec. 410. Investment incentives: To encourage investment in green transmission projects, this bill extends infrastructure investment incentives from the Energy Policy Act of 2005 to include transmission projects that integrate renewable energy resources into the transmission system. The limit on third-party financing of transmission investments in the Western Area and Southwestern Area Power Administration territories is raised to $2.5 billion.

By Mr. KENNEDY (for himself, Mr. LEAHY, Mr. DURBIN, Mr. DODD, Mr. HARKIN, Mr. BINGAMAN, Mr. REED, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Mrs. HAGAN, Mr. MERKLEY, Mr. WHITEHOUSE, Mrs. MCCASKILL, Mr. JOHNSON, Mr. SCHUMER, Mr. UDALL of New Mexico, and Mrs. BOXER):

S. 540. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices; to the Committee on Health, Education, Labor, and Pensions.

Mr. LEAHY. Mr. President, I am pleased to join Senator KENNEDY once again in the introduction of this important legislation. The bill that we introduce today will correct the Supreme Court's decision in Riegel v. Medtronic, which misconstrued the intent of Congress and cut off access to our Nation's courts for citizens injured or killed by defective medical devices.

Last year, the Senate Judiciary Committee held a series of hearings to examine the way in which the Supreme Court's decisions in the areas of retirement benefits, consumer product safety, workplace discrimination, and personal finance have consistently trended against the rights of consumers and in favor of big business. In many cases that have profound effects on the lives of ordinary Americans, the Court has either ignored the intent of Congress, deferred to corporate interests, or sided with a Federal agency's flawed interpretation of a congressional statute's preemptive force to disadvantage consumers. The impact of the decisions that were the focus of those hearings continues to be felt by Americans today, whether they are prohibited from seeking redress in the courts for an injury caused by a defective product, paying exorbitant credit card interest rates and fees with no relief from the laws of their own State, or subjected to the unscrupulous practices of some in the mortgage lending industry.

These hearings raised awareness in Congress, and among Americans, about the impact the Supreme Court has on our everyday lives. And I am especially proud that following on these hearings,

and through the efforts of a determined and principled congressional majority, we witnessed our constitutional democracy at work when President Obama signed the Lilly Ledbetter Fair Pay Act. I am heartened that Congress reclaimed the intent of its original legislation and overrode the Supreme Court to restore the rights of Americans to be free from discrimination in the workplace.

Just yesterday in the case of Wyeth v. Levine the Supreme Court foreclosed the need for Congress to act in another important area when it validated the views of many by rejecting the Bush administration and the Food and Drug Administration's extravagant views of a regulatory agency's ability to preempt State law. I am glad the Court spoke clearly and decisively on this issue. The Court's decision was not only a vindication of Congress's primary authority to pre-empt State law, but a victory for every American who relies upon pharmaceutical drugs and entrusts the manufacturers of those drugs with insuring their safety. The Court's decision also vindicated the laws and courts of the State of Vermont, and I am proud to have expressed my views to the Court as to Congress's intent in this area and on behalf of Diana Levine.

The bill we introduce today is another important step to correct an erroneous reading by the Court of Congress's intent in enacting the medical device amendments of 1976. This legislation will make explicit that the preemption clause in the medical device amendments upon which the Court relied does not, and never was intended to preempt the common law claims of consumers injured by a federally approved medical device.

The extraordinary power to preempt State law and regulation lies with Congress alone. Where the Court reaches to the extent it did in the Riegel decision to find Federal preemption contrary to what Congress intended, Congress is compelled to act, just as it was in the case of Lilly Ledbetter. I hope all Senators will join us in this effort.

Mr. HARKIN. Mr. President, I am proud to join my colleagues in reintroducing the Medical Device Safety Act. This legislation reverses the Supreme Court's erroneous decision in Riegel v. Medtronic. There, the Court misread a statute designed to protect consumers by giving the Food and Drug Administration, FDA, the authority to approve medical devices as preempting State tort claims when a medical device causes harm. Riegel prevents consumers from receiving fair compensation for injuries sustained, medical expenses incurred and lost wages, and it must be reversed.

Congressional action should be unnecessary. When Congress passed the Medical Device Amendments, or MDA, in 1976, it did so ''[t]o provide for the safety and effectiveness of medical devices intended for human use.'' In other words, Congress passed the MDA precisely to protect consumers from dangerous medical devices. Towards that end, Congress gave the FDA the authority to approve, prior to a product entering the market, certain medical devices. For over 30 years the MDA has been in effect, and over that period FDA regulation and tort liability have complimented each other in protecting consumers.

Given the MDA's purpose, and the fact it has operated successfully for 30 years, I was disheartened to find the Court twist the meaning of the statute to strip from consumers all remedies when a medical device fails. In contorted logic, the Court found that the FDA's requirements in approving a medical device preempted State laws designed to ensure that manufacturers marketed safe devices. In other words, the Court believes that a company's responsibility to its patients ends when it receives FDA approval. I strenuously disagree.

In fact, there is absolutely no evidence that Congress intended that under the MDA consumers would lose their only avenue for receiving compensation for injuries caused by negligent or inadequately labeled devices. Not a single Member or committee report articulated the view that the statute would preempt State tort law.

Nevertheless, because of the Court's decision, it is imperative that Congress act to ensure that those harmed by flawed medical devices can seek compensation. The bill introduced today addresses the Court's action by explicitly stating that actions for damages under State law are preserved. Specifically, it amends section 521 of the Federal Food, Drug, and Cosmetic Act to state that the section shall not be construed to modify or otherwise affect any action for damages or the liability of any person under the law of any State. And the bill applies retroactively to the date of the enactment of the MDA, consistent with Congress's intent when it passed that act over 30 years ago. Practically, that means that it applies to cases pending on the date of enactment of this legislation or claims for injuries sustained prior to enactment.

The harm from Riegel, unless Congress acts, cannot be more real. In the year since Riegel was decided alone, courts across the country have dismissed product liability claims. Take Charles Riegel. During an angioplasty, a catheter burst and caused him serious injuries and disabilities, and a State jury found Medtronic negligent. Because of the Supreme Court's decision, however, Mr. Riegel's wife will receive no compensation for the defective design and inadequate warning. Take Gary Despain. A defective hearing aid caused severe damage to his right ear, and he became disabled and unemployed. Because of the Supreme Court's decision, Mr. Despain has no ability to see remedies for his injuries.

Recently, a court dismissed the claims of almost 1,500 patients who brought suit arising from Medtronic's Sprint Fidelis defibrillator—specific models of thin wires that connect an implantable cardiac-defibrillator directly to the heart. In October 2007, the product was recalled after lead fractured in several cases and was thought to contribute to deaths and serious injuries. Again, because of the Court's ruling, injured plaintiffs have no recourse against the company that caused the harm.

While FDA approval of medical devices, moreover, is important, it cannot be the sole protection for consumers. FDA approval is simply inadequate to replace the longstanding safety incentives and consumer protections State tort law provides.

As a senior member of the Health, Education, Labor and Pension Committee, which has oversight over FDA, I have worked hard to ensure that the FDA performs its job. No matter how effective the FDA is, however, the FDA simply cannot guarantee that no defective, dangerous, and deadly medical device will reach consumers. As the former Director of the FDA's Center for Devices and Radiological Health acknowledged, the FDA's ''system of approving devices isn't perfect, and that unexpected problems [with approved devices] do arise.'' In 1993, a House report identified a ''number of cases in which the FDA [had] approved devices that proved unsafe in use.''

The fact is, the FDA conducts the approval process with minimal resources and simply does not have adequate funds to genuinely ensure that devices are safe or to properly and effectively reevaluate approvals as new information is available.

Further, the FDA approval process is based on partial information. A principal shortcoming is that the device's manufacturer compiles the studies and data supporting an application, and the data is often unreliable. And the FDA does not conduct independent investigations into a device's safety. A manufacturer, moreover, is not required to submit information about development of the device, including alternative designs, manufacturing methods, and labeling possibilities that the manufacturer considered but rejected.

In 1993, an FDA committee found flaws in the design, conduct, and analysis of the clinical studies used to support applications that were ''sufficiently serious to impede the agency's ability to make the necessary judgments about [device] safety and effectiveness.'' It added, ''[o]ne of the main reasons [problems arise after approval] is that the data upon which we base our safety and effectiveness decisions isn't perfect.'' Likewise, in 1996, the inspector general of the Department of Health and Human Services reported ''serious deficiencies . . . in the clinical data submitted as part of pre-market applications.''

Moreover, there is very little FDA oversight once a device reaches doctors

and patients. In fact, even the best designed and most reliable clinical studies by their very nature cannot duplicate all aspects and hazards of everyday use. Moreover, while manufacturers are supposed to report defects and injuries, the FDA has admitted that there is ''severe underreporting'' of defects and injuries.

Given the FDA's limitations, it is crucial that an individual have a right to seek redress. When defective medical devices reach the market, whether or not approved by the FDA, patients are often injured. Those injured are often left temporarily unable to work or to enjoy normal lives, and in many cases never fully recover. State tort law provides the only relief for patients injured by defective medical devices and should not be foreclosed.

Not only does access to State court mean that a person injured can receive fair compensation, but there are other advantages. Such suits aid in exposing dangers and serve as a catalyst to address their consequences. Through discovery, litigation can help uncover previously unavailable information on adverse effects of products that might not have been caught during the regulatory system. Litigants can demand documents and information on product risks that might not have been shared with the FDA. In this way, the public as a whole is alerted to dangers in medical products.

Finally, providing the ability to sue when injured provides an important incentive to manufacturers to use the utmost care. Additionally, threat of product liability suits creates continuing incentives for product manufacturers to improve the safety of their device, even after FDA approval.

As the Supreme Court recognized this week, in Wyeth v. Levine, in holding that failure to warn claims involving FDA approved drugs are not preempted, ''[s]tate tort suits uncover unknown drug hazards and provide incentives for drug manufacturers to disclose safety risks promptly. They also serve a distinct compensatory function that may motivate injured persons to come forward with information.'' The Court continued, ''the FDA has long maintained that state law offers an additional, and important, layer of consumer protection that complements FDA regulation.''

The same consumer protection that State courts provide which the Court recognized as important in the context of faulty drug warnings is equally important for those consumers harmed by faulty medical devices.

In conclusion, sadly the Court fundamentally misread Congress's intent in passing the Medical Device Amendments in 1976, and Reigel appears to represent yet another victory by big business over consumers. That is not, however, the final say on the matter. To quote Chief Justice Roberts, ''every area involving an interpretation of a statute, the final say is not with the Supreme Court, the final say is with Congress. And if they don't like the Supreme Court's interpretation of it, they can change it.''

Make no mistake, moreover, it can be done. Last year, Congress passed and the President signed the ADA Amendments Act, reversing decisions in which the Court consistently misconstrued the will of Congress and held that the ADA does not protect many people with serious disabilities from discrimination. This year, we were successful in reversing the Court's draconian Lilly Ledbetter decision, making clear that those discriminated against do have a recourse in law.

Those injured by faulty medical devices deserve to have their day in court and are entitled to compensation when they are injured by faulty medical devices, have medical expenses to pay and lost wages, regardless of whether the FDA approved a device. We must reverse this erroneous decision and ensure that those who have suffered serious injury at the hands of others receive justice.

By Mr. DODD (for himself, Mr. CRAPO, Mr. AKAKA, Mr. BROWN, Mr. CORKER, Mr. BOND, and Mr. ISAKSON):

S. 541. A bill to increase the borrowing authority of the Federal Deposit Insurance Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I have been approached, along with my colleague Senator SHELBY and leaders of the House Financial Services Committee, by the Chairman of the Federal Deposit Insurance Corporation, Sheila Bair, with a request to increase substantially the FDIC's borrowing authority from Treasury from the current $30 billion to $100 billion, for use by the FDIC's Deposit Insurance Fund and for temporary additional borrowing authority to help weather the economic crisis. In response to her request, I am introducing the Depositor Protection Act of 2009, which provides this authority. We are taking this step out of an abundance of caution and to meet any contingencies that the fund may face in the coming months.

The FDIC's Deposit Insurance Fund DIF absorbs losses that result from the corporation's obligation to protect insured deposits when FDIC-insured financial institutions fail. Insured financial institutions pay premiums that support the DIF and under current law those premiums can be increased to cover any losses to the fund.

Today, the House passed legislation to substantially and permanently increase this borrowing authority as part of H.R. 1106, the Helping Families Save Their Homes Act of 2009. Last month, Treasury Secretary Geithner and Chairman Bernanke of the Federal Reserve Board wrote to me to underscore their support for the FDIC's increased borrowing authority.

Since the FDIC's borrowing authority was last increased in 1991, the asset size of banks has tripled. Even more important, the financial system is under considerable stress, and the level of thrift and bank failures has been rising. This line of credit is designed strictly to serve as a backstop to cover potential losses to the DIF.

Though this statutory borrowing authority has historically never been tapped, and Chairman Bair has made clear she does not anticipate doing so, I agree with Chairman Bair, Secretary Geithner, and Chairman Bernanke that under current economic circumstances such an increase in borrowing authority is both prudent and necessary. It is important that we increase this line of borrowing authority so that the FDIC has the funds available which might be needed to meet its obligations to protect insured depositors and to reassure the public that the Government continues to stand firmly behind the FDIC's insurance guarantee.

Additionally, on Friday, February 27, the FDIC Board voted to impose a one-time special assessment of 20 basis points on insured depository institutions because of concern about the level of the DIF. This special assessment is in addition to the regular premiums, which were increased on February 27 to a range of 12 to 16 basis points. The DIF is significantly below the statutory minimum reserve ratio of 1.15. As of December 31, 2008, the DIF ratio stood at .4. The FDIC has informed us that with the increased borrowing authority provided in this legislation, it believes it can reduce the size of the special assessment while still maintaining appropriate assessments at a level that supports the DIF with funding from the banking industry.

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

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

S. 541

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''The Depositor Protection Act of 2009''.

SEC. 2. INCREASED BORROWING AUTHORITY OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended—

(1) by striking ''$30,000,000,000'' and inserting ''$100,000,000,000'';

(2) by striking ''The Corporation is authorized'' and inserting the following:

''(1) IN GENERAL.—The Corporation is authorized'';

(3) by striking ''There are hereby'' and inserting the following:

''(2) FUNDING.—There are hereby''; and

(4) by adding at the end the following:

''(3) TEMPORARY INCREASES AUTHORIZED.—

''(A) RECOMMENDATIONS FOR INCREASE.—During the period beginning on the date of enactment of this paragraph and ending on December 31, 2010, if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and

the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that additional amounts above the $100,000,000,000 amount specified in paragraph (1) are necessary, such amount shall be increased to the amount so determined to be necessary, not to exceed $500,000,000,000.

''(B) REPORT REQUIRED.—If the borrowing authority of the Corporation is increased above $100,000,000,000 pursuant to subparagraph (A), the Corporation shall promptly 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 describing the reasons and need for the additional borrowing authority and its intended uses.''.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, March 5, 2009.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

1DEAR MR. CHAIRMAN: I am writing to express my support for the Depositor Protection Act of 2009, legislation to increase the Federal Deposit Insurance Corporation's borrowing authority with the Treasury Department if losses from failed financial institutions exceed the industry funded resources of the Deposit Insurance Fund (DIF).

As you know, the FDIC's borrowing authority was set in 1991 at $30 billion and has not been raised since that date. Assets in the banking industry have tripled since 1991, from $4.5 trillion to $13.6 trillion. As I indicated in my previous letter of January 26, 2009, the FDIC believes it is prudent to adjust the statutory line of credit proportionately to leave no doubt that the FDIC can immediately access the necessary resources to resolve failing banks and provide timely protection to insured depositors.

The legislation would include important additional authority for the FDIC and would rationalize the FDIC's current borrowing authority. Under current law, the FDIC has the authority to borrow up to $30 billion from Treasury to cover losses incurred in insuring deposits up to $100,000. In addition, when Congress temporarily increased deposit insurance coverage to $250,000, it temporarily lifted all limits on the FDIC's borrowing authority to implement the new deposit insurance obligation.

The bill would permanently increase the FDIC's authority to borrow from Treasury from $30 billion to $100 billion. In addition the bill also would temporarily authorize an increase in that borrowing authority above $100 billion (but not to exceed $500 billion) based on a process that would require the concurrence of the FDIC, the Federal Reserve Board, and the Treasury Department, in consultation with the President.

Because the existing borrowing authority for losses from bank failures provides a thin margin of error, it was necessary for the FDIC recently to impose increased assessments on the banking industry. These assessments will have a significant impact on insured financial institutions, particularly during a financial crisis and recession when banks must be a critical source of credit to the economy.

The size of the special assessment reflected the FDIC's responsibility to maintain adequate resources to cover unforeseen losses. Increased borrowing authority, however, would give the FDIC flexibility to reduce the size of the recent special assessment, while still maintaining assessments at a level that supports the DIF with industry funding. While the industry would still pay assessments to the DIF to cover projected losses and rebuild the Fund over time, a lower special assessment would mitigate the impact on banks at a time when they need to serve their communities and revitalize the economy.

In conclusion, the Depositor Protection Act would leave no doubt that the FDIC will have the resources necessary to address future contingencies and seamlessly fulfill the government's commitment to protect insured depositors against loss. I strongly support this legislation and look forward to working with you to enact it into law.

Sincerely,

SHEILA C. BAIR,
Chairman.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, February 2, 2009.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to join the Secretary of the Treasury in expressing my agreement that the authority of the Federal Deposit Insurance Corporation (FDIC) to borrow from the Treasury Department should be increased to $100 billion from its current level of $30 billion. While the FDIC has substantial resources in the Deposit Insurance Fund, the line of credit with the Treasury Department provides an important back-stop to the fund and has not been adjusted since 1991. An increase in the line of credit is a reasonable and prudent step to ensure that the FDIC can effectively meet potential future obligations during periods such as the difficult and uncertain economic climate that we are currently experiencing.

I also support legislation that would allow the Secretary of the Treasury, in consultation with the Chairman of the Board of Governors of the Federal Reserve System if Congress believes that to be appropriate, to increase the FDIC's line of credit with the Treasury in exigent circumstances. This mechanism would allow the FDIC to respond expeditiously to emergency situations that may involve substantial risk to the financial system.

The Federal Reserve would be happy to work with your staff on this matter, as well as on the other amendments under consideration that would allow the FDIC more flexibility in the timing and scope of assessments that it charges to recover costs to the Deposit Insurance Fund in the event that the systemic risk exception in the Federal Deposit Insurance Act has been invoked.

Sincerely,

BEN S. BERNANKE,
Chairman.

DEPARTMENT OF THE TREASURY,
Washington, DC, February 2, 2009.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing & Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support for the Federal Deposit Insurance Corporation's (FDIC) current request to increase its permanent statutory borrowing authority under its line of credit with the Treasury Department from $30 billion to $100 billion. Since the last increase in that authority in 1991, the banking industry's assets have tripled. More importantly, the financial and credit markets continue to be under acute stress, and the level of thrift and bank failures has been rising. Although the FDIC's Deposit Insurance Fund remains substantial at $35 billion, and the FDIC has never needed to tap the existing line of credit with the Treasury Department in the past, the proposed increase in the limit is a reasonable and prudent step to ensure that the FDIC can effectively meet any potential future. obligations.

The Treasury Department also supports the FDIC's request to make future adjustments to the line of credit based on exigent circumstances, but recommends that such future adjustments require the concurrence of both the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. This future adjustment mechanism would provide an additional layer of protection for insured depositors and enhance the confidence of financial markets during this turbulent period.

The Treasury Department also supports the FDIC having authority to determine the time period for recovering any loss to the insurance fund resulting from actions taken after a systemic risk determination by the Secretary of the Treasury.

I hope that you find our views useful in the Committee's consideration of the FDIC's request. Thank you for the opportunity to share these views.

Sincerely,

TIMOTHY F. GEITHNER,
Secretary of the Treasury.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 65—HONORING THE 100TH ANNIVERSARY OF FORT MCCOY IN SPARTA, WISCONSIN

Mr. KOHL submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 65

Whereas 2009 is the 100th anniversary of the Army operating a military installation in Sparta, Wisconsin;

Whereas the Army began training in Monroe County, Wisconsin on the 4,000-acre family farm of Robert Bruce McCoy in September 1905;

Whereas the Army purchased the McCoy farm and established the Sparta Maneuver Tract on June 8, 1909;

Whereas the Sparta Maneuver Tract was officially designated Camp McCoy on November 19, 1926, in honor of Major General Robert Bruce McCoy;

Whereas Camp McCoy served as one of the largest and most modern artillery camps in the Nation, training field artillery units for deployment in World War I;

Whereas Camp McCoy served as a supply base for the Civilian Conservation Corps during the Great Depression, supplying uniforms, lodging, and food to thousands of young men;

Whereas Camp McCoy was modernized and expanded to help prepare military units for deployment in World War II, resulting in the construction of 1,500 buildings capable of training and supporting 35,000 troops;

Whereas Camp McCoy was temporarily an internment camp during the Japanese American internment, a period of grave injustice to individuals of Japanese ancestry;

Whereas Camp McCoy served as a prisoner of war camp for 4 years, housing Japanese, German, and Korean prisoners of war;

Whereas Camp McCoy served as a major training center for the Fifth Army preparing for the Korean War;

Whereas Camp McCoy was officially renamed Fort McCoy on September 30, 1974, recognizing Fort McCoy's status as a year-round Army training facility;